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CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

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CITY CLERK'S OFFICE  
MALDEN, MASS.

CASE NUMBER 16-07

LOCATION of SUBJECT PROPERTY 64 Summer Street at 54-72 Summer Street

NAME of PETITIONER Café De Lu Lu, Inc.

NAME of PROPERTY OWNER 54-72 Summer Street, LLC

DATE of PUBLIC HEARING March 9, 2016 DATE of DECISION March 9, 2016

DATE of FILING DECISION with CITY CLERK March 16, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR March 16, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT April 5, 2016

*[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]*

PROCEDURAL HISTORY (Case #16-07):

1. Petitioner is the proposed tenant and business operator, Café De Lu Lu, Inc., c/o Sui Ling Lam, 13 Harnden Road, Malden, MA.
2. Property owner is 54-72 Summer Street LLC, c/o Andreas A. Tsitos, 105A Ferry Street, Malden, MA.
3. The petition seeks consent to file a repetitive petition under §800.4.10, Chapter 12, Revised Ordinances of 1991, as Amended, City of Malden (the "Ordinance") and Massachusetts General Laws, Chapter 40A, §16 (the "state law"), namely, to file a petition for a special permit under §§300.3.4.12 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance"), to alter and change use of a portion of a preexisting nonconforming property for restaurant use in a Neighborhood Business zoning district, within two years of the Board's final unfavorable action, namely, the denial of a petition for a special permit in Case #15-11.
4. The following information was submitted with the petition: correspondence dated January 8, 2016 from Patrick P. MacDonald, Esq., describing the proposal; and floor plan, "Proposed Restaurant 64 Summer Street Malden, MA," dated June 19, 2015, prepared by Phung/Porzio Studio of Architecture, Dorchester, MA.
5. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. The Ordinance and state law require that, to grant the petition, eight of the nine members of the Planning Board must find specific and material changes in the conditions upon which the previous unfavorable action was based.
7. At the start of the public hearing, petitioner, represented by its attorney, consented to proceed with only eight of the nine members of the Planning Board present.

FINDINGS of FACT (Case #16-07):

The City of Malden Planning Board finds the following facts:

1. On September 9, 2015, in Case #15-11 the Board denied a petition for a special permit to convert the vacant storefront known as and numbered 64 Summer Street, approximately 900 square feet in size, to a restaurant, on the grounds that the proposal was more detrimental to the neighborhood and not in the interest of the common good, given that the proposal increased parking deficiencies, parking needs and demands, and traffic congestion in the neighborhood, based on the Findings of Facts described in the decision.
2. Petitioner seeks to file a petition for a special permit before September 9, 2017, the date which is two years following the date of the Board's denial of the petition for a special permit in Case #15-11.
3. The petition in Case #15-11 was for a restaurant that would offer principally dine in/sit-down service, including service of beer and wine.
4. The petition seeking to be filed is for a restaurant that will offer principally take-out and delivery service, with no service of alcoholic beverages.
5. The petition in Case #15-11 was for a restaurant with thirty-four (34) seats.
6. The petition seeking to be filed is for a restaurant with eight (8) seats.

7. The petition in Case #15-11 was for a restaurant that did not have use of onsite parking at the property.
8. The petition seeking to be filed is for a restaurant that will contract with the property owner for use of five parking spaces onsite at the rear of the property and will contract with a delivery service company that will use only one vehicle and will park in one of these spaces to pick up orders for delivery.
9. The petition in Case #15-11 was for a restaurant with parking needs and demands for long-term use.
10. The petition seeking to be filed is for a restaurant with parking needs and demands for short-term use.
11. The Ward City Councilor and Mayor were in opposition to the petition in Case #15-11.
12. There is no public support and no public opposition to the request for consent.
13. There are specific and material differences between the petition in Case #15-11 and the petition seeking to be filed.

DECISION (Case #16-07):

Pursuant to the foregoing Findings of Fact, the Planning Board granted the petition for consent.

RECORD of VOTES (Case #16-07):

The vote on the motion to grant the petition was eight in favor, none opposed:

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

*Motion by Antonucci, seconded by Chuha.*

*[Absent: Chiu, Henry, Mzaouakk]*

*I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.*

By:

Malden Planning Board  
  
Michelle A. Romero, City Planner