



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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Case #: PB 2017-07
Site: 46 Broadway
Date of Decision: May 4, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 15, 2017

PLANNING BOARD DECISION

Applicant Name:	Taco Loco Mexican Grilled, LLC
Applicant Address:	44 Broadway, Somerville, MA 02145
Property Owner Name:	46-48 Broadway, LLC
Property Owner Address:	46-48 Broadway, Somerville, MA 02145
Agent Name:	Juan Carlos Morales
Agent Address:	44 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant, Taco Loco Mexican Grilled LLC, and Owner, 46-48 Broadway LLC, seek a special permit under §6.5.D.5.a of the Somerville Zoning Ordinance (SZO) to make façade alterations to the existing structure, a special permit under §6.5.D.6 for outdoor dining, and a special permit under §9.13 for parking relief.
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<u>Zoning District/Ward:</u>	TOD-55 zone/Ward 1
<u>Zoning Approval Sought:</u>	§6.5.D.5.a, §6.5.D.6 & §9.13
<u>Date of Application:</u>	March 2, 2017
<u>Date(s) of Public Hearing:</u>	May 4, 2017
<u>Date of Decision:</u>	May 4, 2017
<u>Vote:</u>	4-0



Appeal #PB 2017-07 was opened before the Planning Board at Somerville City Hall on May 4, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Planning Board took a vote.

DESCRIPTION:

The proposal is to locate a fast-order food establishment, Taco Loco, and a bakery in the ground floor to replace the convenience store and hair salon. The floor plan between the fast-order food establishment and the bakery is proposed to be open between the two establishments and they will share kitchen space and basement storage. The Applicant is also proposing outdoor seating and exterior renovations. The dwelling units on the second floor will remain unchanged.

FINDINGS FOR SPECIAL PERMIT (SZO §6.5.D.5.a, §6.5.D.6, and §9.13):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

§6.5.D.5.a

Alterations to an existing or approved façade other than a one-for-one replacement of signage within the same sign footprint and using the same sign technology shall require a new Special Permit, with findings giving consideration to the Design Guidelines of Section 6.1.22.H. Projects located in both the Arts Overlay District and Corridor Commercial District, the Design Guidelines for the Corridor Commercial District under Section 6.1.22.H shall apply.

Article 9: Off-Street Parking and Loading.

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. The locus is currently nonconforming with respect to the number of required off-street parking spaces as five are required for the existing mix of uses and none are provided.

§6.5.D.6

Certain accessory uses may be conducted outdoors through a Special Permit (SP) without requiring additional parking. Such a permit may only be granted for outdoor display, dining, or operation during approved business hours, for Use Clusters B, C, D, and G, as listed in Section 6.5.E. No such permit shall be granted for storage of materials or permanent display, nor for greater than five thousand (5,000) square feet of a single use.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and



other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, which is, "...to encourage mixed-use transit-oriented development with well-designed pedestrian access near transit connections and commercial squares. In response to different neighborhood contexts, TODs have been created featuring various heights, densities, and compatible use mixes. In order to be aesthetically, economically, environmentally and socially beneficial, projects in the Districts shall promote a mix of uses both within buildings and across the districts. Moderate to high-density developments will include commercial, residential, and institutional cores complemented by pedestrian-oriented retail and business services, and in some districts, compatible industrial uses. Parking, where provided, will be housed within structured parking facilities. In a dynamic commercial center, changes in tenancy and use are expected. Therefore, the TODs are designed to be responsive to changing market conditions while maintaining high standards for building design and construction. As such, development review in these Districts is concerned foremost with appropriateness of building design and broad categories of uses. The major purposes are to:

1. Facilitate development of a mix of uses that contributes to a vibrant business environment and increases street-level activity;
2. Increase real estate investment and strengthen local tax base through intensive commercial development in higher density TOD districts;
3. Create new jobs at a variety of income and skill levels;
4. Redevelop vacant or underutilized land with appropriately dense development;
5. Replace incompatible and environmentally unsound uses with compatible mixed-use development;
6. Increase the supply of affordable housing units within the City of Somerville; and,
7. Encourage sustainable development and the use of green building standards.

The TOD is divided into sub-districts, which are distinguished by their respective height and density regulations. These regulations are shown in Table 6.5.F. The Following sub-districts are designated within TOD's.

- TOD-55. This lower-density sub-district allows for mixed-use development opportunities in close proximity to existing lower-density residential neighborhoods. Where mapped in commercial squares, development is anticipated to be a mix of commercial and residential uses. Where mapped on local streets, development is anticipated to be predominantly residential in nature.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4. The existing uses on the locus currently require five parking spaces and the proposed uses require nine spaces. Section 9.4.1 allows changes in uses, with no increase in floor area to adhere to the following formula:

$$(Proposed\ parking\ requirements - existing\ parking\ requirement) / 2 = the\ total\ number\ of\ parking\ spaces\ required. (9 - 5) / 2 = 2$$

Therefore, the total number of parking spaces that are required is two. There are no parking spaces on the locus nor is there any room on the locus for the applicant to provide additional spaces. The Applicant is requesting parking relief for providing the two required spaces.

The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*



Surrounding Neighborhood: This particular section of east Broadway includes a residential uses, mixed uses, industrial uses, and industrial uses. The proposal to change the current uses to a fast-order food establishment and a bakery are compatible with the characteristics of the built and unbuilt surrounding area.

Impacts of Proposal (Design and Compatibility):

6.5.H. Design Guidelines for the TODs. These guidelines are not intended to inhibit design creativity or discourage innovative architectural design solutions. Rather, they provide general standards for building massing, siting and articulation. It is understood that Buildings and Structures may not be able to comply with all of the following Guidelines.

1. Building(s) should complete the streetwall along the primary street edge(s).
2. Massing and height of buildings should be articulated in a manner compatible with the physical character of the surrounding districts, particularly where a building abuts a residential or historically designated property. Whenever possible, historical variety in the scale, rhythm, and relationship of buildings to pedestrian public ways should be preserved.
3. A transition in height should be established where new development adjoins low-rise residential districts or historically designated properties.
4. Thirty-foot-wide commercial bays with independent entrances onto the street are typical in Somerville and should be repeated in new developments to create visual and pedestrian interest. Varied architecture should be created and flat facades avoided by using recessed or projected entryways, bays, canopies, awnings, residential balconies on 2nd floor or above, and other architectural elements. Non-residential ground floor façades should have a minimum seventy-five (75) percent transparent material, and second floor facades should have a minimum of forty (40) percent transparent material. These openings should provide views into the building and should not be blocked by interior storage, nonartistic displays, or greater than thirty (30) percent internally mounted signage.
5. Exterior building materials for all visible portions of the building should be high quality, durable, and aesthetically appropriate. Particular attention should be paid where properties abut residential districts and historically designated property. Predominant exterior building materials should include an appropriate combination of brick, glass, wood, artistically used metal, stone, or stucco. Precast concrete panels, EIFS-type finishes, and large expanses of glass or corrugated sheet metal are generally discouraged. Bare or painted concrete as the only exterior facade material shall not be allowed.
6. Visible rear and side façades should maintain a similar character to the front façade of the building and the intended character of the surrounding district.
7. Signage and awning design should respect buildings' context (e.g., scale, design, style, colors, materials), be oriented to pedestrians, and be subordinate to the overall building composition. Creative shapes must be carefully designed and coordinated with the overall appearance of the building. The design should also maintain an existing "signage line" and respect the character, scale, and locations of adjacent signs and awnings. Large, interior-lit or back-lit signs or awnings, neon "open" signs, vinyl or plastic materials and overly bright colors are generally discouraged. To add interest and character to the retail environment signs or awnings may convey interesting elements or logos without excessive wording. They should be limited to advertising the business name and its main goods or services, with minimal or no national brand names or logos. Type styles should enhance readability of the sign and provide information simply and legibly. Use awnings to create pleasant shaded spaces in front of a building. Signs and awnings should enhance important architectural details and not conceal or obliterate them.
8. Major entrances should be located on public streets, and at or near corners wherever possible. Entrances



should relate well to crosswalks and pathways that lead to bus stops and transit stations.

9. Buildings should have a clearly expressed base, middle, and top. This may be achieved through changes in material, fenestration, architectural detailing, or other elements. Taller buildings should be articulated to avoid a monolithic appearance.

10. The façade below the Tapering Height should exhibit human scale through design elements such as changes in plane, and variety or contrast in form, color, and materials. Architectural elements and setbacks should be used to break up long façades and avoid large areas of undifferentiated or blank building façades.

11. Building elements located above the Tapering Height should be designed to limit impacts from visual massing, obstruction of views, and creation of shadows on public open space, residential districts or public ways. Where practicable, the width and depth of these elements should be limited to one hundred twenty (120) feet and where more than one element exists a minimum separation of fifty (50) feet is encouraged, although other means may be more appropriate on odd-shaped lots or lots adjoining highways or railroad rights-of-way.

12. All rooftop-building systems, including wireless communications facilities, should be incorporated into the building form in a manner integral to the building architecture, including screening with materials that harmonize with buildings' exterior finishes.

13. Individual Artist Live/Work Spaces should be designed as closely as possible in accordance with the "Design Guidelines for Artist Housing" produced by the Somerville Arts Council.

14. A sidewalk depth of at least fifteen (15) feet from the street curb to building is strongly encouraged for developments fronting major streets.

15. On-site, off-street parking should be accessed from either a side street or an alley. Where this is not possible, vehicular access should be provided through an opening, no wider than twenty-five (25) feet in the street level façade of the building. Such entrances should be designed to minimize conflict with pedestrians.

16. Above ground structured parking should be lined with active uses (shops, cafes, etc.) along major public streets. Upper levels and facades along smaller public streets shall be screened and include architectural design elements such as windows, bays, etc. such that the space's use for parking is not immediately apparent. Large horizontal openings are strongly discouraged. Direct pedestrian access to the street and/or to a public area should be provided by all garages serving non-residential uses.

17. Usable Open Space should be located to support public gathering. To the extent possible, usable open space should be designed to appear as an extension of existing public space, through consistency in design and materials. The provision of an interconnected series of open space to support pedestrian movement is encouraged.

18. Installation of public art is encouraged in order to add visual interest and distinguishing features to landscape or other public areas.

19. Properties abutting the MBTA right-of-way are strongly encouraged to place pedestrian unfriendly uses such as parking, loading, and trash collection along the right-of-way. However, given that the MBTA right-of-way represents a gateway into the City, these facilities shall be screened and the architectural design of façades facing the right-of-way shall be of equal or better quality to façades elsewhere in the building.

20. Utilities and wiring shall be placed below ground. Transformers and trash facilities may also be required to be located underground.

The subject building completes the streetwall and has a two-story massing that is compatible with the surrounding structures. The primary entrance is oriented to the sidewalk and parking is not part of this proposal.



The sidewalk is approximately 16 feet wide and the application proposes a six foot deep section of outdoor dining in front of the bakery. The proposed signage conforms to TOD district guidelines in size and material, and would not be lit.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the
6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area. Deliveries will be made approximately two times a week in the morning and trucks will park on Broadway in front and bring products through the back doors on George Street or the front door on Broadway.
7. Housing Impact: The proposal will not create adverse impacts on the stock of existing affordable housing.
8. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, preserve and enhance the character of Somerville's neighborhoods, protect and promote a diverse and interesting mix of small-scale businesses in Somerville's neighborhoods, and offers lively destinations and contributes to Somerville's unique identity.

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	4	4
<i>Estimated Employment:</i>	unknown	8



DECISION:

Present and sitting were Members Joseph Favaloro, Michael Capuano, Dorothy Kelly Gay and Gerard Amaral with Kevin Prior and Rebecca Lyn Cooper absent. Upon making the above findings, Joseph Favaloro made a motion to approve the request for a Special Permit. Michael Capuano seconded the motion. Wherefore the Planning Board voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for exterior renovations and the change of use into a fast-order food establishment, Taco Loco, and a bakery. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng .									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>March 2, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>April 26, 2017</td><td>Floor plans plans submitted to OSPCD (A1.0 and A1.1)</td></tr><tr><td>April 26, 2017</td><td>Elevations submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	March 2, 2017	Initial application submitted to the City Clerk’s Office	April 26, 2017	Floor plans plans submitted to OSPCD (A1.0 and A1.1)	April 26, 2017	Elevations submitted to OSPCD
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	April 26, 2017				Elevations submitted to OSPCD							
Any changes to the approved elevations or use that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.									
3	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW									
4	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P									
Design												
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.									
Site												



6	The Applicant shall store trash in the basement at all times except for when it is being picked up and shall follow City of Somerville refuse regulations.	Perpetual	Plng. / ISD	
7	The Applicant shall ensure that deliveries will be made approximately two times a week in the morning and trucks will park on Broadway in front and bring products through the back doors on George Street or the front doors on Broadway.	Perpetual	Plng. / ISD	
Miscellaneous				
8	The hours of operation shall be limited to 9 A.M to 11 P.M seven days a week.	Cont.	Plng. / ISD	
9	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
12	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
13	The Applicant shall maintain cleanliness of the sidewalk adjacent to the locus and coordinate with the Highway Division of the Department of Public works on locating a trash receptacle on the sidewalk.	CO	DPW/Plng.	
14	The Applicant shall comply with Section 12 of the City of Somerville Code of Ordinances relating to outdoor seating, signs over sidewalks, obstacles in sidewalks, and awnings over sidewalks.	CO	DPW/Plng/ Board of Alderman	
Signage				
15	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 11p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
16	More detailed signage plans shall be submitted to Planning Staff for their review and approval.	BP	Plng.	
Final Sign-Off				
17	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
18	The Applicant shall post a sign inside the building that informs employees not to loiter on George Street or in the parking lot of 50 Broadway for any reason.	CO	Plng.	
19	The exterior door adjacent to 50 Broadway shall swing inward toward 46-48 Broadway.	CO	Plng.	

20	Trash shall not be stored outside other than when being picked up.	Perpetual	Plng.	
21	The Applicant shall install a notice sign within the building that informs customers and employees not to park in the parking lot of 50 Broadway.	CO	Plng.	

Attest, by the Planning Board:



Joseph Favaloro



Michael A. Capuano, Esq.


Dorothy A. Kelly Gay

Gerard Amaral

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

