



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

PLANNING BOARD MEMBERS

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ELIZABETH MORONEY
JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
ELIZABETH MORONEY

Case #: PB 2012-03
Site: 130 Broadway
Date of Decision: March 15, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 21, 2012

PLANNING BOARD DECISION

Applicant Name:	Fat Hen, LLC
Applicant Address:	c/o Frank McClelland, 148 Hamden St, Boston, MA 02119
Property Owner Name:	130 Broadway, LLC
Property Owner Address:	c/o Pucker Gallery, 171 Newbury St, Boston, MA 02116
Agent Name:	Joseph P. Hanley, Esq.
Agent Address:	McDermott, Quilty & Miller, LLP 131 Oliver St, 5 th Floor, Boston, MA 02110

Legal Notice: Applicant, Fat Hen, LLC, & Owner, 130 Broadway LLC, seek a Special Permit to establish an approximately 5,000 sf restaurant (Use Cluster 7.13.D Eating and Drinking) with outdoor seating and an farmers' market (§6.1.22.6.a) and a Special Permit under SZO §6.1.22.D.5 to alter the facade and install signage

<u>Zoning District/Ward:</u>	CCD 55 zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.13.D, §6.1.22.6.a & §6.1.22.D.5
<u>Date of Application:</u>	February 14, 2012
<u>Date(s) of Public Hearing:</u>	March 15, 2012
<u>Date of Decision:</u>	March 15, 2012
<u>Vote:</u>	5-0

Appeal #PB 2012-03 was opened before the Planning Board at Somerville City Hall on March 15, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A,



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sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Planning Board took a vote.

DESCRIPTION:

The proposal is to establish an approximately 3700 sf restaurant in the front portion of the building along Broadway that has not yet been occupied since the building's renovation. The seating area and kitchen area for the restaurant is roughly 3260 sf and the remaining square feet is for utility space. The building will be fully occupied except for one remaining approximately 1200 sf space making up one storefront at the western end of the building.

The restaurant will be a full service establishment with 182 indoor seats, 30 outdoor seats on the sidewalk along Broadway and 25 to 30 employees. The hours of operation will be Sunday through Thursday, 11am to 1am and Friday and Saturday, 11am to 2pm. There will be an on site compactor located at the loading dock for non-food related items. There will be a rolling dumpster for food related items and other perishable waste to be picked up every other day by the waste disposal company, Casella Waste.

A portion of the restaurant will be designated as a market for Community Supported Agriculture (CSA) where consumers buy goods directly from farmers. The CSA will also be providing food to the restaurant on a daily basis. The proposal also includes a potentially weekly farmers' market in the parking lot of the building. The schedule and size of the farmers' market are not yet defined; however, the Applicant anticipates that it will be a typical Saturday morning community market. It is the Applicant's goal to provide a venue for fresh, high quality foods to be distributed to the community at large and the plan is for the community to determine when the market takes place and its scope. The outdoor farmers' market will be run in conjunction with the CSA.

The following text is from the Applicant's marketing material:

Sustainability and Community

La Brasa is committed to the local community, and intends to foster the concepts of sustainability by supporting local producers – bringing the freshest and best tasting food to its tables.

Suppliers: *The main supplier will be 14-acre organic Apple Street Farm in Essex, MA, which is owned by McClelland and often tended by Bojorquez. Apple Street Farm grows fresh herbs and heirloom fruits and vegetables. The farm also raises egg-laying chickens and livestock, which are fed farm-fresh produce and whole grain breads.*

Other New England suppliers include Thatcher Farm (North Haverhill, NH) for dairy and Island Creek Oyster (Duxbury, MA).

Community Building: *A vibrant food community grows not based solely on the food at La Brasa, but the food people dine on at home as well. In addition to its farm sourcing, La Brasa hopes to run a farmers market in the restaurant parking lot located just off Broadway. Leveraging connections with local farms La Brasa hopes to bring local, fresh produce and other goods to a neighborhood in Somerville that is currently without a farmers market.*

Supporting Local Artists: *The city of Somerville is densely populated with artists and creative professionals of all stripes. Any restaurant hoping to feel like home needs to welcome and embrace this creative population. To that end, La Brasa will offer up its walls as places where local artists can display their work. In addition, La Brasa will be a place where local musicians can play live music (jazz, blues,*



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and international) during the weekends.

Alterations to the building will be related to signage for the restaurant. The two main entrance areas to the restaurant and market will be treated with natural finished reclaimed wood from a barn. The doors will be also be made of reclaimed wood. The existing door between these entrances will not be altered.

The restaurant and market name will appear above their main entrances. The letters will be cut into milled steel and will be back lit. There will be one additional sign attached to the building at the corner of Broadway and Glen Street. This will be a milled steel blade sign.

A canopy is proposed along the building for the length of the restaurant along Broadway and for the area with storefront windows on Glen Street. The canopy will be made of reclaimed corrugated metal roofing. The existing lighting fixtures on the façade will be turned down to provide lighting along the sidewalk. The awning will not interfere with these lights.

Board of Aldermen approval is required to use the sidewalk for outdoor seating and for the awnings to project over the sidewalk.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1, §6.1.22.6.a, §6.1.22.D.5, §7.13.D):

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."

The proposal complies with the development standards in the CCD.

1. *Penthouse and Mechanical Equipment.* Mechanical units will be placed on the roof where the existing mechanical equipment is located; therefore there should not be a significant change to the visibility of the equipment on the roof.
2. *Service Areas and Loading Spaces.* The loading dock will be located in an existing location in the rear of the building and the curb cut will remain on Glen Street to be able to load to the side doors on this side of the building. There will be an on site compactor located at the loading dock for non-food related items. There will be a rolling dumpster for food related items and other perishable waste to be picked up every other day by the waste disposal company, Casella Waste. The loading dock area is currently screened from view.
3. *Pedestrian Oriented Requirement.* The building has been designed to promote pedestrian activity. There are entrances from the Broadway sidewalk directly into the restaurant. The storefront window systems create interest for pedestrians. The scale and orientation of the signage and awnings are oriented to pedestrians. Finally, the outdoor seating and farmer's market will provide additional vibrancy to the area and will be other elements that improve the pedestrian experience.



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4. *Lighting.* The exterior lighting fixtures will remain and be under the proposed awning. The fixtures will provide lighting along the sidewalk that is appropriate to the pedestrian-oriented character of the surrounding area. There will also be lighting in the parking lot to enhance safety and security. Since the property has been renovated, no complaints have been received regarding the parking lot lighting but if the use of the parking lot lighting changes due to the restaurant's operating hours, the lighting must be strategically positioned so that it minimizes glare and light trespass into neighboring residential properties.
5. *Transition to Abutting Residential District.* The southwest corner of the building abuts a residential district and is located on the side property line. The building is nonconforming because it is not setback 20 feet from the district line. Landscaped area was added between the residential district line and the parking lot around the parking lot in the rear of the property to become more conforming with this regulation.
6. *Parking Design.* There is a six-foot tall wooden fence surrounding the parking lot to screen views of it. There is also an area of the parking lot that was made into planting beds for the restaurant and the framing business's use, which improves the appearance and use of the lot.
7. *Payment in Lieu of Parking.* Payment in lieu of parking is not applicable to this application. Since the square footage of the building is not increasing and the outdoor uses do not require additional parking, no additional parking beyond that which exists onsite is required.
8. *Credit for Provisions of Land for Public Infrastructure.* Not applicable.

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 conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. The building is being reused and a restaurant use is an appropriate use for this commercial corridor.

The proposal is consistent with the purpose of the district. The restaurant, CSA market, farmers market, and outdoor seating provide an active mix of uses along with the retail and service tenants in the building. The building will continue to be multi-tenanted. The current restaurant tenant will provide access to fresh fruits and vegetables and will be a neighborhood-serving establishment. The historic structure has recently been restored and the proposed signage and awnings will not negatively impact the historic details of the building. The signage and awning will also be applied in such a way that they could be removed without jeopardizing the historic façade. Bicycle parking is located in the PSG Framing and will be located along the sidewalk to encourage bicycling to the site.

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."

The proposal is designed to be compatible with the characteristics of the surrounding area and is consistent with the design guidelines in the CCD.

1. The building is built to the front property line along Broadway and completes the street wall. The new tenants will also restore the retail continuity on this section of Broadway.
2. The massing and height of the one-story structure will not change.



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3. The height of the building is only one-story and it is located next to a three-story building and a one-story building. A transition to residential or historically designated properties is not applicable.
4. The 30 foot-wide commercial bays with independent entrances onto the street are incorporated into this proposal. The four doors along Broadway will remain intact despite one tenant occupying three of the storefronts, which helps to comply with this guideline. The interior space could be divided up to provide space for four separate tenants in the future without having to change the exterior of the building. The entrances will be recessed for building code purposes and the entrances will add depth to the building. The proposal complies with the guideline to have 75% transparent material. The windows will provide views into the building and should not be blocked by interior storage, nonartistic displays, or greater than 30% internally mounted signage.
5. The existing brick on the exterior of the building was recently repaired, repointed and cleaned to provide a natural red brick finish. Brick, glass, and artistically used metal are materials that are encouraged in the guidelines and were incorporated into the renovation of the building. EIFS and precast concrete panels are discouraged materials that were removed from the building.
6. Visible rear and side facades are brick, which is the same material that will be on the front façade of the building. The CMU in-fill panels that were not be removed on the sides of the building were repaired, cleaned and painted.
7. The signage design respects the building's context. The wording of the signs above the doors and the blade sign will be in the signage band that typically holds signage for similar buildings. The awnings will begin below the dentals in the cornice and not obscure the details of the cornice. In these locations the signage and awning will be oriented to pedestrians. The color of the awning and painted wood at the entrances will provide some color and interest to the building, while not overwhelming it. The materials will be metal and wood, which are quality materials. The letters of the signs will simply state the name of the business and not include excessive wording. The letters will be legible and will be cut into a steel inset that will be backlit. There will also be lighting under the awning from the existing fixtures that will be turned down to light the sidewalk. The proposed lighting technology and signage material and placement meets the intent of the guideline.
8. One restaurant tenant and one to-be-determined retail tenant will be located in the front portion of the building, which will improve the pedestrian interest in the building from its current vacant state and past state with only one dark entrance along Broadway.
- 9./10. Artist Live/Work Spaces and residential unit size do not relate to the nonresidential proposal.
11. The building location is not changing. The sidewalk is approximately 8 feet wide in this location. The streetscape improvement project planned for this portion of Broadway will increase the width of the sidewalk.



DECISION:

Present and sitting were Members Kevin Prior, Elizabeth Moroney, Joseph Favaloro, James Kirylo and Michael Capuano. 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is to establish Use Cluster 7.13.D Eating and Drinking for approx 5,000 sf with outdoor seating and an farmers' market (§6.1.22.6.a) and to alter the facade and install signage and an awning. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Feb 14, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Mar 2, 2012</td> <td>Modified plans submitted to OSPCD (Exterior Modifications and Signage: SK-1.0, SK-1.1, SK-1.2, SK1.3, SK-1.4)</td> </tr> <tr> <td>March 9, 2012</td> <td>Plans submitted to OSPCD (Conceptual floor plan)</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Feb 14, 2012	Initial application submitted to the City Clerk's Office	Mar 2, 2012	Modified plans submitted to OSPCD (Exterior Modifications and Signage: SK-1.0, SK-1.1, SK-1.2, SK1.3, SK-1.4)	March 9, 2012	Plans submitted to OSPCD (Conceptual floor plan)	BP/CO	ISD/Plng.	
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2	The Applicant shall at his 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. Specifically, all driveway aprons shall be concrete.	CO	DPW									
3	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									
4	Applicant shall comply with Fire Prevention Bureau's requirements.	CO	FP									
5	The Owners shall provide artistic displays in the windows of storefronts that are vacant for more than 3 months.	Perpetual	Plng.									



6	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
7	Applicant will supply 1 bicycle parking spaces on the sidewalk at or near the property, at a location reviewed and approved by OSPCD.	CO	Plng.	
8	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.		
9	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.	
10	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.	
11	The street addresses shall be numbered as follows, the first three doors moving west from Glen Street shall be numbered 122, 124 and 126 Broadway. When the last unit is built out it will be assigned number 128 Broadway. The main address for La Brasa shall be 122 Broadway. 124 Broadway would be reserved in case interior build out changes in the future. The Market would be 126 Broadway.	CO	Eng.	



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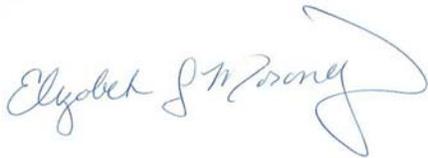
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Attest, by the Planning Board:



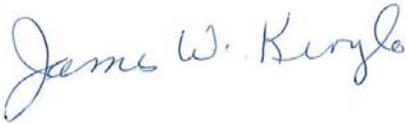
Kevin Prior, Chairman



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.

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 _____



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