#113-23
344-346 Elliott Street

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #215-16(2) (which granted relief for a retaining wall, waivers for parking lot screening and lighting requirements, and dimensional relief for the surface parking facility to allow for the construction of six parking stalls in the rear of the lot) to waive 24 parking stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site in a Business 1 (BU1) district is an appropriate location for the requested parking waivers due to the historic pattern of Newton Upper Falls and the site's walkability and access to public transit options. (§7.3.3.C.1)
2. The requested parking waivers will not adversely affect the neighborhood because on-street parking is available nearby. (§7.3.3.C.2)
3. The requested parking waivers will not create a nuisance or serious hazard to vehicles or pedestrians because the existing curb cut will remain unchanged. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with the required amount of parking is in the public interest because constructing 24 additional parking stalls would require a substantial increase in impervious paving on the site. (§5.1.13)

PETITION NUMBER:	#113-23
PETITIONER:	Seana Gaherin and Robert Dunn, Trustees of D&G Realty Trust
LOCATION:	344-346 Elliot Street, Ward 5, Newton Upper Falls, on land known as Section 51 Block 41 Lot 10, containing

	approximately 9,676 sq. ft. of land
OWNER:	D&G Realty Trust
ADDRESS OF OWNER:	344 Elliot Street Newton, MA 02464
TO BE USED FOR:	Amend the prior Special Permit with site plan modifications to remove ten parking stalls to be used for outdoor dining seats and to waive 24 parking stalls
CONSTRUCTION:	No new construction proposed
EXPLANATORY NOTE:	Special Permit per §7.3 to waive 24 parking stalls and amend Special Permit #215-16(2) (§5.1.4; §5.1.13) Special Permits carried over from #215-16(2): • Modify Special Permit Council Order #501-94(2) • Allow parking in a side setback (§5.1.8.A.1, §5.1.13) • Waive aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13) • Waive certain parking lot screening requirements (§5.1.9.A, §5.1.13) • Waive parking lot security lighting requirements (§5.1.10, §5.1.13) • Allow a retaining wall greater than 4 feet within a setback (§5.4.2.B)
ZONING:	Business Use 1 (BU1) District

This special permit supersedes, consolidates, and restates provisions of prior special permits for this location to the extent that those provisions are still in full force and effect. Any conditions in prior special permits for this location not set forth in this special permit #113-23 are null and void.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
    a. Architectural plans entitled “Dunn Gaherin’s Alterations and Additions, 344 Elliot Street, Newton MA 02464,” dated June 20, 2008, signed and stamped by Donald Lang, Registered Architect:
        • Sheet EX-1 -"Existing Basement & First Floor Plans"

- Sheet EX-2 -"Existing Second Floor Plan, Existing North & South Elevations"
- Sheet EX-3 - "Existing East and West Elevations"
- Sheet A-1 -"Proposed Basement Floor Plan"
- Sheet A-2 -"Proposed First and Second Floor Plan"
- Sheet A-3 - "Proposed North and South Elevations"
- Sheet A-4- "Proposed East and West Elevations"
- "Partial Site Plan" dated October 15, 2008 by Donald Lang Architects, Inc.

b. A site plan entitled “344 Elliot Street, Newton, Massachusetts Existing Conditions/Proposed Patio Location Option III,” showing the proposed conditions and required landscape screening, prepared by Verne T. Porter Jr., PLS, dated April 21, 2023, signed and stamped by Verne T. Porter Jr., Professional Land Surveyor.

2. No Building Permit shall be issued pursuant to this Special Permit until the petitioner has:
   a. Recorded a certified copy of this council order for the approved Special Permit with the Registry of Deeds for the Southern District of Middlesex County.
   b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
   c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. Parking spaces shall be striped and maintained at 9.5 feet in width.
4. The petitioner shall not operate the restaurant with more than 109 seats.
5. Appropriate signage will be maintained near the entrance to the parking lot that directs drivers to back into the parking spaces and to the location of the accessible parking stall.
6. The petitioner shall continue to use best efforts to assist and encourage restaurant customers to comply with all parking and other traffic safety regulations, especially on Elliot Street and Hale Street, and not to obstruct driveways.
7. All trash pickup and deliveries to the restaurant shall occur from the parking area and at off-peak hours during the day.
8. The petitioner shall not operate the outdoor dining area past 9:00 PM on the days the outdoor dining is in use.
9. The petitioner shall obtain all necessary City approvals should they seek to use or install any tent in the outdoor dining area.
10. No Final Inspection/Occupancy Permit for the use covered by this special permit shall be issued until the petitioner has:
    a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered surveyor certifying compliance with Condition #1.b and #1.c.
11. Notwithstanding the provisions of Condition #9 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the

buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

12. The landscaping shown on the plans referenced in Condition #1.b shall be maintained in good condition by the petitioner and any plant material that becomes diseased or dies shall be replaced with similar material annually.