



**MORIARTY TROYER & MALLOY LLC**  
ATTORNEYS AT LAW

Douglas A. Troyer  
Direct Dial: (781) 817-4605  
dtroyer@lawmtm.com  
Admitted in MA

April 6, 2023

***Via Personal Delivery and Email (rluongo@weymouth.ma.us; eschneider@weymouth.ma.us)***

Town of Weymouth Planning Department  
Attn: Robert Luongo, Director  
Attn: Eric Schneider, Principal Planner  
Weymouth Town Hall  
75 Middle Street  
Weymouth, MA 02189

***Re: Application for Special Permit to the Town of Weymouth Board of Zoning Appeals Concerning***

**Applicant:** Pond Street Acquisitions, LLC  
**Property:** 505-507 Pond Street and 1537 Main Street, Weymouth, MA  
Map #61, Block #639, Lots 4 & 7  
**Project:** Weymouth Crossing

Dear Board Members:

Enclosed on behalf of our client, Pond Street Acquisitions, LLC, please find the following in connection with above-referenced application for special permits to the Board of Zoning Appeals for the Weymouth Crossing Project:

- 1) Board of Zoning Appeals Application (12 copies);
- 2) Memorandum in Support of Special Permit Applications (12 copies);
- 3) Site Plans (12 full-sized (24x36) copies, 12 reduced-size (11x17) copy);
- 4) Elevation Plans, Renderings, and Floor Plans (12 full-sized (24x36) copies, 12 reduced-size (11x17) copy);
- 5) Transportation Impact Assessment (1 copy); and
- 6) Drainage Report (2 copies)
- 7) Filing Fee – \$1,950.00 (Check No. 3102 to Town of Weymouth);
- 8) Advertising Fee – \$54.11 (Check No. 3103 to Gatehouse Media)..

A digital version of all of the above documents, excepting the checks for the Filing Fee and Advertising Fee, was also provided to Robert Luongo and Eric Schneider, of the Weymouth Planning Department, via email.

April 6, 2023

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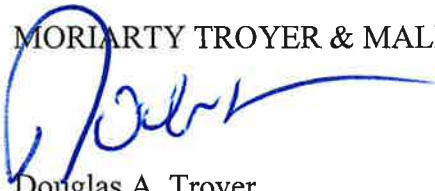
It is the Applicant's understanding that the Public Hearing will be scheduled before the Board on Wednesday, May 17, 2023, at 7:00 p.m.

The contact information for the Applicant is:

Pond Street Acquisitions, LLC c/o Doug Troyer  
Douglas A. Troyer  
Moriarty Troyer & Malloy LLC  
One Adams Place  
859 Willard Street, Suite 440  
Quincy, MA 02169  
[dtroyer@lawmtm.com](mailto:dtroyer@lawmtm.com)

Should you have any questions regarding this matter or require any additional information, please do not hesitate to contact me at (781) 817-4900.

Sincerely,

MORIARTY TROYER & MALLOY, LLC  
  
Douglas A. Troyer

cc: Pond Street Acquisitions, LLC (*via email only*)

**TOWN OF WEYMOUTH  
BOARD OF ZONING APPEALS APPLICATION**

**TO BE COMPLETED BY STAFF**

*Town Clerk Stamp*

Case Number: \_\_\_\_\_

Submittal Accepted: \_\_\_\_\_ Date \_\_\_\_\_  
*Signature of Planning Dept. Staff for minimal requirements*

Determined to be complete and may now be filed with Town Clerk: \_\_\_\_\_  
*Signature of Principal Planner or Director*

**PROPERTY INFORMATION - TO BE COMPLETED BY APPLICANT**

**PROJECT / PROPERTY STREET ADDRESS:** 505 Pond Street & 1537 Main Street

Assessor's Map Sheet, Block, & Lot: Map 61, Block 639, Lots 4 & 7

Zoning District: Business B-1 Overlay District: \_\_\_\_\_

**OWNER OF RECORD (S) (print & sign):** Pond Street Acquisitions, LLC

(The owner of record is the person or entity who owns title to the property as of today's date)

Address of owner of record: 27 Eliot Street, Unit 2 Jamaica Plain, MA 02130

Norfolk County Registry of Deeds Book and Page No. Bk 39004, Pg 256 & Bk 39004, Pg 260

Or registered in Land Registration Office under Certificate No. \_\_\_\_\_

**NAME OF APPLICANT (S) (print & sign):** Pond Street Acquisitions, LLC [Owner]

Applicant's Address: 27 Eliot Street, Unit 2 Jamaica Plain, MA 02130

Contact Information: Email mike@harborlightadvisors.com Phone (617) 947-8170

Check if you are an: owner(s) ☒ lessee(s) ☐ optionee (s) ☐

**NAME & AFFILIATION OF REPRESENTATIVE:** Douglas A. Troyer, Moriarty, Troyer, & Malloy LLC

Address: One Adams Place, 859 Willard Street, Suite 440, Quincy, MA 02169

Contact Information: Email dtroyer@lawmtm.com Phone (781) 817-4900

**NAME OF ENGINEER AND / OR ARCHITECT:** Bohler Engineering; Phase Zero Design

Prior to submitting your application you must review this entire package and the Board Rules and Regulations outlining the Board's policies and procedures. Your signature signifies that you have read the required material and you will be expected to adhere to them.

I (we) hereby certify that I (we) have read the Board of Zoning Appeals Rules and Regulations and that the statements within my (our) application are true and accurate to the best of my (our) knowledge.

 4/6/23

Applicant / Petitioner - Date (sign & print) **Douglas A. Troyer, Esq. as Attorney for the Applicant**

## NATURE OF REQUEST

Application is for: ☒ Special Permit \_\_\_\_\_ Variance \_\_\_\_\_ Other: \_\_\_\_\_

**Applicable Section of Zoning Ordinance** (specify Section (s) of the Zoning Ordinance from which relief is sought):

Special Permit: Section 120-25 (A), (B), and (C)

Special Permit Finding Regarding Existing Non-Conformities: Section 120-40

*The above relief and Ordinance sections will be further reviewed after a complete package is submitted. This may be amended by the Planning or Building staff during the application review process after having the benefit of plan to accurately advertise the application before the Board.*

## PETITIONER'S DESCRIPTION AND NARRATIVE:

To be completed by all Board of Appeals Applicants. Attach additional sheets as necessary.

1. Describe what is presently located on the property (use as much detail as possible including all uses and square footage of each use):

At 505 Pond St., there is presently a 40,950 sf warehouse building that was previously a Factory Paint & Decorating store, which is now permanently closed. At 1537 Main St., there is an unoccupied single-family dwelling.  
See Memorandum in Support of Application for additional details.

2. The applicant seeks to (describe what you want to do on the property in as much detail as possible):

The Applicant proposes two buildings, 9,710 sf and 7,916 sf, totaling 17,626 sf. The uses will include restaurant and retail operations, a drive through lane, a mobile-order pick-up window, and a modest outdoor seating area. The remainder would be parking, vehicle aisles, & landscaping. See Memorandum in Support of Application for additional details.

3. Such a use is permitted by the Town of Weymouth Zoning Ordinance under Article (insert Article, Section of the Zoning Ordinance which permits the proposed use of the property).

Permitted Uses: Section 120-23(A) and (G); Special Permit Use: Section 120-25(A)-(C)

See Memorandum in Support of Application for additional details.

4. Are you aware if this property has been previously granted approvals from any Town Board or Commission? If so, please list (provide dates of previous approvals, book and page numbers or any recorded decisions and copies of past decisions).

March 9, 2001 Decision - ZBA #2517 - Bk. 15189, P. 293

November 10, 1978 Decision - ZBA #1610 - Bk. 5554, P. 577

5. Any other additional information as relevant to the Variance or Special Permit:

See Memorandum In Support, Site Plans, Transportation Impact Assessment, Drainage Report, and Renderings, Elevations, and Floor plans filed herewith for additional information.

## ZONING COMPUTATION WORKSHEET

(To be attached with all Board of Zoning Appeals Applications)

The Zoning Computation Worksheet must be completed by the Applicant / Petitioner. All information should be measured and calculated in accordance with the Weymouth Zoning Ordinance (Section 120-51 Table 1 "Schedule District Regulations" and other applicable sections of the Zoning Ordinance). The information should be based on engineer/surveyor/architectural prepared plans and or calculations. Further guidance can also be provided by the Board's step-by-step application instructions and by contacting the Planning or Building Department while completing this section.

Data	Required	Existing	Proposed
Use		Retail & Residence	Retail & Restaurant
Lot Area / Size (Sq. Ft.)	10,000 sq. ft.	91,357 sq. ft.	91,357 sq. ft.
Dwelling Units	No Requirement	1	0
Frontage (ft.)	No Requirement	N/A	N/A
Lot Width (ft.)	100 ft.	177.8 ft.	177.8 ft.
Front Yard Setback (ft.)	30 ft.	10.8 ft.	34.8 ft.
Front Yard Setback (ft.) – corner lots	30 ft.		N/A
Side Yard Setback (ft.)	20 ft.		N/A
Side Yard Setback (ft.)	20 ft.		N/A
Rear Yard Setback (ft.)	20 ft.	26 ft.	52 ft.
Height (ft.) & # of Stories	35 ft. & 2 1/2 Stories	23.6 ft.	19.6 ft.
Lot Coverage	Up to 50%	26.1%	19.3%
Off-Street Parking Spaces	109	26	112
Off-Street Loading Spaces	1	0	1
Parking Setback	15 ft.	6 ft.	7.2 ft.
Accessory Structure Setback	No Requirement in B-1	N/A	N/A
Landscaping	30 ft./ 15 ft.	0 ft.	2.0 ft.
Floor Area Ratio	No Requirement in B-1	N/A	N/A
Signage	3 ft.	2.9 ft.	10.0 ft.
Other:			

## SPECIAL PERMIT APPLICATION

To be completed for Special Permit Applications only.

### SPECIAL PERMIT FINDINGS OF FACT

In the spaces below explain how the adverse effects of the proposal will not outweigh its beneficial impacts to the Town with respect to each of the following considerations per Article XXV, Section 120-122 of the Zoning Ordinance. The Special Permit Granting Authority may approve any such application for a special permit **only** if it finds that, in its judgment, all of the following conditions are met. (Attach additional supporting documentation as necessary).

1. Is the specific site an appropriate location for such a use? Please explain.

This site is an appropriate location for the proposed restaurant and retail uses because the uses are already allowed by right in the zone. Further, it is appropriate for a Project of this size because it is already developed as a comparably sized commercial property, is on a major roadway, and the roadway supports a number of other businesses, acting as a commercial center. See Memorandum in Support of Application for additional details.

2. Will the proposed use / structure be detrimental or adversely affect the character of the neighborhood or town? Please explain.

The proposed uses and structures will be an improvement for the neighborhood and the Town, increasing the aesthetic value, the beneficial use, and the layout of the property.

See Memorandum in Support of Application for additional details.

3. Is there potential for nuisance or serious hazard to vehicles or pedestrians? Please explain.

There are no potential nuisances or serious hazards to vehicle or pedestrians, as such concerns have been accounted for in the site layout and mitigated by improvements that are detailed in both the Memorandum in Support of Application and the Traffic Study prepared by Vanasse & Associates.

4. Will adequate and appropriate facilities, utilities and other public services be provided for the proper operation of the proposed use? Please explain.

The Project design has accounted for adequate and appropriate facilities for the uses, including but not limited to: utilities, trash, recycling, snow storage, and traffic.

See Memorandum in Support of Application for additional details.

5. Will the public convenience and welfare be substantially serviced with this proposal? Please explain.

The public convenience and welfare will be substantially serviced by revitalizing a currently blighted and out-of-use commercial/industrial site into a center that provides convenient and popular public uses.

See Memorandum in Support of Application for additional details.

## SUPPLEMENTARY QUESTIONS - SECTION 120-40 SPECIAL PERMITS

### **Extension, Alteration or Change of a Privileged Pre-existing, Nonconforming Structure or Use (Article XIII “Nonconforming Uses” Section 120-40 “Extension or Change”)**

To be completed by Applicants applying for a Special Permit under Section 120-40 Only.

#### **EXTENSION OR CHANGE FINDINGS OF FACT:**

Any lawful structure or use in existences at the time the Zoning Ordinance was adopted or amended may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

1. Describe what is currently nonconforming about this structure (list specific dimensional nonconformities):

Front Landscaping Setback - 0 ft./Does not exist      Parking Lot Setback - 6 ft.  
Front Yard (building) Setback - 10.8 ft.  
See Memorandum in Support of Application for additional details.

2. Indicate how long the nonconforming aspects of the structure have been in existence:

All of these nonconformities have existed since at least 1955, when the current cinderblock warehouse was constructed, and were exacerbated by a MassDOT Order of Taking for Main Street in 2016. See Memorandum in Support of Application for additional details.

3. At the time the nonconformity was created (the structure or use initiated) was it compliant with the current zoning requirements? Past zoning ordinances are available for research at the Town Clerk's office and Planning Department. Past zoning maps are available at the Planning Department.

The dwelling at 1537 Main Street was constructed in 1908 and the cinderblock warehouse at 505 Pond Street was constructed in 1955. Both of these structures pre-date the adoption of the Zoning Bylaw, which did not occur until 1969.  
See Memorandum in Support of Application for additional details.

4. Explain how the extension, alteration, or change itself complies with the current Zoning Ordinance requirements:

The proposed change will create a landscaped buffer for the front of the property, which will taper to 2' at its narrowest area & increase the parking setback to 7.2', reducing the severity of the existing nonconformity. The new building will be more than 30' from the lot line, making that aspect compliant with the Bylaw. See also Memorandum in Support of Application.

5. Indicate the number of off-street parking spaces currently provided and to be provided for the proposed structure as extended, altered or changed:

There are 26 current parking spaces. The Project, when complete, will have 112 parking spaces.  
See Memorandum in Support of Application for additional details.

6. Explain how the use or structure as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing structure:

The changed structure will decrease the non-conformities and be more consistent with the Zoning Bylaw.  
See Memorandum in Support of Application for additional details.

## VARIANCE APPLICATION

To be completed for Variance applications only.

### VARIANCE FINDINGS OF FACT:

Criteria for approval. The Board may approve any such application for a Variance **only** if it finds that, in its judgment, all of the following conditions are met.

Complete the following questions. Your responses should provide justifications as to why the requested Variance(s) should be granted. Attach additional documentation as necessary.

1. Describe how a literal enforcement of the provision of the Town of Weymouth Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner.

Not applicable.

2. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located.

Not applicable.

3. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Weymouth Zoning Ordinance.

Not applicable.

4. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship.

Not applicable.

NOTE THAT THE LAW DOES NOT PERMIT THE BOARD TO GRANT A VARIANCE UNLESS ALL OF THE REQUIREMENTS SET FORTH IN CHAPTER 40A SECTION 10 OF THE GENERAL LAWS AND IN ARTICLE XXIV SECTION 120-119 OF THE WEYMOUTH ZONING ORDINANCE ARE SATISFIED. EACH OF THE ABOVE FINDINGS MUST BE ANSWERED IN DETAIL. ATTACH ADDITIONAL SHEETS IF NECESSARY.





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**MEMORANDUM IN SUPPORT OF POND STREET ACQUISITION'S  
SPECIAL PERMIT APPLICATION**

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To: Town of Weymouth Board of Zoning Appeals

From: Douglas A. Troyer, Partner – Moriarty Troyer & Malloy LLC

Re: Special Permit Application for 505 Pond Street and 1537 Main Street  
Map 61, Block 639, Lots 4 & 7  
Business B-1 Zoning District

Date: April 6, 2023

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Dear Honorable Members of the Board of Zoning Appeals:

This Memorandum is submitted to the Town of Weymouth (“Town”) Board of Zoning Appeals (“Board”) on behalf of our client, Pond Street Acquisitions, LLC (“Applicant”), in support of its application for the below-listed special permits, findings, and approvals pursuant to the Town of Weymouth Zoning Ordinance (the “Bylaw”) relating to properties located at 505-507 Pond Street and 1537 Main Street, Weymouth, MA (the “Property” or “Site”).

Specifically, the Applicant seeks the following special permits, findings, and approvals (collectively, the “Application”):

1. Special Permit from the Board pursuant to §120-25(A)-(C) of the Bylaw for the construction of buildings for a shopping center on an area of more than 1.5 acres, development on a lot area in excess of 40,000 square feet, and the inclusion of two (2) drive-through service windows in the proposed buildings within the Business B-1 District (“B-1”).
2. Special Permit and/or Finding from the Board, pursuant to §120-40 of the Bylaw, that the absence of a front landscaped buffer and the 6 ft. parking setback are pre-existing non-conformities and that the proposed changes to create a landscaped buffer that tapers from 28 ft. to 2.0 ft. and a parking setback that tapers to approximately 7.2 ft., decreasing the pre-existing non-conformities, shall not be substantially more detrimental to the neighborhood than the existing non-conformities.

## **I. FACTUAL BACKGROUND**

The Applicant purchased the properties located at 505-507 Pond Street and 1537 Main Street, Weymouth, MA on February 16, 2021 in two quitclaim deeds, recorded with the Norfolk County Registry of Deeds at Bk. 39004, P. 256 and Bk. 39004, P. 260, respectively. The Site is located within the Limited Business (B-1) zoning district. As more particularly described below and based on the “Proposed Site Plan Documents” prepared by Bohler Engineering, dated April 5, 2023, submitted in support herewith (“Site Plans”), the Applicant seeks to raze the existing 40,950 sq ft. building and single family home and replace them with two (2) commercial buildings totaling 17,626 sq ft. of gross floor area on the Site, providing for a mix of allowed uses. The underlying area consists of two (2) different lots totaling 91,357± sq ft. (2.09± acres), as shown on Map 61, Block 639, Lots 4 and 7.

Specifically, the Applicant seeks to construct a 9,710± sq ft. building (“Building A”) that has been designed to accommodate a proposed 2,590± sq ft. Starbucks® coffee shop with a drive-through window facility, 6,990± sq ft. of general retail space, and 130 sq ft. of utility space. The Applicant further seeks to construct a 7,916 sq ft. building (“Building B”) that has been designed to accommodate a proposed 2,452± sq ft. Chipotle Mexican Grill® restaurant with a drive-through window facility for mobile order customers only (Chipotlane®), 5,172± sf general retail space, and 292 sq ft. of utility space (collectively the “Project”).

The Site is located on the western side of the intersection of Main Street and Pond Street within the commercial corridor of South Weymouth. The Site currently contains a two-story masonry and block building, two accompanying parking fields on the north and south sides of the building, and supporting appurtenances that were formerly operated by Factory Paint & Decorating, all of which will be removed to accommodate the construction of the Project. Factory Paint & Decorating operated out of the 40,950 sq ft. warehouse building located fewer than 11 ft. from the lot/street line and has 0 ft. of landscaped buffer and an approximate 6 ft. parking space setback. The 1537 Main Street site is also located in the B-1 commercial zone and consists of a single-family residence abutting Main Street. This structure will also be razed to accommodate the construction of the Project.

The northern and western sides of the Site abut a residential (R-1) zoning district. The eastern side of the Site abuts the B-1 zoning district on Main and Pond Streets along the commercial corridor, and the southern side of the Site abuts a Highway Transition (H-T) zoning district. The Applicant has conducted multiple meetings with its neighbors and Town officials to understand the perspective of those who live within close proximity to the Project. Over the course of the past seven months, the Applicant has made significant efforts in this submission to address the concerns, requests, and comments identified during those meetings by both the residents of the surrounding area and Town officials.

The Applicant offers the following information and supporting documents submitted herewith, to highlight for the Board the ways in which the Project will be a marked improvement to the Site, a benefit to the Town, and a good neighbor. The Site is appropriate for the proposed

uses, as such uses are permitted as of right pursuant to the Bylaw. The proposed uses are consistent with the current and future character of the neighborhood, there will be no nuisances or serious hazards for vehicles or pedestrians, adequate and appropriate facilities for the Project will be constructed and maintained, and the Project's uses will substantially serve the public's convenience and welfare.

#### *A. Zoning Table*

The dimensional requirements for properties located in the B-1 zone are noted below<sup>1</sup>, along with the existing dimensions of the Site and the proposed dimensions. As shown, the Property has existing non-conformities with respect to the minimum front landscape buffer, the parking lot setback, and the front yard setback requirements. As a result of the Project, these non-conformities will be reduced and eliminated.

Bylaw §120-62.1 requires a 30 ft minimum landscaped buffer, yet also permits the minimum landscape buffer to be reduced to 15 ft. in a B-1 zone if approved by the Building Inspector. There is currently zero (0) feet of landscaped buffer and a 6 ft. parking space setback on the Site, which was developed in the 1950s. The Applicant has developed a Landscape Plan (See Sheet C-701 of the Site Plans) that includes the creation of an enhanced landscape buffer along the front yards of the Property. Due to the shape of the Property as well as the takings by the Massachusetts Department of Transportation ("MassDOT") in 2016 that were associated with the redesign and reconstruction of the Pond Street intersection, the landscape buffer tapers from 28.5 feet down to a 2.0 ft. area in one location along the front of the property.<sup>2</sup> Despite this necessary tapering, the landscape buffer as well as the parking space buffer greatly improves the aesthetic appeal of the Site, provides buffering for the landscaping and parking areas, and improves upon the pre-existing non-conformity. Thus, the Applicant is seeking a special permit/finding from this Board pursuant to §120.40 of the Bylaw that its proposed alterations to the pre-existing non-conformities are not substantially more detrimental to the neighborhood than the existing non-conformities.

The Project will also increase the front setback to the buildings to meet the 30 feet requirement as set by the Bylaw, which will eliminate this existing non-conformity. Additionally, the Project provides for the reduction of height from the existing building of 23.6 ft. to 19.6 ft., improvement of rear setbacks from the residential neighborhood from 28' to 52',

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<sup>1</sup> Including criteria specific to properties that abut residential zones.

<sup>2</sup> It should be noted that there are four (4) front yard setbacks for the Site and the 2.0 ft. buffer that is provided is at the pinch point located at the corner of Pond and Main Streets of the Property where the new mast arm for the traffic signal has been placed. The landscape buffers in other areas of the Site range from 28.5 ft. to 5.4 ft. Additionally, the Project provides for the parking space setbacks to range from 35 ft. in some areas to 7.2 ft., where a 6 ft. buffer exists today.

and provides a Site allowing for fire apparatus circulation behind the building where none exist today.

In every other respect, the Project meets or exceeds the dimensional requirements set forth in the Bylaw.

<b>Zone Criteria</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Min. Lot Area	10,000 sf	91,357 sf	91,357 sf
Min. Lot Width	100 ft	177.8 ft	177.8 ft
Max. Lot Coverage	50%	26.1%	19.3%
Min. Front Setback	30 ft	10.8 ft	34.8 ft
Min. Side Setback	20 ft	N/A	N/A
Min. Rear Setback	20 ft	26 ft	52.0 ft
Max. Building Height	2 ½ stories/35 ft	23.6 ft	19.6 ft or <35'
Min. Front Landscape Buffer	15 ft	0 ft	2.0 ft
Parking Lot Setback	15 ft	6 ft	7.2 ft
Parking Spaces	109	26	112
Access. Parking Spaces	5	2	5

## **II. SPECIAL PERMIT PURSUANT TO §120-25(A), (B), & (C) OF THE BYLAW**

As the Board is aware, the Bylaw contains specific triggers for special permits and designates the Board as the special permit granting authority. The evaluation for the granting of a special permit is based upon a project's ability to fulfill the special permit criteria described in §120-122 of the Bylaw. Each of the Special Permit criteria is addressed in turn below.

### **A. Special Permit Triggers Under Bylaw §120-125 – Permitted Uses Above a Certain Size and Drive-Through Windows.**

Although the Bylaw considers restaurants and retail businesses to be “as of right” uses in a B-1 zone, these permitted uses require special permits in certain circumstances to permit the Board to verify that the scale and style of a specific operation is consistent with the neighborhood. Bylaw §120-125 establishes multiple bases for special permit review. Three of these triggers are applicable to the Project:

- 1) The Project contains more than one building, and can therefore be considered a shopping center;
- 2) Two restaurants proposed on the Property seek to have a drive-through window as part of their operations; and

- 3) The combined lot area exceeds 40,000 sf.<sup>3</sup>

**B. Special Permit General Criteria.**

As set forth in §120-122 of the Bylaw, the special permit general criteria seek to ensure that proposed developments are consistent with local land-use goals, are appropriate in scale, well-considered in the context of their location, and beneficial to the residents of the Town. Here, the Applicant has proposed and seeks permission to construct a restaurant and retail center that is consistent with these considerations.

1. The specific site is an appropriate location for such a use.

The Project is consistent with the overall development pattern in the surrounding area and is appropriate in the B-1 zoning district. Main Street and Pond Street operate as a commercial thoroughfare for South Weymouth, providing residents and visitors alike with opportunities to patronize many different types of businesses. The Site currently holds a single commercial use on a large lot, operating out of a cinderblock warehouse that was constructed in 1955, prior to the adoption of the Bylaw. The currently blighted warehouse, as it was constructed and then expanded over time, is a significantly sized structure for the lot that veritably looms over the street and the abutting residential neighborhood as a result of its positioning. The other portion of the Property holds a single-family dwelling on a parcel that is also zoned in a B-1 district and fronts an otherwise commercial street.

The total land area is approximately 91,357± sf., Buildings A and B will be approximately 17,626± sf, leaving more than 80% of the Property for open space, parking, landscaping, sidewalks, concealed trash and recycling receptacles, drive-through lanes, and outdoor patios. In a zone that contemplates a 50% Maximum Lot Coverage, the proposed building area will be considerably reduced to 19.3% building coverage area when compared proportionately to the overall size of the Property. The building setbacks to the roadways and abutting properties will also be increased over existing conditions. The Project will provide an aesthetic improvement to the current site layout and to the surrounding area. The proposed uses on the Site are beneficial for the Town and neighborhood. They will provide convenient and useful daily service-oriented retail uses for the Town and neighborhood. The Site is located in an ideal location for the proposed uses.

2. The use involved will not be detrimental to the established or future character of the neighborhood or Town.

The Project's proposed uses will not be detrimental to the established and future character of either the neighborhood or the Town. The existing industrial site was constructed

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<sup>3</sup> The Weymouth Planning Director confirmed for the Applicant that separate Site Plan Review is not required for this Application because of the parallel criteria of Special Permit review.

and expanded over time with little consideration for its aesthetic appeal and with significant non-conformities to the existing Bylaw. The Applicant will reposition the blighted property to provide multiple beneficial uses to the residents of Weymouth, while reducing the total building coverage on the Property, improving the drainage and visual appeal of the Property, and substantially upgrading drainage, landscaping, and stormwater management of the Property. Internal and external circulation around the Property will also be greatly improved for the safety of the surrounding area.

The types of uses and establishments proposed by the Applicant are expressly listed as allowed uses in the B-1 zoning district of the Bylaw. The specific eating and drinking establishments proposed are reputable, popular, and well-established. They demand the maintenance of a high-quality visual standard for the locations in which they operate. They attract other high-quality retailers who want to operate next to them, and it is anticipated that the remaining square footage in the buildings will attract users who will provide convenient and useful daily services. The established and future character of South Weymouth will benefit from the presence of the Project. It will act as a thriving, welcoming, well-cared-for retail property for years to come.

The landscaping has been enhanced throughout the Site. The design will have substantial plantings on all four sides of the property, as well as internally within the Site. It will combine flowering seasonal plantings that will provide bursts of color, and trees that in time will grow to become established mature trees. (See Landscaping Plan – Sheet C-701 of the Site Plans). The Applicant is also providing for significant screening to the surrounding properties in appropriate areas of the Site with a combination of a 6 ft. tall noise-dampening fencing and arborvitae trees on its rear property line abutting residential properties. The Applicant is also proposing additional plantings and fencing along Jessica Lane and Nelson Road, which will provide year-round screening and further sound barriers. It is the Applicant's position that effective use of topography, landscaping, and building placement has been made to the extent feasible to maintain and enhance the character of the neighborhood.

The Applicant will employ professional landscaping crews to perform regularly scheduled maintenance and cleaning of the landscaping on the Site. They will also regularly sweep the parking lot to prevent debris and sediment build-up throughout the Site. Not only will this allow the landscaping to flourish over time, but will preserve the stormwater drainage systems that will be built by the Applicant.

3. *There will be no nuisance or serious hazard to vehicles or pedestrians.*

A Traffic Assessment Study ("Traffic Study") has been prepared by Vanasse & Associates, Inc. Transportation Engineers and Planners ("Vanasse") and is submitted herewith in support of the Project. The Traffic Study indicates that the Project provides for convenient and safe vehicular and pedestrian movements within the Site and on adjacent streets. Significant improvements are proposed for the Site and Vanasse's analysis establishes that the Project will not result in a negative impact on motorist delays or vehicle queuing over existing or anticipated future conditions.



The Traffic Study provides a conservative and comprehensive assessment of the current and anticipated traffic conditions for the Property for multiple modes of transportation, including vehicles and pedestrians. The Traffic Study identifies that the ingress and egress to the Project will remain via two existing driveways to the Site, one located on Main Street and the second located on Pond Street. The Pond Street driveway will be improved by providing for right- and left-turn egress, but only right-turn entry into the site from Pond Street. The Main Street driveway will have right-in from Main Street, and a left-turn ingress from Main Street for cars traveling north. Cars exiting the Site will be limited to a right turn exit only on to Main Street. These turning restrictions will appropriately address the traffic patterns of the immediately surrounding roadways and will greatly limit any conflicting turning movements that may exist today.

Internally, the Site design provides for much-improved circulation around the buildings when compared to the existing layout. For example, a fire truck cannot currently circumnavigate the Site to get to the rear of the large two-story building, nor can it travel from the northern side of the Property to the southern side without leaving the Site and traveling on Pond Street and Main Street between the existing curb cuts. The proposed Project provides greatly improved access, egress, and internal site circulation for customer, emergency vehicle, and delivery vehicles when compared to current conditions.

As part of this Project, the Bylaw requires a total of 109 spaces for employees and patrons for the proposed uses. A total of 112 parking spaces are proposed, exceeding the zoning requirement and significantly improves upon the Site's existing parking situation. The proposed mix-used Project provides adequate access, egress, and internal site circulation for customer and delivery vehicles.

The sides of the buildings, excepting those where the drive-through windows are located, will have ADA-compliant sidewalks and striped crosswalks that permit safe pedestrian access to, from, and through the Site. There will be connections between the internal sidewalks, the parking lot, and sidewalks that are external to the Property. The parking lot aisles and driveway widths have been oriented to optimize vehicular flow to, from, and through the Site. They will prevent traffic-related nuisances or serious hazards between vehicles and other modes of transportation. The drive-throughs are designed with separate "bail-out" lanes that provide vehicles the ability to safely travel around the drive-through queues. These bail out lanes will also provide customers with the option to exit the drive-through queue early, if desired, and maneuver around the Site in a safe and efficient manner, thus reducing the overall queue lengths and waiting times at peak operating hours.

The Traffic Study includes a list of recommendations that the Applicant will be incorporating into the Project which will ensure that there is no detriment to the levels of service for the Project's adjacent roadways, especially during peak travel hours. The measures are extensive, intended to offset any impact that could be caused by the Project even at its busiest times, and include the following:

- The Pond Street driveway will be widened to 24 ft. and straightened to facilitate both delivery trucks and emergency vehicles.

- The raised island along Main Street will be extended to allow left-turn entry but prohibit left-turn exits onto Main Street.
- A raised island will be placed in the center of the Main Street driveway to channelize traffic and reinforce the proposed orientation of traffic.
- Multiple traffic signs, such as “Do Not Block Intersection”, “No Left Turn”, and “One Way” signs, will be conspicuously posted to provide additional notice to drivers and to improve enforcement of traffic patterns.
- Drive aisles will be widened to at least 23 ft and constructed to circumnavigate the entire Site to improve traffic flow by increasing roadway length and to provide emergency vehicles with easy access to all areas of the Site.
- The proposed Starbucks® drive-through window facility can accommodate up to twelve (12) vehicles in queue (measured from the pick-up window to the end of the row of parking to the north of the building that will contain the coffee shop) without impeding access or circulation within the Site and includes a by-pass lane.
- The proposed Chipotle® restaurant contains a drive-through window that services mobile order customers only which acts similar to a curbside pick-up rather than a traditional drive-through lane, as customers have prepaid online and are just waiting in line to pick up food. The proposed drive-through facility can accommodate up to seven (7) vehicles in queue, measured from the pick-up window to the end of the drive-through lane without inhibiting circulation within the Site or the movement of vehicles, pedestrians, or bicyclists. Similar to the proposed Starbucks® coffee shop, a by-pass lane is also provided.
- Drive-through lanes, crosswalks, and parking lot striping will be clearly painted and maintained to maximize utility and ensure visibility.
- Traffic signal timing, phasing, and coordination at the intersection of Main Street and Trotter Road, off-site from the Project, will be altered to optimize the flow of traffic at the nearby intersection while facilitating the safe passage of pedestrians.
- Traffic signal timing, phasing, and coordination will also be optimized at the intersection of Main Street and Pond Street.
- Transportation demand will be managed by encouraging use of public transit, including the Commuter Rail, MBTA Buses, and the RIDE paratransit service.
- Secure bicycle parking will also be provided to allow for easy use by cyclists.
- Snow will be removed in a timely manner to increase parking lot and lane safety and to prevent any interference with vehicular lines of site.

(See Traffic Study submitted in support herewith).

4. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.*

The Applicant submits that the Site will include all adequate and appropriate facilities for proper operation of the use and structures, as well as all necessary public and private services for the Project, and that the Applicant has consulted with the Town’s departments to ensure that all utility and service needs are met.



The Project calls for both buildings to have new sewer lines that will connect to the existing sewer infrastructure within Main Street. New water and gas lines will similarly be tied into the existing infrastructure in Main Street. These connections have been verified as adequate for the Project and its proposed uses, and feasible with the Town's capacity. The Drainage Report, dated April 5, 2023, prepared by Bohler Engineering, is submitted herewith in support of the Application and provides details regarding stormwater and drainage management for the Site. The Project proposes deep sump hooded catch basins to collect and route runoff from the paved areas of the Site into an underground infiltration basin. The proposed drainage system will be an improvement over the severely limited existing infrastructure. The Project will decrease peak rates of runoff from the Site for the 2-, 10-, 25-, and 100-year storm events and effectively remove total suspended solids from the Site's runoff.

Landscaping and outdoor areas, such as parking lots and outdoor patios, are designed to enhance the aesthetic value of the Site, increase the buffer area between on-Site activity and the street, provide adequate off-street parking for both employees and visitors, deliver necessary lighting for customer and employee safety without causing light pollution through the use of "dark sky" methods.

Finally, the Project will be actively monitored and managed by a professional property management company to ensure that all facilities are maintained in good working order to protect aesthetic appeal and functionality throughout the life of the Project.

5. *The public convenience and welfare will be substantially served.*

The Applicant submits that the Project will substantially serve the public convenience and welfare by providing stable desirable retail and dining establishments to the general public and accounting for the needs of the neighboring properties, the Town, and the users of the Property. The Project, as described above, will optimize the utility of the Site while providing valuable services to the public and mitigating potential off-site impacts that could be caused by the redevelopment of this largely paved obsolete industrial site.

**III. REQUEST FOR A FINDING REGARDING THE ALTERATION OF PRE-EXISTING NON-CONFORMITIES PURSUANT TO BYLAW §120-40**

As discussed above, the Applicant further seeks a special permit finding pursuant to §120-40 of the Bylaw that its proposed alterations to the pre-existing non-conforming landscape buffer and the parking lot setback are not substantially more detrimental to the neighborhood than the existing non-conformities.

§120-40 of the Bylaw provides as follows:

Any lawful building or structure or use of a building or structure or premises or part thereof at the time this bylaw or any amendment thereto is adopted may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such

change, extension or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, subject to the conditions and requirements of Article XXV of this bylaw.

The parcel that is the majority of the land area of the Site (505 Pond Street) was developed in 1955. A significant majority of the parcel is paved, including the entirety of the mere 10.8 ft. between the existing building and the lot line that abuts Main Street. The Bylaw was adopted in 1969 and approved by the State Attorney General in 1970, 15 years after the Site was developed in its current condition. As such, it was an existing building/structure/use at the time the Bylaw went into effect and is considered a pre-existing non-conforming building, structure, and use. Additionally, MassDOT issued an Order of Taking to numerous property owners in order to expand Main Street and accommodate vehicular traffic. This taking occurred in 2016 and is recorded in the Norfolk Registry of Deeds in Book 34600, Page 1, which reduced the already limited space between the existing building and parking areas and the road. The Applicant did not have control over this process and is thus not responsible for this taking by MassDOT. As such, it effectively exacerbated the pre-existing non-conformities on the Site.

Bylaw §120-40 permits extension or alteration of lawful, existing non-conformities on the condition that the change not be to the detriment of the neighborhood. Here, the Applicant proposes to create a landscape buffer where no landscaping buffer exists and increase the existing parking setback from the abutting roadways.<sup>4</sup> Due in part to land takings associated with the MassDOT redesign of the Pond Street intersection, the Site's front property line has been pushed back. As a result, the proposed front yard landscaping buffer tapers from approximately 28.5' ft. to 2.0 ft. at the Site's smallest point where the intersection's signal mast arm has been erected on what was formerly a piece of the Property. The proposed parking setback tapers from approximately 35 ft. to 7.2 ft. This is an alteration of an existing non-conformity, but the change is an improvement over existing conditions and more consistent with the Bylaw. The proposed changes will be more aesthetically appealing and safer for pedestrians by creating distance between the sidewalk and the paved parking area. It will reduce the total impervious surface area over the Site and improve lines of sight for vehicles entering and exiting the Property.

Additionally, the existing front setback between the property line and the building is currently only 10.8'. As a result, site lines around the building are compromised. More

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<sup>4</sup> §120-62.1 of the Bylaw provides "the front yard area comprising the minimum required front yard setback depth and measured across the lot width shall be landscaped, except for required access driveways and walkways. The minimum landscaped depth may be reduced to 15 feet in the HT, MS and B-1 Zoning Districts if a landscaping plan is approved by the Inspector of Buildings. See Table 1 for applicability."

§120-70(C) of the Bylaw provides as follows: "When a required off-street parking space is in the form of a parking lot or other open-air parking space in Business Districts B-1, HT and MS, it shall not be located within less than 15 feet of a street line."

importantly, there is no internal vehicular circulation between the northern parking lot on the Site and the southern parking lot. Because there is also no circulation around the rear of the building, customers or emergency vehicle operators who wish to travel between the parking lots are forced to exit the Site and travel on the public ways in order to enter the second parking area of the same property. The Project dramatically increases the front building setbacks to meet the 30 foot requirement as set by the Bylaw (i.e., a 68.7 ft. setback from Main Street, 72.5 ft. setback from Pond Street, a 42.8 ft. setback from Nelson Road, and a 34.8 ft. setback from Jessica Lane), eliminating the existing non-conformity and making travel within the Site and on the surrounding roadways much safer and more convenient.

Based on the foregoing, the Applicant respectfully requests that the Board grant a special permit and/or issue a finding that the Applicant's proposed alterations to the pre-existing non-conforming landscape buffer and parking space setback are not substantially more detrimental to the neighborhood than the existing non-conformity, which as proposed will become less non-conforming and will eliminate the pre-existing setback non-conformities.

#### **IV. CONCLUSION**

For all of the reasons stated above, and in conjunction with the other materials submitted in support of the Application, the Applicant submits that it has shown sufficient evidence to support findings consistent with the grant of the special permit sought under §§120-25, 120-40, and 120-122 of the Bylaw and respectfully requests that the Board grant the requested special permits, findings, and approvals. The Project will bring significant and long-term benefits to the Town, includes only allowed uses within the Site's B-1 zone, is consistent with the character of the neighborhood, and accounts for all the infrastructural and logistical needs associated with the development.

The Applicant respectfully requests that this Board approve the Application and grant the following special permits and issue all necessary findings for:

1. Special Permit from the Board pursuant to §120-25 of the Bylaw for the construction of buildings for a shopping center on an area of more than 1.5 acres, development on a lot area in excess of 40,000 square feet, and the inclusion of drive through service or windows in the proposed buildings within the Business B-1 District.
2. Special Permit and/or Finding from the Board, pursuant to §120-40 of the Bylaw, that the absence of a front landscaped buffer and the 6 ft. parking setback are pre-existing non-conformities and that the proposed changes to create a landscaped buffer that tapers from 28 ft. to 2.0 ft. and a parking setback that tapers from 6 ft. to approximately 7.2 ft. decreasing the pre-existing non-conformities and shall not be substantially more detrimental to the neighborhood than the existing non-conformities.

Should the Board or any Town departments require any additional information or have questions concerning this Application, please do not hesitate to contact me directly and I will provide the additional information and/or respond to any questions forthwith.

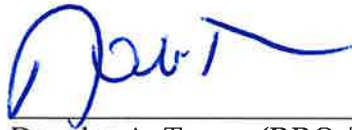
Thank you for your attention to this matter.

Respectfully submitted,

POND STREET ACQUISITIONS, LLC

By its attorneys,

MORIARTY TROYER & MALLOY LLC



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Douglas A. Troyer (BBO # 645134)

dtroyer@lawmtm.com

Michel L. Wigney (BBO # 708154)

mwigney@lawmtm.com

One Adams Place

859 Willard Street, Suite 440

Quincy, MA 02169

(781) 817-4900

cc: Pond Street Acquisitions, LLC (*via email only*)  
Project Team (*via email only*)