



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2012-83
Date: October 11, 2012
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 219-221 Elm St, a/k/a 387-391 Summer St and 217 Elm St, a/k/a 376 Summer St

Applicant Name: Painted Burro, Inc.
Applicant Address: c/o Pizzeria Posto, 187 Elm Street, Somerville, MA 02144
Property Owner Name: Laverty Family Trust
Property Owner Address: 255 Bent Street, Cambridge, MA 02141
Agent Name: Adam Dash, Esq.
Agent Address: Adam Dash & Associates, 48 Grove Street, Suite 304, Somerville, MA 02144
Alderman: Rebekah Gewirtz

Legal Notice: Applicant Painted Burro, Inc. and Owner Laverty Family Trust, seek a Special Permit with Design Review under SZO 7.11.10.1.1.c to establish a restaurant use between 5,000 and 9,999 gross square feet and a Special Permit under SZO §4.4.1 to modify the storefront, including window openings, of the existing nonconforming structure. CBD zone. Ward 6.

Zoning District/Ward: CBD zone / Ward 6

Zoning Approval Sought: Special Permit with Design Review under SZO §7.11.10.1.1.c and a Special Permit under SZO §4.4.1

Date of Application: September 20, 2012

Dates of Public Hearing: Zoning Board of Appeals – **October 17, 2012**

I. PROJECT DESCRIPTION

1. Subject Property: Located in Davis Square at the corner of Elm Street/Summer Street and Grove Street, the subject commercial spaces are part of a series of commercial storefronts in a building with the addresses of 219-221 Elm Street, a/k/a 387-391 Summer Street and 217 Elm Street, a/k/a 376 Summer Street. The existing Painted Burro restaurant goes by an address of 219 Elm Street and the space next door, Spike's Junkyard Dogs, goes by the address of 217 Elm Street. The Painted Burro has 5,188 square feet of finished space, 80 seats, and is open seven days a week from 5:00 PM to 1:00 AM. The Spike's

space has 2,340 gross square feet, 30 seats, is open Sunday through Thursday, 11:00 AM to 10:00 PM, and Thursday through Saturday, 11:00 AM until midnight.

The property itself is 23,769 square feet with a one-story, 22,608 gross square foot, flat roofed building on it that sits right up against Elm Street/Summer Street. There is a 29 space parking lot behind the existing structure at the property that serves all of the commercial spaces in the building. Four of the parking spaces in this lot are tandem and would only count as one parking space for the purposes of zoning. Therefore, from Planning Staff's perspective, the lot only contains 26 parking spaces. In January of 1991, the Zoning Board of Appeals awarded a 10 space parking Variance to the property (ZBA 1990-85).

2. Proposal: The Applicant, who owns and operates the existing 80 seat Painted Burro restaurant, intends to connect the two storefronts and expand the Painted Burro into the Spike's storefront space, which will be renovated. The newly expanded restaurant will have 4,058 square feet of street level space, 4,058 square feet of basement level space, and 110 total seats. The expanded restaurant will have 35 employees and continue the Painted Burro's current hours of operation which are seven days a week from 5:00 PM until 1:00 AM. The proposal would take the existing bar area of the Painted Burro restaurant and move it into the space where Spike's is currently located. The front portion of the Painted Burro would then be used for 16 new dining seats. The existing Spike's space would then be renovated to contain the new bar with 14 seats, 16 new dining seats, and an additional bathroom all at the street level. All of the windows along the streetscape would also be replaced with end fold windows which could be opened and stacked inside. This would allow for an open air dining atmosphere along the streetscape when the weather permits. The lower panels of the façade would either be filled solid or consist of glass, but this will be determined at a later time. The Applicant would also like to replace the existing Spike's signage with new signage associated with the Painted Burro, however, the design and size of this signage also still needs to be determined.

3. Nature of Application: The existing structure at the property is nonconforming with regard to its minimum required landscaped area at 0%, as 10% is required in the Central Business District (CBD) district. This existing nonconformity requires the Applicant to obtain a Special Permit under Somerville Zoning Ordinance (SZO) §4.4.1 to alter the nonconforming structure to modify the storefront, including window openings, along the Elm Street/Summer Street streetscape.

Additionally, because the existing Painted Burro restaurant is expanding from 5,776 gross square feet to 8,116 gross square feet, a Special Permit with Design Review under SZO §7.11.10.1.1.c is required from the Zoning Board of Appeals to establish a restaurant use between 5,000 and 9,999 gross square feet within the CBD district.

4. Surrounding Neighborhood: The subject property is located in a Central Business District (CBD) in Davis Square approximately 750 feet from the Davis Square Red Line T Station. The property is surrounded by commercial, retail, restaurant, entertainment, and office uses, all reflective of the underlying CBD zoning for Davis Square. Moving further out from the Square, the neighborhoods become almost exclusively residential. Although the majority of the businesses in Davis Square do not provide off-street parking, multiple municipal lots are located within the immediate vicinity and there is easy access to numerous means of public transportation.

5. Impacts of Proposal: The proposed façade changes and 30 seat restaurant expansion of the Painted Burro will likely have a minimal impact, if any, on the surrounding Davis Square neighborhood. The establishment would have 35 employees total and the proposed hours of operation would remain the same as the existing Painted Burro's hours of seven days a week from 5:00 PM until 1:00 AM, which fits

into the character of the surrounding area of Davis Square. The total vehicular trips that the expanded restaurant use would generate may actually be lower than the two current uses at the site. Spike's Junkyard Dogs, a fast order food establishment, tends to have a higher turnover rate of customers than a sit-down dining restaurant. Therefore, more customer trips are likely being created at this particular property right now. The proposed Painted Burro expansion would maintain the same number of seats as the existing Spike's business, but approximately half of those existing fast order food establishment seats would become sit-down dining seats, helping to reduce the customer turnover rate at the property. Further, since the existing Spike's use is open for lunch at 11:00 AM and the Painted Burro does not open until 5:00 PM, removing the Spike's use from the equation should also somewhat reduce customer trips to the property. Parking should not be an issue either as a result of the restaurant expansion as the number of seats for the existing Spike's use and the proposed area of restaurant expansion will be the same. No zoning relief for parking is required as part of this application and there are multiple means of public transportation that provide customers with alternative transportation options to get to the restaurant.

Additionally, the proposed new end fold windows that will allow for an open air dining experience will help to enhance the pedestrian streetscape along Elm Street/Summer Street and in Davis Square in general. During the warmer months these particular storefronts may produce a slight increase in noise along the streetscape as the restaurant windows will likely be open, but this type of activity fits directly into the atmosphere of the Davis Square area. This type of business helps to maintain the vibrancy of the streetscape and the high quality pedestrian environment of the Square, which is a benefit to the surrounding Davis Square neighborhood.

The exact logo, design, and size of the future signage on or above the existing Spike's storefront is still being determined. Therefore, Planning Staff is proposing a condition that whatever new signage is proposed by the Applicant or Owner be subject to Planning Staff review and approval before a Building Permit is issued for the signage. This proposed signage would also need to conform to §12 of the SZO and tie into the architectural style of the existing building and business.

6. Green Building Practices: None indicated.

7. Comments:

Fire Prevention: Has been contacted but has not yet provided comments.

Ward Alderman: Alderman Gewirtz indicated in an email to Planning Staff on Tuesday, October 2, 2012, that she did not have a problem with the application and thought it made sense to expand the Painted Burro because the restaurant is very popular.

Historic Preservation: Indicated the following in a memorandum to Planning Staff on Tuesday, October 2, 2012:

Historic and Architectural Significance

This building was constructed circa 1922 as garages and enlarged with added storefronts in the 1930s. It has held a variety of businesses from the Somerset Lunch to the Morgan Memorial Goodwill and the Passich Furniture Company as well as more recent restaurant establishments. The storefronts have been modernized several times to accommodate the changing times and uses.

Stylistically, the building(s) has a one-story tapestry brick façade with cast stone pilasters and cornice frieze typical of the 1920s and 30s Colonial Revival.

Proposed Work and Recommendations

HPC Staff finds that the proposed alteration to the fenestration and signage will not significantly alter the original fabric of the building.

Wiring Inspector: Has been contacted but has not yet provided comments.



Existing Conditions

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §5.1.4)

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 Staff 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."

In considering Special Permits under §4.4.1, §5.1.4, §7.11.10.1.1.c, and §5.1.5 of the SZO, the Staff finds that the alterations proposed to the façade and the expansion of the restaurant into the adjacent storefront space would not be substantially more detrimental to the neighborhood than the existing structure or use. The proposed new end fold windows that will allow for an open air dining experience will help to enhance the pedestrian streetscape along Elm Street/Summer Street and in Davis Square in general. During the warmer months these particular storefronts may experience a slight increase in noise

generation along the streetscape as the restaurant windows will likely be open, but this type of activity fits directly into the atmosphere of the Davis Square area. These changes will maintain the vibrancy of the streetscape and the high quality pedestrian environment in the Davis Square area.

The proposal is also designed to be compatible with the characteristics of the surrounding area and is consistent with the district standards and guidelines for developments within the CBD as laid out in SZO §6.1.5.B as follows:

1. Across the primary street edge, the building should complete the streetwall.

The existing building and proposed changes will maintain completeness of the streetwall along Elm Street/Summer Street. The Applicant is not proposing any changes as part of this project that would alter this situation at the site.

2. At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.

The proposed changes to the façade of the building will maintain and even enhance the existing continuous storefront situation at the property. The project will expanded a popular restaurant in Davis Square and enhance the pedestrian streetscape experience by implementing end fold windows along the entire storefront space. This will allow for an open air dining experience and increase the streetscape vibrancy along Elm Street/Summer Street. The proposal will continue to maintain an interactive sidewalk and pedestrian friendly environment.

3. Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.

The project does not propose to change the massing of the existing building. The proposed changes to the structure will further enhance the pedestrian environment by implementing end fold windows along the entire storefront space. This will allow for an open air dining experience and increase the streetscape vibrancy along Elm Street/Summer Street and in the surrounding Davis Square neighborhood.

4. Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.

The Applicant is not proposing any changes to the existing parking situation at the site. The existing 26 space on-site parking lot is located behind the building and is accessed off of Grove Street. Additionally, in January of 1991, the property received a 10 space parking Variance from the Zoning Board of Appeals (ZBA 1990-85).

5. Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level façade of the building of a maximum twenty-five (25) feet in width.

The Applicant is not proposing any changes to the existing parking situation at the site. The existing 26 space on-site parking lot is located behind the building and is accessed off of Grove Street. Additionally, in January of 1991, the property received a 10 space parking Variance from the Zoning Board of Appeals (ZBA 1990-85).

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 promoting "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 lessen congestion in the streets; 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 also consistent with the purpose of the district (6.1.5. CBD - Central Business Districts), which is, to "preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses."

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 land uses. The proposal is also consistent with the district standards and guidelines for developments within the CBD as laid out in SZO §6.1.5, which is outlined in Section 2, Finding 2 above.

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 surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this proposal. No new glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project. There may be a small, if any, increase in noise as the restaurant is proposing to replace all of their existing windows with new end fold style windows that stack on the inside of the space. This will allow for the Painted Burro to open their windows when nice weather permits. When these windows are open, there may be a slight increase in noise along the Elm Street/Summer Street streetscape, but several other businesses in Davis Square already have this style of window for their storefront spaces. The structure itself will remain a one-story building used for commercial purposes.

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.

The Applicant is not proposing any changes to the existing parking situation at the site. There is a 26 space off-street parking lot behind the structure that has been and will continue to serve the parking needs of the storefronts on this block at night. The proposed expansion of the restaurant will add the same number of seats that were in the previous fast order food establishment space (Spike's Junkyard Dogs), and therefore the parking requirement for the expanded use is the same as when the spaces were operating as two

separate uses. As is already the case, the trips the restaurant generates will be offset by the storefront's proximity to alternate modes of transportation (Red Line, MBTA Bus Service, taxis, Tufts Shuttle Bus, Community Path, etc.) and the multiple public parking lots located nearby the establishment. Additionally, in January of 1991, the property received a 10 space parking Variance from the Zoning Board of Appeals (ZBA 1990-85).

III. FINDINGS FOR SPECIAL PERMIT with DESIGN REVIEW (SZO §5.1.5, §7.11.10.1.1.c)

In order to grant a Special Permit with Design Review, the SPGA must make certain findings and determinations as outlined in §5.1.5 of the SZO. This section of the report goes through §5.1.5.A in detail, which pertains to the design guidelines for business zones.

The Special Permit with Design Review requires the SPGA to make positive determinations with the design guidelines in SZO §5.1.5.A. The proposal conforms to the criteria of this section of the SZO as follows:

1. Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.

The existing building completes the streetwall along Elm Street/Summer Street. The Applicant is not proposing any changes to the streetwall as part of this proposal that would alter this situation at the site. The proposed changes to the façade of the building will maintain the existing continuous storefront situation at the property and along Elm Street/Summer Street.

2. Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation entrance.

The Applicant will not be altering the existing entrance into the Painted Burro or to the added Spike's retail space. Both of these entrances are currently slightly recessed and will function as entryways into the newly expanded restaurant. One entrance will take patrons directly into the bar area and the other will provide access directly into the dining area.

3. Make use of the typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.

As part of the proposal the Applicant will be maintaining the typical bay width, rhythm, and dimensions of the storefronts in the existing building. The physical storefront setup for the building will not be greatly altered with the exception of the implementation of the end fold windows along the front facade. The existing entrance doors are currently slightly recessed from the Elm Street/Summer Street streetscape, separating them from the pedestrian way, and the Applicant is not proposing any changes to these elements of the façade.

4. Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the façades, mullion design and treatment, etc.

As part of the proposal the Applicant will be maintaining the typical bay width, rhythm, and dimensions of the storefront in the existing building. The vertical architectural detail elements of the building will all be maintained as part of this proposal which will help to maintain definition of the bay widths. The new end fold windows that will be implemented will be installed in between these vertical architectural

elements. The existing entrance doors are currently slightly recessed from the Elm Street/Summer Street streetscape, separating them from the pedestrian way, and the Applicant is not proposing any changes to these elements of the façade.

5. Provide roof types and slopes similar to those of existing buildings in the area.

The Applicant is not proposing to make any changes to the roof type or slope on the existing building as part of their proposal.

6. Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of masonry is encouraged, but not considered mandatory.

The Applicant is not proposing to make substantial alterations to the existing structure outside of implementing new end fold windows along the entire storefront space. This will allow for an open air dining experience and increase the streetscape vibrancy along Elm Street/Summer Street. The proposal will continue to maintain an interactive sidewalk and pedestrian friendly environment. These end fold windows will bring consistency and continuity across the entire Painted Burro restaurant façade. Additionally, the Applicant would like to add new signage on the façade of the expanded portion of the restaurant to bring further continuity across the storefront. The exact logo, design, and size of this signage is still being determined and therefore Planning Staff is proposing a condition that whatever new signage ends up being proposed on or above the expanded space be subject to Planning Staff review and approval before a Building Permit is issued for the signage. This proposed signage would also need to conform to §12 of the SZO and tie into the architectural style of the existing building and business.

7. When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.

The Applicant is not proposing any changes to the existing parking situation at the site. The existing 26 space on-site parking lot is located behind the building and is accessed off of Grove Street. Additionally, in January of 1991, the property received a 10 space parking Variance from the Zoning Board of Appeals (ZBA 1990-85). The Applicant is not required to provide any additional parking on-site as part of this proposed use expansion.

8. Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.

The Applicant is not proposing to relocate or add any new transformers, heating and cooling systems, antennae, or the like to the existing structure.

9. Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.

The proposal is consistent with the guidelines set forth for developments within the CBD district as laid out in SZO §6.1.5. Please see Section 2, Finding 3 in the text above for detailed response.

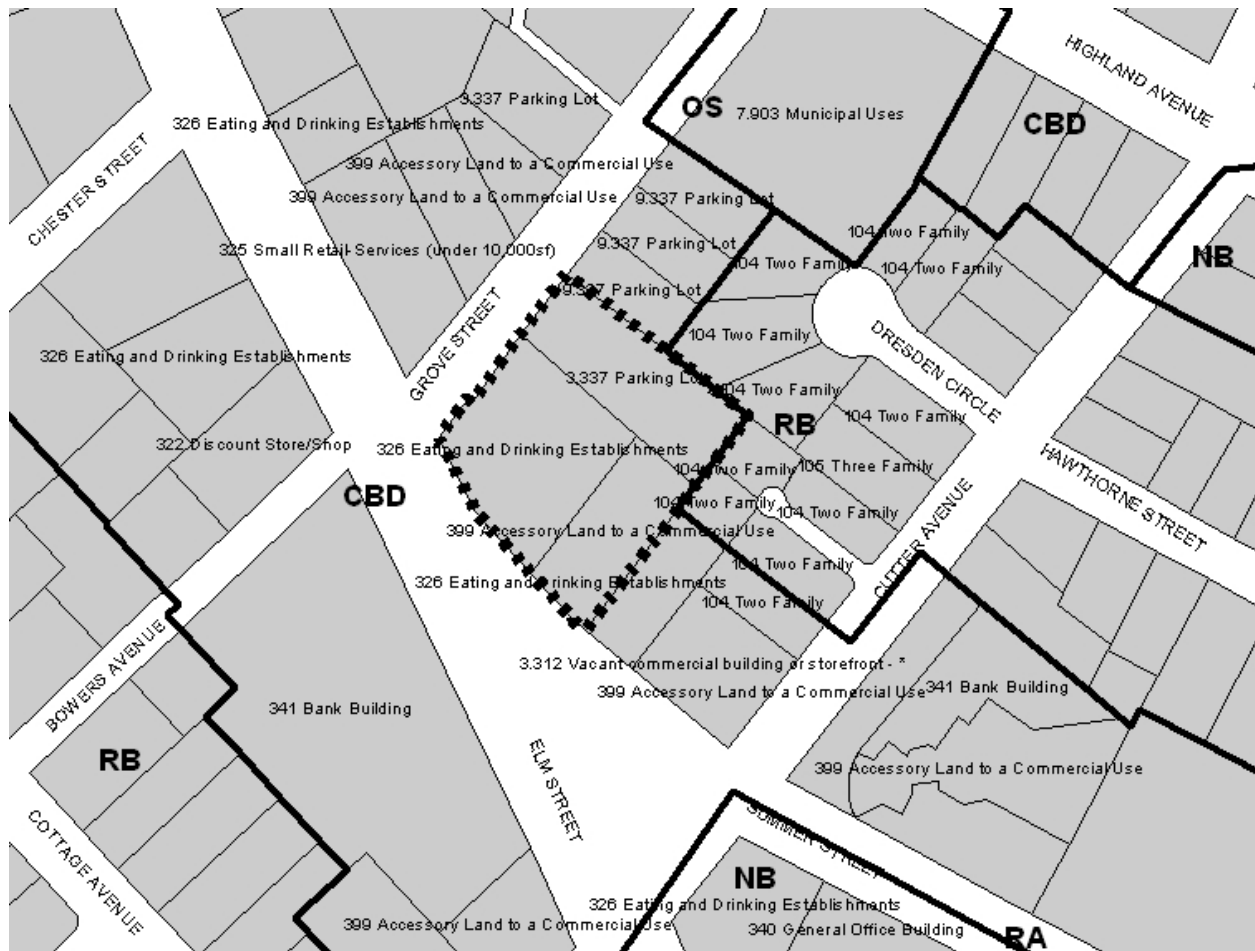
IV. RECOMMENDATION**Special Permit under §4.4.1 and §5.1 and a Special Permit with Design Review under §7.11.10.2.2.a and §5.1**

Based on the materials submitted by the Applicant, the above findings, and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT and SPECIAL PERMIT with DESIGN REVIEW**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes												
1	Approval is for a Special Permit with Design Review under SZO 7.11.10.1.1.c to establish a restaurant use between 5,000 and 9,999 gross square feet and a Special Permit under SZO §4.4.1 to modify the storefront, including window openings, of the existing nonconforming structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.													
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(September 20, 2012)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(October 1, 2012)</td><td>Site Plan</td></tr><tr><td>(October 1, 2012)</td><td>Existing Painted Burro (Existing Floor Plan)</td></tr><tr><td>(October 1, 2012)</td><td>Proposed Combined Spaces (Proposed Combined Floor Plan)</td></tr><tr><td>(October 1, 2012)</td><td>Carroll Design Studio Rendering Sheets (Sheets 1, 2, and 3)</td></tr></table>				Date (Stamp Date)	Submission	(September 20, 2012)	Initial application submitted to the City Clerk’s Office	(October 1, 2012)	Site Plan	(October 1, 2012)	Existing Painted Burro (Existing Floor Plan)	(October 1, 2012)	Proposed Combined Spaces (Proposed Combined Floor Plan)	(October 1, 2012)	Carroll Design Studio Rendering Sheets (Sheets 1, 2, and 3)
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Any changes to the approved floor plans, elevations, or use that are not <i>de minimis</i> must receive SPGA approval.																
2	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													

3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
4	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity and the installation or dismantling of outdoor seating. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
5	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.	
6	New signage for the Painted Burro restaurant on or above the old Spike's Junkyard Dogs storefront space (a/k/a 217 Elm Street) shall be subject to review and approval by Planning Staff before the issuance of a Building Permit. Signage style, lighting, graphics, and colors for this newly added space should relate to the theme and signage of the existing Painted Burro restaurant.	Prior to BP for Signage	Plng.	
7	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.	



219-221 Elm Street, a/k/a 387-391 Summer Street and 217 Elm Street, a/k/a 376 Summer Street