

## MEMORANDUM

To: Stow Planning Board

From: Brian C. Levey, Esq., Counsel to MAP Holdings, LLC, Flint Road Realty LLC and JKC Properties LLC

Date: November 22, 2023

Re: 108 Great Road – *Memorandum in Support of Project Approvals for Dunkin Donuts*

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## INTRODUCTION

This Memorandum is in support of MAP Holdings, LLC's, Flint Road Realty LLC's and JKC Properties LLC's request for the following relief from the Stow Planning Board (the "Board" or "PB") for the proposed Dunkin Donuts at 108 Great Road, Stow:

1. Petition for Special Permit pursuant to the Town of Stow Zoning Bylaw (the "Bylaw"), §§ 3.3.5 and 9.2 and the Town of Stow Planning Board Rules and Regulations for Special Permits (the "PB Special Permit Rules"), § 6.9; specifically, a **Special Permit for a restaurant** in the Lower Village Business District (the "LVBD") under the Bylaw, §§ 3.3.5.3(b)(vii) and 9.2.
2. Application for Site Plan Approval pursuant to the Bylaw, §§ 3.3.5 and 9.3 and the Town of Stow Planning Board Rules and Regulations for Site Plan Approval (the "PB Site Plan Approval Rules"), § 6.8; specifically, **Site Plan Approval for accessory outdoor dining** in the LVBD under the Bylaw, §§ 3.3.5.3(a)(iii) and 9.3.
3. Approve certain **amendments to the Special Permit/Site Plan Approval** dated December 13, 2022 if necessary.

### I. SITE BACKGROUND.

#### A. Owner and Applicants.

The current owner of 108-118 Great Road is JKC Properties, LLC ("JKC"). Under a written purchase and sale agreement, the current buyer is MAP Holdings, LLC ("MAP" and the "P&S"). Once the parties close the transaction, the owner of Unit 1 and its common area (118 Great Road) will be JKC, the owner of Unit 2 and its common area (108 Great Road) will be MAP's assignee, Flint Road Realty, LLC ("Flint") and 108-118 Great Road Condominium Trust will manage the common areas on behalf of the unit owners. Mark Pesce, an experienced Dunkin Donuts franchisee is the Manager of MAP and will be the Manager of Flint. JKC, MAP and Flint are the applicants.

B. The Site and Environs.

Located in the Lower Village of Stow, this portion of Great Road – also known as State Routes 62 and 117 – is a three-lane roadway with a turning lane dividing east- and west-bound traffic. Given its location on Great Road, relatively flat topography, and ample size ( $\pm 2.5$  acres), 108-118 Great Road (the “Site”) has been used for commercial purposes for decades. In fact, the Town of Stow Town Meeting, as proposed by the Board, recently voted to include this land in its new LVBD.

108 Great Road, also known as Parcel 86 of Map R-29 is roughly 0.65 acres. Squarely shaped, the parcel has frontage on Great Road. According to Assessor’s records, it houses a building with 3400 SF of “living area” and 7300 SF of “gross area” and was built in 1895. Since that time, it has been improved by multiple additions and alterations. Most recently, it was used as a 67-seat restaurant which closed several years ago. With a lawn in front, parking is located on the sides of the building.

118 Great Road, also known as Parcel 87 of Map R-29, is approximately 1.66 acres. It is roughly rectangular in shape and has frontage on Great Road. The building, which currently serves a restaurant and multiple commercial tenants, has 13,700 SF of “living area” and 22,700 SF of “gross area” and was built in 1979 according to the Assessor’s records. Parking is located in the front, west side and rear of the building. The common septic system for the two buildings is located in the rear of 118 Great Road.

With the exception of the rear half of 118 Great Road which is zoned Residential, the entire Site and the surrounding properties are located in the LVBD. Most of the surrounding uses are commercial as well. To the east of the Site, there is a multi-tenant commercial building largely occupied by a used car dealership with a sizable parking lot packed with its used car inventory. To the west, there is a shuttered gas station. Directly across the street from the Site is the Stow Shopping Center, a shopping plaza dominated by a large, paved parking area with hundreds of parking spaces fronting on Great Road and anchored by a Shaw’s supermarket. The LVBD extends behind 108 Great Road where there appears to be a business use. The Residential District behind 118 Great Road includes residential homes.

C. Prior Permitting.

On December 19, 2018, JKC purchased the Site. On August 30, 2019, it filed a Petition for Special Permit and Application for Site Plan Approval with the PB to raze a former restaurant building at 108 Great Road and construct and maintain, a new 8,150 square foot, two-story retail and office building along with reconfigured parking, reduced pavement, a new underground stormwater management system, and updated Site lighting and landscaping (the “Initial Project”). The multi-tenanted, commercial building at 118 Great Road was to remain unchanged. On February 25, 2020, the PB voted to approve the Special Permit and Site Plan Approval subject to conditions. The “Notice of Decision and Decision on Special Permit and Site Plan Approval” dated March 26, 2020 was filed in the Stow Town Clerk’s Office on March 30, 2020 (hereinafter, the “2020 Permit”).

On September 30, 2020, JKC filed a Petition for Special Permit and Site Plan Approval Modification with the PB to amend certain conditions related to pre-existing, non-conforming signage for the Initial Project. On November 17, 2020, the PB voted to approve the Special Permit and Site Plan Approval Modification subject to conditions. The “Notice of Decision and Decision on Minor Modification #1, Special Permit and Site Plan Approval” dated November 17, 2020 was filed in the Stow Town Clerk’s Office on December 1, 2020 (hereinafter, the “2020 Modified Permit”).<sup>1</sup> The plans entitled “Site Plan, 108-118 Great Road, Stow, Massachusetts” dated July 30, 2019 and last revised December 14, 2020, and prepared by Stamski and McNary, Inc. for JKC are the most current plans of record for the Initial Project (the “2020 Plans”).

On September 26, 2022, JKC entered the P&S with MAP. On October 11, 2022, JKC and MAP filed a Petition for Special Permit/Special Permit Extension and Application for Site Plan Approval/Site Plan Approval Extension with the PB for either a new or extended Special Permit and Site Plan Approval for the Initial Project based on the same 2020 Plans calling for a new building at 108 Great Road. MAP explained the purpose of this application as follows:

[MAP] wishes only to keep the current Permits in full force and effect with no changes to the Plans or permit conditions in order to allow time to consider what amendments, if any, it may request from the Board. Based on MAP’s extensive experience as a Dunkin Donuts franchisee, chief among these considerations is the desire to include, among other things, a Dunkin Donuts store within the previously approved building, or some variation of it. To repeat, in connection with this application MAP requests only re-approval of the Plans and permit conditions without any changes.

On December 13, 2022, the PB voted to approve the Special Permit and Site Plan Approval subject to conditions. The “Notice of Decision and Decision on Special Permit and Site Plan Approval” dated December 13, 2022 was filed in the Stow Town Clerk’s Office on December 21, 2022 (hereinafter, the “2022 Permit”).<sup>2</sup> The 2022 Permit expires on December 13, 2024, unless substantial use or construction has commenced. A copy of the 2022 Permit is enclosed with this application.

## II. EVIDENCE SUPPORTING FINDINGS FOR APPROVAL OF SPECIAL PERMIT AND SITE APPROVAL.

Having signed the P&S to secure an interest in the Site, extended the underlying Special Permit and Site Plan Approval, and assessed how best to proceed with a new Dunkin, MAP now

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<sup>1</sup> On October 5, 2022, JKC recorded in the Middlesex South Registry of Deeds the 2020 Permit and the 2020 Modified Permit at, respectively, Book 80796, Page 402 and Book 80796, Page 421.

<sup>2</sup> On February 9, 2023, JKC recorded the 2022 Permit in the Middlesex South Registry of Deeds at Book 81237, Page 276.

seeks a Special Permit and Site Plan Approval in the LVBD and, if necessary, amendment of the 2022 Permit in support of its project – construction and maintenance of a new Dunkin in the existing structure at 108 Great Road with improvements to the structure and grounds as proposed herein (the “Project”). Ample evidence exists to support the Board’s approval of a **Special Permit for a restaurant** and **Site Plan Approval for accessory outdoor dining** in the LVBD.

A. The Project Meets the Special Permit Requirements.

Under the Bylaw, § 9.2.6, to grant a Special Permit, the Board must make several findings regarding the Project. The Bylaw’s required findings are quoted below followed by the Applicants’ response in italics:

9.2.6.1 is in harmony with the purpose and intent of this Bylaw;

*RESPONSE:*

*The proposed Dunkin at 108 Great Road aligns perfectly with the goals of the LVBD Bylaw which provide, in pertinent part, as follows:*

*The purpose of the [LVBD] is to encourage the creation of an attractive gateway to Stow, informed by the traditions of a pedestrian oriented New England village, where residents and visitors can safely and conveniently live, work, shop, dine and recreate.... It will be a place to meet and connect, with civic spaces for gathering, and services accessible by all modes of transportation.*

*As proposed, the Project will not only upgrade the appearance of the existing building and grounds, but also provide 36 comfortable indoor seats in a refurbished building and a new covered, front porch with 22 seasonal, outdoor seats providing ample space for residents to gather. See, enclosed revised Architectural Plans. Accommodations for travel by car, handicap vehicle, bike and by foot are all available due to abundant parking, HP parking, bike racks, a sidewalk and several walkways to the building. Stairs with walking paths run from both the front sidewalk and the parking area on the east side of the building, while on the building’s west side the building is accessed by a handicap ramp nearby HP parking spaces. Similarly, by providing “functional open space” around the building, the Project makes further opportunities for civic interaction and outdoor events and displays available. At the same time, pedestrian connectivity remains to the adjacent building at 118 Great Road with its multiple business tenants. See, enclosed revised Site Plan.*

The LVBD Bylaw also states that “[t]he following core goals and objectives are intended to guide all development in the...LVBD:”

a. Encourage site plans that provide a balance of vehicle, bike and pedestrian infrastructure to create, enliven and unify the streetscape around a cohesive look and feel;

*RESPONSE: As addressed above, the Dunkin provides for all modes of transportation.*

b. Incorporate traditional New England development principles to create pedestrian-scaled streetscape environments, and encourage context sensitive architecture and site planning;

*RESPONSE: Rather than raze the existing structure to build a more typical Dunkin building, MAP has chosen to save and upgrade the building – built in 1895 – which has a New England-style, residential appearance.*

c. Create an attractive gateway to Stow, which leverages the tourism draw of the Town's seasonal attractions through the provision of FUNCTIONAL OPEN SPACES and public gathering places as locations that reinforce the identity and activity of the LVBD and the community;

*RESPONSE: As addressed above, the Dunkin provides more than the required functional open space with an abundance of indoor and outdoor gathering space.*

f. Manage site access from Great Road to create opportunities for inter-lot connections and interior streetscapes.

*RESPONSE: The Project maintains the interconnection between the proposed Dunkin and the adjacent existing, multi-tenanted commercial building.*

9.2.6.2 will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;

*RESPONSE: Here, the proposed Dunkin with 36 indoor seats and 22 seasonal, outdoor seats replaces a 67-seat restaurant without any detrimental or injurious impacts to abutting properties or ways. To the north, the Site and restaurant use will be greatly enhanced by the addition of a covered, front porch for outdoor seating. In keeping with the goals and 30-foot maximum front setback of the LVBD, the Applicants have extended this porch toward the street frontage so that it comes within 29.1 feet from the property line and is surrounded by landscaping. To the south, the rear of the building is separated from commercially-zoned, commercially-used land by a stockade fence and landscaping, all of which will remain and be enhanced by the removal of pavement and introduction of*

*additional landscaping. The building is also set back more than 50 feet from the rear lot line. To the west, the Site faces a used car parking lot for a used car dealer in a commercial zone. The six parking spaces that are proximate to this property line will remain. To the east, the parking lot will be improved by the addition of a landscaped divided island separating parking spaces. The hours of operation will be 4:30 a.m. to 9:00 p.m.*

*With respect to traffic on Great Road, as shown in the Limited Traffic Study revised 11/14/23, the Dunkin will result in fewer weekday and peak hour trips in comparison to the prior 67-seat restaurant. See, enclosed revised Limited Traffic Study.*

9.2.6.3 is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use;

*RESPONSE: The proposed restaurant and accessory outdoor dining uses are expressly permitted in the LVBD by, respectively, Special Permit and Site Plan Approval. The building, with 2,119 square feet of gross leasable area or 3400 square feet of “living area,” is neither incompatible with the relatively flat topography of the Site nor out of scale with the existing commercial buildings in the neighborhood, the lone exception being the large Stow Shopping Center across the street.*

9.2.6.4 includes sufficient mitigating measures which shall be implemented as part of the special permit for any adverse effects noted in the Development Impact Statement, reports from town boards and agencies, reports from consultants and public hearings;

*RESPONSE: The Development Impact Statement explains that the Project will generally improve conditions by decrease impervious surface area, increase infiltration of stormwater, adding more attractively landscaped areas and providing seasonal outdoor seating. With respect to traffic on Great Road, the Dunkin will result in fewer weekday and peak hour trips in comparison to the prior 67-seat restaurant. See, enclosed revised Limited Traffic Study.*

9.2.6.5 will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;

*RESPONSE: According to the Project’s Engineer Firm, the Project does not result in such pollution or contamination.*



9.2.6.6 will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads. A significant effect on level of service is a projected use of greater than five percent (5%) of the reserve capacity of a road segment or turning movement by the proposed use at the completion of its development. Reserve capacity calculations are to be done by a registered professional engineer using accepted methods of traffic analysis and shall include both projected growth in traffic during the period of development and projected traffic from other uses and developments which have applied for approval under the Zoning Bylaw prior to the close of the public hearing;

*RESPONSE: With respect to traffic on Great Road, the Dunkin will result in fewer weekday and peak hour trips in comparison to the prior 67-seat restaurant. See, enclosed revised Limited Traffic Study.*

9.2.6.7 will result in no significant effect on level of service for any service provided by the Town, including fire, police and ambulance. Proof of no significant effect is the lack of need for the Town to add equipment and/or staff specifically due to the development; Town of Stow Zoning Bylaw – Including Amendments through May 2022

*RESPONSE: According to the Project's Engineer Firm, the Project does not result in such an effect on levels of service for municipal emergency services.*

9.2.6.8 will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;

*RESPONSE: According to the Project's Engineer Firm, the Project does not result in such redirection of existing surface water runoff.*

9.2.6.9 will result in no transport by air or water of erodible material beyond the boundary line of the LOT ( See also Section 3.8. Use Regulations, General);

*RESPONSE: According to the Project's Engineer Firm, the Project does not result in such transport of erodible material.*

9.2.6.10 will provide adequate provision for pedestrian traffic; and

*RESPONSE: The existing sidewalk in front of the building will remain and be augmented by a walkway to the front door. Pedestrian paths to either side of the building are also provided. See, enclosed revised Site Plan.*

9.2.6.11 will comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

*RESPONSE: As explained below, the Project complies with Site Plan Approval requirements. It also meets the other requirements of the Bylaw as explained in the chart below.*

<b>ZONING COMPLIANCE CHART</b>			
ITEM	REQUIRED <sup>3</sup>	PROPOSED per SITE PLAN	COMMENT
Architectural Design Standards 3.3.5.6	Buildings not required to appear historic, but rather respectful of historic traditions	Existing 1895 building to be maintained and refurbished	COMPLIES
Architectural Design of Buildings 3.3.5.7	Designed to pedestrian scale	Existing 1895 building is at pedestrian scale	COMPLIES
Facades Design 3.3.5.8	Designed to promote visual interest and street level activity	Existing 1895 building designed to promote visual interest and street level activity	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(g))
Multi-Story Building Design 3.3.5.9	Designed to provide sense of base, middle and top	Maintain existing 1895 3-story building	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(d))
Sign Design Standards 3.3.5.10	Suggested sign design standards (a)- (f) and 6.3 apply:	Project proposes number, types and size of signs in	COMPLIES

<sup>3</sup> Under the Bylaw, § 3.3.5.14, “[t]here shall be no minimum width, frontage, or lot area in the LVBD and no maximum floor area ratio....”



	1 sign per business not exceeding lesser of 1 SF for each lineal foot of building frontage or 80 SF	compliance with the Bylaw including 1 pylon sign, 1 building sign and 1 window sign.  <u>See, enclosed revised Architectural Plans.</u>	
Exterior Lighting Standards 3.3.5.11	Dark sky compliant; protect adjacent properties, motorists, night sky from intrusive lighting	<b><i>Information on lighting to be provided.</i></b>	<b><i>Information on lighting to be provided.</i></b>
Building Siting and Orientation 3.3.5.12	Adhere to principles of vibrant, pedestrian-oriented streetscapes	Maintain existing 1895 3-story Building with addition of covered, front porch for outdoor dining	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(k))
Parking 3.3.5.13	Parking shall be toward side and rear of buildings	Existing parking on sides of building to be maintained	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (b)-(l))
Front Yard Setback from Great Road 3.3.5.15(a)	30 FT Maximum	29.1 FT	COMPLIES
Front Yard Setback for Parking 3.3.5.15(b)	30 FT Maximum	<30 FT	PRE-EXISTING, NONCONFORMING

Side and Rear Yard Setbacks Abutting Residential zone or use 3.3.5.17(a)-(b)	50 FT landscape buffer and/or fence	57 FT setback; stockade fence on property line; some landscaping	COMPLIES
Garbage dumpsters 3.3.5.17(c)	Screened from abutting properties	Screened from abutting properties	COMPLIES
Height 3.3.5.19	3 stories/ 35 FT	3 stories/ <35 FT	COMPLIES
Maximum Tenant Size 3.3.5.20	20,000 SF	<20,000	COMPLIES
Ground Floor Uses 3.3.5.23(b)	Garage doors, loading bays and docks prohibited from primary facade	No garage doors, loading bays and docks on primary facade	COMPLIES
Functional Open Space for projects requiring special permit or site plan approval 3.3.5.24	5% Minimum	5.5%	COMPLIES
Internal Access Drives 3.3.5.25	Numerous design criteria	Existing access drive to be maintained	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(h))
Sidewalk Standards 3.3.5.26	Numerous design criteria	Existing sidewalk along Great Road to be maintain and augmented by walking	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(c))

		paths from Great Road sidewalk and parking areas to building	
Pedestrian Access to Buildings 3.3.5.27	Sidewalks and walkways serve primary entrances	Sidewalks and walkways serve primary entrances	COMPLIES (and PREEXISTING, NONCONFORMING as to some specific elements in subsections (a)-(c))
Parking 3.3.5.28	57 spaces for Shopping Center (1/250 Gross Leasable Area) per 7.3.3.5; located in side or rear yard	86 spaces; located in side and rear yard; some spaces in front yard	COMPLIES (and PREEXISTING, NONCONFORMING as to location of spaces in front yard and some specific elements in subsections (a)-(l))
Perimeter Planting Strip 3.3.5.29	Parking lots adjacent to streets, sidewalks, paths or internal access drives with strip 4-7 FT wide	Existing landscaping to be augmented	PREEXISTING, NONCONFORMING

B. The Project Meets Site Plan Approval Requirements.

Under § 9.3.11, to grant Site Plan Approval, the Board must determine compliance with the following:

9.3.11.1 The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow in accordance with, but not limited to, the following:

1. Site development shall minimize impacts on wetlands, steep SLOPES, flood plains, hilltops;

*RESPONSE: According to the Project's Engineering Firm, the Site contains no wetlands or floodplains. The Site Plan shows no steep slopes or hilltops.*

2. Site development, including building sites and STRUCTURES proposed thereon, should not obstruct scenic views from publicly accessible locations;

*RESPONSE: According to the Project's Engineering Firm, the Site contains no scenic views.*

3. Sites shall be developed so as to preserve unique natural or historical features;

*RESPONSE: According to the Project's Engineering Firm, the Site contains no unique natural or historical features.*

4. Site development shall minimize deforestation, vegetation and soil removal and shall avoid grade changes;

*RESPONSE: According to the Project's Engineering Firm and/or as shown on the Site Plan, the Project results in less impervious surface area, more landscaping and results in minimal soil removal and grade changes, if any.*

5. Development of the site shall be in accordance with OPEN SPACE provisions of the Bylaw; and

*RESPONSE: As shown on the Site Plan, the Project meets and exceeds the LVBD's new, most robust Functional Open Space requirement.*

6. Screening of objectionable features, including, but not limited to, exposed storage areas, storage tanks, machinery, service areas, truck loading areas, and utility BUILDINGS and STRUCTURES, from abutting properties and roadways shall be year-round and provided in the site development plan;

*RESPONSE: As shown on the Site Plan, a screening fence is proposed around the dumpster and deliveries will be made to at the rear of the property behind the building screened from Great Road (by the building) and the rear neighbor (by a stockade fence).*

9.3.11.2 No BUILDINGS and STRUCTURES, except driveways, roads and septic systems, shall be located outside the DEVELOPABLE SITE AREA, and the DEVELOPABLE SITE AREA shall be clearly identified on the plan and shall meet the requirements of the definition in Section 1.3;

*RESPONSE: No buildings or structures, except for the existing septic system, are proposed to be located outside of the Developable Site Area. With the exception of the residentially-zoned area at the rear of 118 Great Road, where no work is proposed, the remainder of the Site makes up the Developable Site Area.*

9.3.11.3 Architectural style should be in harmony with the prevailing character and scale of BUILDINGS in the neighborhood and the town through the use of similar building materials, screening, roof and wall lines and other architectural features. Variation in detail, form and siting should be used to provide visual interest and avoid monotony. Proposed site development shall provide adequate light, air circulation and separation between BUILDINGS;

*RESPONSE: Rather than raze the existing structure to build a more typical Dunkin building, MAP has chosen to save and upgrade the existing building – built in 1895 – which has a New England-style, residential appearance.*

9.3.11.4 The development shall be served with adequate water supply and waste disposal systems. For STRUCTURES to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a registered professional engineer and approval by the Board of Health;

*RESPONSE: The current septic was approved only five years ago in December, 2018. Application materials are now being prepared for filing with the Massachusetts Department of Environmental Protection for a new Public Water Supply permit.*

9.3.11.5 The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Unless waived by the Site Plan Approval Granting Authority, a traffic study plan shall be prepared by a registered professional engineer and shall prescribe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site;

*RESPONSE: In the 2022 Permit, the Board granted a waiver allowing the submission of a Limited Traffic Study which was filed as part of the application for the Project. (See enclosed 2022 Permit, par. 7.24.) See, enclosed revised Limited Traffic Study.*

9.3.11.6 The site plan shall show adequate proven measures to prevent pollution of surface or GROUND WATER, to prevent erosion and sedimentation, and to prevent significant changes in GROUND WATER levels, increased runoff and potential for flooding. Drainage shall be designed so that the rate and volume of runoff from the site shall not be increased, and abutting properties and ways, the neighborhood and community amenities will not be adversely impacted;

*RESPONSE: According to the Project's Engineering Firm, the Project results in adequate proven measures to prevent pollution of surface or ground water, erosion and sedimentation, significant changes in ground water levels, no increased runoff or potential for flooding and no increase in the rate and volume of runoff from the Site. The Site Plan shows no adverse impact to the*

*neighborhood as setbacks and screening are either maintained or enhanced. Community amenities will be enhanced, not adversely impacted, by the provision of indoor and outdoor gathering spaces.*

9.3.11.7 The development shall not excessively burden town services and infrastructures. To that end, the development shall place no more than the minimum demands on town services and infrastructures as may be reasonably taken care of on site or by alternate means. If the foregoing is not reasonably feasible, the site plan approval shall include provisions to assure that adequate provision for any significant increase in demands on town services and infrastructures which result from the development are provided or secured by the applicant;

*RESPONSE: No excessive burden on town services is anticipated by the repurposing of the Site to a smaller restaurant than previously existed at the Site.*

9.3.11.8 Electric, telephone, natural gas, cable television and other such utilities and services shall be underground unless otherwise authorized by the Site Plan Approval Granting Authority;

*RESPONSE: According to the Project's Engineering Firm, gas, water and septic are underground while power is provided by overhead lines.*

9.3.11.9 The site plan shall comply with all zoning requirements for parking, loading, lighting, dimensions, environmental performance standards, and all other provisions of this Bylaw; and

*RESPONSE: See above Zoning Compliance Chart.*

9.3.11.10 Before approval of a site plan, the Site Plan Approval Granting Authority may request the applicant make modifications in the proposed design to ensure that the above criteria are met.

*RESPONSE: Noted.*

Under 9.3.12, to grant Site Plan Approval, the Board also must find the following:

9.3.12.1 Protects the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment;

*RESPONSE: The restaurant use is expressly permitted by special permit in the newly-enacted LVBD district, thus this use is in harmony with the remainder of the LVBD zone and is not seriously detrimental or offensive to the Site or the natural environment. To the contrary, the Dunkin advances the goals of the LVBD*



*by providing indoor and outdoor gathering spaces along with enhanced landscaping and improved building appearance.*

9.3.12.2 Provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;

*RESPONSE: With respect to traffic on Great Road, the Dunkin will result in fewer weekday and peak hour trips in comparison to the prior 67-seat restaurant. See, enclosed revised Limited Traffic Study.*

9.3.12.3 Provides an adequate, convenient and safe arrangement of parking and LOADING SPACES in relation to the proposed uses of the site;

*RESPONSE: As shown on the Site Plan, more than the required parking is available at the Site. Loading is in the rear of the Site screened from Great Road and the business to the rear.*

9.3.12.4 Provides adequate and safe methods of disposal of REFUSE or other wastes resulting from the uses permitted on the site;

*RESPONSE: A dumpster is provided on-site with regular pick-ups of solid waste.*

9.3.12.5 Will not derogate from the purpose of this Bylaw; and

*RESPONSE:*

*The proposed Dunkin at 108 Great Road aligns perfectly with the goals of the LVBD Bylaw which provide, in pertinent part, as follows:*

*The purpose of the [LVBD] is to encourage the creation of an attractive gateway to Stow, informed by the traditions of a pedestrian oriented New England village, where residents and visitors can safely and conveniently live, work, shop, dine and recreate.... It will be a place to meet and connect, with civic spaces for gathering, and services accessible by all modes of transportation.*

*As proposed, the Project will not only upgrade the appearance of the existing building and grounds, but also provide 36 comfortable indoor seats in a refurbished building and a new covered, front porch with 22 seasonal, outdoor seats providing ample space for residents to gather. Accommodations for travel by car, handicap vehicle, bike and walking are all available due to abundant parking, HP parking, bike racks, a sidewalk and several walkways to the building. Stairs with walking paths run from both the front sidewalk and the parking area on the east side of the building, while on the building's west side the building is*

*accessed by a handicap ramp nearby HP parking spaces. Similarly, by providing “functional open space” around the building, the Project makes further opportunities for civic interaction and outdoor events and displays available. At the same time, pedestrian connectivity remains to the adjacent building at 118 Great Road with its multiple business tenants.*

9.3.12.6 Complies with all applicable requirements of this Bylaw.

*RESPONSE: See above Zoning Compliance Chart.*

### III. AMENDMENT OF 2022 PERMIT

The Applicants seek any necessary amendments to the conditions of the 2022 Permit including, but not limited to, the following:

1. Par. 7.10: Condition requires “Do Not Enter” sign at two corners of 118 curb cut.
  - Proposed Amendment: Consider eliminating this condition as it seems unnecessary to remove 2-way access to this curb cut.
2. Par. 7.13: Finding that 80 total parking spaces; 31 for 108 and 49 for 118
  - Proposed Amendment: Consider revising condition to state that new pavement striping will result in 86 total spaces: 34 for 108 and 48 for 118.
3. Par. 7.21: Finding that area paved striped for no parking immediately to the west of primary entrance to 108 shall be loamed and seeded and planted with 2-2.5” caliper red oak.
  - Proposed Amendment: Consider eliminating this condition as no tree is proposed here because of existing signage and trees are proposed elsewhere.
4. Par. 7.23: Finding that 2-2.5” caliper red oak be planted in snow storage area in northwest corner of 118.
  - Proposed Amendment: Consider eliminating condition as tree no longer proposed here because it would block front view of the Dunkin.
5. Par. 7.35: Condition that onsite utilities for 108 will be underground.
  - Proposed Amendment: Consider revising this condition: Since the existing building will remain, the existing overhead power/communications should remain.

## CONCLUSION

Based on the reasons stated and the authorities cited, the Applicants respectfully request that the Stow Planning Board approve:

1. **Petition of Special Permit for a restaurant** in the LVBD under the Bylaw, §§ 3.3.5.3(b)(vii) and 9.2.
2. **Application for Site Plan Approval for accessory outdoor dining** in the LVBD under the Bylaw, §§ 3.3.5.3(a)(iii) and 9.3.
3. **Approve any necessary amendments to the Special Permit/Site Plan Approval dated December 13, 2022** including, but not limited to, pars. 7.10, 7.13, 7.21, 7.23 and 7.35.