

COMMUNITY
DEVELOPMENT
2014 JUN 13 PM 12:00

14-11

June 11, 2014

Dear Members of the Zoning Board of Appeals,

We would like to present our concerns regarding the application by Cushing Village developer Chris Starr for special permission to relocate Starbucks to 6-8 Trapelo Road (Case No. 14-11) into an LB III zone, with associated expansion of nonconformance with parking requirements. We thank you in advance for taking our views into consideration.

We have reviewed Mr. Starr's original proposal to the ZBA, as well as the addendum submitted by the Applicant on June 4th (required by the ZBA to address deficits with regard to parking in the original application). We have also reviewed selected engineering drawings from the Trapelo Road rebuild in order to assess potential conflicts, and conducted our own review of parking demand at the current Starbucks location as a way to gauge the likely parking impacts from the relocation in a more objective manner.

Our comments are summarized below. In addition, we have attached annotated copies of the Special Permit documents (Attachment 1) and the June 4th additions (Attachment 2), as well as images (Attachment 3) and data (Attachment 4) related to deliveries and parking demand at the existing site. Finally, Attachment 5 highlights issues related to the proposal on the Trapelo Road rebuild drawings. Annotations are inserted in a red font for easier viewing. We urge you to review these documents as they provide additional detail on gaps and omissions in the application.

Our conclusion is that the Special Permit should be denied, for these reasons:

- A denial is strongly supported and warranted by the Town's existing zoning rules.
- The permit application in its current form has not even been properly filed and parking calculations appear inaccurate and incomplete.
- The changes, though framed as temporary, will essentially be permanent.
- Granting permission to locate a restaurant with its associated parking deficit and traffic impacts will significantly, permanently, and negatively alter the residential character of our neighborhood.
- Overlooking the overflow of vehicles onto residential streets will establish a bad precedent for the development of remaining sectors of the Cushing Square Overlay District, greatly weakening the primary means available to prevent overly-large buildings from destroying the character of the Square. The negative precedent is also worrying for all other neighborhoods in town located next to LB III districts.

These issues are presented in greater detail below.

1) Existing zoning rules provide a strong and clear basis that this special permit should be rejected

Parking requirements for restaurants are one dedicated space per two customer seats, with only street parking immediately in front of the property countable against this requirement (5.1.1(c) and 5.1.2(d)). The property is already non-conforming, so is subject to the special permit/variance process. A special permit can modify or extend non-conforming uses only if the ZBA "determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and that it shall be in keeping with the character of the neighborhood in which it is located" (par. 1.5.1.5.2). Paragraph 7.4.3(a)(3) states that such a site "should be able to accommodate the proposed use without substantial impacts on municipal infrastructure and with minimum traffic impacts on abutting residential neighborhoods." Section 7.4.3(b)(2) further notes that the use "should complement

the character and the scale of existing building/uses/activities in the neighborhood and not create undesirable impacts.”

The Starbucks proposal, through its long operating hours, large customer flow, frequent delivery requirements mostly by large trucks, and nearly total lack of existing parking despite heavy demand for parking spaces, all result in a clear failure of this proposal to meet the Town's requirements. The proposal to create parking through the removal of shade trees and greenspace is also a concerning issue not only to the neighborhood, but to many throughout the Town.

Mr. Starr's commitment “to upgrade their properties in the neighborhood, including new storefronts and high efficiency equipment” *would* be beneficial to existing tenants who have been unable to get him to fix even basic problems in the past. However, such a commitment does not require larger storefronts, or stores with operating characteristics discordant with the adjacent residential neighborhoods.

Nor does Mr. Starr's commitment to relocate Starbucks during construction have any bearing on how the Board should rule on this proposed relocation. During Cushing Village hearings, Mr. Starr had noted a construction sequence that would have allowed Starbucks to move from its current location into one of his new buildings; it is not the neighbors' fault if his plans have changed. Further, there are other vacant properties in the Square with more commercial zoning that could house Starbucks should a temporary relocation be necessary.

2) Existing special permit request does not seem to conform to the format needed for consideration

A single permit application was submitted to the Board, from two separate legal entities: Smith Legacy Partners, LLC and Smith Legacy Partners III, a related but separate corporation. No application was submitted by the prospective tenant, Starbucks. While Mr. Starr and his attorney have each stated they have authority to apply on Starbucks' behalf, the promised written documentation of this authority was not provided to the Town by the June 4th deadline. As such, any statements made on behalf of Starbucks (such as changes in operating hours and delivery methods) are questionable. Is Mr. Starr authorized to make such agreements? Are any agreements on these or similar issues binding on Starbucks?

Two separate permit applications should have been filed for the requested changes: one by a single Smith Legacy Partners entity (for nonconforming modifications to the physical layout of the site), and the other by Starbucks. The Starbucks special permit request should have clearly laid out not only the requested modification to site a restaurant (as the permit from Mr. Starr did), but also clearly delineated a request for a substantial waiver from parking requirements as well.

The Applicant is unable to even complete his Cushing Village proposal until he completes the purchase of the municipal parking lot. That purchase, in turn, is contingent on the ability of the Applicant to prove he has credible financing such that the Town will not be at risk from a mid-project bankruptcy.¹ Until such steps occur, there is not even a need to move Starbucks.

¹ Because every parcel on the Cushing Village site is a separate legal corporation, part of the project could go under while the developer continued to profit from other parcels. Taking into consideration the presence of contamination on one parcel (the site of the former Tops Cleaners), and more complicated and expensive building conditions from bedrock and topography on another (the former CVS site), the Town needs to carefully evaluate the financial structure of the deal to prevent lagging liabilities to the Town in a bankruptcy or more years of blight from Starr's parcels and older buildings sitting unused and aging.

Finally, the Applicant's most recent submission to the Board included reliance on an agreement with the MBTA to replace greenspace around its bus turnaround with 15 new parking spaces. We view this proposal as both speculative, and likely to run into problems associated with its zoning, location, traffic flow impacts, tree removal, and demand from commuters (rather than full attribution to Starbucks clientele). However, were it to move forward, we believe this would need to involve entities and boards other than the ZBA as well.

3) Permanent and detrimental changes to the neighborhood will result

Though framed as a short-term, temporary change in zoning, the alterations being proposed are quite likely to be permanent, with significant ongoing associated parking and traffic impacts. The ZBA can constrain this to some degree, but not easily. For example, the restaurant permit (and associated large parking waiver) can be granted specifically to Starbucks rather than to the property owner. However, it is clear from Mr. Starr's original application, and his planned configuration of the site, that he has full intentions for this location to be permanently converted into a quick-service restaurant similar to Starbucks. The submitted floor plan included provision for a large vent hood, an indication that his long-term plans likely include a conventional restaurant as well.

It will be difficult for the Town to reject a subsequent restaurant applicant once the store space is already configured as a restaurant. Equally important, Starbucks as a tenant has a perpetual right to stay on the site. The careful phrasing of Mr. Starr's June 4th letter underscores this possibility: the Applicant states his intention for Starbucks to return to Cushing Village by November 2015, though there is no legal obligation to do so. In fact, by noting that a special permit that lapses only "upon the reopening of the Starbucks at Cushing Village," the Applicant implicitly acknowledges that Starbucks could remain at its new location as long as it wished -- with all of its associated impacts on neighbors.

Also of note: the conversion of two storefronts of a size conducive to small businesses into a single larger footprint more amenable to chain stores follows the space configuration approach being applied by Mr. Starr in his much larger Cushing Village development as well. These shifts gradually erode the ability for the mom-and-pop stores that give Cushing Square its character to remain in the area.

We ask you to keep in mind the reason for LB III districts: to preserve the residential character of the neighborhood around it. The businesses permitted in the district now are fundamentally different from the fast-food restaurant business in terms of their demand for parking, the increased flow of traffic, and the hours of operation (all of which we discuss in more detail below).

4) Starbucks hours of operation are dramatically longer than existing tenants, and overlap by many hours periods during which neighbors are asleep

Long operating hours, plus delivery times before opening and after closing, will result in commercial activity 7 days per week, during most hours of the day.

There seems to be confusion by the applicant over the hours of operation. The original application states "Hours of operation will be between 6AM and 11PM daily" (the current Starbucks in Cushing is open only until 10 PM). Yet, the revised proposal dated June 4th states "In response to the neighborhood concern about the longer hours of operation proposed in the original application Starbucks is willing to change the hours as follows: M-F: 5:30am – 9/9:30pm, Sat: 5:30-10pm, Sun: 6:00-9:30." While an earlier closing time is welcome, this is offset by proposing to open even earlier. How is this a compromise for the neighborhood?

In comparison, Moozy's Ice Cream, the only other high-traffic store on the block, doesn't open until 11 am. This difference is striking every day, but will be particularly egregious on weekends.

5) Large, semi-trailer trucks will block traffic and further extend hours of disruptive site activity

The present Starbucks often receives daily evening deliveries via a large semi-trailer truck (18-wheeler) (see Attachment 3). The current delivery routine includes this large vehicle driving down the small side streets so it can maneuver and park live on Trapelo Road, where it blocks a lane.² While the applicant may "request" that Starbucks use smaller trucks for delivery (per his June 4th letter to the ZBA), there is no way to mandate this, and the Applicant has little bargaining power against a large multinational corporation. Starbucks will use any delivery method that is efficient for them to service their multiple stores. The fact that large semi-trailer trucks are also used for deliveries to the Starbucks in Belmont Center indicates a high probability that such vehicles will be used at the relocated Starbucks at 6-8 Trapelo as well. Absent written verification from Starbucks legal department indicating the use of smaller trucks, any statements by the Applicant on this issue should be accorded zero credence by the Board.

The Applicant further states that "Deliveries that can be made via the rear access will be done so." As with the delivery truck size issue, the language here is both imprecise and noncommittal. There is ample doubt that the back entrance could be used for delivery, given the concerns with the state of the back entrance as expressed at the last ZBA meeting by the adjacent store owner. The passage is narrow, and rear parking for a Starbucks delivery vehicle is untenable because of proposed dumpsters and a need not to block fire egress. Thus, deliveries to the front entrance made by a semi-trailer truck are inevitable.

Such deliveries would render useless the parking spaces on that side of Trapelo Road, as well as potentially block off a travel lane at what is already a very busy and dangerous intersection (Pine Street and Trapelo Road). Although the current configuration of Trapelo is quite wide, it is legally a two lane road, and a combination of bump-outs, bike lanes, and median strips post-rebuild will narrow it to a real two lane configuration. This can be seen in the Trapelo Road diagram in Attachment 5. Buses on Concord Avenue already block traffic during pickups; this will also occur on Trapelo Road and Belmont Street. The deliveries, as well as frequent parallel parking near that important Trapelo/Belmont intersection is likely to add significant delays to traffic flow.

6) Starbucks staff and customers will dramatically increase parking demand, with spillover into residential neighborhoods 7 days per week

The nature of Starbucks is to serve their customers quickly... a fast food model of coffee and bakery goods. Their success at this model results in a large volume of traffic with a constant flow of customers coming and going through their doors throughout the day. Parking demand is exacerbated by the portion of customers who use Starbucks as a meeting or work area, tying up parking spaces for long periods of time.

Heavy automobile traffic will result. Despite locations that are also near to bus stops, most of the customer traffic will arrive by motor vehicle. Neighbors have been monitoring the parking flows at the

² Residents note that Starbucks delivery trucks regularly turn left onto Horne Road, right onto Williston, and then right onto Trapelo Road. The large truck then live-parks on Trapelo to unload.

existing site in order to quantify this issue. We have found that 40-50 vehicles per hour associated with Starbucks customers is common. At present, these vehicles utilize not only the current Starbucks parking lot (and at vehicle loadings well above the 8 lined spaces), but also the municipal lot and nearby street parking. Every morning (and early afternoons during the week), you will consistently find at least 10 vehicles parked in the Starbucks parking lot (see Attachments 3 and 4).

There is virtually no existing parking at the proposed site; vehicles will fill up side streets similar to what now happens on Payson Road. These vehicles will end up on residential streets should the 6-8 Trapelo location be approved, an increase in both the volume and duration of traffic that is of great concern.

High vehicle traffic will be both dangerous to children, and also occur during hours when residents are asleep. At present, the residential streets are quiet on Saturdays, and almost empty on Sundays. This will end should Starbucks move to the residential zone; instead, overflow parking in front of our homes will run all day on weekends, starting at 5:30 am. In just the small section of Oak Avenue between Trapelo Road and Cushing Avenue, there are 17 children of middle-school, primary school and preschool age living in those homes – their safety is a major concern. Children in our neighborhood often play in front yards and cross the streets to other houses. Visibility of children crossing the streets can already be a challenge. An increase in the number of parked cars poses an additional danger, as they reduce visibility of small children near or entering the roadways and impedes the children's site lines as they attempt to cross the street.

The heightened pedestrian and vehicle activity during times when many neighbors will be trying to sleep and when children are walking to school has the potential of being very disruptive to our lives. The Applicant's parking plan, including his creative calculations of parking requirements, are at present neither realistic nor serious.

Oak Avenue and Pine Street are narrow roads – where cars are parked on the streets, traffic is reduced to a single lane. An increase in traffic of the magnitude that Starbucks, and any subsequent similar restaurant, generates will result in endless logjams on our streets, as well as the risk that emergency vehicles will not have easy access to our houses. Many vehicles use the wide intersection of Oak Avenue and Trapelo Road as a U-turn location, which can be dangerous to other drivers and pedestrians. The incidence of this is bound to increase as customers try to turn around to take advantage of scarce open parking spaces.

Another safety concern is the increased incidence of jaywalking from the Oak Avenue side across Trapelo Road to the stores. We witness the rise of this activity every summer when the business for Moozy's picks up. This poses a danger to pedestrians and drivers, as well as the potential of slowing traffic flow on a busy thoroughfare.

7) Parking plan put forth by Applicant is inaccurate and continues to understate parking impacts

Although parking is a major part of resident concern regarding the location of Starbucks in an LB III district, the issue was not mentioned in any public notice for the original Special Permit, and was not included in the formal special permit application itself. The original narrative submitted by the applicant on the issue relied on documents he had done in relation to his Cushing Village project, and attempted to finesse the issue by arguing that diagonal parking (a configuration not on the Trapelo rebuild plans) located in front of Oakley Country Club (quite far from the Starbucks) would somehow address the parking need.

In response to neighborhood concerns expressed at the May 19th ZBA meeting, and a formal request from the ZBA itself, the applicant submitted a new "plan" to the ZBA on June 4th. In this plan, he improperly credits himself with 9 parking spots (see more on this below). In order to claim that he has met the necessary parking requirements, the applicant also references a letter sent to the MBTA about converting space near their bus turnaround into parking (though he did not provide a copy of such letter or evidence of any correspondence with the MBTA). It is curious that the drawings for this most recent plan were dated on May 6th, well before the first ZBA meeting on the subject, though when asked about the parking plan by the ZBA at the May 19th meeting, the Applicant chose not to disclose this information.

- **Required parking spaces are far higher than applicant is claiming.** 15 spaces are needed for the restaurant (with a seating capacity of 30), and despite claims to the contrary, employee parking also needs to be addressed since employees are not allowed to park on side streets.³ Town Zoning laws allow frontage street parking to count against requirements. Post-Trapelo rebuild, there will be 5 spaces, shared amongst all tenants in the block owned by Mr. Starr. This includes another restaurant, which also needs significant parking. Of this frontage, at most 1 or 2 could be reasonably attributed to Starbucks. The Applicant has deducted 8 spaces from his requirement based on a vague argument that he can carry forward existing exemptions from his parking non-conformance. As there is a significant usage change of a non-conforming property, we do not believe his interpretation is correct (see Attachment 2). The parking requirements of restaurants are higher than standard commercial. This is specifically spelled out in the Town's zoning laws; the grandfathered non-conformance would logically apply only to tenants in the building where usage isn't changing. Further, the requirement of 15 customer parking spaces in this case cannot be argued as being too high: ten days of observations show that the existing Starbucks parking lot is overflowing every morning (Attachment 3). These data do not even include the high numbers of customers who choose to park in the municipal lot and on the street (a short 30-minute observation noted 11 customers parking in the municipal lot).
- **The proposed parking at the MBTA turnaround is speculative and unlikely to stop frequent parking on side streets anyway.** MBTA fought hard to secure the land needed to turn its trolleys around, and seems unlikely to introduce a large number of parking spaces in that location to complicate that activity. Further, a letter mailed to the MBTA to propose new parking spaces is a first step in what is likely to be a long process; and the applicant provided no evidence of even that first step.⁴ The parking spaces will be further from the Starbucks than some of the side streets, and will exit directly into a congested intersection – slow for right turns, but likely impossible for left turns during busy times because of the need to cut across a lane of traffic. Finally, the parking will be difficult to access for traffic heading towards Waltham, and far less convenient than side streets for customers traveling in that direction.
- **Parking impacts for a nonconforming usage are evaluated independently from numerical targets.** Even if the Applicant were able to manipulate his parking figures such that he somehow meets the numerical targets for parking, the Town's special permit process requires that zoning changes in LB III areas and expanded non-conformance be evaluated in terms of *impacts* on the surrounding residential neighborhood. Based on our traffic counts at the current store, and the long hours of operations, we fully expect an objective review of parking demand will indicate movement of Starbucks and its successor into an LB III will not meet the conditions for a special permit.

³ This point was made by ZBA Chairperson William Chin at the May 19, 2014 ZBA meeting.

⁴ The applicant's plan to remove 9 shade trees also goes against section 7.4.3(a)(2) of the zoning regulations for Special Permits, which states "the site should be able to accommodate the proposed use without substantial environmental impacts, impacts to valuable trees or other natural resources."

8) Granting of a large waiver from parking requirements creates a bad precedent for the other parcels likely to be redeveloped within Cushing Square

Although not explicitly noted in the Special Permit application, the large waiver from parking requirements needed by the Applicant is among the most significant of the changes he is seeking. This is because a large number of vehicles would spill into residential areas during most hours of the day, every day of the week.

Granting such a waiver would clearly be detrimental to the surrounding neighborhoods. However, it is also important to note that a decision to allow a large increase in vehicular activity when there is clearly inadequate parking will create a very bad precedent for addressing parking constraints in the Cushing Overlay District. Parking constraints are the primary factor to constrain overly large buildings on the four remaining segments (i.e., excluding Starr's Cushing Village) of Cushing Square. Further, allowing the move of Starbucks into an LB III district signals an erosion in the protections to residential areas for which LB III zoning was created, exposing many other neighborhoods in town to similar intrusions going forward.

To summarize, current zoning rules include important clauses that mandate this special permit should be rejected.

Please open the attachment for more detailed comments on the proposal submitted by Chris Starr.

Respectfully submitted,

Eleanor Ahlborn-Hsu, 67 Pine Street

Tom Ahlborn-Hsu, 67 Pine Street

David Alper, 1-3 Oak Avenue (Board of Health Vice Chair, TMM Precinct 6)

Pam Alper, 1-3 Oak Avenue

John Bowe, 20 Elizabeth Road (TMM Precinct 6)

Rita Butzer Carpenter, 6 Oak Avenue

Daniel Carpenter, 6 Oak Avenue

Yvonne Carts-Powell, 7 Oak Avenue

Sheila Cavanaugh, 14 Lawndale Street

Daniel Cherneff, 64 Pine Street

Albert Choy, 14 Lawndale Street

Mark Clark, 28 Oak Avenue

Susan Clark, 28 Oak Avenue

Priscilla Cobb, 64 Pine Street

Jean Conners, 395 Belmont Street

Peter Coyne, 35 Trapelo Road

Herbert Einstein, 11 Oak Avenue

Sylvia Einstein, 11 Oak Avenue

Bill Ellet, 131 Pine Street

Judith Feinleib, 87 Oakley Road (TMM Precinct 6)

Anthony Forbes, 116 Pine Street

Nancy Forbes, 116 Pine Street

Maria Herrera, 34 Oak Avenue

Michele Houdek, 18 Oak Avenue

Virginia Jordan, 34 Lawndale Street (TMM Precinct 6)

Steve Klionsky, 196 Payson Road (TMM Precinct 6)

Richard Kobayashi, 47 Stults Road (TMM Precinct 6)

Susan Kobayashi, 47 Stults Road

Doug Koplow, 18 Oak Avenue

Donald MacNeil, 58 Oak Avenue

Jodi MacNeil, 58 Oak Avenue

Andrew McClurg, 81 Oakley Road

Lauren Meier, 39 Oak Avenue

Sue Miller, 41 Trapelo Road

Jeanne Mooney, 60 Oak Avenue (TMM Precinct 6)

Chris Moore, 44 Oak Avenue

Joshua Nyambose, 34 Oak Avenue

M.B. Peterson, 71 Oak Avenue

Lara Phimister, 19 Benton Road

Rory Phimister, 19 Benton Road

Dan Pill, 23 Oak Avenue

Rickland Powell, 7 Oak Avenue

Rickland Powell, Jr., 7 Oak Avenue

Pamela Rajpal, 51 Oak Avenue

Shashi Rajpal, 51 Oak Avenue

Craig Raubenheimer, 143 Pine Street

Kim Ryan Raubenheimer, 143 Pine Street

Jocelyn Record, 44 Oak Avenue

DeNee Reiton Skipper, 24 Essex Road
(Recording Secretary, Shade Tree Committee)

Joel Semuels, 18 Bellevue Road (TMM Precinct 6)

Judy Singler, 53 Selwyn Road (TMM Precinct 6)

Jen Spencer, 23 Oak Avenue

Joelle Stein, 81 Oakley Road

Phil Thayer, 39 Oak Avenue (TMM Precinct 6)

Jane Winsor, 131 Pine Street

Ron Young, 48 Oakley Road

List of Attachments

Attachment 1: Review of Applicant's Initial Submission to ZBA, annotated

- APPLICATION FOR A SPECIAL PERMIT, May 2, 2014 – 1 page
- Letter from Smith Legacy Partners Series, April 2, 2014 – 2 pages
- "Certified Plot Plan, #2 – 8 Trapelo Road", 3/24/2008 – 2 pages
- "Cushing Village, Conceptual Belmont Street Parking Plan" – 2 pages
- "First Floor Plan" – 1 page

Attachment 2: Review of Additional Materials submitted to ZBA by the Applicant, annotated

- Letter from Chris Starr, June 4, 2014 – 3 pages
- Enclosure, Parking Requirement Calculation – 1 page

Attachment 3: Photos, "Parking and Delivery at Cushing Square Starbucks Location" – 1 page

Attachment 4: Table, "Data on the Number of Vehicles Parked in the Starbucks Lot" – 1 page

Attachment 5: Engineering drawing, Trapelo Road rebuild at Belmont Street, annotated – 1 page



Town of Belmont

APPLICATION FOR A SPECIAL PERMIT

Date: MAY 2, 2014

Zoning Board of Appeals
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

This is really two separate permits: (1) modification to space; and (2) application for restaurant, including large parking variance. The applicants are different as well. It seems like there need to be separate permits before the ZBA to reflect this.

To Whom It May Concern:

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, as amended, and the Zoning By-Laws of the Town of Belmont, I/we the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on 678 TRAPELO Street/Road hereby apply to your Board for a **SPECIAL PERMIT** for the erection or alteration on said premises or the use thereof under the applicable Section of the Zoning By-Law of said Town for _____

A SPECIAL PERMIT FOR A RESTAURANT WITH DIMENSIONAL CHANGE REQUIREMENT AS INDICATED ON THE SUBMITTED PLANS.

No mention of parking in description.

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Has the Town even approved the financing plan for Cushing Village (required before the sale of the muni lot takes place)? If not, any zoning variance to move Starbucks seems premature.

Signature of Petitioner

Print Name CHRISTOPHER STARR, MANAGER

Address SMITH LEGACY PARTNERS III, LLC
6 LITTLEFIELD ROAD, ACTON, MA

Daytime Telephone Number (978) 502-2276

Applicant was not Starbucks, but Chris Starr. The intention was clearly to have expanded development rights rest with the owner, not the tenant. Smith Legacy Partners is a Delaware-based series LLC; SLP III is one in that series. Starr has a slew of individual corporate entities, generally with a separate one for each property (the Cushing Village development has multiple sites and multiple corporations). There are additional corporations that provide services to his property-based LLCs. Should any parcel run into financial hardships and declare bankruptcy, this corporate structure would insulate the other parcels from creditors (including the Town).

SMITH LEGACY PARTNERS SERIES LLC

April 2, 2014

Town of Belmont
Office of Community Development
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

To whom it may concern,

Intent for permanent changes, including to parking. The developer has long experience with Belmont, so a number of the gaps in this application are an indication of a strategy to have the permit approved with little attention. (1) No advance notification of abutters (as strongly encouraged in zoning); or existing tenants; (2) Little mention of parking concerns and an attorney unprepared to discuss the issue at the ZBA meeting; (3) submission for a permanent change framed as temporary linked to a Starbucks relocation. Timing is also a bit puzzling: this letter is dated April 2nd, but the actual special permit request is dated May 2nd, and received by the town only on May 5th. The vague meeting notification postcards from the Town didn't reach abutters until May 14th, a mere three days before ZBA mtg. Not clear on the cause of this long delay, but some abutters did not receive notification at all prior to the meeting, and the notification itself made no mention of parking variances. This was not adequate public notice.

Enclosed is the application and attendant drawing and exhibits for a special permit for 6-8 Trapelo Road in Belmont MA. This permit is being requested for a restaurant with a dimensional change requirement as indicated on the submitted plans. Initially, it is contemplated that this would be a relocation site for the Starbucks that currently is operating in Cushing Square. We further plan to have Starbucks return to the new Cushing Village development upon completion of that development in 2015. The 6-8 Trapelo Road site will then continue to be used for the new use granted under the Special permit.

The occupancy requested for the site is for 30 occupants.

Specific responses to the Town of Belmont requirements are indicated below.

- 1.) Professionally drawn plans are included which include the layout of the café / take-out restaurant
- 2.) Plans indicate use of the basement for storage.
- 3.) The location is going to be a Starbucks facility (or equivalent) and therefore will not have grilling or frying
- 4.) Menu is a typical cafe / take-out restaurant menu consisting of coffee and pastries, and prepackage microwavable sandwich products. To get a better sense of the proposed menu, please review Starbucks' typical menu: <http://www.starbucks.com/coffee>.
- 5.) Dumpster location is as indicated on the enclosed site plan. Rodent control and pick up will be done as needed and according to Starbucks nationally recognized standards. Also the Dumpster location will be screened with a screening material acceptable to the Town of Belmont.
- 6.) This location will need to have an easily accessible grease trap installed under the sink or in the basement due to lack of outdoor space for such equipment. We will size accordingly.

Inclusion of "or equivalent" indicates intent for permanent change to zoning, including parking variance.

Fire Prevention Requirements:

- 1.) Commercial Cooking Extinguishing System is not applicable for this projected use
- 2.) Hood Ventilation System is not applicable for this projected use
- 3.) All fire safety equipment will be installed according to code and will be subject to annual safety tests. ← An existing tenant raised significant issues on fire egress.

Community Development Requirements:

- 1.) Building Code Requirements: Plans are attached and will meet all applicable building codes including handicapped accessibility standards. This café will have two fully accessible bathrooms

SMITH LEGACY PARTNERS SERIES LLC

Despite the more residential zoning, Starr has proposed even longer operating hours than at current site. With deliveries often outside of operating hours, site will be active from 5 am to midnight, 7 days per week.

as indicated on the plans. The restaurant will also have handicapped accessible tables which meet the State Building code.

- 2.) Signage is as indicated on the plans but will be further defined by the tenant's internal design team and will be consistent with the Town of Belmont signage requirements.
- 3.) Hours of operation will be between 6AM and 11:00 PM daily.
- 4.) Deliveries will be at various points in the day. Deliveries that can be made via the rear access will be done so.
- 5.) Parking will be street parking as indicated on attached plan, this will be for both employees and customers

Applicant knows rear access is quite limited, particularly for unloading. He is downplaying delivery problems, both regarding truck size and time of day (since open 6 am to 11 pm). Lawyer at ZBA meeting did not even mention possible use of smaller delivery trucks (they now use semis) until asked a direct question, another indication of a lack of transparency.

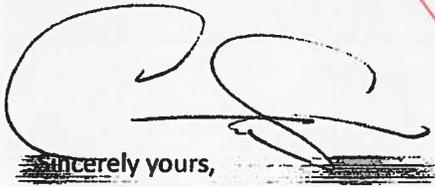
Plumbing and Gas Requirements:

- 1.) Two accessible unisex bathrooms are indicated on the plan
- 2.) Grease separator: addressed above

Liquor License:

- 1.) No liquor license is being sought for this location at this time

"at this time"



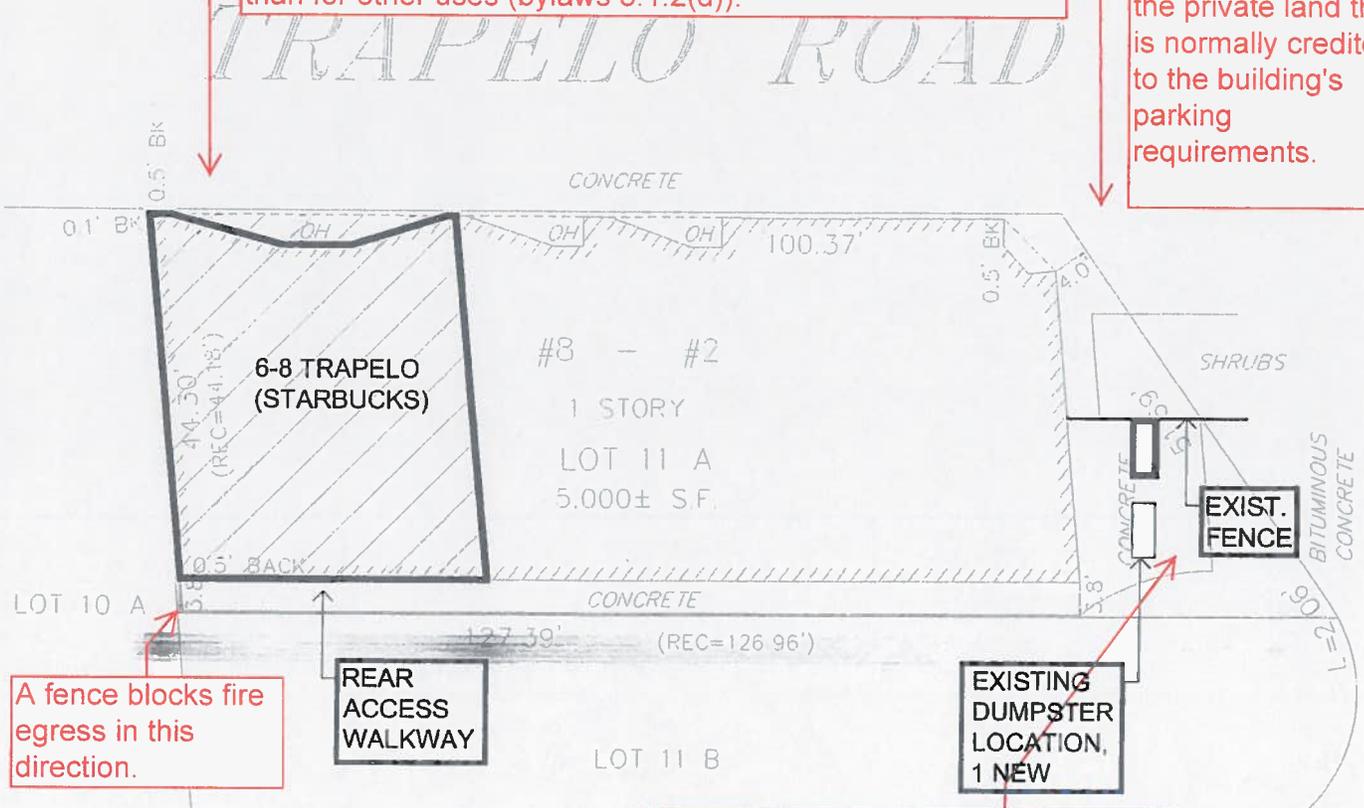
Sincerely yours,
Chris Starr
Smith Legacy Partners
6 Littlefield Road
Acton MA 01720

Given that there are specific requirements for dedicated restaurant parking, and no plans for Trapelo to have the diagonal parking shown in the attached "plan", this framing seems exceedingly misleading. Starr never says he needs a parking variance, though the clearly needs a big one.

This appears to be a different legal entity from the one that submitted the special permit application (Smith Legacy Partners III); and neither are the applicant per the ZBA (Starbucks).

According to Town bylaws (5.1.1(c)), only parking along this stretch of Trapele can be counted against parking requirements. There are currently about 5 spaces, with a few extra that seem to front against Town land. Parking requirements are higher for restaurants (1 spot per 2 seats) than for other uses (bylaws 5.1.2(d)).

Much of the frontage used by Moozy's appears to be town land, not Starr-owned. This reduces the number of street parking spaces in front of the private land that is normally credited to the building's parking requirements.



A fence blocks fire egress in this direction.

Are dumpsters to scale? Health Dept. review indicates there is not enough space for two dumpsters. Would need one big one, or large totes. Fire egress still seems a relevant issue. Residential abutter has indicated there are already problems with rats.

THE PARCEL IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FLOOD INSURANCE RATE MAP, TOWN OF BELMONT COMMUNITY PANEL NUMBER 250132 0001 B EFFECTIVE DATE JUNE 15, 1982

I HEREBY CERTIFY THAT THE BUILDING IS LOCATED AS SHOWN.

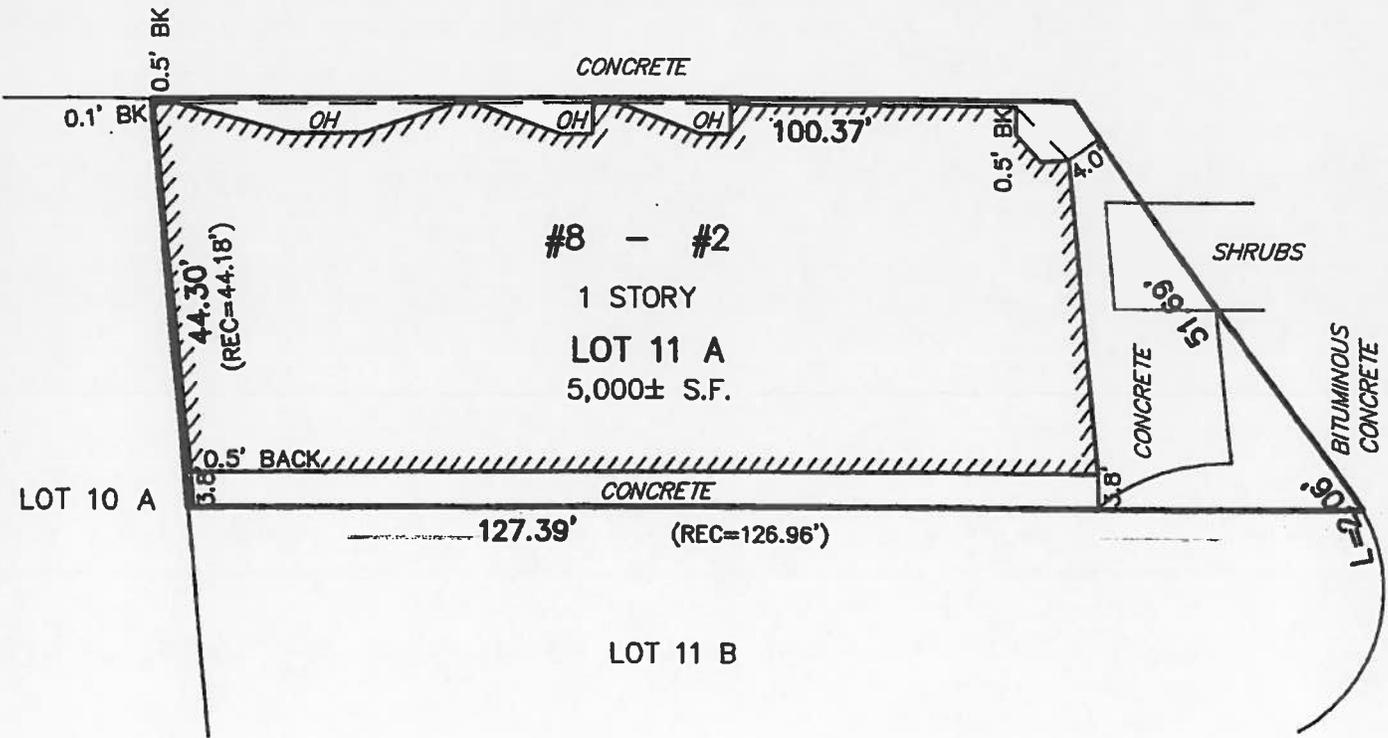
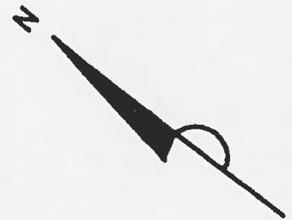
CERTIFIED PLOT PLAN
 #2-8 TRAPELO ROAD
 IN
 BELMONT, MA
 (MIDDLESEX COUNTY)

SCALE: 1" = 30' DATE: 3/24/2008

ROBER SURVEY
 1072A MASSACHUSETTS AVENUE
 ARLINGTON, MA 02476
 (781) 648-5533
 2782CPI.DWG

CLIFFORD E. ROBER, PLS DATE
 THIS PLAN MAY HAVE BEEN ALTERED IF THE SIGNATURE IS NOT SIGNED IN BLUE

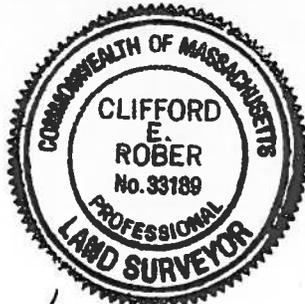
TRAPELO ROAD



THE PARCEL IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FLOOD INSURANCE RATE MAP, TOWN OF BELMONT COMMUNITY PANEL NUMBER 250182 0001 B EFFECTIVE DATE JUNE 15, 1982

PREPARED FOR: CHRIS STARR

I HEREBY CERTIFY THAT THE BUILDING IS LOCATED AS SHOWN.



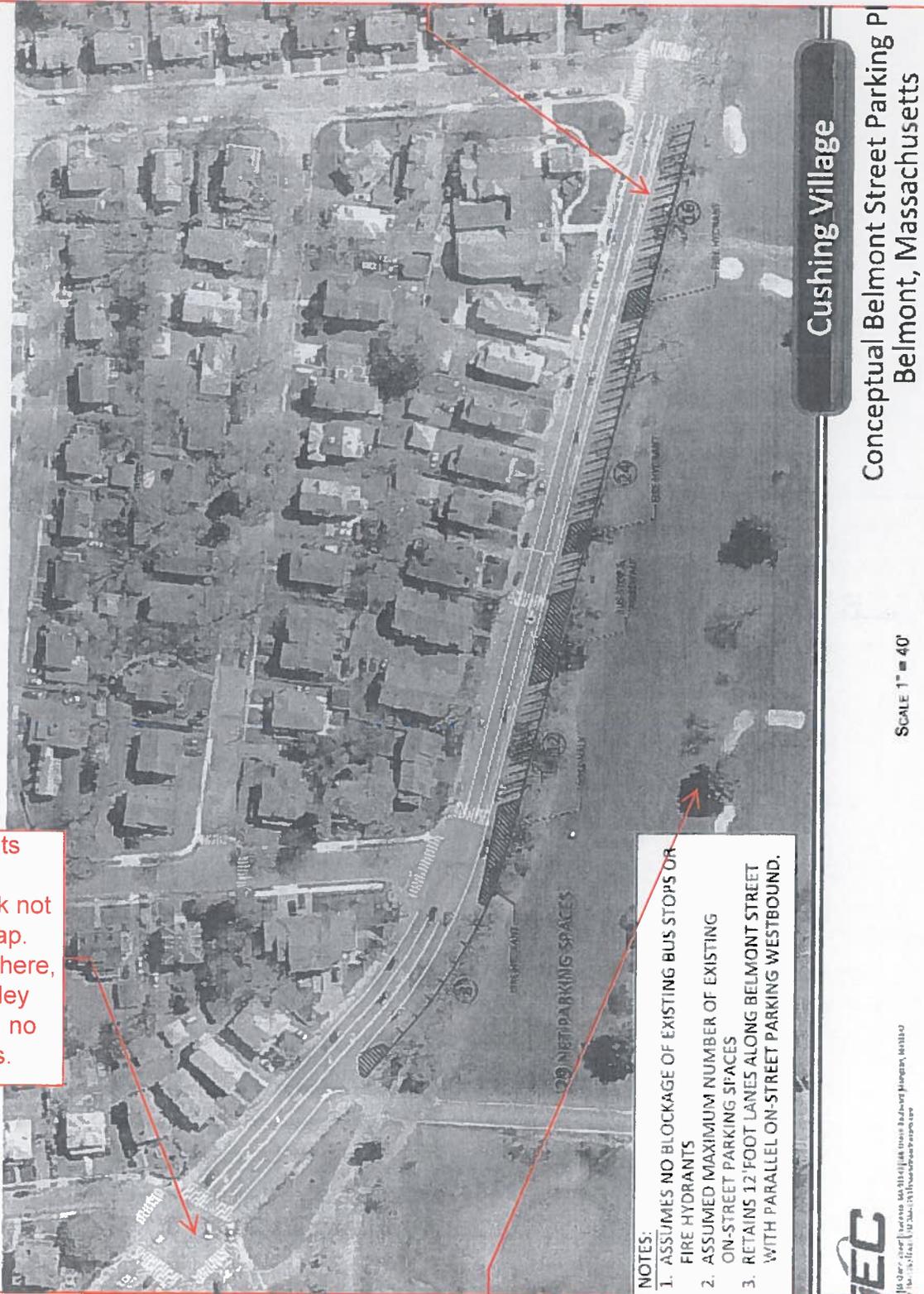
Clifford E. Rober 3/24/08
 CLIFFORD E. ROBER, PLS DATE
 THIS PLAN MAY HAVE BEEN ALTERED IF THE SIGNATURE IS NOT SIGNED IN BLUE.

CERTIFIED PLOT PLAN
 #2-8 TRAPELO ROAD
 IN
BELMONT, MA
 (MIDDLESEX COUNTY)

SCALE: 1" = 20' DATE: 3/24/2008

ROBER SURVEY
 1072A MASSACHUSETTS AVENUE
 ARLINGTON, MA 02476
 (781) 648-5533
 2782CP1.DWG

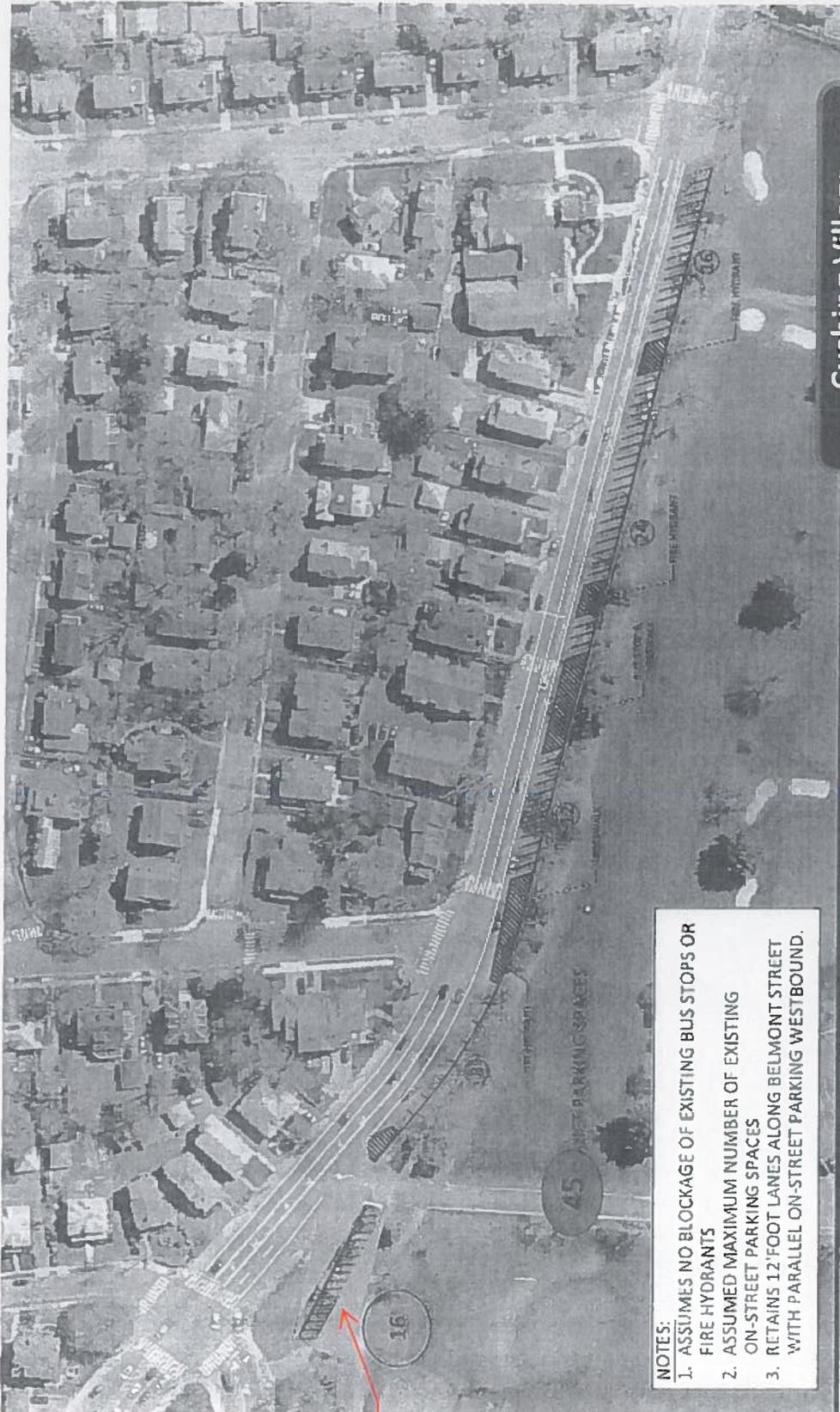
Jeff Wheeler confirmed to David Alper that there are no plans to shift to diagonal parking, so why this is being shown is not clear. Further, many other properties are already competing for the spaces along the part of Trapelo with stores; they are not earmarked for Starbucks, or Starr. Not clear what the parking "plan" is or what the "net" spots are referring to. Interesting that the parking exhibits are titled "Cushing Village," Starr's project in Cushing Square; he does not seem to have evaluated the parking problem specifically from relocating Starbucks at all.



Impacted streets not addressed. Willow and Oak not even on the map. Pine is barely there, and it and Oakley are shown with no vehicle impacts.

- NOTES:
1. ASSUMES NO BLOCKAGE OF EXISTING BUS STOPS OR FIRE HYDRANTS
 2. ASSUMED MAXIMUM NUMBER OF EXISTING ON-STREET PARKING SPACES
 3. RETAINS 12 FOOT LANES ALONG BELMONT STREET WITH PARALLEL ON-STREET PARKING WESTBOUND.

Unfortunately the copies are quite hard to read. But the sand traps sure suggest that Starr's parking "additions" are from adding diagonal parking along the frontage with Oakley Country Club. Doesn't pass the laugh test. Clearly Starbucks customers are not going to park all the way up there; they will park on our side streets.



Cushing Village

**Conceptual Belmont Street Parking Plan
Belmont, Massachusetts**

SCALE 1" = 40'

- NOTES:**
1. ASSUMES NO BLOCKAGE OF EXISTING BUS STOPS OR FIRE HYDRANTS
 2. ASSUMED MAXIMUM NUMBER OF EXISTING ON-STREET PARKING SPACES
 3. RETAINS 12' FOOT LANES ALONG BELMONT STREET WITH PARALLEL ON-STREET PARKING WESTBOUND.



This section of diagonal parking seems to be the only difference between this schematic and the prior one. Is this section public land?

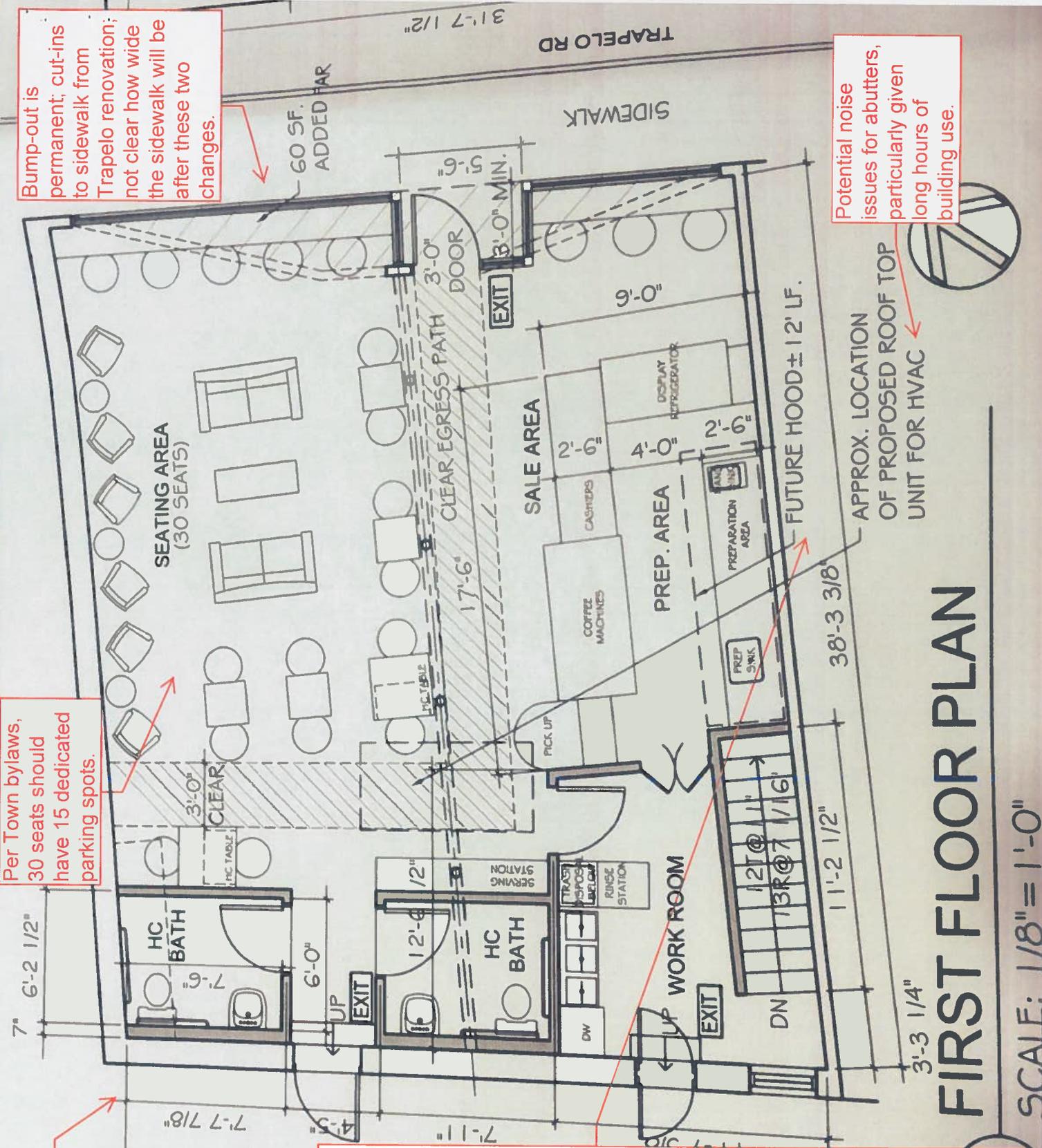
This image is from the Belmontian (photo of ZBA application page)

Hood needed for Starbucks, or indication there are plans for a full scale restaurant, with cooking and grease? Although ZBA permit can go with this tenant, once space is configured for restaurant, future rejection of follow-on similar use becomes much harder. These changes (including parking impacts) are basically permanent if approved for Starbucks. Big changes to neighborhood, and very worrying precedent for Cushing Overlay area as well, since parking constraints are the main venue to constrain scale.

Per Town bylaws, 30 seats should have 15 dedicated parking spots.

Bump-out is permanent; cut-ins to sidewalk from Trapelo renovation; not clear how wide the sidewalk will be after these two changes.

Potential noise issues for abutters, particularly given long hours of building use.



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

Attachment 2: Review of Additional Materials submitted to the ZBA by the Applicant

June 4, 2014

Town of Belmont
Office of Community Development
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

To whom it may concern,

Enclosed is the revised narrative for a Special Permit and Variance for 6-8 Trapelo Road in Belmont MA. This permit is being requested initially as a relocation site for the Starbucks that currently is operating in Cushing Square. The target date for this relocation is October 1, 2014. Starbucks will return to the new Cushing Village development upon completion of that development in 2015. The current projected return is June 2014. This could be delayed due to construction issues at the Cushing village site but Starbucks should return no later than November of 2015.

Presumably he means 2015.

The owners of the property, Smith Legacy Partners, understand this variance runs only to Starbucks' use of the site. The property upgrade provided to house Starbucks business is in keeping with their ongoing commitment to upgrade their properties in the neighborhood, including new storefronts and high efficiency equipment.

Starbucks has authorized Smith Legacy Partners to seek this variance on their behalf. A condition that the utilization of the Special Permit must be related to the temporary closure of the existing Starbucks, and that the Special Permit will similarly lapse upon the reopening of the Starbucks at Cushing Village, would be acceptable to the Applicant. The occupancy requested for the site is for 30 seats. The site also has a parking requirement per the attached Parking Requirement Calculation. The calculation shows a net deficit of six (6) spaces that represent the minimum requirement. The Board also asked if employee parking could be provided, equating to another five (5) spaces. Given the total parking spaces requested by the Board, 11 new spaces would be required.

Parking calculations by the Applicant are problematic. See comments on page 4 of this submission.

To comply and exceed this requirement, the applicant has 15 new parking spaces (instead of the requested 11 spaces) to service the proposed temporary relocation of Starbucks and the general neighborhood in the area of the existing MBTA turn around triangle at the intersection of Belmont St. and Trapelo Road. These spaces will be accommodated as shown on the enclosed engineered drawing. An application has been made to the MBTA and is currently under review. We would kindly request that the Board accept a minimum of 11 spaces, if the MBTA deems fewer spaces are appropriate for this location.

Big change due to public outcry. Tenants found out about their pending eviction by reading the newspaper.

Our responses to the specific issues raised in the first public hearing are indicated below.

The existing tenants of the 6-8 Trapelo Road are relocating their businesses and will remain a resource to the Cushing Village community in temporary and permanent space. The Smith Legacy Partners is committed to providing these tenants with appropriate short and long-term solutions to achieve this objective.

Speculative and unlikely to happen quickly; no evidence of when request to MBTA was sent. Even if approved, plan is unlikely to stop overflow parking onto side streets. See cover letter for more details.

There is a stated intention to move Starbucks back to Cushing Square, but this is not legally binding. ZBA has stated it does not put a time limit on special permits, so Starbucks could stay at its temporary location as long as it wanted to. Clear intent by Applicant for similar continued use of site post-Starbucks.

Original permit clearly aimed to have a permanent shift in allowable uses.

Upgrades can and should be done in line with allowable zoning. They should not alter the residential character of the neighborhood, and have no bearing on whether the special permit request should be approved.

Written verification was requested by ZBA, but was not provided in Starr's 6/4 correspondence.

There are problems with trash at the existing site already, and with debris and snow removal at the debilitated properties owned by the Applicant in Cushing Square. This is unlikely to change without continual pressure on the Applicant from abutters or the Town.

In terms of the operational issues that were raised in the meeting, the temporary Starbucks space will be provided with appropriate dumpsters and trash removal. These will be closely monitored. The revised site plan to be presented at the public hearing will show the proposed dumpster and access layout.

Smith Legacy Partners also will provide a daily walk over on the site. The contractor working at the Cushing Village project will provide the personnel to "police" the site for cleanliness and ensure that the site is kept appropriately cleaned daily. All other sanitary and health and fire and safety issues will be in compliance with the requirements of the Town of Belmont.

Specifically:

- 1.) Professionally drawn plans were previously submitted which include the layout of the restaurant/ café
- 2.) Plans indicate use of the basement for storage.
- 3.) The location is going to be a temporary Starbucks facility and therefore will not have grilling or frying
- 4.) Menu is Starbucks typical menu, coffee and pastries, and prepackage microwavable sandwich products. Full Menu can be found at: <http://www.starbucks.com/coffee>
- 5.) Rodent control and pick up will be done as needed and according to Starbucks nationally recognized standards. Also the Dumpster location will be screened with a screening material acceptable to the Town of Belmont.
- 6.) This location will need to have an easily accessible grease trap installed under the sink or in the basement due to lack of outdoor space for such equipment. We will size accordingly.

Fire Prevention Requirements:

- 1.) Commercial Cooking Extinguishing System is not applicable for this projected use
- 2.) Hood Ventilation System is not applicable for this projected use
- 3.) All fire safety equipment will be installed according to code and will be subject to annual safety tests.

Though space carved out for it on floorplan.

Community Development Requirements:

- 1.) Building Code Requirements: Plans are attached and will meet all applicable building codes including handicapped accessibility standards. This café will have two fully accessible bathrooms as indicated on the plans. The restaurant will also have handicapped accessible tables which meet the State Building code.
- 2.) Signage is as indicated on the plans but will be further defined by Starbucks internal design team and will be consistent with the Town of Belmont signage requirements.
- 3.) Hours of operation currently at the existing Starbucks are as follows:

M-F: 5am-10pm
Sat: 5:30-10pm
Sun: 6:00- 9:30

Closing is earlier (Starr had originally proposed an even later close than at the current Cushing Sq. location), but opening is earlier as well. Dramatic increase in the number of hours site will be used versus other operations in this LB III area. Deliveries extend operating period even longer.

In response to the neighborhood concern about the longer hours of operation proposed in the original application Starbucks is willing to change the hours as follows:

M-F: 5:30am - 9/9:30pm

Sat: 5:30-10pm
Sun: 6:00- 9:30

As noted in the cover letter, absent documentation from the Starbucks legal department, one should expect delivery by large semis as the chain currently does.

- 4.) Deliveries will be at various points in the day. Deliveries that can be made via the rear access will be done so. Starbucks is looking into small truck delivery for this location to avoid the need for large tractor trailer delivery issues raised by the residents.

Plumbing and Gas Requirements:

- 1.) Two accessible unisex bathrooms are indicated on the plan
- 2.) Grease separator: addressed above

Liquor License:

- 1.) No liquor license is being sought for this location at this time

We truly appreciate the Board working with us on a critical measure for Cushing Village to become a reality. Thank you so much for your time and consideration.

Sincerely yours,
Chris Starr
Smith Legacy Partners
6 Littlefield Road
Acton MA 01720

This is required just for the new restaurant. It is not waived because of prior non-conformance of the building.

ZBA noted employees can't park on side streets, so Starr needs to address. Estimated 5 spaces needed.

Parking Requirement Calculation – 6-8 Trapelo Rd

Required parking for restaurant use per 5.1.2.d) = one space per two seats – 30 seat restaurant = 15 spaces.	15
Required Employee Parking	0
Existing use parking requirement for retail business and service establishment = one space per 250-SF ground floor; one space per 400-SF basement. Area of each level is approx. 1,300-SF Ground Floor – 1,300-SF/250 = 5.2 Basement (service and storage) – 1,300-SF/400 = 3.3 Total ext'g requirement (grandfathered) = 8.5 = 8	(-) 8
Street frontage parking per 5.1.1.c) =	(-) 1
Total Net deficit parking spaces	6

Deductions seem way off base. Starbucks is a new use with separate parking requirements. Grandfathered spaces would follow remaining tenant uses (e.g., Moozy's and Fancy That), and can't be claimed as a reduction to what needs to be provided by Starbucks, a non-conforming usage that greatly increases the non-conformity of the property.

Not sure how this value was calculated, though it seems plausible. There are 5 spaces total in front of the building after the rebuild, so the most that could be associated with Starbucks would be 1-2.

Net deficit would appear to be 13 or 14, plus the problem of employee parking, for a total of 18 to 19. His proposed solution at the MBTA turnaround seems both speculative and unlikely. Even if it went through, there would remain a residual shortfall; the spaces would be absorbed in part by commuters; and clients traveling towards Waltham would find parking on side-streets far more convenient than in his proposed lot. The fact that no documentation of his "filing" with MBTA was provided to the ZBA is an indication that it is both very recent, and casual.

Attachment 3: Parking and Delivery at Cushing Village Starbucks Location

Photo 1: Starbucks parking lot routinely holds more than its stated capacity of eight vehicles



Starbucks parking lot on Sunday, June 1, 2014, 11:40 am.

Photo 2: Starbucks deliveries to all Belmont locations are by tractor-trailers; traffic disruptions are common



Starbucks delivery truck parked on Trapelo Road, Sunday, June 1, 2014, 4:15 pm.

Attachment 4

Data on the Number of Vehicles Parked in the Starbucks Lot (at a moment in time)

	30-May	31-May	1-Jun	2-Jun	3-Jun	4-Jun	5-Jun	6-Jun	7-Jun	8-Jun
	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun
8AM									10	
9AM	10			11		10			13	
10AM							12	11		
11AM	13		11	12		11	13	11		11
Noon					10		14	10	10	
1PM			8				12			
2PM	10						8		3	
3PM	8	6				8		14		
4PM			8	6		12		7		
5PM			7						8	8
6PM				8		4			3	
7PM										
8PM						8		3		

Hours noted above reflect a count collected at a moment in time, not the total number for that hour. For example, 8AM would be sometime between 8 and 9AM, say 8:20AM.

The data only measure the number of vehicles in the Starbucks parking lot. Vehicles parked in the municipal lot or on the street are not reflected in these counts.

