

Harvard Square Advisory Committee

November 9, 2012

The Harvard Square Advisory Committee will meet to review a Board of Zoning Appeal Special Permit application for 57 JFK Street, Yogurtland as outlined in Section 20.54.1 of the Cambridge Zoning Ordinance. The meeting will be on Thursday, November 15, 2012 at 4:00 p.m. in the fourth floor conference room, 344 Broadway, Cambridge, Massachusetts.

For further information, please contact Liza Paden at 617/349-4647 or lpaden@cambridgema.gov.



c/o Cambridge Community Development Department
344 Broadway, Cambridge, MA 02139
617.349.4600 Fax: 617.349.4669

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October 25, 2012

VIA FEDEX PRIORITY and
EMAIL: lpaden@cambridgema.gov

Ms. Liza Paden
Harvard Square Advisory Committee
c/o Cambridge Community Development Department
344 Broadway
Cambridge, MA 02139

Re: *Filing with Harvard Square Advisory Committee; Special Permit Application*
57 JFK Street, Cambridge, MA

Dear Ms. Paden:

As I explained during our discussion last week, I represent Yogurtland. Yogurtland will be applying for a Special Permit to operate a fast food order establishment (a yogurt shop) at 57 JFK Street, Cambridge. The site is currently occupied by Faron Salon. We have submitted an application to the Cambridge Historical Commission for a Certificate of Nonapplicability and are awaiting a determination.

Yogurtland offers a unique experience for customers by providing a self-serve format that allows customers to control the flavor, type and portion size of each serving. Yogurtland's products are all natural and do not use any preservatives, artificial colors or artificial ingredients.

Yogurtland will be making some minimal changes to the exterior of the location, e.g., recessing the storefront approximately 3.5 feet into the retail space, moving the door and tiling an exposed exterior wall. Recessing the storefront will allow for the placement of four exterior seats within the property line (not using sidewalk).

I have attached a copy of the Application for a Special Permit, together with the supporting statements which will be submitted to the Board of Zoning Appeals. I have also enclosed a copy of the proposed floor and elevation plans for the proposed Yogurtland shop at 57 JFK Street, and a photograph of the existing site. Finally, I have enclosed photographs of typical Yogurtland shops in other locations.

In accordance with the provisions of Section 20.54.1 of the City of Cambridge Zoning Ordinance, we request that Harvard Square Advisory Committee provide a written report of their findings and recommendations with respect to this proposed project within 30 days.

Please feel free to contact me if you require any further information. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert C. Dunkless", with a horizontal line drawn above it.

Robert C. Dunkless

BZA APPLICATION FORM

GENERAL INFORMATION

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: ☒ Variance: ☐ Appeal: ☐

PETITIONER:

PETITIONER'S ADDRESS:

LOCATION OF PROPERTY:

TYPE OF OCCUPANCY: ZONING DISTRICT:

REASON FOR PETITION:

☐	Additions	☐	New Structure
☒	Change in Use/Occupancy	☐	Parking
☐	Conversion to Addi'l Dwelling Units	☐	Sign
☐	Dormer	☐	Subdivision
☒	Other: Special Permit for Fast Order Food Establishment		

DESCRIPTION OF PETITIONER'S PROPOSAL:

SECTIONS OF ZONING ORDINANCE CITED:

Article	4	Section	4.35
Article	11	Section	11.30, 31
Article		Section	

Applicants for a Variance must complete Pages 1-5

Applicants for a Special Permit must complete Pages 1-4 and 6

Applicants for an Appeal to the BZA of a Zoning determination by the Inspectional Services Department must attach a statement concerning the reasons for the appeal

Original Signature(s):  (Attorney for
(Petitioner(s)) Petitioner)

Address: 101 Arch St., Boston, MA 02110

Tel. No.: 617-342-8600

Date: _____

BZA APPLICATION FORM

DIMENSIONAL INFORMATION

APPLICANT: YL Harvard Square Inc. PRESENT USE/OCCUPANCY: hair salon
 LOCATION: 57 JFK Street ZONE: BB
 PHONE: 949-265-8000 REQUESTED USE/OCCUPANCY: Fast Food Establishment - Yogurt Shop

		<u>EXISTING CONDITIONS</u>	<u>REQUESTED CONDITIONS</u>	<u>ORDINANCE REQUIREMENTS</u> ¹	
<u>TOTAL GROSS FLOOR AREA:</u>		36,600	36,600	39,891	(max.)
<u>LOT AREA:</u>		14,506	14,506	300	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA:</u> ²		2.52	2.52	2.75	(max.)
<u>LOT AREA FOR EACH DWELLING UNIT:</u>		N/A	N/A	N/A	(min.)
<u>SIZE OF LOT:</u>	<u>WIDTH</u>	N/A	N/A	N/A	(min.)
	<u>DEPTH</u>	N/A	N/A	N/A	
<u>Setbacks in Feet:</u>	<u>FRONT</u>	N/A	N/A	N/A	(min.)
	<u>REAR</u>	N/A	N/A	N/A	(min.)
	<u>LEFT SIDE</u>	N/A	N/A	N/A	(min.)
	<u>RIGHT SIDE</u>	N/A	N/A	N/A	(min.)
<u>SIZE OF BLDG.:</u>	<u>HEIGHT</u>	N/A	N/A	N/A	(max.)
	<u>LENGTH</u>	N/A	N/A	N/A	
	<u>WIDTH</u>	N/A	N/A	N/A	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u> ³		N/A	N/A	N/A	(min.)
<u>NO. OF DWELLING UNITS:</u>		N/A	N/A	N/A	(max.)
<u>NO. OF PARKING SPACES:</u>		N/A	N/A	N/A	(min./max)
<u>NO. OF LOADING AREAS:</u>		N/A	N/A	N/A	(min.)
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT:</u>		N/A	N/A	N/A	(min.)

Describe, where applicable, other occupancies on same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g.; woodframe, concrete, brick, steel, etc.

restaurants, Staples and other retail uses

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.

BZA APPLICATION FORM

SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 40A, SECTION 10:

- A)** A Literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

- B)** The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

- C)** **DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:**

1) Substantial detriment to the public good for the following reasons:

2) Relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

*** If You have any questions as to whether you can establish all of the applicable legal requirements, you should consult with your own attorney.**

BZA APPLICATION FORM

SUPPORTING STATEMENT FOR A SPECIAL PERMIT

Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.

Granting the Special Permit requested for 57 JFK Street (location) would not be a detriment to the public interest because:

- A) Requirements of the Ordinance can or will be met for the following reasons:

See attached

- B) Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:

See attached

- C) The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

See attached

- D) Nuisance or hazard would not be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City for the following reasons:

See attached

- E) For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:

See attached

BZA APPLICATION FORM

SUPPORTING STATEMENT FOR A SPECIAL PERMIT

A. Requirements of the Ordinance can or will be met for the following reasons:

The specific requirements for granting a special permit for the operation of a fast order food establishment yogurt shop at this location will be met for the reasons more particularly described in the Statement of Compliance with Requirements of Section 11.30- (Fast Order Food Special Permit) attached hereto and summarized below.

1. The operation of a fast order food establishment yogurt shop at this location will not create traffic problems or reduce parking because this establishment will attract patrons primarily from walk in trade.
2. The design of the yogurt shop will be compatible with the eclectic mix of retail establishment designs located in Harvard Square.
3. Yogurtland will fulfill a need in the neighborhood by offering a unique yogurt experience, providing the only self-service yogurt shop in the area. By using a self-service model the consumer determines the quantity of product and the price is based on quantity, resulting in a greater value to the consumer, since consumers will only pay for the weight of their personally selected product. The self-service format invites customers to mix their flavors and choose the type and quantity of toppings. Yogurtland will be providing a product manufactured by Yogurtland which is all natural, and does not contain any preservatives or artificial colors. Yogurtland offers 16 different flavors, providing consumers with much more variety than other yogurt shops.

A. The traffic generated and patterns of access and egress will not cause congestion, hazard or substantial change in established neighborhood character.

Yogurtland patrons will access the shop primarily on foot. Access will be through the front door located on Winthrop Street. Traffic flow on surrounding streets will not be disturbed. There will be no "drive thru" service. There are ample street crossing lanes near the site for pedestrian access. The site is easily accessible by public transportation and is served by the Harvest Square T Station. There will be no change in the established neighborhood as Harvard Square includes a wide range of retail stores, including restaurants and fast order food establishments.

B. The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

The location of the Yogurtland fast food establishment at this site will not have any adverse effect on the operation or development of adjacent uses as permitted by the

Zoning Ordinance. The Yogurtland shop at this site will be adjacent to several restaurants. There are numerous fast order food establishments located in Harvard Square. No additional traffic or parking problems will be created by this proposed use because the establishment will attract patrons primarily from walk in trade.

C. No nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City.

- (1) The Harvard Square neighborhood is home to many restaurants and fast food establishments.
- (2) The Yogurtland shop would, to the greatest extent feasible, utilize biodegradable material in packaging and utensils. Utensils (i.e., spoons) will be biodegradable.
- (3) The Yogurtland shop will provide an all-natural product and because of the self-service style will enable customers to exercise portion control. The self-serve format will allow customers to control the price of their purchase, resulting in greater value to the consumer.
- (4) The Yogurtland shop will attract customers primarily from pedestrian traffic.

D. For other reasons the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

- (i) The operation of a fast order food yogurt shop at this location is entirely compatible with all uses within this area.
- (ii) The Harvard Square area incorporates a wide range of diverse commercial and retail uses, including numerous restaurants and fast order food establishments.

E. The new use or building is not inconsistent with the Urban Design Objectives set forth in section 19.30.

The use of this site as a fast-order yogurt shop is not inconsistent with the urban design objectives set forth at Section 19.30.

COMPLIANCE WITH REQUIREMENTS OF SECTION 11.30 – FAST ORDER FOOD SPECIAL PERMIT

a. The operation of the establishment shall not:

- (1) Create traffic problems. The operation of the Yogurtland yogurt shop fast order food establishment shall not create traffic problems at this location. The large majority of customers will be pedestrians from Harvard Square. As a result the traffic flow on the surrounding streets will not be disturbed. There will be no “drive thru” service.
- (2) Reduce available parking. Yogurtland’s use of the site as a fast order food establishment will not reduce available parking. The large majority of customers will be walk-in customers from Harvard Square.
- (3) Threaten the public safety in the streets and sidewalks. Public safety in the streets and on the sidewalks will not be threatened by Yogurtland’s operation of a fast order food establishment. Most customers will access the site on foot and are served by ample street crossing lanes near the site. There will be no “drive thru” service at the restaurant.
- (4) Encourage or produce double parking on the adjacent public streets. Most customers will access Yogurtland’s shop on foot.

b. The physical design, including color and use of materials, of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces and uses in the particular location.

This site and the surrounding retail business sites in the local Harvard Square business/commercial areas provide an eclectic mix of physical designs, colors and materials. The Yogurtland design, including 4 outdoor seats in a patio area adjacent to the front entrance (not located on or utilizing any sidewalk), will be compatible with and add to the variety and vibrancy of the retail establishments in Harvard Square.

c. The establishment fulfills a need for such a service in the neighborhood or in the City.

Yogurtland offers a vastly different and unique experience for consumers. Yogurtland is the only yogurt shop utilizing a self-serve format that allows customers to control the flavor profile, type and size of each serving. Yogurtland offers a product that is all natural and does not use any preservatives, artificial colors or artificial ingredients. Yogurtland’s flavors are all custom-created by Yogurtland utilizing real ingredients and Yogurtland offers a greater variety of flavors than any other yogurt shop. Yogurtland’s self-service format allows the customer to control the amount of product purchased; this results in a greater value to the customer and allows the customer to better control consumption, resulting in a more healthy consumer service. The Harvard Square neighborhood attracts a large number of shoppers, visitors and tourists. The combined retail, commercial, office, academic and residential character

of the neighborhood, and the large number of working people, residents, students, visitors, tourists and shoppers in Harvard Square demands and can easily accept the addition of a unique yogurt shop offering an all-natural product, wide variety of flavors in a self-service format.

- d. The establishment will attract patrons primarily from walk in trade as opposed to drive in or automobile related trade; however, should the Board specifically find that the district or area within which the establishment is proposed to be located does not have significant pedestrian traffic, this requirement need not be met.**

Because of its location in Harvard Square, and the large number of office, retail workers, residents, students, shoppers, visitors and tourists in the area, Yogurtland will draw primarily walk in customers and it is anticipated that relatively few customers will be coming via automobile. There will be 15 seats in the shop and the requested 4 outdoor seats (on the site and not located on the sidewalk). Therefore, this requirement is met.

- e. The establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and in the utensils and other items provided for consumption thereof.**

Yogurtland will serve its customers using biodegradable utensils.

- f. The establishment shall provide convenient, suitable and well-marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils and other items provided with the sale of food; and**

Well-marked trash receptacles will be located so as to encourage proper disposal of waste materials.

- g. The establishment complies with all state and local requirements applicable to ingress, egress and use of all facilities on the premises for handicapped and disabled persons.**

The Inspectional Services Department will need to determine that the location complies with all such requirements and will continue to monitor that Yogurtland maintains ongoing compliance.

END OF THIS PAGE



Because Self-Serve is the Right Choice for Harvard Square

In 2006, Yogurtland opened its first location, and quickly popularized the self-serve frozen yogurt concept by giving consumers control over the flavor profile and cost of their frozen yogurt experience. By introducing a format that invites guests to mix their flavors and choose the type and quantity of toppings, Yogurtland has created a vastly different experience for consumers. An engaging experience that puts creative control in the hands of the consumer who pay for only what they choose.

Last year Yogurtland served 49 million cups of frozen yogurt, more than any other frozen yogurt chain. Truth is, Yogurtland offers the industry's best quality frozen yogurt made from real milk, served with a wide array of premium, popular toppings in a clean, bright environment. The driving force behind the company's industry leadership is Yogurtland's "weigh-and-pay" approach that puts consumers in charge.

It is this celebration of individual creativity that Yogurtland desires to bring to Harvard Square. Frozen yogurt has become a regular treat experience for people across America and throughout the world. At Yogurtland, the ability to choose what you want, and how much or how little you want of it, is striking a chord with consumers who want to control their dessert destiny.

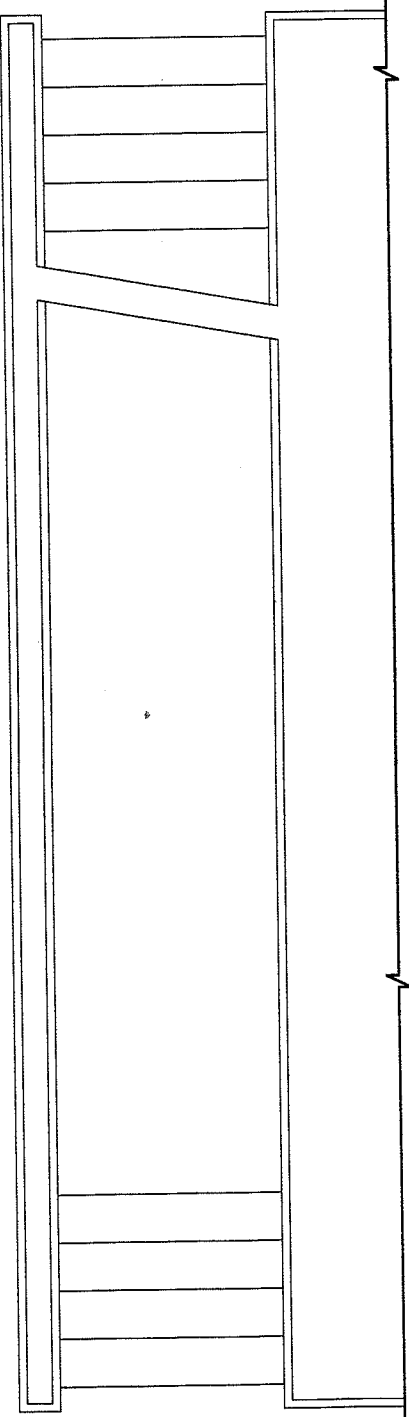
The idea of combining their own flavors and toppings has inspired Yogurtland to launch a new contest called My Masterpiece, where consumers can celebrate their freedom of choice and win prizes.

At Yogurtland, the experience starts with premium custom flavors that come from real ingredients sourced from their original locations – Madagascar vanilla beans from Madagascar, Belgian chocolate from Belgium, Maqui Berry from Patagonia. No other yogurt chain offers such original flavors and exciting combinations such as Salted Caramel Pecan, Blackberry Passion Fruit Tart, Lychee Tart, Dragon Passion Fruit Tart, Mango and Matcha Green Tea. Yogurtland's wide range of flavors average 25 calories per ounce.

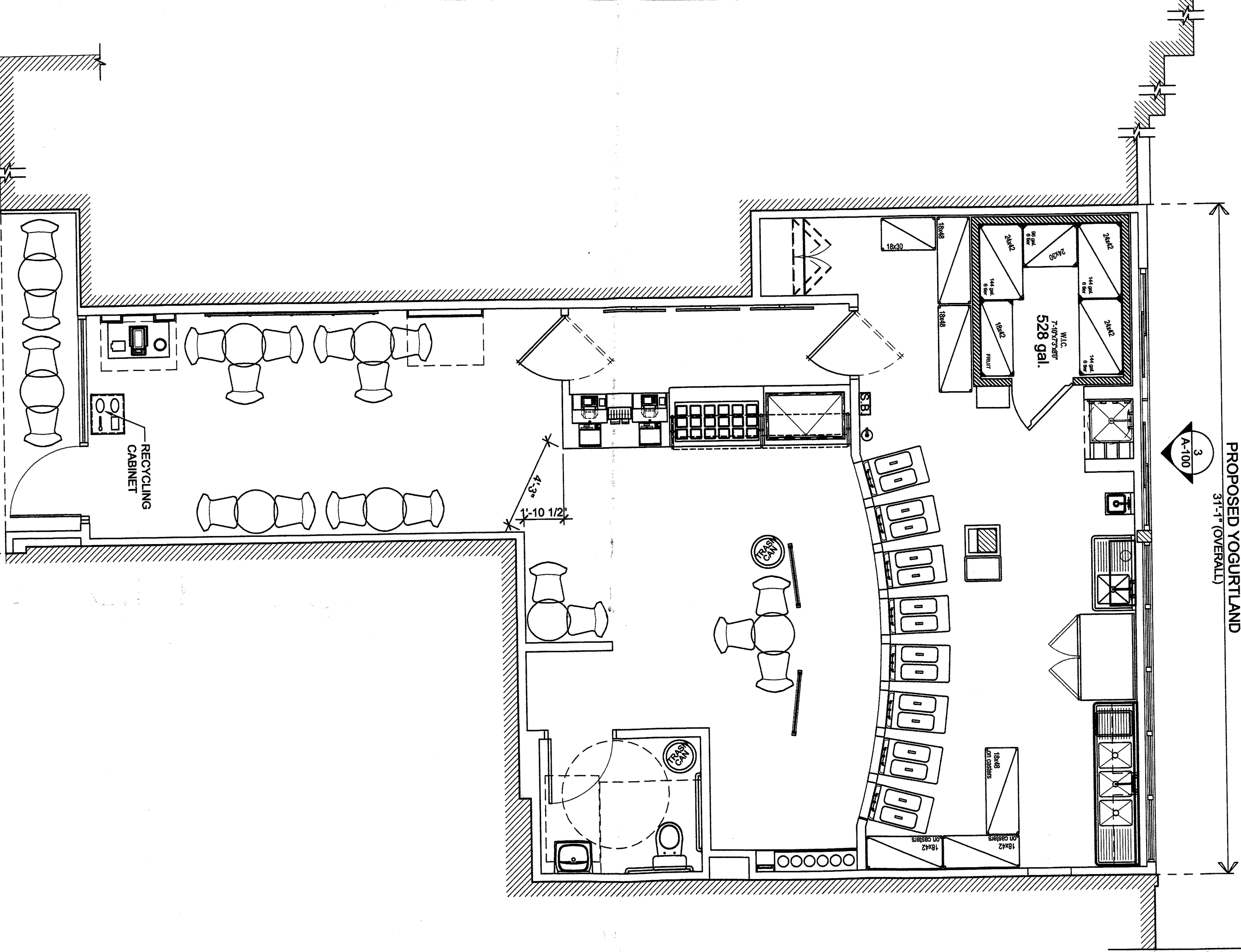
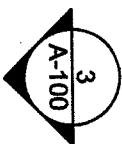
At Yogurtland, we offer a wide variety of seasonal real fruit and more than 45 choices of other premium toppings to customize your refreshing yogurt creation. Seasonal fruit options include bananas, blackberries, honeydew melon, kiwi, lychee, peaches and watermelon. Other popular toppings include your favorite childhood breakfast cereals of Capt n Crunch and Fruity Pebbles to grown-up tastes such as granola, carob chips, yogurt chips, and coconut flakes and chocolaty favorites such as Hershey's Heath Bar and more.

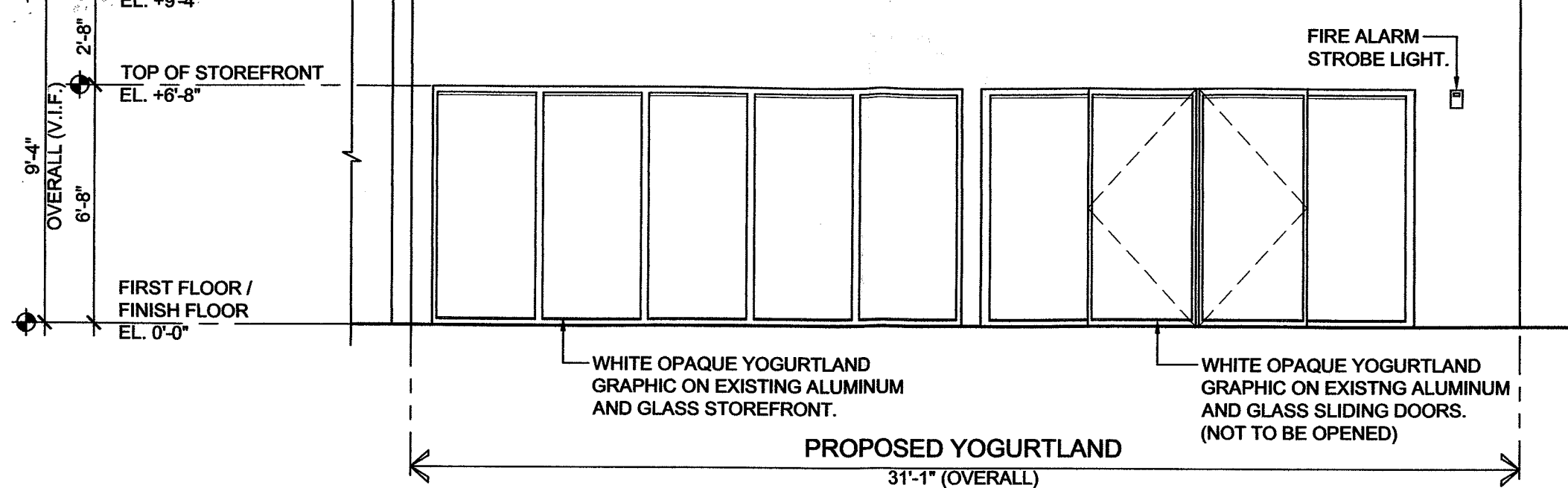
Individuality and creativity are celebrated at Yogurtland where customers are in complete control of how much yogurt and toppings they want to enjoy, and ultimately, how much they want to pay for their dessert.





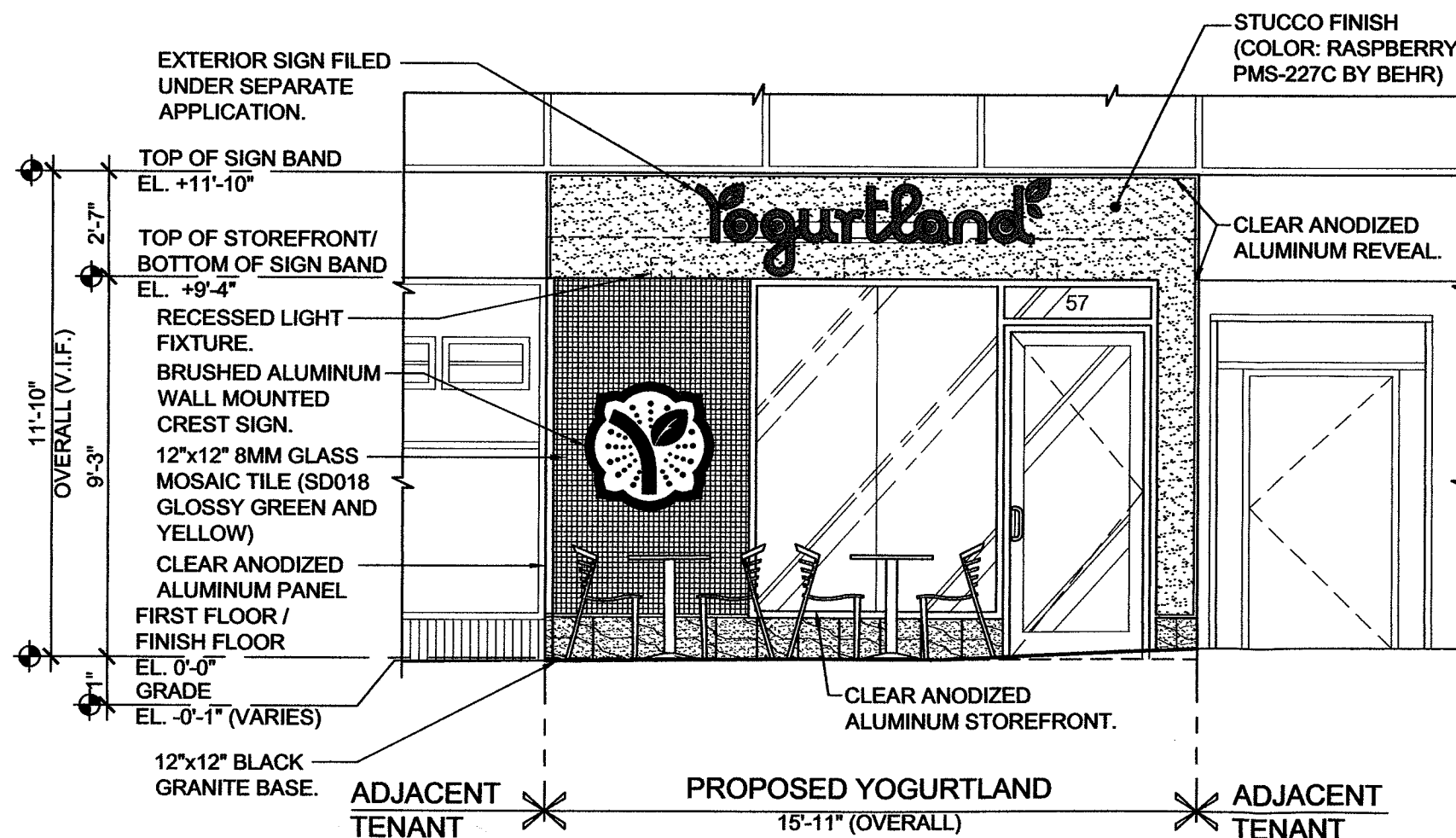
PROPOSED YOGURTLAND
31'-7" (OVERALL)





PROPOSED REAR ELEVATION

SCALE
1/4" = 1'-0" **3**



PROPOSED FRONT ELEVATION

SCALE
1/4" = 1'-0" **1**

EXTERIOR SIGN FILED UNDER SEPARATE APPLICATION.

RECESSED LIGHT FIXTURE.

CLEAR ANODIZED ALUMINUM REVEAL.

STUCCO FINISH (COLOR: RASPBERRY PMS-227C BY BEHR)

BRUSHED ALUMINUM WALL MOUNTED CREST SIGN.

12"x12" 8MM GLASS MOSAIC TILE (SD018 GLOSSY GREEN AND YELLOW)

12"x12" BLACK GRANITE BASE.

CLEAR ANODIZED ALUMINUM STOREFRONT.

PROPOSED ELEVATION

SCALE
1/4" = 1'-0" **2**

PRO