City Council Introduction: August 29, 2016
Public Hearing: **September 12, 2016, 3:00 p.m.**

Bill No. 16R-194

# FACTSHEET

**TITLE: WAIVER NO. 16006** - Parking Requirements (4728 and 4736 Prescott Avenue)

**BOARD/COMMITTEE:** N/A

**APPLICANT:** The Mill on Prescott

**RECOMMENDATION:** N/A

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** None.

**SPONSOR:** Planning Department

**OPPONENTS:** None received.

**REASON FOR LEGISLATION:** Request to waive the additional parking required by a change in use from retail to restaurant per LMC Section 27.67.030(f). The waiver would reduce the amount of parking required for restaurants (with or without a special permit for sale of alcoholic beverages for consumption on the premises) from 1 space per 100 square feet to zero spaces.

**DISCUSSION/FINDINGS OF FACT:**

1. This is a request by The Mill to reduce the parking requirement from 1 space per 100 square feet to 0 spaces.

2. The staff recommendation to approve the parking adjustment is based upon the "Analysis" as set forth on pp. 3-5, concluding that waiving the required parking will accommodate this expanded business while taking into consideration the pedestrian orientation of the College View commercial area. This waiver is supportable based on the proximity of on-street parking, the pedestrian friendly character of the College View commercial area, and proximity to Union College. The waiver is consistent with the goals of the Comprehensive Plan.

3. Four letters of support (see pp.11-14) as well as 14 signatures of individuals supporting this waiver have been submitted (pp.15-17).

4. No letters of opposition have been received.

5. This application does not require review and action by the Planning Commission.

6. The Planning Department has provided notice of this public hearing to property owners the same manner as is required by the Lincoln Municipal Code for zoning and subdivision applications.

**FACTSHEET PREPARED BY:** Geri Rorabaugh, Administrative Officer

**DATE**: August 22, 2016

**REVIEWED BY**: David R. Cary, Director of Planning

**DATE**: August 22, 2016

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**PROJECT #**: Waiver #16006 - The Mill

**PROPOSAL:** A request to waive the additional parking required by a change in use from retail to restaurant per LMC Section 27.67.030(f). The waiver would reduce the amount of parking required for restaurants (with or without a special permit for sale of alcoholic beverages for consumption on the premises) from 1 space per 100 square feet to zero spaces.

**LOCATION:** 4736 and 4728 Prescott Avenue

**LAND AREA:** 0.32 acres more or less

**CONCLUSION:** Waiving the required parking will accommodate this expanded business while taking into consideration the pedestrian orientation of the College View commercial area. This waiver is supportable based on the proximity of on-street parking, the pedestrian friendly character of the College View commercial area, and proximity to Union College. The waiver is consistent with the goals of the Comprehensive Plan.

**RECOMMENDATION:** Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Gladys Addition and the West 30' and the South 50' of Lot 6, Block 25, College View, located in the SW 1/4 of Section 5-9-7, Lincoln, Lancaster County, Nebraska.

**EXISTING ZONING:** B-3 Commercial

**EXISTING LAND USE:** Commercial and restaurant

**SURROUNDING LAND USE AND ZONING:**

North: Commercial; B-3
South: Commercial; B-3
East: Commercial; B-3
West: Commercial; B-3

**COMPREHENSIVE PLAN SPECIFICATIONS:**

P. 1.9 - The Future Land Use Map designates the area for commercial land uses.

P. 5.14 - 5.16 - Strategies for Commercial Infill

- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.

- Ensure the priority in older areas is on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, or the removal of other commercial structures should be explored.

P. 6.11 - Strategies for Facilitating Redevelopment

- Provide a mechanism for adjustments in older zoning districts to lot area, height, setbacks, and parking standards, similar to the provisions already available for newer districts.

P. 7.10 - 7.11 - Detailed Strategies for Existing Neighborhoods

- Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.
- Utilize streets for commercial and residential parking.

## ANALYSIS:

1. This is a request to reduce the minimum parking requirement to zero for a restaurant. The applicant would like to expand the restaurant into a neighboring space within the adjoining commercial building to the west. However, the zoning review for the building permit was denied because the restaurant could not meet the required parking for the expansion. Section 27.67.030(f) states: " Where additional parking is required by this chapter due to a change in use and
provision for such additional parking is not made, a special review and approval shall be required by the City Council."

2. This business is considered a restaurant use under the Use Groups Chapter 27.06 of the Zoning Ordinance. The expanded area would constitute a change in use from retail to restaurant, and parking is required to be provided for the expanded area unless a waiver to the parking requirement were approved. The restaurant is currently nonconforming because it provides no parking stalls. If this waiver application were approved, the parking requirement would be reduced from 1 stall per 100 square feet to zero stalls over the both properties which contain the existing restaurant and expanded area.

3. The parking requirement for the B-3 zoning district is one space per 600 square feet of floor area for most uses. However, there are several uses that, due to their unique operating characteristics, are required to provide parking at a rate in excess of what the zoning district ordinarily requires. For example, restaurants must provide parking at the rate of one space per 100 square feet of floor area.

4. The commercial building in which the restaurant is located was constructed in 1926 and is approximately 1,869 square feet, including 700 square feet of seating area. The proposed expansion of the restaurant into the adjacent building to the west, which was constructed in 1900, would add approximately 869 square feet, including 520 square feet of seating area. Based on the current parking requirement, the restaurant would be required to provide approximately 28 parking stalls for the total approximately 2,765 square feet of floor area. There are no parking stalls currently provided. Therefore, this waiver would be a continuation of an existing condition that would also apply to the expanded area.

5. Waiving the parking requirement to zero would allow the restaurant to grow in consideration of the pedestrian orientation of the College View commercial area along South 48th Street. There is ample on-street parking on 48th Street and Prescott Avenue. According to the applicant, a large segment of the restaurant's customers arrive on foot. It is typical that more customers walk to the nearby commercial uses in older neighborhoods, and in this

case, The Mill is located less than one block from the Union College campus where there is a large amount of pedestrian traffic between the campus and the commercial area from students and staff, as well as residents from the nearby neighborhood. There is also a large segment of regular pedestrian traffic from the College View Seventh-day Adventist Church one block to the east.

6. Prior to 2007, the B-3 district did not require different parking for restaurants versus other commercial uses; the longstanding requirement was 1 stall per 600 square feet for office, retail, and commercial uses. In 2007, a text change was approved to require a higher parking requirement for restaurants in all zoning districts of 1 stall per 100 square feet. The text change was very recent compared to the age of many commercial buildings in the B-3 district, which tend to be located in older areas of town. Many older commercial buildings were built with sufficient parking provided for restaurant uses based on the prior requirement. However, the text change implementing the 1:100 restaurant parking ratio took away the option for restaurants to locate in many of those buildings because the areas were fully developed and there was no space to construct additional parking.

   There is a proposed text amendment that would reduce the parking requirement for restaurants in the B-1 and B-3 zoning districts from 1 space per 100 square feet to 1 space per 200 square feet to assist restaurants wanting to locate in older areas. The text amendment is scheduled for City Council public hearing on August 22, 2016 and potential action on August 29, 2016. Therefore, by the time this application has its City Council hearing on September 12, 2016, the required parking ratio for restaurants may have been reduced to 1 stall per 200 square feet, in which case the required parking for this restaurant would be 14 stalls instead of 28.

7. The 2040 Comprehensive Plan encourages the maintenance of existing businesses in older neighborhoods and adjustments to parking standards in older zoning districts similar to the provisions already available for newer districts.

8. The site is adjacent to commercial uses on all sides. Off-street parking is very limited for the commercial buildings on this block and within the College View commercial area in general. There is no feasible way to construct or rent additional parking stalls within 300 feet of the property, as the available off-street parking stalls within that distance are already being utilized by other businesses.

9. The sale of alcoholic beverages for consumption on the premises has a parking requirement of 1 space per 100 square feet per Section 27.67.040(x). Although there is no such special permit over the property currently, a future restaurant locating in the space might require such a permit. The required parking ratio for alcohol sales is the same as the requirement for restaurants, and a restaurant would normally need to meet both requirements.

   This waiver specifies that restaurants with a special permit for sale of alcoholic beverages for consumption on the premises are covered under the waiver, as well as those that do not. Because both parking requirements are the same, there is no reason why both should not be reduced as part of this waiver. This ensures that a future restaurant located in the space that applies for a special permit for sale of alcohol for on-premises consumption would not have insufficient parking. The applicant would still need to meet all other requirements per Section 27.63.680 including state licensing.

10. Waiver requests to required parking due a change in use proceed directly to City Council without a Planning Commission hearing. The waiver is only for restaurant uses and does not apply to any other use permitted in the B-3 zoning district.

11. Signatures of support were obtained from neighbors and nearby businesses. In addition, letters of support were submitted from Union College, a managing partner of Tin Roof Partners LLC (the owner of the two properties included under this application) and DanPac Holdings LLC (the owner of the adjacent property to the east at 3943 South 48th Street) (see attached).

**CONDITIONS**

This approval adjusts the parking requirement for restaurants (with or without a special permit for sale of alcoholic beverages for consumption on the premises from 1 space per 100 square feet to zero spaces).

Prepared by:

Rachel Jones, Planner

August 30, 2016

**APPLICANT:** The Mill
4736 Prescott Avenue
Lincoln, NE 68506

**CONTACT:** Daniel Sloan
800 P Street
Lincoln, NE 68508

**OWNER:** Tin Roof Partners LLC
9200 Andermatt Drive
Lincoln, NE 68528

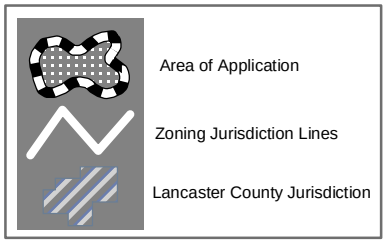
*2016 aerial*

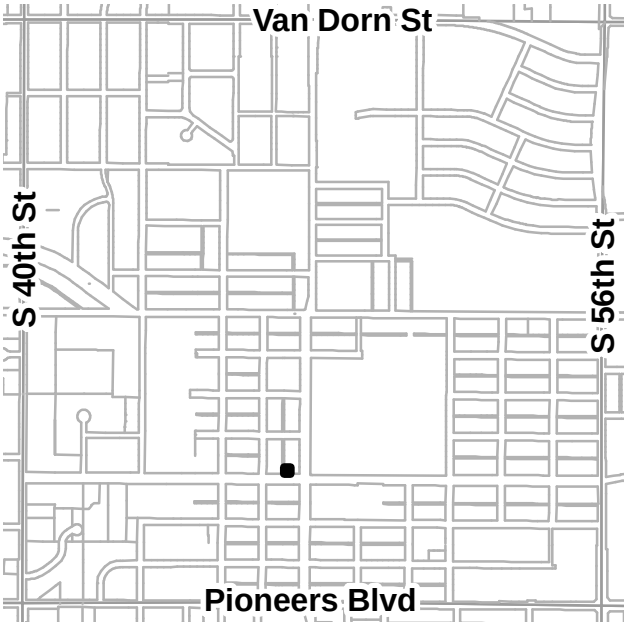
**Waiver #: WVR16006**
**S 48th St & Prescott Ave**

## Zoning:

| | |
|---|---|
| **R-1 to R-8** | Residential District |
| **AG** | Agricultural District |
| **AGR** | Agricultural Residential District |
| **O-1** | Office District |
| **O-2** | Suburban Office District |
| **O-3** | Office Park District |
| **R-T** | Residential Transition District |
| **B-1** | Local Business District |
| **B-2** | Planned Neighborhood Business District |
| **B-3** | Commercial District |
| **B-4** | Lincoln Center Business District |
| **B-5** | Planned Regional Business District |
| **H-1** | Interstate Commercial District |
| **H-2** | Highway Business District |
| **H-3** | Highway Commercial District |
| **H-4** | General Commercial District |
| **I-1** | Industrial District |
| **I-2** | Industrial Park District |
| **I-3** | Employment Center District |
| **P** | Public Use District |

One Square Mile:
Sec.05 T09N R07E

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THE MILL

COFFEE & TEA

Lincoln-Lancaster County Planning Department
555 S. 10th St., Suite 213
Lincoln, NE 68508
402/441-7603

To Whom It May Concern:

The Mill Coffee & Tea is requesting a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to our main customer seating area at 4736 Prescott Avenue. The new seating area is at 4728 Prescott and is accessed directly from our existing space.

The Mill Coffee & Tea is thriving business that we believe has been key to the revitalization of the College View business area on Prescott Avenue. Since we opened in 2000, we have seen the area become quite vibrant with virtually no vacant storefronts. With the renovation of 48th street and Prescott Avenue the available parking and walkability of the area has been improved even more.

The Mill on Prescott is very positively impacted by our largest neighbor, Union College, whose students walk to and from our business every day. We are a favorite place to study, to have group meetings, staff meetings and even small class meetings. Also, our friends from the College View Seventh Day Adventist Church, many of who patronize our business each Saturday before and after services park at the church and simply walk over. Overall, College View is a very walk-able and bike-able neighborhood and we are thankful that we are a favorite stop along the way.

The challenge we consistently face is that we do not have adequate seating for our customers, particularly those who would like to meet with co-workers or classmates. We currently have capacity for only 45 seats. Our growing business needs to expand into the adjacent space we own at 4728 Prescott Street so we can offer our customers an additional 30 seats. We are not necessarily expecting to fill every seat in our space every minute of every day, but simply give our customers more space to spread out for comfort and that sense of privacy space provides.

Since we will now be over 50 seats capacity we have been reclassified a Place of Assembly. This is deemed a "new use" of the space, and as such, code requires us to provide one off street parking spot for every 100 square feet of "assembly space", including our existing seating area. This translates into roughly 15 parking spots. Unfortunately, there is no available off-street parking for us to lease to accommodate our growth and comply with the current code, therefore we are requesting a waiver for parking.

Our rationale for requesting the waiver:

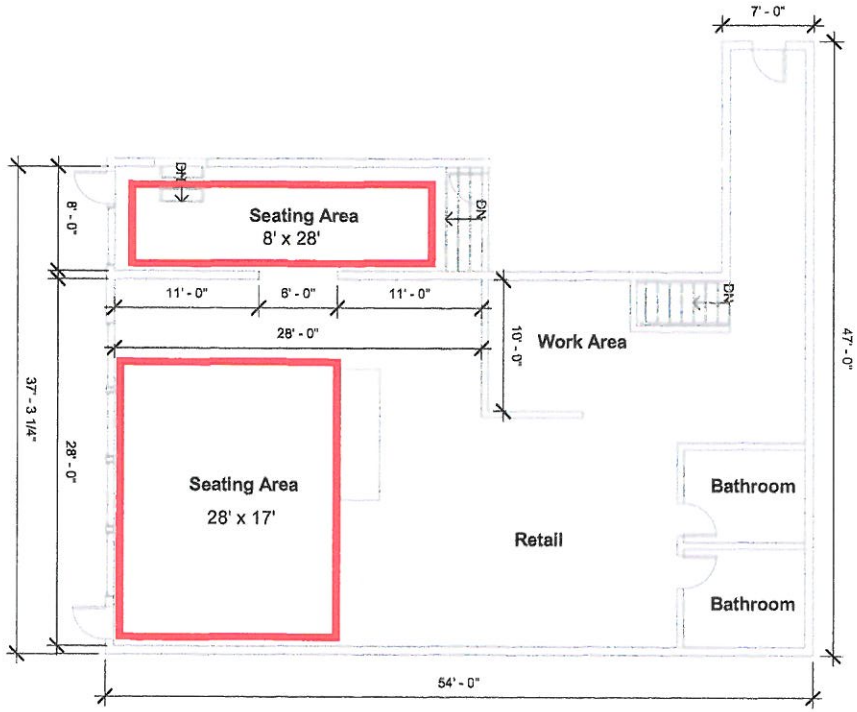
- There is no parking available for commercial rental in the quantity that is required.
- There is one commercial lot with 2 spaces available to rent at $75/space/month. (i.e. it would be roughly $13,500 per year to rent the needed spots if they were available at the rate the two spots we found).
- A high percentage of our customers are Union College students, faculty and administration who require no parking, or are from the SDA church and walk over from the church parking.
- Prescott Avenue and 48th Street have been recently renovated and enjoy ample street parking. Parking on 48th Street both north and south of the Prescott intersection is rarely fully utilized.
- College View is area is very walkable. Being close to Union College and to Henry Park we enjoy a great many "walk in" patrons who use no parking in the immediate area.

We are confident that we will not be adding significantly to the load on the street or be negatively impacting any neighboring business. We feel that this addition will not only be accommodating our customers in a better way but will enhance the vibrancy and desirability of the shopping area to the benefit of all the businesses in the Prescott and 48th Street area.

We appreciate your support in growing our business by approving a parking waiver for the additional seating for The Mill at 4728 Prescott Street.

Sincere regards,

Daniel & Tamara Sloan




1 Level 1A
1/8" = 1'-0"

THE MILL - Existing Seating
4736 Prescott Street

AUTODESK
www.autodesk.com/revit

Owner

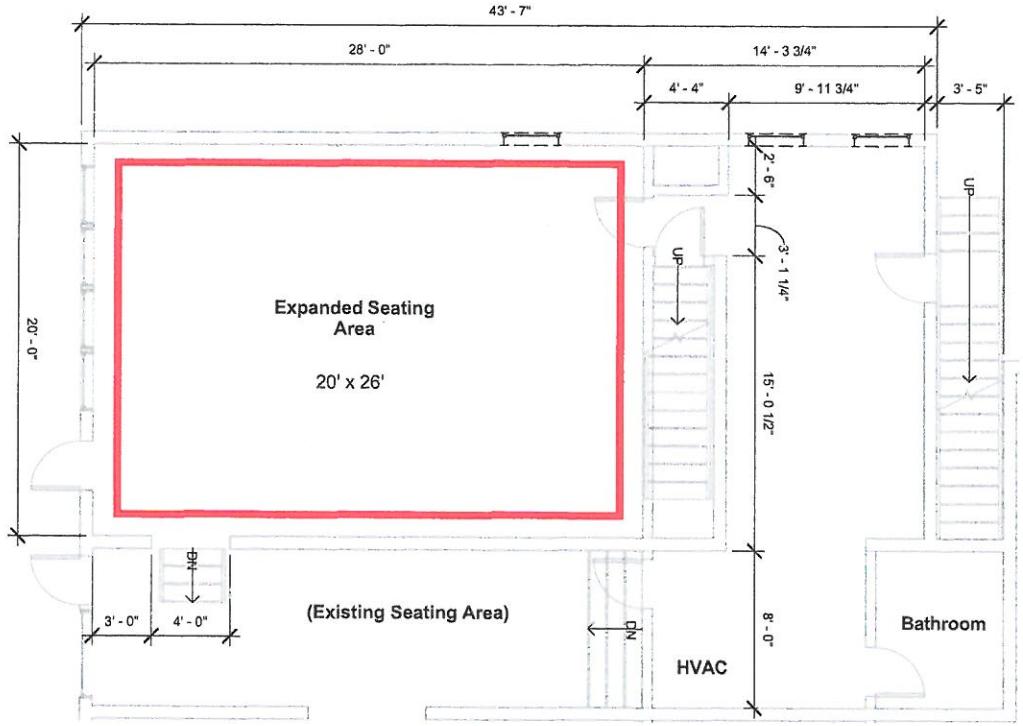
Project Name

| No. | Description | Date |
|---|---|---|
| | | |

CURRENT LOCATION

| | | |
|---|---|---|
| Project number | Project Number | A101 |
| Date | Issue Date | |
| Drawn by | Author | |
| Checked by | Checker | Scale 1/8" = 1'-0" |

7/16/2016 1:50:20 PM




1 Level 1B
3/16" = 1'-0"

THE MILL - Proposed seating
4728 Prescott Street

AUTODESK
www.autodesk.com/revit

Owner

Project Name

| No. | Description | Date |
|---|---|---|
| | | |

EXPANSION - FIRST FLOOR

| | | |
|---|---|---|
| Project number | Project Number | A102 |
| Date | Issue Date | |
| Drawn by | Author | |
| Checked by | Checker | Scale 3/16" = 1'-0" |

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# College View Neighborhood Association

August 19, 2016

The mission statement of the College View Neighborhood Association is "to preserve, protect and advance the common interests of the neighborhood in which its members reside, to disseminate information of interests to those residents, and to promote a spirit of community among its members."

We believe one of our main charges is to advocate for the protection and improvement of the business and home life in the College View neighborhood. To that end we are writing this letter to express our support of The Mill Coffee & Tea's request for a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to its main customer seating area at 4736 Prescott Avenue.

The Mill Coffee & Tea is a thriving business that we believe has been key to the revitalization of the College View business area on Prescott Avenue, is a good neighbor and great amenity for those living and working in College View. The Mill on Prescott is very positively impacted by our largest neighbor, Union College, whose students walk to and from their business every day. College View is a very walk-able and bike-able neighborhood and enjoys generous on street parking to accommodate those customers that do drive.

We are confident that this expansion will not add significantly to the parking load on the street nor will it negatively impact any neighboring business. We feel that this addition will enhance the vibrancy and desirability of the shopping area to the benefit of all the businesses in the Prescott and 48th Street area.

We encourage you to approve a parking waiver for the additional seating for The Mill at 4728 Prescott Street.

Regards,

Michaele Kujath

Michaele Kujath
President CVNA

UNION
COLLEGE

*Advancement Office*

402.486.2503 *phone*
402 486.2569 *fax*

August 17, 2016

Lincoln-Lancaster County Planning Department
555 S. 10th St., Suite 213
Lincoln, NE 68508
402/441-7603

To Whom It May Concern:

Union College offers its support for a Zoning Ordinance Waiver regarding parking for The Mill at 4736 Prescott Avenue which will enable them to expand their business into an adjacent space.

Founded in 1891, Union College was established in an area of Lincoln that became known as College View. While Union College was originally a solitary entity upon the hill, we are now part of a flourishing community of businesses, residents as well as religious and non-profit organizations. It is a benefit to campus to be surrounded by a thriving College View community and for 16 years our alumnus Dan Sloan has worked diligently to ensure The Mill adds positively to the vitality of our area.

One observation is that the traffic around the College View area includes a perceptible amount of pedestrian and bicycle traffic which does not create the same parking demands as vehicular traffic. With this in mind, Union College respectfully requests your thoughtful consideration of the Ordinance Waiver submitted by Daniel and Tamara Sloan on behalf of The Mill located in College View.

Sincerely,

LuAnn Davis, CFRE
Vice President for Advancement

UNION COLLEGE
*A Christian college operated by the Seventh-day Adventist Church*

3800 South 48th Street
Lincoln, NE 68506-4386

402.486.2600

www.ucollege.edu

August 9th, 2016

To Whom it May Concern:

The Mill Coffee & Tea is requesting a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to our main customer seating area at 4736 Prescott Avenue. The new seating area is at 4728 Prescott and is accessed directly from their existing space.

DanPAC Holdings LLC owns the building abutting 4736 Prescott Avenue and running east to 48th Street. As the owner and landlord for that property it is in our best interest to not only protect the area from harmful changes but to advocate for changes that will improve the business climate for all in the area. We feel that the expanded seating for The Mill will enhance the area and help our tenants businesses continue to grow and prosper.

We are fully supportive of The Mill's application for Waiver of the parking ordinance as it relates to this expanded seating. We join The Mill in requesting the waiver and urge the city to approve it.

Managing Member
DanPac Holdings, LLC

August 10th, 2016

To Whom it May Concern:

The Mill Coffee & Tea is requesting a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to our main customer seating area at 4736 Prescott Avenue. The new seating area is at 4728 Prescott and is accessed directly from our existing space.

Tin Roof Partners LLC owns both 4736 Prescott Avenue and 4728 Prescott Avenue. The Mill has leased the 4736 Prescott building from us since we purchased the property. The 4728 Prescott space became available this summer and fits The Mill's need for expanded seating perfectly.

We are fully supportive of The Mill's application for Waiver of the parking ordinance as it relates to this expanded seating. We join The Mill in requesting the waiver and urge the city to approve it. We do not believe granting the waiver will negatively impact parking in the Prescott and 48th Street business area and that the expanded seating for The Mill will help the area continue to thrive to the benefit of all the businesses there.

Tin Roof Partners, LLC
Philip Perry- Managing Member

We, the undersigned, all live or work in the 48th Street and Prescott area of College View. We are writing this letter to express our support of The Mill Coffee & Tea's request for a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to its main customer seating area at 4736 Prescott Avenue.

The Mill Coffee & Tea is a thriving business that we believe has been key to the revitalization of the College View business area on Prescott Avenue, is a good neighbor and great amenity for those living and working in College View. The Mill on Prescott is very positively impacted by our largest neighbor, Union College, whose students walk to and from their business every day. College View is a very walk-able and bike-able neighborhood and enjoys generous on street parking to accommodate those customers that do drive.

We are confident that this expansion will not add significantly to the parking load on the street nor will it negatively impact any neighboring business. We feel that this addition will enhance the vibrancy and desirability of the shopping area to the benefit of all the businesses in the Prescott and 48th Street area.

We encourage you to approve a parking waiver for the additional seating for The Mill at 4728 Prescott Street.

| | | |
|---|---|---|
| K.W. Palmer | Small Business Owner | Palmer Music |
| Matthew W. Palmer | Small Business Owner | " " |
| Vickie Vanes | Neighbor | Nature's Logic |
| [illegible] | Neighbor | " " |
| Tammy Burnett | small business owner | classic styles |
| Danielle Brown | Business neighbor. | Cash Solutions |
| Beth [illegible] | Neighbor | Fields Flowers |
| Jessica Crosby | Neighbor | " " |
| [illegible] | Business Neighbor | The Dance Shop |
| Gayle Radney | Business Neighbor | Badger Book |
| | | |
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| | | |
| | | |

THE MILL

COFFEE & TEA

Dear College View / Prescott Avenue Neighbor:

We need your help and support. It's easy! All you have to do is sign below to show your support for our new seating area in the old Prescott Gallery space.

The Mill Coffee & Tea is requesting a Zoning Ordinance Waiver regarding parking for an expansion of customer seating into the former art gallery space adjacent to our main customer seating area at 4736 Prescott Avenue. The new seating area is at 4728 Prescott and is accessed directly from our existing space.

The challenge we consistently face is that we do not have adequate seating for our customers, particularly those who would like to meet with co-workers or classmates. We currently have capacity for only 45 seats. Our growing business needs to expand into the adjacent space we own at 4728 Prescott Street so we can offer our customers an additional 30 seats. We are not necessarily expecting to fill every seat in our space every minute of every day, but simply give our customers more space to spread out for comfort and that sense of privacy space provides.

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We feel that we will not be adding significantly to the load on the street or be negatively impacting any neighboring business. We feel that this addition will not only be accommodating our customers in a better way but will enhance the vibrancy and desirability of the shopping area to the benefit of all the businesses in the Prescott and 48th Street area.

We appreciate your support in growing our business by approving a parking waiver for the additional seating for The Mill at 4728 Prescott Street.

Sincere regards,

Daniel & Tamara Sloan

We support The Mill's application for a Zoning Ordinance Waiver regarding additional seating on Prescott Avenue.

| Name | Business |
| --- | --- |
| [illegible] | Great Place Properties |
| Cheri Blue | Neighbor |
| Katy Ramos | Homeowner |
| Michael Kigath | Homeowner |
| | |
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