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Our Ref : 5/21.02  
Your Ref: PA 4686/21

2<sup>nd</sup> August 2021

The Secretary  
Environment and Planning Review Tribunal  
St. Francis Ditch  
Floriana



Location: 204, Triq Santa Katerina, Attard  
Proposal: Subdivision of property including sanctioning to variations from approved  
PA1361/20. Part change of use form Class 4B to takeaway.

**Re: Submission of Appeal against Planning Commission Refusal Decision**

This appeal is being submitted obo Mr Steve Caruana of 'Maxims', Triq Sant Andrija, Swieqi. For ease of reference, kindly find enclosed a list of the following appended in chronological order as following:

- Appendix 1 : Appeal Levy Fee.
- Appendix 2 : Application Form for Development Permission.
- Appendix 3 : Site photos.
- Appendix 4 : Site Plan
- Appendix 5 : Copies of submitted plans.
- Appendix 6 : Engineer's Report
- Appendix 7 : Block Plan showing approved Development permits of commercial commitments within the residential zone
- Appendix 8 : Abstract from CMLP MAP ATM1
- Appendix 9: Copy of site permit PA 1361/20
- Appendix 10 Copy of previous permit PA 4433/07
- Appendix 10a Copy of case officer report PA 4433/07
- Appendix 11 Case officer report
- Appendix 12 MTA no objection
- Appendix 13 Environmental Health no objection
- Appendix 14 WSC consultation
- Appendix 15 TM consultation
- Appendix 16 Reason for refusal



Undersigned is making a request to the Tribunal to review the application in caption on the basis of the following points in relation to Reasons for refusal as submitted in Appendix 16

#### Reason for refusal 1

- The site is located within a building quarter which is commercial in nature as can be seen in Block Plan in Appendix 7
- Although the site lies within a residential zone, before the CMLP Map ATM1 was drawn, the majority of the existing commercial commitment was already in place.
- The site in caption was sanctioned as a Class 12 Tyre valcunizer, in 2007, after the local plan was approved. Case officer report in Appendix 10a, recommended a refusal in relation to the residential zoning.
- The proposed take away is small in nature and compatible with the other commercial commitments. It is located over a main road and neighbouring the site is a snack bar, which has a similar use, as the establishment is serving hot food and drinks on site.

#### Reason for refusal 2

Case officer report relates that the sanctioning of the location of the approved awning is against policy P50 of DC2015. However in his report (Appendix 11), he states the following issues

- (I) The awning is above the sign therefore when open it obstructs the sign
- (II) The awning is not detached from third party slab, therefore it is not visually related to design of the premises,

With regards to point (I), there is no mention whatsoever in policy P50 with regards to this statement.

As for point (II), this is a design related issue, which should have been consulted with DAC. Such consultation was never done by the case officer, as can be seen in Appendix 11.

The awning in question is primarily used for shading when the sun is directly in front, during the afternoon. The positioning of the awning as per **PA/1361/20** was considered impracticable and a hazard to clientelle, as the approved awning was to be mounted just above the 2.3m high doorway, with a reach of almost 3m. The reality of the awning is that due to its reach, it had a much steeper overhang than depicted on the approved plans. This could have created hazard to people entering the shop.

Furthermore it would have obstructed the direct vision to the operators within the shop, like having a permanent curtain which is blocking the view of the street from the inside. This would have created an uncomfortable working environment when the awning is opened.

**Perit Ennio Ellul**