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ZONING REVIEW MEMORANDUM

Date: June 3, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Nuestra LLC, applicant
Phil C. Silverman, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow a marijuana retail establishment

Petitioner: Nuestra LLC	
Site: 1185 Chestnut Street	SBL: 51045 0009
Zoning: BU2	Lot Area: 17,091 square feet
Current use: Vacant	Proposed use: Marijuana retail establishment

BACKGROUND:

The property at 1185 Chestnut Street consists of a 17,091 square foot lot improved with a 7,880 square foot single-story office building constructed in 1960 and associated surface parking abutting the Upper Falls Greenway. The petitioner seeks reduce the building size to 4,988 square feet to operate a marijuana retail establishment pursuant to section 6.10.3.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Phil C. Silverman, attorney, dated 8/27/2021
- Existing Conditions Plan, prepared by Hayes Engineering, Inc, dated 12/23/2021
- Site Preparation, prepared by Hayes Engineering, Inc, dated 12/23/2021
- Proposed Site Plan, prepared by Hayes Engineering, Inc, dated 12/23/2021
- Landscape Plan, prepared by Hayes Engineering, Inc, dated 12/23/2021
- Light Plan, prepared by Hayes Engineering, Inc, dated 12/23/2021
- Floor Plan, prepared by BKA Architects, dated 11/9/2021
- FAR worksheet, submitted 1/6/2022
- Interior square footage, submitted 2/28/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner is proposing to operate a marijuana retail establishment. This use requires a special permit from the City Council per Section 6.10.3.D of the Newton Zoning Ordinance.
2. Section 6.10.3.E.5 states that a marijuana retailer is subject to the parking requirements of section 5.1.4. The Commissioner of Inspectional Services has determined that because of the specific nature of the proposed retail use, the space may be broken down into sub-uses to determine the parking requirement, as the customer does not have the option to shop for products on the floor without assistance from an employee. The petitioners are proposing to reduce the building to 4,620 square feet with the following breakdown:

Use	Requirement per §5.1.4	Total Required
Retail 3,022 square feet/ 9 employees	1 stall/ 300 sf + 1 stall/ 3 employees	11
Office 478 square feet	1 stall/ 250 sf	2
Storage 1,488 square feet	1 stall/2,500 sf	1
TOTAL		14

The proposed establishment requires 14 parking stalls. The petitioner proposes to construct 15 parking stalls, requiring no waivers.

3. Per section 5.1.8.A.1 no parking may locate within a required side setback. All of the proposed parking is located within the eastern and western side setbacks, requiring a special permit per section 5.1.13.
4. Section 5.1.9.A requires outdoor parking facilities with more than five stalls to provide perimeter screening from abutting streets and parcels. The petitioner is providing a six-foot stockade fence along the eastern and western lot lines of the parcel, as well as screening on the western and rear lot lines outside of the fence, as required. A special permit is requested per section 5.1.13 to waive the perimeter screening requirements for those portions of the parcel that do not meet the requirements of that section.
5. Section 5.1.10.A requires that parking facilities which are used at night have security lighting with a minimum intensity of one-foot candle on the entire surface of the parking facility. The proposed lighting in the parking facility does not meet the requirements of section 5.1.10.A, requiring a special permit per section 5.1.13.
6. A day care providing kindergarten education is located at 1191 Chestnut Street abutting the subject parcel. Per section 6.10.3.F.1, a marijuana retailer shall not be located within a radius of 500 feet from an existing public or private school providing education in kindergarten or any grades 1 through 12, unless the City Council finds that the retailer is sufficiently buffered such that the

educational use will not be adversely impacted by the retailer. The Council should determine if the proposed marijuana retailer is providing sufficient buffering to the existing educational use.

7. Section 6.10.3.F.15 requires that a marijuana retailer located on the ground level provide at least 25 percent transparency along the building’s front façade at ground level, and that existing buildings shall not be modified to reduce the ground level transparency to less than 25 percent, unless the City Council finds it appropriate. The intends to provide 16.4% transparency at the front façade, necessitating a waiver of the transparency requirement of section 6.10.3.E.15.
8. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§6.10.3.D §4.4.1	To allow a marijuana retailer	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking within the required side setback	S.P. per §7.3.3
§5.1.9.A §5.1.13	To waive perimeter screening requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive the lighting requirements	S.P. per §7.3.3
§6.10.3.F.1	To waive the 500 foot buffer for an existing kindergarten	S.P. per §7.3.3
§6.10.3.F.15	To waive the 25% façade transparency requirement	S.P. per §7.3.3