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ZONING REVIEW MEMORANDUM

Date: November 9, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Dacos Realty LLC, applicant
Katherine Braucher Adams, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to allow a recreational marijuana retail establishment and to allow an amendment to Order #774-85 to modify signage**

Petitioner: Dacos Realty LLC	
Site: 232 Boylston Street	SBL: 82002 0009
Zoning: BU4	Lot Area: 16,570 square feet
Current use: Jewelry store	Proposed use: Marijuana retail establishment

BACKGROUND:

The property at 232 Boylston Street consists of a 16,570 square foot lot improved with a two-story, 5,484 square foot commercial building constructed in 1900. The structure is currently occupied a retail use in the basement and first floor levels, and a medical office on the second. The petitioner intends to locate a recreational marijuana retail establishment pursuant to section 6.10.4.

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

- Zoning Review Application, prepared by Katherine Braucher Adams, attorney, dated 9/12/2019
- Existing Conditions Plan, signed and stamped by Verne T. Porter, surveyor, dated 6/14/2019
- Proposed HC Parking and Route, signed and stamped by Verne T. Porter, surveyor, dated 6/14/2019, updated 12/2/2019
- Area/Zoning Plan, signed and stamped by Verne T. Porter, surveyor, dated 6/14/2019
- Floor Plans, dated 4/1/2019
- Existing condition and proposed WC lift, prepared by DLA Architecture, dated 4/18/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner is proposing to operate a recreational 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 retail establishment is subject to the parking requirements of 5.1.4, which requires one stall for every 300 square feet of gross floor area, and one stall for every three employees at the highest shift. The petitioners are proposing to use 2,973 square feet for the retail operation of the business and employ up to 21 employees at the busiest shift, resulting in a requirement of 17 stalls. The remaining 1,852 square feet will be used for storage and mechanicals, requiring one parking stall per 2,500 square feet, resulting in one additional stall. The total proposed required parking demand is 18 stalls. The petitioner is proposing to reconfigure the existing parking area, moving the accessible stall to southern boundary with a marked crosswalk allowing for access to the main entrance. Ten stalls will be managed by an attendant; two located at the front of the building near Boylston Street, four parallel stalls on the western drive aisle and four tandem stalls (two and two) on the eastern boundary. This configuration results in 19 stalls, satisfying the requirement.
3. Section 5.1.8.A.1 states that no parking shall be located within any required setback distance from a street or side lot line. Parking stalls are proposed within the 16.5-foot required side setback, requiring a special permit per sections 5.1.8.A.1.
4. Section 5.1.8.B.1 requires parking stalls shall be a minimum of 9 feet wide. The proposed parking stall widths range from 7.5 feet to 9 feet. The petitioner requests a waiver from the stall width requirement of 9 feet.
5. Section 5.1.8.B.2 states that parking stalls shall be a minimum of 19 feet long for angle parking and 21 feet long for parallel parking. Two of the parallel stalls are less than 21 feet long, requiring a special permit per section 5.1.8.B.2.
6. Section 5.1.8.B.4 requires that accessible stalls have a minimum width of 12 feet and depth of 19 feet. This provision is local and not a requirement found in 521 CMR 23. The proposed accessible stall is 9 feet wide, requiring a special permit to waive the local provision.
7. Section 5.1.8.C.1 requires a minimum drive aisle width of 20 feet for two-way traffic for parallel parking and 24 feet for 90-degree angled parking. The width of the aisle that travels from the two-way entrance to the fire department gate is lined with four parallel stalls and feeds to the two managed 90-degree stalls at the front of the property. The aisle is proposed with a 6-foot width when cars are parked in the parallel stalls and 15.6 feet wide without cars in the stalls. A waiver from section 5.1.8.C.1 is required.
8. Per section 5.1.8.E.1, vehicles must be able to proceed to and from parking stalls without requiring moving another vehicle. The petitioner proposes two tandem parking stalls in the northeast corner of the property and one in the southern corner, requiring a special permit. The tandem stalls are all part of the managed parking. Section 5.1.8.E.2 allows the Council to waive the dimensional and

layout requirements of tandem parking stalls through the special permit process if the stalls are under the supervision of an attendant.

9. Per section 5.1.9.A, outdoor parking facilities with more than five stalls must be screened from abutting streets and properties with a strip of at least five feet in width of dense shrubs or trees and/or a wall, fence etc. of at least six feet in height. The petitioner proposes to add landscaping to the perimeter of the property, however it will not be five feet in width. A special permit is required to waive section 5.1.9.A.
10. 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 petitioner requests relief from this section.
11. The petitioner proposes to reface the existing free-standing sign, which was approved via Council Order #774-85. A condition of that special permit required that no wall sign would be permitted as long as the free-standing sign existed. There are several building permits for signs for this property, including wall signs, however the special permit has never been amended to allow the wall signs or to reflect their existence. The petitioners seek to amend the special permit to allow for the modifications to the existing free-standing sign and to eliminate the prohibition on wall signs.
12. The petitioner proposes a wall sign on the Boylston Street frontage measuring 9.88 feet wide by 3 feet high, or 29.64 square feet. An additional wall sign is proposed at the rear entrance measuring 29.64 square feet. Upon elimination of the prohibition on wall signs, section 5.2.8 allows for a secondary wall sign at each entrance of 50 square feet or less.
13. The petitioner proposes to reface a 10.24 square foot directional sign at the Boylston Street entrance. Section 5.2.8 allows for a maximum of 3 square feet for a directional sign. While a building permit exists for the sign, relief was never granted to allow for an oversized directional sign. The petitioner seeks to legitimize the sign and reface it per section 5.2.13.

14. 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 establishment and a registered marijuana dispensary	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking in the side setback	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	To reduce the width requirement for parking stalls	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	To reduce the depth requirement for parking stalls	S.P. per §7.3.3
§5.1.8.B.4 §5.1.13	To reduce dimensions for accessible parking stalls	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	To reduce the minimum aisle width requirement for two-way traffic	S.P. per §7.3.3
§5.1.8.E.1 §5.1.8.E.2 §5.1.13	To allow tandem parking and parking managed by an attendant	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
	Amend Order #774-85	
§5.2.3 §5.2.8 §5.2.13	To allow a free-standing sign	S.P. per §7.2.3
§5.2.8 §5.2.13	To allow an oversized directional sign	S.P. per §7.3.3