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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: July 13, 2023

To: Anthony Ciccariello, Acting Commissioner of Inspectional Services

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

Cc: Stephen J. Buchbinder, Attorney  
Washington Place Owner LLC  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to increase parking waiver from 97 to 172 stalls amending Special Permit #96-17 and to amend Condition #3 of Special Permit #179-19**

Applicant: Washington Place Owner LLC	
<b>Site:</b> 839-853 Washington Street	<b>SBL:</b> 21029 0010MAIN
<b>Zoning:</b> MU4	<b>Lot Area:</b> 123,628 square feet
<b>Current use:</b> Mixed use with commercial, residential and parking	<b>Proposed use:</b> No change

### BACKGROUND:

The subject site known as “Trio” is comprised of 123,628 square feet in the Mixed Use 4 zoning district and is improved with a five-story mixed use building with 140 residential units and 309 parking stalls divided between a surface lot and garage. Trio was originally permitted by Special Permit #96-17. A revised design for 140 residential units was amended by Special Permit #216-18 and the most recent amendment, Special Permit # 179-19 modified the prohibition on commercial banks to allow a bank in the tenant mix.

The petitioner now seeks to amend the special permit to allow non-accessory parking in the under-utilized parking garage, and to modify the definition of “formula business” as it relates to Condition #3 to allow greater flexibility in leasing commercial space to local chains.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 6/13/2023
- Narrative, submitted 6/13/2023
- Site Plan, prepared by J.G. Swerling, engineer, dated 8/31/2018, revised 1/15/2019, 4/30/2019, 4/7/2020, 6/2/2020, 7/20/2020
- Basement Floor Plan, prepared by PCA, architect, dated 8/31/2018, revised 10/12/2018, 5/23/2019
- Special Permit #216-18

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner seeks to amend the definition of “formula business” found in Condition #3 of Special Permit #179-19. The petitioner seeks greater flexibility in leasing to local chains by seeking the requested changes to the language as shown below:

In the event that the Petitioner leases commercial space to a commercial bank as allowed by this amendment, the Petitioner is required to reserve (i.e., whether leased or vacant and available for lease) at least 10,000 rentable square feet within the ground floor only, for lease to non-formula retail, restaurant, or personal service use tenants, which requirement shall be in place prior to, and remain in effect after, the issuance of a certificate of occupancy for a commercial bank. For the purposes of this condition, formula retail, restaurant, or personal service use is defined as “Any establishment, which along with ~~nine~~ twenty four or more other businesses ~~regardless of ownership or location worldwide~~, located within the Commonwealth of Massachusetts does or is required as a franchise, by contractual agreement, or by other agreement to maintain two of the following features:

1. A standardized menu;
  2. A standardized façade;
  3. A standardized décor and/or color scheme;
  4. A standardized uniform;
  5. A standardized sign or signage; or
  6. A standardized trademark or service mark.”
2. The site has 210 garage parking stalls and 99 surface parking stalls. The surface parking lot is frequently close to or at capacity. However, a parking utilization study commissioned by the petitioner has determined that on average, only 136 of the garage stalls are rented to residential tenants on a month-to-month basis. An additional 10 of the garage stalls are leased to commercial tenants. As such, 64 parking stalls are regularly not leased and thus, vacant every month. The petitioner is seeking a special permit per section 4.4.1 to allow non-accessory parking to allow for up to 75 parking stalls to be leased to outside parties.
  3. Special Permit #96-17 granted a waiver of up to 97 parking stalls. The petitioner seeks to amend the special permit to increase the waiver to up to 172 stalls, allowing for the leasing of up to 75 parking stalls.

4. Per section 5.1.3.E, parking stalls may not be assigned to specific tenants or users, unless by special permit. The petitioner seeks to allow for stalls to be assigned, requiring relief per section 5.1.13.

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permit #179-19	
	Amend Special Permits #96-17 and 216-18	
§4.4.1	Request to allow non-accessory parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive an additional 75 parking stalls for a total waiver of 172 stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3