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ZONING REVIEW MEMORANDUM

Date: August 31, 2020

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mazzi Realty, Applicant
Katherine Adams, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: **Request to allow for an amendment to Special Permit #215-08(2), to allow a for-profit educational use and to waive 22 parking stalls**

Applicant: Mazzi Realty	
Site: 141-145, 149A California Street	SBL: 11001 0001A
Zoning: MAN	Lot Area: 65,568 square feet
Current use: Adult day care, dance studio, dental office, and video rental and production	Proposed use: Adult day care

BACKGROUND:

The property located at 141-145 California Street and 149A California Street combined consist of 65,568 square feet and are improved with five separate buildings and associated surface parking facilities. The petitioner received a special permit in 2008 to operate a non-profit adult day care center at 149A California Street as well as a waiver of 16 parking stalls. In 2011, the petitioner amended the special permit to expand his operations and the parking waiver was increased to 22 parking stalls. The adult day care provider has recently purchased the site to expand operations.

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

- Zoning Review Application, prepared by Katherine Adams, attorney, submitted 5/18/2020
- Project Information, prepared by Katherine Adams, attorney, submitted 5/18/2020
- As-Built Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 8/24/2011
- Proposed Conditions Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 1/7/2020

- Proposed Conditions Site Plan, prepared by VTP Associates, Surveyor, dated 5/16/2020, revised 7/15/2020, 8/4/2020, 8/11/2020

ADMINISTRATIVE DETERMINATIONS:

- Special permit #215-08 was issued in 2008 permitting the operation of a non-profit adult day care with up to 72 clients and 12 staff. At the time the special permit was granted, the adult day care use was determined to be an educational use. The facility is no longer a non-profit organization and is now operating as a for-profit educational institution. Per section 4.4.1, a special permit is required for a for-profit educational use in the Manufacturing district. Additionally, the existing special permit needs to be amended to reflect the change in the for-profit status of the petitioner.
- The petitioner intends to eliminate some parking to create drop off areas, as clients are either brought to the site via vans operated by the petitioner or are dropped off. There are 67 striped stalls on site. Whenever there is a change in use that increases the parking requirement, section 5.1.3.B requires compliance with the formula $A+B+C = \text{required parking}$. However, as there is an existing parking waiver and stalls are being eliminated, application of this formula does not accurately reflect the existing and proposed conditions. The petitioner seeks a waiver from the requirement of using 5.1.3.B to determine parking after a change of use.
- The petitioners intend to use four additional buildings for their adult day care operations, for a total of five buildings dedicated to the expanded use. The buildings at 143 and 145 California Street will be used as additional day care facility space for clients, with a proposed total additional 171 clients and 29 staff between the two buildings. The petitioners propose to install a commercial kitchen to prepare food for the facility’s operations in Newton as well as Needham and Natick in the existing building at 141 California Street. Two staff are expected to work in the building, previously used as a dance school. The building at 149A California Street will be used for the day care operation and the building at 149 California Street will be used for storage. There will be no staff or clients in this building. As determined by the previous special permit, the parking requirement for the adult day care use was based on the most similar use listed in Section 5.1.4 of a day care center, requiring one stall per every five clients plus one stall for every employee.

Building	Square Footage	Clients	Staff	Required Parking	Parking Provided	Previous Parking Requirement
141 California (Kitchen)	3,000 sf	0	2	2 (1/5 clients +1/staff)	10	2 (1/employee)
143 California (day care)	5,000 sf	75	13	15 + 13 = 28 (1/5 clients +1/staff)	13	25 (1/200 sf for a med office)
145 California (day care)	6,000 sf	96	16	20 + 16 = 36 (1/5 clients +1/staff)	13	22 (1/300 sf + 1/3 employees)
149 California (storage)	3,400 sf	0	0	2 (1/2,500sf)	13	2
149A California (existing day care)	5,700 sf	87	15	18 + 15 = 33 (1/5 clients +1/staff)	12	33

						(SP waiver of 22 required)
TOTAL		258	46	101	57 (+22)	84

*The previous use occupied the entire 6,800 square feet of space in the building. The petitioner intends to utilize only the first floor of 3,400 square feet

The proposed adult day care operation requires 101 parking stalls per section 5.1.4. After creating drop-off areas for the facility's vans, the petitioner will be providing 57 parking stalls on site. With the existing parking waiver of 22 stalls from the two previous special permits, the petitioner requires an additional waiver of 22 parking stalls.

4. The petitioners purchased the property recently, with the parking lot striping as shown in the existing conditions plan. The parking facility for the overall site was not designed by the previous owners in accordance with the design and dimensional requirements of section 5.1.8 through 5.1.13. To ensure that there are no issues with zoning compliance, the petitioners seek the following waivers for the existing conditions and proposed changes to the parking facility.
5. The minimum dimensional requirement for parking stalls is 9 feet wide by 19 feet deep for angle parking per Sections 5.1.8.B.1 and 5.1.8.B.2. The proposed parking stalls range from 8 to 9 feet in width and 18 to 19 feet in depth, requiring a waiver per section 5.1.13.
6. Section 5.1.8.B.4 requires a minimum depth of 19 feet and a minimum width of 12 feet for an angled accessible parking stall. This requirement is particular to the Newton Zoning Ordinance and not a requirement of Massachusetts Architectural Access Board. The proposed accessible parking stalls are deficient in meeting the local provisions for depth and width, requiring a waiver per section 5.1.13.
7. Section 5.1.8.B.6 states that end stalls restricted on one or both sides by curbs, walls, fences or other obstructions require maneuvering space at the aisle end of at least five feet in depth and nine feet in width. The petitioners seek a waiver from this provision per Section 5.1.13.
8. Section 5.1.8.C.1 requires a minimum width of 24 feet for a one-way aisle for 90-degree parking. The petitioner proposes a one-way aisle of 20 feet to the south of 149 California Street. Additionally, a 20-foot wide drive aisle is required for two-way use for angled parking. The petitioner proposes a 17.3-foot wide two-way drive aisle between 143 and 145 California Street, requiring a waiver per section 5.1.13.
9. Section 5.1.8.D.2 requires that entrance and exit driveways may have a minimum width of 20 feet for two-way use. The petitioner proposes a two-way drive of 18.6 feet in width, requiring a special permit per section 5.1.8.D.2.
10. Section 5.1.9.A requires perimeter landscape screening is required for parking facilities containing more than five stalls. There is no perimeter screening proposed, requiring a waiver per section 5.1.13.
11. Section 5.1.9.B requires interior landscaping for surface parking containing at least twenty stalls. This section requires planting areas within outdoor parking facilities, and landscaped bumper

overhangs. No interior landscaping is proposed, requiring a waiver from this section in its entirety pursuant to Section 5.1.13.

12. All outdoor parking facilities which are used at night are required to have security lighting maintaining a minimum intensity of one-foot candle on the entire surface of the parking facility per Section 5.1.10.A.1. The petitioners request a waiver from this provision per Section 5.1.13.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #215-08 and 215-08(2)	
§4.4.1	Request to allow a for-profit educational use	S.P. per §7.3.3
§5.1.3.B §5.1.13	Request to waive the requirement to use the formula A-B+C for parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 22 parking stalls	S.P. per §7.3.3
§5.1.8.B.1 §5.1.8.B.2 §5.1.13	Request to waive minimum stall dimensions	S.P. per §7.3.3
§5.1.8.B.4 §5.1.13	Request to waive minimum accessible stall dimensions (The proposed stalls will be ABA compliant)	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	Request to allow restricted end stalls	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	Request to waive minimum aisle widths	S.P. per §7.3.3
§5.1.8.D.2 §5.1.13	Request to waive minimum driveway width	S.P. per §7.3.3
§ 5.1.9.A §5.1.13	Request to waive perimeter landscaping requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	Request to waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	Request to waive lighting requirements for parking areas	S.P. per §7.3.3