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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: December 15, 2020
Land Use Action Date: February 23, 2021
City Council Action Date: March 1, 2021
90- Day Expiration Date: March 15, 2021

DATE: December 11, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #774-20**, SPECIAL PERMIT/SITE PLAN APPROVAL to allow a recreational retail marijuana establishment, allow waivers to parking facility requirements for: parking in the side setback, parking stall width and depth, reduced dimensions for accessible parking stalls, to reduce the minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive lighting requirements, to allow tandem parking and parking managed by an attendant, to allow a free-standing sign and to allow an oversized directional sign and to amend Special Permit Board Order #774-85 at **232 Boylston Street**, Ward 7, Chestnut Hill, on land known as Section 82 Block 02 Lot 09, containing approximately 16,570 sq. ft. of space in a district zoned BU4. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.4, 5.1.8.A.1, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.C.1, 5.1.8.E.1, 5.1.8.E.2, 5.1.9.A, 5.1.10, 5.2.3, 5.2.8, 5.2.13 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



232 Boylston Street

EXECUTIVE SUMMARY

The property at 232 Boylston Street consists of a 16,570 square foot lot located in a Business 4 (BU4) district improved with a two-story, 5,484 square foot commercial building. The structure is currently occupied by a retail use in the basement and first floor levels, and a medical office on the second.

The petitioner seeks a special permit from the City Council to operate a marijuana retail establishment requiring a special permit from the City Council per Section 6.10.3.D of the Newton Zoning Ordinance (NZO). The establishment would occupy the building's basement, first floor, and a portion of its second floor. The petitioners are proposing to use 2,973 square feet for the retail operation while 1,852 square feet would be used for storage and mechanical equipment.

As designed the proposed marijuana retailer also requires additional zoning relief, including exceptions to NZO requirements related to parking, lighting and signage, with the latter requiring the amendment of Special Permit #774-85.

The Planning Department has engaged a consultant to perform a traffic and transportation peer review of aspects of the project and anticipates receiving its comments in advance of a future public meeting on this petition.

The Mayor has signed a provisional Host Community Agreement (HCA) (as required prior to applying for a Special Permit and/or a license from the state Cannabis Control Commission) with the proposed marijuana retailer .

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed marijuana retailer (§7.3.3.1)
- The proposed marijuana retailer as developed and operated will not adversely affect the neighborhood (§7.3.3.2)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3)
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4);
- Literal compliance with applicable parking facility requirements requiring a minimum driveway width of twenty feet for two-way traffic is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.8.D.1; §5.1.13)
- Literal compliance with applicable parking facility perimeter screening requirements is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or

protection of environmental features (§5.1.9.A; §5.1.13)

- Literal compliance with applicable parking facility lighting requirements is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.10; §5.1.13)

With regard to the special permit required to allow the proposed Marijuana Retailer, the City Council should also consider whether:

- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
- The Marijuana Retailer is located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)
- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
- The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.G.2.g)

With regard to amending Special Permit #774-85 (**Appendix 1**) the City Council should also consider whether

- The specific site is an appropriate location for the proposed signage (§7.3.3.1)
- The proposed signage will not adversely affect the neighborhood (§7.3.3.2)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3)
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4);

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the south side of Boylston Street/Route 9, just to the west of the Chestnut Hill Square shopping center. Immediately to the west of the site is a commercial parcel and a multi-family residential condominium building. To the northwest, as well as along Florence Street to the south, there is a mix of multi- and single-family residences (**Attachment A**). The site and immediate area to the west, east and south are within a Business Use 4 (BU4) zoning district. The surrounding area is comprised of several different business and residential districts, including Business 1 (BU1) to the north and west south, Single Residence 3 (SR3) and Multi Residence 4 (MU4) to the northwest and Multi Residence 3 (MR3) to the south (**Attachment B**).

B. Site

The property consists of a 16,570 square foot lot improved with a two-story, 5,484 square foot commercial building. The site features a retaining wall along its Boylston Street frontage and has an upward grade toward the center and rear of the site. It has largely impervious surfaces and little landscaping.

Vehicular access to the property would be provided at the rear of the lot via driveways on adjacent properties on either side. The curb cut and driveway just to the east is shared with the adjacent mixed-use center and the one to the west is shared with an adjacent commercial building.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The structure is currently occupied by a retail use in the basement and first floor levels, and a medical office on the second. The proposed marijuana retailer use (defined as an entity that can sell recreational or adult use marijuana) would occupy approximately 4,825 square feet of the structure (2,973 square feet for retail operations and 1,852 square feet for storage and mechanical systems. The petitioner has not indicated if or how the remaining approximately 660 square feet of space located on the second floor of structure would be used.

B. Operations

In the event this petition is granted, the petitioner will “sell marijuana, marijuana infused products, and vaporizers” on the property. The petitioner is proposing to employ twenty-one (21) staff members during the largest shift, and the petitioner

has stated that there would be an “express area” where customers could pick up items pre-ordered online or by phone.

While the City Council shall set the proposed marijuana retailer’s hours of operation via a special permit condition in the event the present petition is granted, the petitioner’s proposed hours of operation are 9:00 a.m. to 9:00 p.m. Mondays-Saturdays and 12:00 Noon to 6:00 p.m. on Sunday.

C. Site Design

The petitioner is not proposing significant changes to the site, save certain changes to the configuration of the parking areas discussed below.

D. Building Design

No significant exterior modifications to the structure are contemplated by the petition. The public entrance would be located at the rear of the building, opposite Boylston St./Route 9. The City’s Registered Marijuana Use ordinance requires that Marijuana Retailers “located on the ground level shall provide at least 25 percent transparency along the building’s front façade at ground level, unless waived by the City Council.” The intent of this requirement is to ensure the security requirements found in the State Law do not overburden the aesthetics of the structure in relationship to the adjacent structures. The petitioner has indicated that it will exceed that requirement, and the Planning Department recommends that the petitioner identify more specific information regarding this requirement. The Planning Department also notes that the petitioner intends to install additional signage to the structure, as discussed below.

E. Parking, Landscaping, and Lighting

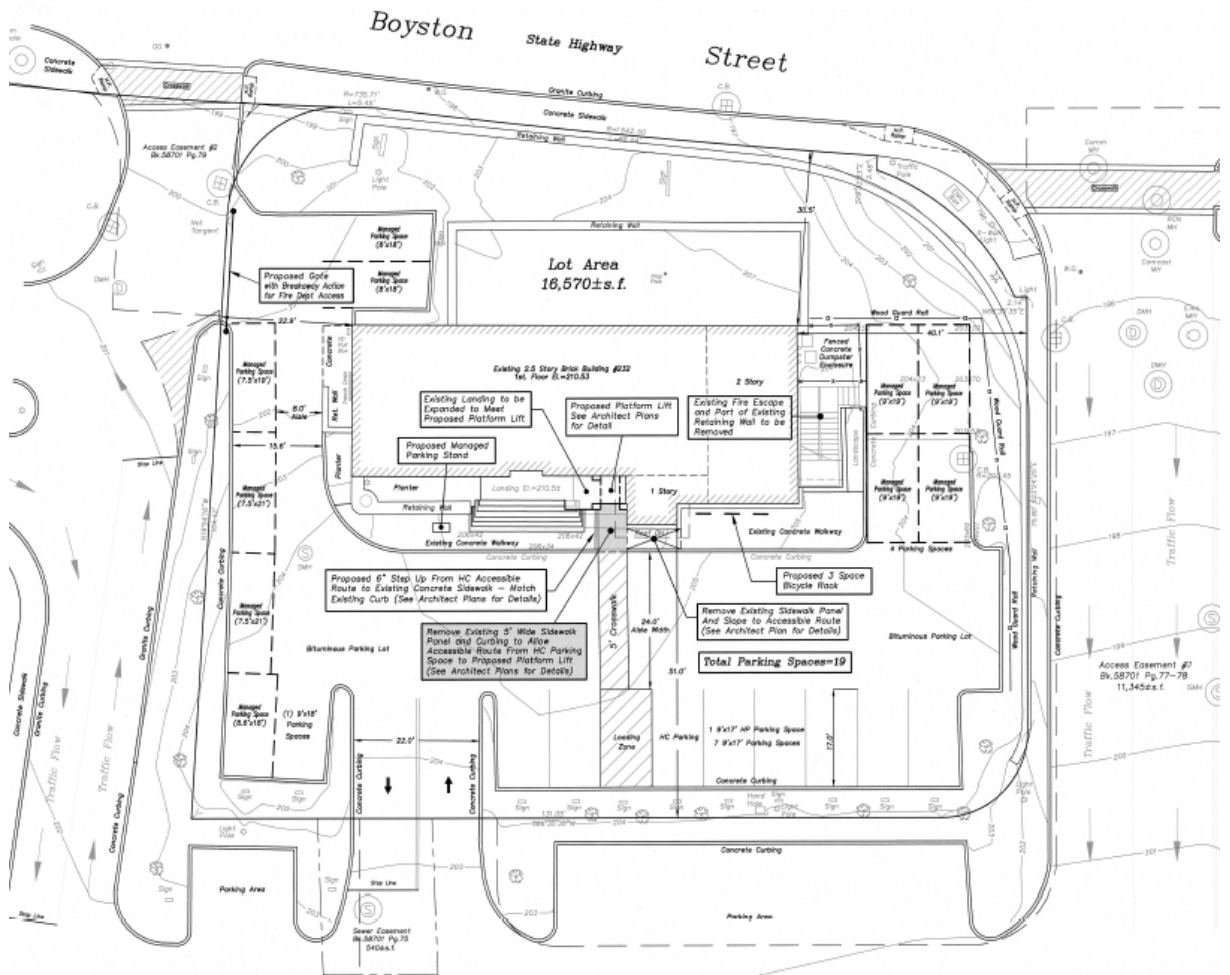
As detailed in the attached zoning review memorandum, the proposed retail marijuana use requires 18 stalls in the aggregate. The petitioner is proposing to provide 19 stalls. To accommodate this number of stalls on site, the petitioner is proposing to reconfigure the parking area in many ways, and implement a “managed parking” operation, that require exceptions to the NZO’s requirements for parking areas.

The Planning Department notes that the petitioner has indicated that it expects to have employees (up to 21 of which would be onsite at peak times) park off-site. The petitioner should be prepared to discuss this approach at the public hearing.

As proposed, ten stalls would be managed by an attendant, including two located at the front of the building near Boylston Street, four parallel stalls on the western drive aisle and several tandem stalls that would be blocked by other stalls in the northeast and southern corners of the parcel. The Planning Department has some concern regarding the attractiveness of managed parking to customers given the

relative expected brevity of customer visits (e.g., those picking up pre-ordered items at the “express area”) given the proximity of parking on adjacent properties.

Parking stalls would be located within the 16.5-foot required side setback along the western property line. These stalls would include several stalls that have proposed widths of 7.5 feet, less than the minimum 9 feet required. Two of the spaces along the western property line would be parallel parking stalls with lengths of less than the required 21 feet.



Further, the stalls along the west side of the parcel would be accessed via a drive aisle with a width of 8-feet, significantly less than the 20 feet (for two-way traffic for parallel parking) and/or 24 feet (for 90-degree angled parking) required. While this might be of less concern if, as proposed, the spaces served by this drive aisle are to

be managed by an parking attendant, the Planning Department observes that this aisle would also serve the proposed “breakaway” gate that would be used by the Fire Department in the event of an emergency. As it is unclear that an 8-foot-wide aisle would be sufficient for fire and other emergency vehicles and apparatus, the petitioner should be prepared to address this issue in advance of or at the public hearing.

The petitioner also seeks to relocate the existing accessible parking stall from the northwest corner of the site to a new location along the southern boundary . While this change would place it closer to the main entrance of the building, it would require users of that stall to cross a drive aisle (via a marked crosswalk) to reach that entrance. Also, the width of the relocated accessible stall would be reduced to 9 feet, less than the 12 required.

Regarding landscaping on the site, as referenced above, the site is largely composed of impervious surfaces and has little landscaping. While the NZO requires that outdoor parking facilities with more than five stalls must be screened from abutting streets and properties with dense shrubs and trees of at least five feet in width and/or a wall, fence etc. of at least six feet in height, the petitioner is not intending to modify the existing landscaping so as to conform with this requirement and is seeking an exception, and has indicated that “foliage will be minimized, to ensure clear visibility of the area at all times.”

The Planning Department recommends that the petitioner consider engaging a landscape architect to explore whether/how the existing landscaping could be supplemented.

Lastly, regarding lighting, the petitioner has stated that the building’s exterior and the surrounding area will be “sufficiently lit.” The petitioner’s submitted photometric plan shows several areas of illumination with less than one foot candle and, as such, the petitioner is seeking an exception to the requirement that parking facilities used at night have security lighting with a minimum intensity of one foot-candle on the entire surface of the parking facility.

The Planning Department notes that the substandard lighting levels appear to be largely at the location of the entrance at the rear of the building. While the Planning Department is sensitive to issues related to “over-lighting,” light overspill and light pollution, it recognizes that the relevant NZO requirements are related to security concerns. Given the documentation on security provided by the applicant, and that NZO’s Marijuana Establishment-specific special permit criteria specifically requires that the lot be “designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation” (§6.10.3.G.1.a), the

Planning Department recommends that the petitioner address how it has determined that the property will be “sufficiently lit” while seeking waiver of the City’s relevant minimum lighting standards. Toward that end, the petitioner should also provide information as to why granting the requested exception to applicable lighting requirements would be appropriate.

The Planning Department recommends that the petitioner be prepared to address how the all of the above-proposed exceptions to the NZO’s parking regulations meet the criteria established by Sec. 5.1.13 which requires that such exceptions be granted where it is determined that literal compliance with those regulations is impracticable or that such exceptions would be in the public interest, in the interest of safety, or protection of environmental features.

F. Signage

The petitioner has submitted plans for a proposed sign program. The petitioner intends to reface an existing free-standing sign that was approved by Special Permit #774-85. While the Planning Department has no objection to this action, it notes that a condition of that Special permit was that no wall signs were permitted so long as the free-standing sign is in place. That notwithstanding, several additional signs, including wall signs, were subsequently installed pursuant to building permits, and the petitioner now seeks to amend that Special Permit so as to allow those signs, including eliminating the prohibition on wall signs.

Pursuant to that sought relief of the prohibition on wall signs, the petitioner is proposing a 29.64 square foot wall sign on the Boylston Street frontage and an additional 29.64 square foot wall sign at the rear entrance. Both would be smaller in size than the 50 square feet allowed for a secondary wall sign at building entrance.

The petitioner seeks to legitimize, and reface, an additional 10.24 square foot directional sign at the Boylston Street entrance. This sign, which is considered oversized as a maximum of 3 square feet is allowed for a directional sign, was installed under a building permit but without required zoning relief.

G. Traffic and Transportation

The petitioner has submitted an “Traffic Impact and Access Memorandum” that includes “an evaluation existing traffic operations and safety; assessment of future conditions without the Project; an estimate of projected traffic volumes for the Project; and its potential impact on future traffic operations in the area.”

The memorandum indicates that the proposed Project is expected to generate approximately 84 new vehicle trips (42 entering / 42 exiting) during weekday evening peak hours and approximately 140 new trips (70 entering / 70 exiting) during the Saturday midday peak hour.

The Planning Department’s on-call transportation consultant, BETA, has been engaged to conduct a peer-review of this memorandum and other transportation/traffic issues. The Planning Department anticipates receiving a Peer Review Memorandum from BETA in advance of a subsequent public meeting on this petition.

IV. MINIMUM CRITERIA AND LIMITATIONS ON APPROVAL

Sec. 6.10.3.E of the NZO establishes certain “Minimum criteria and limitations on approval” for marijuana retailers. Those relevant to the present petition include the following:

A. Location

The Marijuana Use Ordinance requires that a marijuana retailer may not be located within a 500-foot radius of an existing private or public K-12 school. The proposed Marijuana Retailer satisfies this criterion.

B. Registration

All Marijuana Retailers must be properly registered with the Department of Public Health or the CCC. The petitioner’s submitted material states that it received a Provisional License from the Cannabis Control Commission (“the CCC”) on October 8, 2020.

C. Signage

State Law and the Registered Marijuana Use Ordinance prohibit graphics, symbols, or images of marijuana or related paraphernalia from being displayed or clearly visible from the exterior of a Marijuana Retailer. As such, all signage will be submitted to the Urban Design Commission for review and must also meet the state requirements and be reviewed by the CCC.

D. Hours of Operation

The petitioner has proposed that its hours of operation not exceed 9:00 AM – 9:00 PM Monday-Saturday and 12:00 Noon – 6:00 PM on Sunday.

E. Number

The number of Marijuana Retailers shall not exceed 20% of the number of liquor licenses issued in the City pursuant to G.L.c 138 § 15 (commonly known as “package stores”). The three Marijuana Retailers which have received special permits in the City represent less than 20% of the number of package stores.

F. Distance from Other Marijuana Retailers

The Registered Marijuana Use Ordinance prohibits RMDs and marijuana retailers

from locating within a one-half mile radius of an existing RMD or marijuana retailer. The closest Marijuana Retailer, at 24-26 Elliot Street, is approximately 2.4 miles to the west of the subject property.

G. Size

The Registered Marijuana Use Ordinance prohibits RMDs or marijuana retailers from occupying more than 5,000 square feet. The proposed marijuana retailer will occupy approximately 4,825 square feet given the exclusion of some of the space within the building from the square footage of the proposed establishment.

H. Transparency

The Petitioner has stated that it will exceed the 25% transparency requirement.

There are several additional minimum criteria and limitations on approval for Marijuana Retailers the petitioner would be subject to and would require to fulfil prior to the issuance of a any certificate of occupancy should this petition be approved (for a complete list of all criteria please see NZO §6.10.3).

V. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**Attachment C**) provides an analysis of the proposal regarding zoning. Based on the Memorandum, the petitioner is seeking the following relief:

➤ Special Permit per §7.3.3:

- To allow a marijuana establishment and a registered marijuana dispensary (§6.10.3.D; §4.4.1)
- To allow parking in the side setback (§5.1.8.A.1, §5.1.13)
- To reduce the width requirement for parking stalls (§5.1.8.B.1, §5.1.13)
- To reduce the depth requirement for parking stalls (§5.1.8.B.2, §5.1.13)
- To reduce dimensions for accessible parking stalls (§5.1.8.B.4, §5.1.13)
- To reduce the minimum aisle width requirement for two-way traffic (§5.1.8.C.1, §5.1.13)
- To allow tandem parking and parking managed by an attendant (§5.1.8.E.1, §5.1.8.E.2, §5.1.13)
- To waive perimeter screening requirements (§5.1.9.A, §5.1.13)
- To waive the lighting requirements (§5.1.10, §5.1.13)
- Amend Order #774-85

- To allow a free-standing sign (§5.2.3, §5.2.8, §5.2.13)
- To allow an oversized directional sign (§5.2.8, §5.2.13)

B. Engineering Review

Review of the proposal by the Engineering Division is not required at this time.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memorandum prior to any future public hearing.

ATTACHMENTS:

- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum
- Appendix 1:** Special Permit #774-85

ATTACHMENT A





Land Use

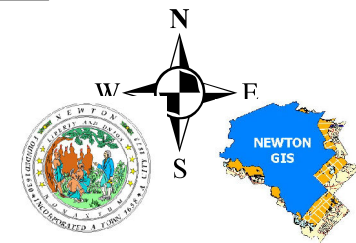
232 Boylston St.

*City of Newton,
Massachusetts*

Land Use

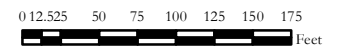
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Vacant Land

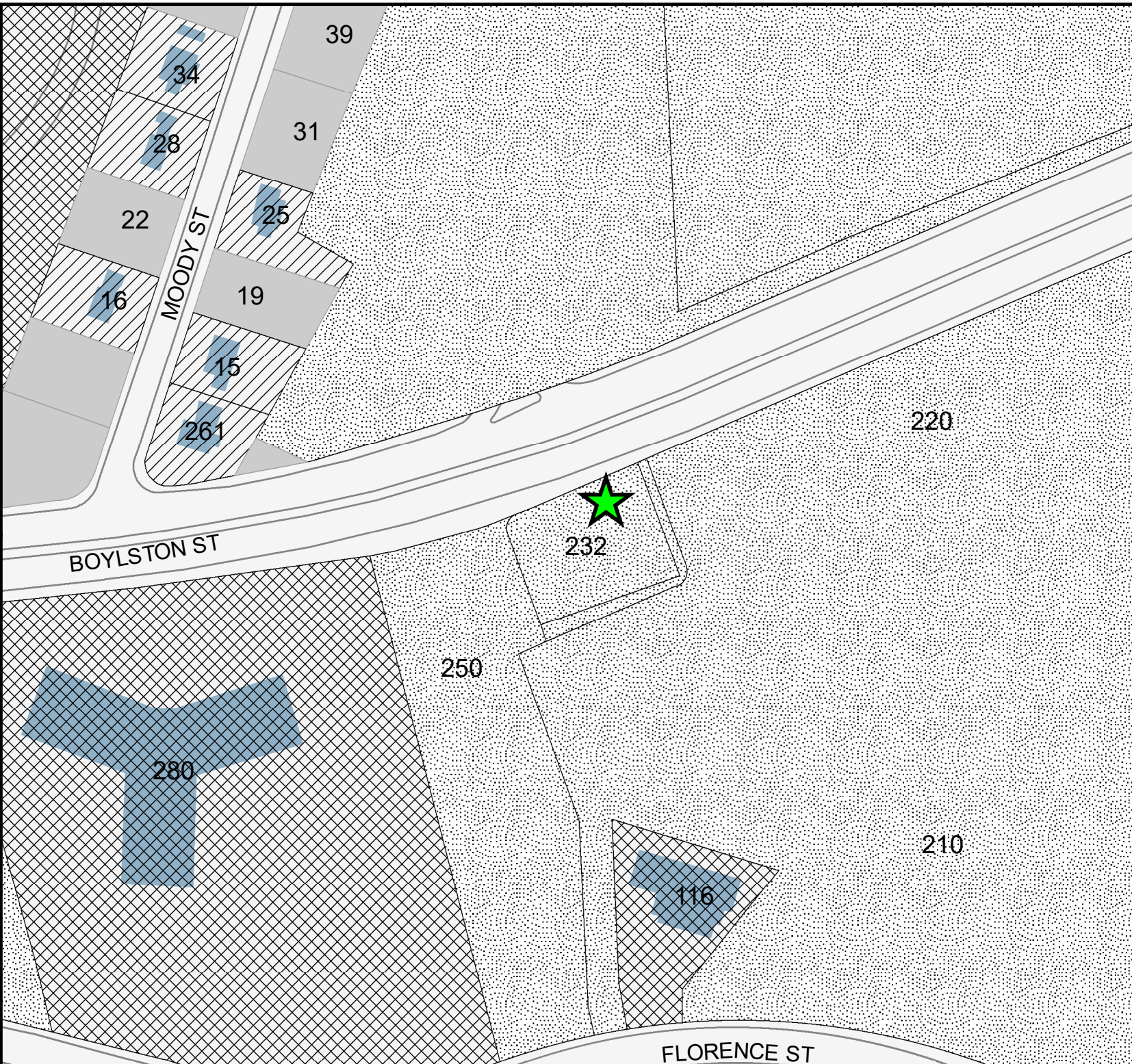


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: December 10, 2020








ATTACHMENT B

Zoning

232 Boylston St.

*City of Newton,
Massachusetts*

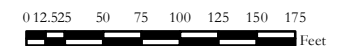
Legend

-  Single Residence 3
-  Multi-Residence 3
-  Multi-Residence 4
-  Business 1
-  Business 4

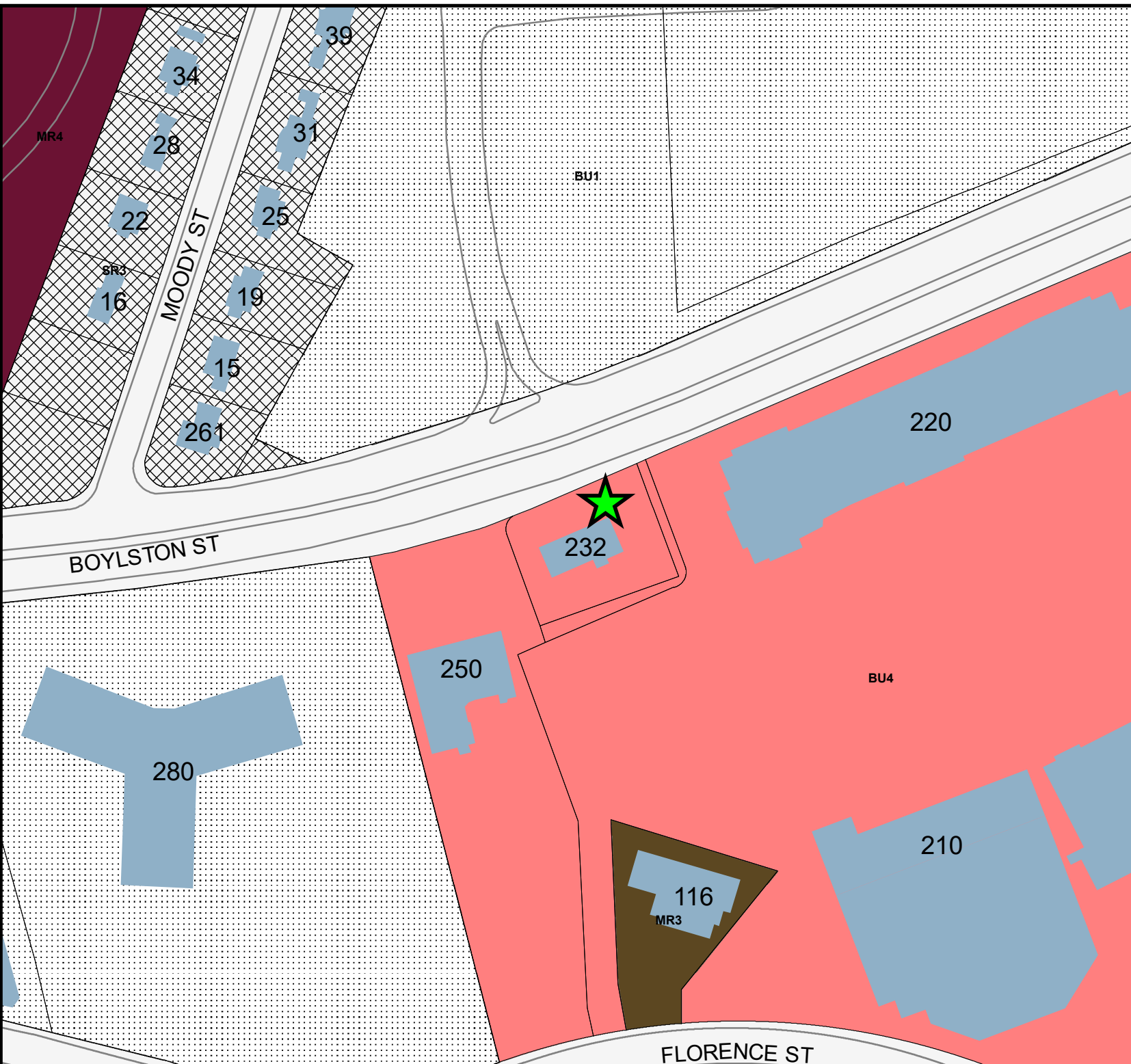


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: December 10, 2020





Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

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

APPENDIX 1

774-85

(Date) November 14, 1985

TO THE HONORABLE BOARD OF ALDERMEN
City of Newton

RECEIVED BY
BOARD OF ALDERMEN
CITY OF NEWTON
1015
11/15/85

Gentlemen:

The undersigned hereby makes application for permit to erect and use, to alter and use, or to make such use as may be hereinafter specified, of buildings or buildings, at the location and for the purpose herein- after specified, under the provisions of Chapter 30 of the Revised Ordinances, 1979 (Zoning Ordinance), or any other sections, viz:

Petition for: SPECIAL PERMIT ✓
(Check One) EXTENSION OF NON-CONFORMING USE
SITE PLAN APPROVAL

Located as follows:

Street and Ward 232 Boylston Street Ward 6

Section (s) 82

Block (s) 002

Lots (s) 009

Approx. Square Footage 15,100

To be used for: Replacing plastic faces in existing free- standing illuminated sign.

Construction: Lexan plastic

Explanatory Remarks: Section 30-25 (L) allows the Board of Aldermen to grant a special permit for a free standing sign.

Land referred to here is in (Zone) Business A District.

The undersigned agrees to comply with the requirements of the Zoning Ordinance and rules of the Land Use Committee of the Board of Aldermen in connection with this application.

Signature of Petitioner John Moore SIGN SYSTEMS INC.
Address & Phone 21 Ledin Dr., Avon, MA 02322
617-580-2140

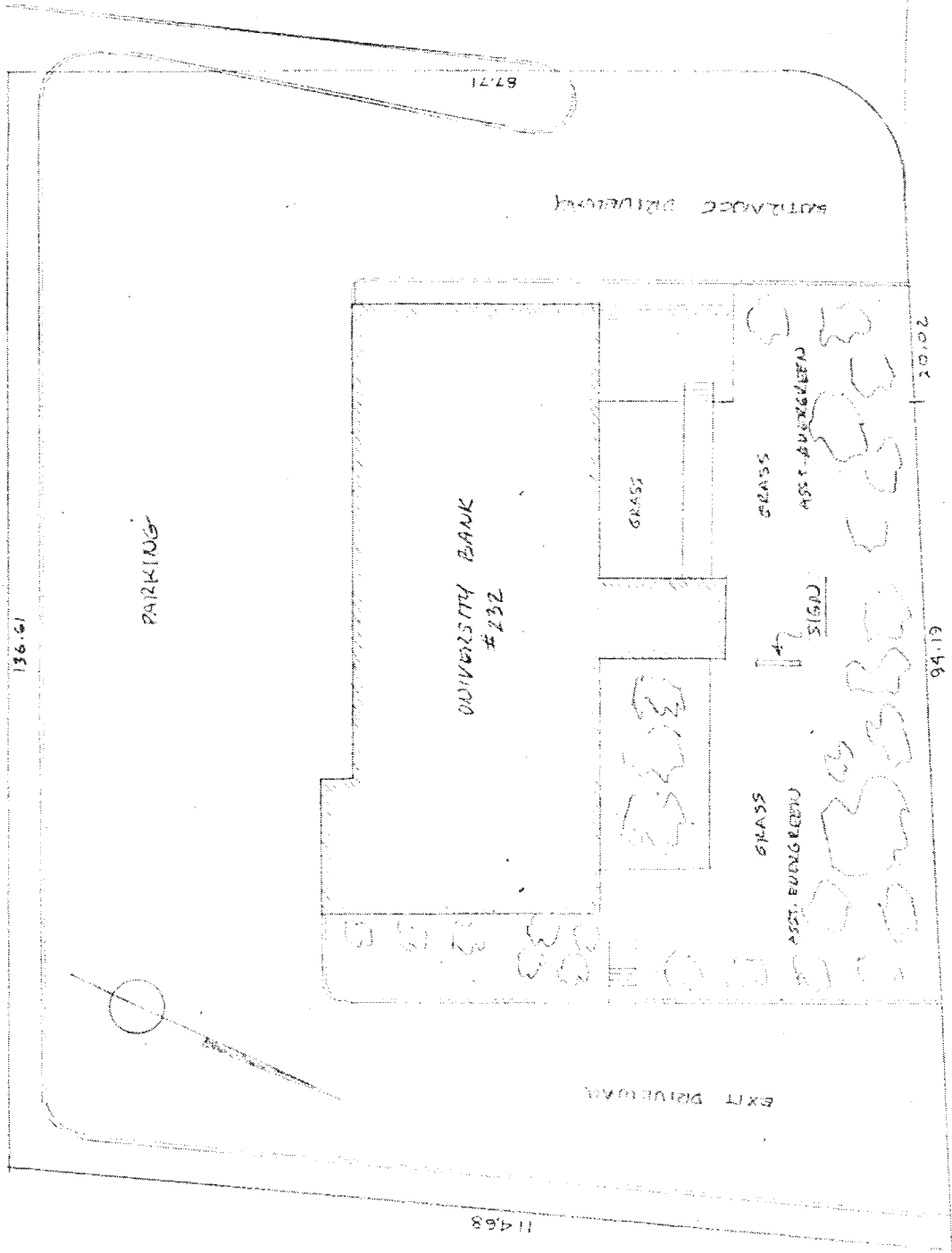
Attorney of Record
Address & Phone

Name & Address of Owner of Property
Garden City Realty Co., Inc.
Exchange Place, 27th Floor
Boston, MA 02109

BUILDING COMMISSIONER'S ENDORSEMENT

RESERVED FOR BINDING - DO NOT WRITE IN THIS SPACE

#77485

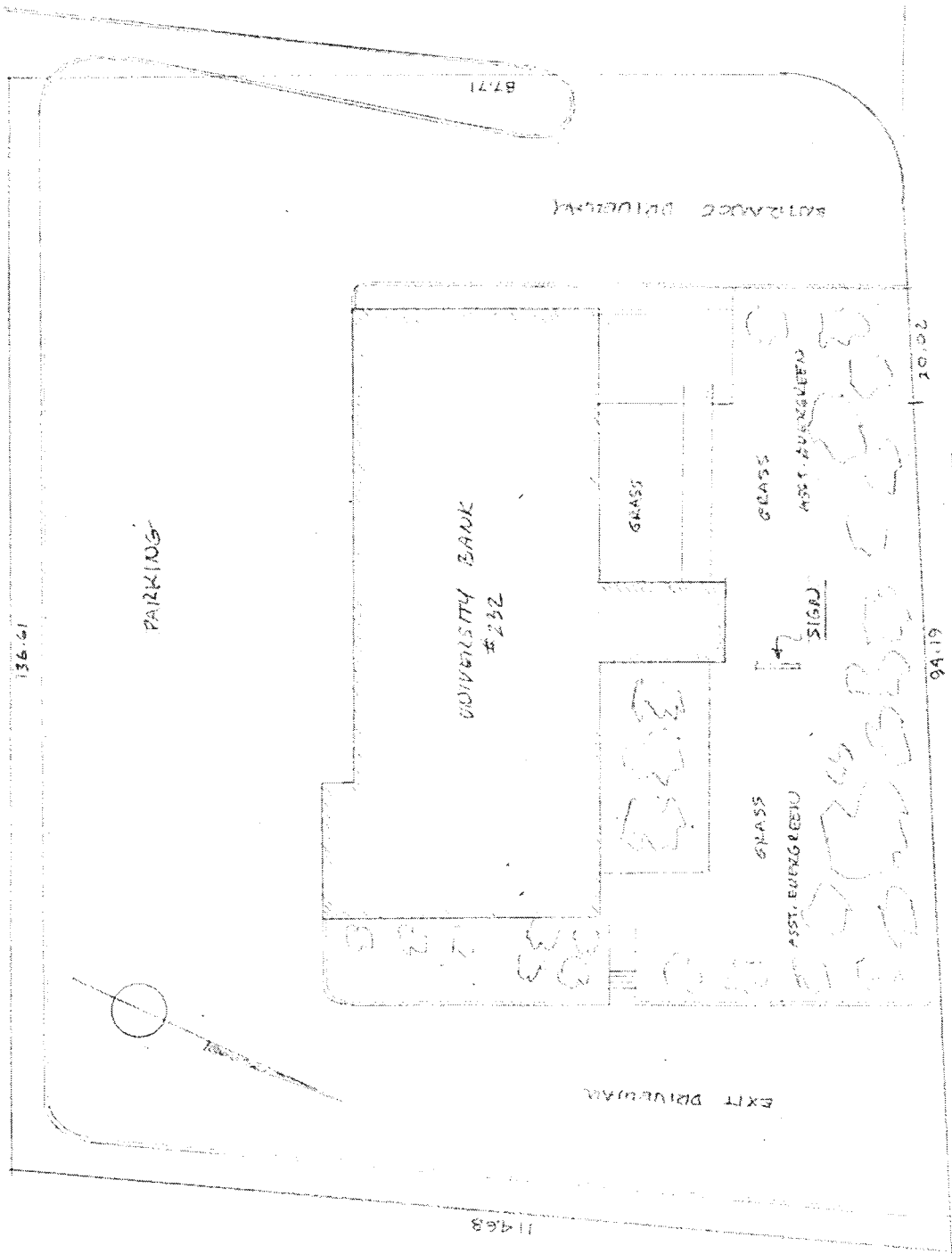


SIGN SYSTEMS, INC.
 21, LEDIN DRIVE, AVON, MASS. 02322

John J. Moore 11/16/85

PLOT PLAN
 UNIVERSITY BANK
 SCALE: 1" = 20' AREA: 151,000 S.F.

#774-85

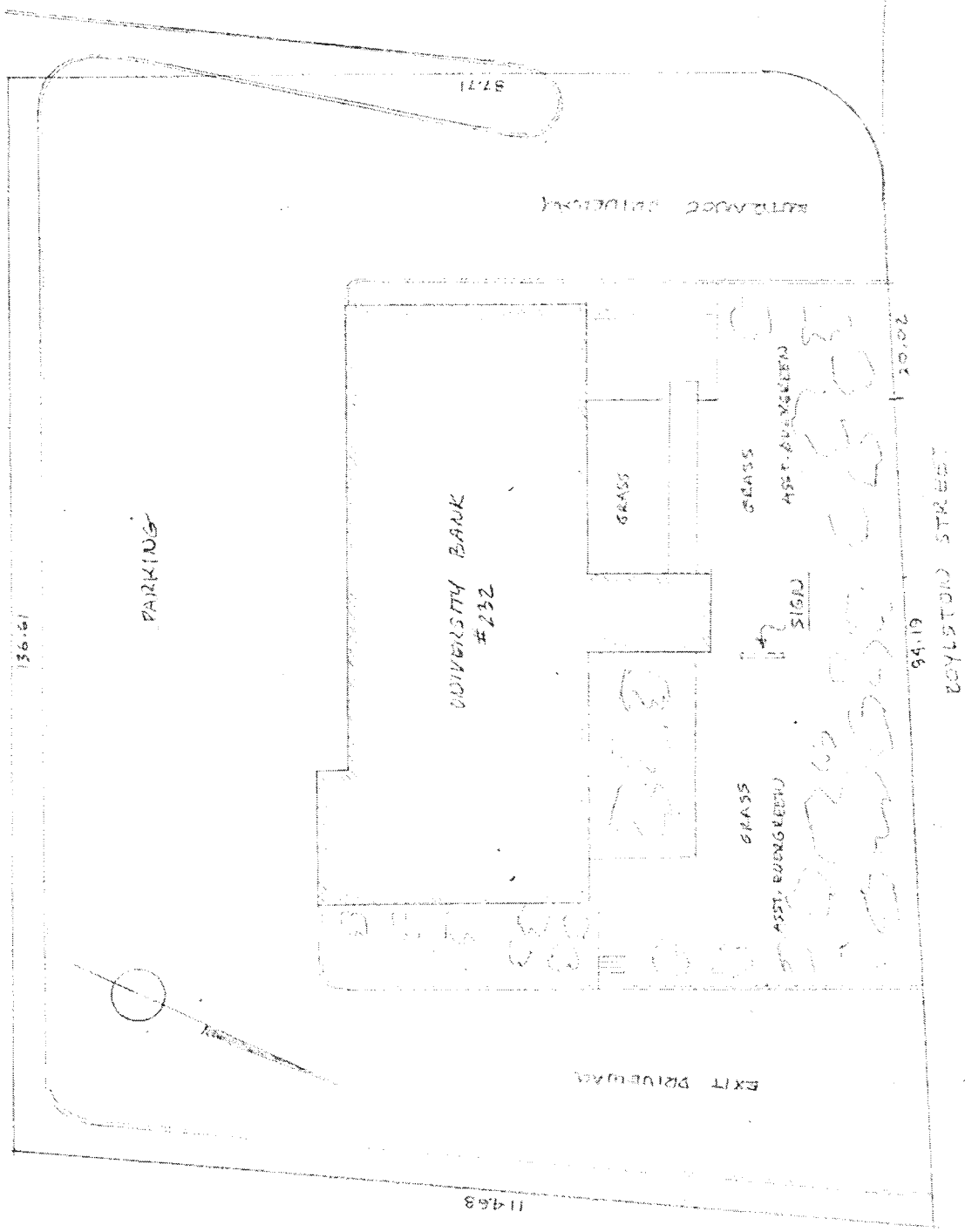


SIGN SYSTEMS, INC.
 21, LEDIN DRIVE, AVON, MASS. 02322

John J. Moore 11/16/85

PLOT PLAN
 UNIVERSITY BANK
 SCALE: 1" = 20' AREA: 151,000 S.F.

#774-85

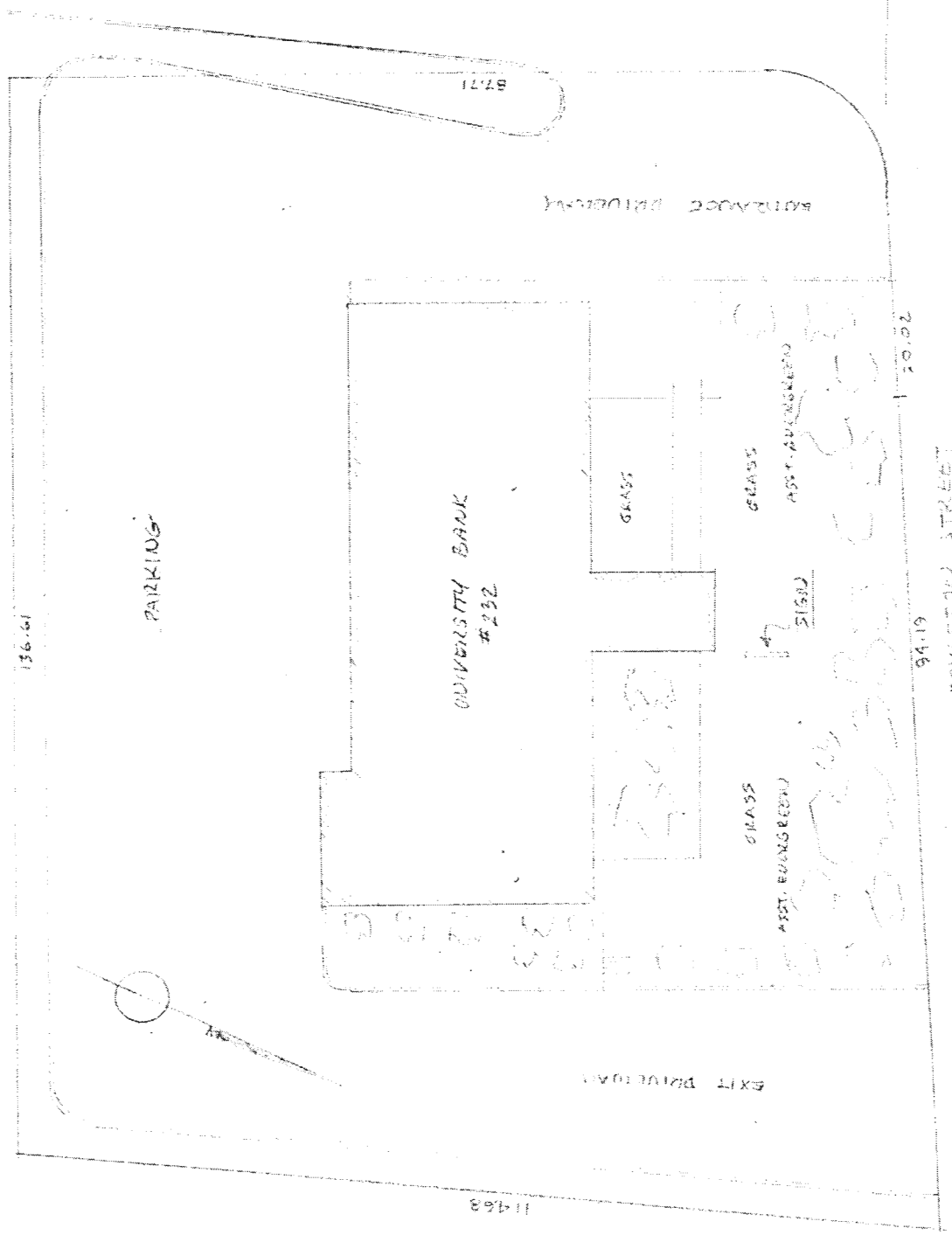


SIGN SYSTEMS, INC.
 21, LEDIN DRIVE, AVON, MASS. 02322

John J. Moore 11/16/85

PLOT PLAN
 UNIVERSITY BANK
 SCALE: 1" = 20' AREA: 151,000 S.F.

#774-85



SIGN SYSTEMS, INC.
 21, LEDIN DRIVE, AVON, MASS, 02322

John J. McLaughlin 11/16/85

PILOT PLAN
 UNIVERSITY BANK
 SCALE: 1" = 20' AREA: 151,000 S.F.

#774-85

CITY OF NEWTON
IN BOARD OF ALDERMEN

February 18, 1986

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purposes of the Zoning Ordinance, the following SPECIAL PERMIT is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor through its Chairman, Alderman Cynthia Creem.

Petition number: #774-85
Petitioner: Sign Systems Inc., (University Bank)
Location: 232 Boylston Street, Ward 6, Section 82, Block 2, Lot 9, containing approximately 15,100 square feet.
Owner: Garden City Realty Co. Inc.
Address of owner: Exchange Place, 27th Floor, Boston, MA. 02109
To be used for: free-standing sign
Construction: Internally illuminated plastic faces, metal frame
Explanatory note: Section 30-25(1) requires permission from Board of Aldermen to erect free standing sign.

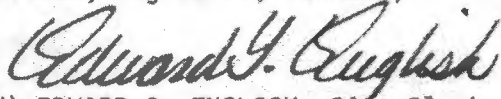
Land referred to is in the Business B District.

Approved, subject to the following conditions:

1. That, except as amended by conditions 2,3,4, and 5 below, the proposed sign shall be located consistent with a plan entitled "Plot Plan, University Bank," dated November 16, 1985 by Sign Systems Inc., and that the graphics shall be as indicated on an untitled elevation drawing also by Sign Systems Inc., dated November 16, 1985.
2. That the new free standing sign shall be made to conform to the size and height requirements of the ordinance.
3. That the lower existing sign shall be removed.

4. That a wall sign shall not be permitted on the building so long as the free standing sign exists.
5. That the pediment on top of the existing sign shall be retained and not considered as part of the sign area computation, but be considered for the height measurement.
6. There shall be no exercise of the SPECIAL PERMIT until:
 - a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT with appropriate reference to the book and page of the recording of the petitioner's title deed or notice of lease endorsed thereon.
 - b. A certified copy of such recorded notice shall have been filed with the City Clerk, the Building Department and the Department of Planning and Development.
 - c. The petitioner shall have complied with all requirements of the Massachusetts State Building Code, including obtaining appropriate permits from the Building Department, and said Department shall have filed, with the City Clerk and the Department of Planning and Development a statement certifying thereto.

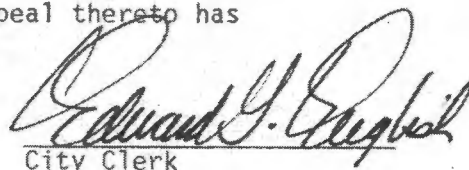
Under Suspension of Rules
Readings Waived & Adopted
21 yeas, 0 nay, 3 absent
(Robinson, Taglienti, Tennant)



(Sgd) EDWARD G. ENGLISH, City Clerk

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT is a true, accurate and complete copy of said decision; that all statutory requirements for the issuance of such SPECIAL PERMIT have been complied with; and that copies of the foregoing decision and all plans referred to in the decision have been filed with the Planning & Development Board and the City Clerk.

Twenty days have elapsed since the date of filing of the Board Order with the City Clerk and no appeal thereto has been filed.



City Clerk