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James Freas  
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## ZONING REVIEW MEMORANDUM

Date: May 12, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Jason Rosenberg, attorney  
Wells Ave, LLC  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to construct a three-story addition to an existing one-story office building, to expand parking, and to amend the Wells Avenue Deed Restriction.**

### Applicant: Wells Avenue, LLC

<b>Site:</b> 2 Wells Avenue	<b>SBL:</b> 84034 0002K
<b>Zoning:</b> Limited Manufacturing	<b>Lot Area:</b> 441,600 square feet
<b>Current use:</b> One-story office	<b>Proposed use:</b> Three-story office

### BACKGROUND:

The property at 2 Wells Avenue is located off Nahanton Street within the Limited Manufacturing zoning district, and is approximately 441,600 square feet. The site currently contains a single, 68,740 square foot one-story building, used as office space. The larger vicinity of Wells Avenue includes a mix of educational, recreational, non-profit and office uses.

The applicant proposes to partially demolish the existing one-story structure, and construct a three-story addition maintaining a portion of the original one-story building. The resulting building will have 132,598 square feet, but a smaller overall footprint. Parking will also be expanded from 282 spaces to 477.

The properties located on Wells Ave are subject to a Deed Restriction that imposes a number of conditions on the development and use of these properties, in addition to the City's Zoning Ordinance. While the Deed Restriction has been amended several times, the proposed development will require

further amendments, or a blanket waiver from the Deed Restriction in its entirety, as well as waivers from the Zoning Ordinance.

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

- Zoning Review Application, submitted by Jason Rosenberg, attorney, dated 4/15/2015
- Deed Restriction and Amendments
- Zoning Narrative, prepared by Spaganolo Gisness & Associates, Inc, dated 4/14/2015
- Dimensional Table and Requested Relief, submitted 4/15/2015
- Zoning Diagram/Site Plan, prepared by Spaganolo Gisness & Associates, Inc, dated 4/15/2015
- Existing Building Overlay/Site Plan, prepared by Spaganolo Gisness & Associates, Inc, dated 4/15/2015
- Perspective View, prepared by Spaganolo Gisness & Associates, Inc, dated 4/15/2015
- East and North Elevation, prepared by Spaganolo Gisness & Associates, Inc, dated 4/15/2015
- West and South Elevation, prepared by Spaganolo Gisness & Associates, Inc, dated 4/15/2015
- Existing Conditions Plan, prepared by Metrowest Engineering, Inc., dated 9/5/2014, revised 10/8/2014
- Site Layout and Materials Plan, prepared by Nitsch Engineering, dated 4/14/2015

#### **ADMINISTRATIVE DETERMINATIONS:**

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1. The subject property is located in the Limited Manufacturing zoning district. The applicant is proposing a 132,598 square foot structure on a 441,600 square foot lot for an office use. Sections 30-12(d)(1) and 30-11(a)(1) of the Newton Zoning Ordinance allow office uses in the Limited Manufacturing district by right.
2. The applicant proposes an addition of 64,510 square feet, for a total building size of 132,598 square feet. Section 30-12(g)(2) requires that additions greater than 20,000 square feet require a special permit.
3. Section 30-5(b)(4) requires a special permit for a retaining wall in excess of four feet located within a setback. A retaining wall is proposed six feet from the northerly boundary line for Parcel 1. The applicant is unsure at this point what height will be necessary, so a special permit is requested to ensure the wall may be built as needed.
4. Per Section 30-15, Table 3, the maximum lot coverage allowed in the district is 25%. The proposed project reduces the footprint of the building from 68,740 square feet to 65,634 square feet. The reduction of the footprint reduces the lot coverage from 16% to 15%, where 25% is the maximum allowed.
5. There are currently 282 parking stalls on site. The applicant proposes to expand the parking by 195 stalls to 477 stalls in total. Per Section 30-19(d)(11), office uses require one stall per every 250 square feet for the first 20,000 square feet, and one stall per every 333 square feet for the remaining square footage. The number of parking stalls required for a 135,250 square foot building is 427, which the applicant exceeds by 50.
6. Paragraph 1 of the Deed Restriction places a minimum open space requirement of 40% on each individual parcel, as well as on the office park as a whole. The proposed project will result in an

open space of 42% for the parcel, but to the extent that the overall site is less than 40% open space, the project will require a waiver from the restriction for the park overall.

7. While there is no limitation on floor area ratio (FAR) in the Zoning Ordinance for the Limited Manufacturing district, Paragraph 2 of the Deed Restriction places a limitation on FAR to a maximum of 0.25. The proposed project increases the existing FAR from .16 to .31, which exceeds the maximum allowed by the Deed Restriction. An amendment to the Deed Restriction is required to allow an FAR of .31.
8. Paragraph 4c of the Deed Restriction limits the square footage of office space on Parcel 1 to 50% of 1,200,000 square feet, or 600,000 square feet. There are currently approximately 900,000 known to be used as office space at this time. An amendment to the Deed Restriction is required to allow a greater percentage of square footage to be dedicated to office space.
9. Paragraph 5 of the Deed Restriction restricts parking within 40 feet of the northeasterly boundary of Parcel 1, designated as “950 foot” on the 1960 plan. Portions of the existing driveway, and several existing parking stalls are located within this setback. To legitimize the existing situation, an amendment to, or waiver from, the Deed Restriction is required.
10. Paragraph 6 of the Deed Restriction requires that a building must be set back 100 feet from Nahanton Street for every ten feet in height. The building is proposed at 36 feet, but will have a new setback of only approximately 321 feet, where 360 would be required. To allow a building height of 36 feet with a setback of 321 feet from Nahanton Street, an amendment of, or waiver to, the Deed Restriction is required.

Zone Limited Manufacturing	Required/Allowed	Existing	Proposed
Lot Size	N/A	441,600 square feet	No change
Setbacks			
• Front	25 feet	40 feet	25 feet
• Side	40 feet	81 feet	137 feet
• Rear	40 feet	298 feet	298 feet
Building Height*	32.1 feet	36 feet	<b>36 feet</b>
Max number of stories	3	1	3
Max building lot coverage	25%	16%	15%
Minimum open space*	40%	53%	42%
Min open space for Parcel 1*	40%		<b>&lt;40%</b>
Parking stalls	427	282	477
FAR*	.25	.16	<b>.31</b>

\* Required dimensional controls fall under the provisions of the Deed Restriction

11. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-13(g)(2)	To allow an addition to an existing building greater than 20,000 square feet	S.P. per §30-24
§30-5(b)(4), Deed Restriction Paragraph 6	To allow a retaining wall in excess of 4 feet in a setback	S.P. per §30-24, Amend/waive Deed Restriction
Deed Restriction, Paragraph 1	Amend/waive Parcel 1 minimum open space requirement	Amend/waive Deed Restriction
Deed Restriction, Paragraph 2	Amend/waive maximum FAR	Amend/waive Deed Restriction
Deed Restriction, Paragraph 4c	Amend/waive to allow more than 600,000 square feet of office space in the park	Amend/waive Deed Restriction
Deed Restriction, Paragraph 5	Legitimize existing driveway and parking within 40 foot setback	Amend/waive Deed Restriction
Deed Restriction, Paragraph 6	Amend/waive to allow a building height of 36 feet at a setback of 321 feet	Amend/waive Deed Restriction