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Candace Havens
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ZONING REVIEW MEMORANDUM

Date: April 17, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: William H. Shaevel, Attorney representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend the existing special permit/site plan review to allow an extension of a nonconforming structure and two additional secondary signs.

Applicant: WMACH, LLC	
Site: 199 Boylston Street	SBL: 65008 0100
Zoning: BU1	Lot Area: 324,691 square feet
Current use: Shopping center	Proposed use: Shopping center

BACKGROUND:

The property at 199 Boylston Street consists of a 324,691 square foot lot used in conjunction with land at 175 Boylston Street (SBL 65008 0099), 225 Boylston Street (SBL 65008 0099B) and 175R Boylston Street (SBL 65008 0099A) for the Mall at Chestnut Hill (the Mall), an enclosed shopping mall. A portion of the property at SBL 65008 0004 is also used as surface parking through a long-term agreement with the Massachusetts Department of Conservation and Recreation (DCR). The property at 175 Boylston Street (including both end tenants of the Mall and substantial portions of the surface parking) is owned and operated by Bloomingdales, Inc. The property at 175R Boylston Street contains a parking structure and is owned and operated jointly by Bloomingdales and WMACH, LLC. The property lines between 175 and 199 Boylston Street run through the Mall building but the site functions as a single integrated shopping center and is considered as one for the purposes of zoning. The Mall was constructed as of right in 1972 and the above division of the land into three lots dates from 1971. The site has been the subject of several permits addressing signs and parking, the latest one was approved in 2012 (BO # 307-12), allowing three new restaurants within the existing footprint of the building.

The applicant has secured The Cheesecake Factory as a restaurant tenant for one of the approved restaurant uses. The Cheesecake Factory will occupy what was previously represented as the spec restaurant at the far right of the interior mall. The applicant now proposes to add a 131-square foot entry vestibule to this portion of the building. The applicant is also requesting two secondary signs for this restaurant.

The Special Permit (#307-12) originally approved three secondary signs at the site, in excess of 50 square feet. The Cheesecake Factory will have such a sign, and requests two additional secondary signs. One of the proposed signs will be immediately above The Cheesecake Factory entrance, totaling 4.25-square feet. The second proposed sign will be around the corner on the façade facing Hammond Pond Parkway and will measure 97-square feet.

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

- Letter dated April 3, 2013
- Zoning Review Application
- Board Order for Special Permit #307-12
- Zoning Review Memorandum, prepared by Seth Zeren, dated 10/4/12
- Plans for modification to Special Permit #307-12
 - Cover sheet
 - Demolition and erosion control plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Grading and drainage plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Utility plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Parking and traffic control, stamped by John Stoy, civil engineer, dated 4/1/13
 - Sidewalk enlargement plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Overall site plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Preliminary Elevations (south and east)/Partial floor plan, dated 3/29/13
 - Preliminary Floor Plan, dated 3/29/13
 - Enlarged vestibule plan, dated 3/29/13
 - Exterior front and side sign elevations, dated 3/29/13
 - Sign specs, created by Federal Heath signed company, dated 3/27/13

ADMINISTRATIVE DETERMINATIONS:

1. The site received Special Permit # 307-12, dated 12/17/12 allowing 1) over a three-year period the addition of three restaurants with more than 50 seats to be phased in over a three year period; 2)Waiver of 111 parking spaces; 3) Three additional signs in excess of 50 square feet for the restaurants facing Boylston Street and a fourth sign over the Mall entrance; 4) the addition of 1,731 square feet of outdoor restaurant patio seating; and 5) physical improvements to the Boylston Street façade and the Boylston Street parking lot.
2. The Cheesecake Factory has indicated that there will be a maximum of 40 employees on the largest shift and 257 seats total (including patio seating). Both numbers are below the projections of seats and employees previously approved (350 seats/45 employees).

3. The proposed vestibule for The Cheesecake Factory sits on the permitted patio area. It will add 131 square feet to the interior space of the restaurant. It will not add restaurant seats or require additional employees.
4. The Board approved three secondary signs at the site, each in excess of 50 square feet, per Special Permit #307-12. The Cheesecake Factory will use one of these previously approved signs for a 300-square foot secondary sign. The applicant proposes two additional secondary signs requiring an amendment to the previously approved Special Permit. The 4.25-square foot sign over the vestibule qualifies as a second secondary sign on the Route 9 frontage. Section 30-29(f)(2) allows only one secondary sign per frontage. Therefore, the applicant must obtain a special permit from the Board of Aldermen per Section 30-20(l) to permit the proposed sign.
5. The façade of the interior sections of the Mall are offset from the two ends (both ends are occupied by Bloomingdale's). The proposed new 97-square foot secondary sign will be located on the corner facing Hammond Pond Parkway. While this secondary sign is along a second frontage, it is proposed to be larger than the size allowed by right in Section 30-20(f)(2) (up to a maximum of 50 square feet). To locate the sign as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-20(l).
6. Finally since previous special permits, most recently one approved in 2011, control the property, the site plan referenced in the 2011 special permit must be amended to reflect the new signs and elevations.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-11(k); §30-21(b)	Permit the extension of a nonconforming structure	S.P. per §30-24
§30-20(f)(2); §30-20(l)	Approve the proposed sign package, including secondary signs in excess of allowable number and size	S.P. per §30-24