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ZONING REVIEW MEMORANDUM

Date: May 12, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Stephen J. Buchbinder, attorney
Mark Lolich, LLC and Mark Newtonville, LLC
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a mixed-use development consisting of 41,895 square feet of commercial space, 171 dwelling units and parking, and to rezone the site to MU4

Applicant: Mark Lolich, LLC and Mark Newtonville, LLC	
Site: 241-261 Walnut Street, 845-875 Washington Street, 0-22 Bailey Place, 6-22 Washington Terrace	SBL: 21029 0010, 21029 0011, 21029 0012, 21029 0017, 21029 0016, 21029 0018, 21029 0019, 21029 0019A, 21029 0013, 21029 0014, 21029 0015, 21029 0020, 21029 0021, 21029 0022, 21029 0023
Zoning: BU1 and BU2	Lot Area: 123,956 square feet
Current use: Commercial, parking and residential	Proposed use: Mixed use with commercial, residential and parking

BACKGROUND:

The project site known as the "Orr Block" is comprised of fifteen separate lots and a private way known as "Bailey Place" totaling 123,956 square feet and is located in the Business 1 and Business 2 zoning districts. The project site is bound by Walnut Street to the east, Washington Street to the south and Washington Terrace to the west. The current uses on the site include restaurant, commercial, automobile service station, surface parking and four two-family dwellings. The bulk of the buildings on the project site were built circa 1900, with two built after 1950.

There have been four special permits issued for the various lots comprising the project site. Board Order #796-61 authorized an addition on a gas station at 241 Walnut Street, which no longer exists. Board Orders #127-79 and #381-84 authorized a free standing sign at 241 Walnut Street. Finally, Board

Order #293-00 authorized the extension of a nonconforming structure at 857-869 Washington Street, as well as a parking waiver and allowing parking on an adjacent lot.

The applicant is proposing to raze the existing buildings and build a new 238,075 square foot five-story mixed use development incorporating 171 residential units and 41,895 square feet of retail, personal service, restaurants, and/or office space. The proposal includes 355 on-site parking stalls within a below-grade garage and surface parking. The applicant intends to achieve this project by seeking a zone change for the site to Mixed Use 4.

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 2/29/2016, revised 3/23/2016
- Project Information, submitted 2/29/2016
- Parking Calculation, submitted 3/23/2016, revised 5/4/2016
- Existing Conditions Plans, signed and stamped by Gerry L. Holdright, surveyor, dated 2/15/2016
- Preliminary Site Plan, signed and stamped by J.G. Swerling, engineer, dated 3/22/2016
- Preliminary Garage Level Site Plan, signed and stamped by J.G. Swerling, engineer, dated 3/22/2016
- Site Development Plans, prepared by Bohler Engineering, dated 3/22/2016
 - Beneficial Open Space
 - Interior Landscaping
 - Average Grade Plan
- Architectural Plans, prepared PCA, architects, dated 3/22/2016
 - Building Elevations
 - Second Floor Plan
 - Third Floor Plan
 - Fourth Floor Plan
 - Fifth Floor Plan

ADMINISTRATIVE DETERMINATIONS:

1. The current zoning for the parcels included in the project site is Business 1 and Business 2. The applicant proposes a rezoning of the parcels to Mixed Use 4. For the purposes of this memo, the MU4 provisions will be applied.
2. The applicant is proposing 238,075 square feet of gross floor area within the proposed structure. Section 4.2.2.B.1 requires a special permit for proposed buildings which contain 20,000 square feet or more of gross floor area in a mixed use district.
3. Section 4.2.5.A.2 states that the City Council may grant a special permit to allow for up to five stories in an MU4 district, where four stories is the maximum allowed by right.
4. Section 4.2.5.A.2 also allows the City Council to grant a special permit to allow for up to 60 feet of height in an MU4 district by special permit, where 48 feet is the maximum allowed by right.
5. Pursuant to Section 4.2.5.A.2, the required lot area per unit in an MU4 zoning district is 1,000 square feet. Section 4.2.5.A.3 allows for a reduction in the lot area per unit by special permit. The applicant is proposing a 725 square feet of lot area per unit, which requires a special permit.

6. The applicant proposes a floor area ratio of 1.92. Pursuant to Section 4.2.3, the maximum allowable FAR for a five-story building in the MU4 district is 2.50. Where a special permit is required for a five-story building in the MU4 district per Section 4.2.5.A.2, the applicant requests relief to allow for the FAR of 1.92, where 1.50 is the maximum allowed for a by-right three-story building.
7. Section 4.2.5.A.4.c states that a building greater than 40 feet in height must be set back one foot from the adjacent lot line for each additional foot in height. The applicant proposes a building with 60 feet in height, requiring a 20 foot setback for the portion of the building between 40 and 60 feet. Section 4.2.5.A.4 allows the Council to grant a special permit to waive the additional setback requirement of Section 4.2.5.A.4.c.
8. Per Section 4.2.5.A.6.a, there must be at least one entrance every 50 feet of frontage facing a public way. Where the applicant has not determined the tenancy of each commercial space, a special permit waiver from this provision is requested pursuant to Section 4.2.5.A.6.
9. Section 4.2.5.A.6.b requires that a minimum of 60% of the street-facing building façade between two feet and eight feet in height above the street-level floor must consist of clear windows that allow views of indoor space or display areas. Where the applicant has not determined the tenancy of each commercial space, a special permit waiver from this provision is requested pursuant to Section 4.2.5.A.6.
10. Section 4.4.1 requires a special permit to allow for retail sales uses over 5,000 square feet in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
11. Section 4.4.1 requires a special permit for restaurants with more than 50 seats in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
12. Section 4.4.1 requires a special permit for personal service uses over 5,000 square feet in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
13. Section 4.4.1 requires a special permit for a stand-alone ATM in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
14. Section 4.4.1 requires a special permit for health clubs on the ground floor in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
15. Section 4.4.1 requires a special permit for health clubs above or below the ground floor in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
16. Section 4.4.1 requires a special permit for animal services in the MU4 zoning district. The applicant requests this special permit to allow for flexibility for tenants.
17. Pursuant to Section 4.4.1, residential units above the ground floor are allowed by right.

18. Although Section 4.4.1 states that office uses are allowed by right in the MU4 zoning district, Section 4.2.5.A.7 requires a special permit for street-level office uses. Given the conflict between the two sections, the more restrictive provision is being used to govern the use. The applicant requests a special permit to allow for office uses on the street level.
19. Section 5.2.13 provides exceptions to the provisions for signs found within the Zoning Ordinance. This section allows the Council to grant special permits for free-standing signs on each street frontage, as well as exceptions to the number of building signs for each tenant. To the extent necessary, the applicant requests a waiver from this section to allow for flexibility in signage for tenants.
20. The project proposes a mix of uses on the site, including 171 upper-level residential units, with street level commercial spaces. The exact mix of commercial tenants and the space each tenant will occupy is not yet established. To ensure that an adequate parking demand is established, the parking calculation for the commercial uses at the site is based on a projection of a mix of uses designed to provide the highest intensity use of the site (with regard to parking demand). The applicant contemplates a mix of four restaurants, a health club in approximately 7,900 square feet, and the remaining approximately 14,000 square feet would be occupied by retail sales or service establishment uses.

Residential Uses:

The 171 proposed residential units require 342 parking stalls per Section 5.1.4.A (two stalls per each residential unit). This section also allows a reduction in the parking requirement for a multi-family dwelling from two stalls per unit to 1.25 stalls per unit by special permit. Utilizing this special permit provision, the total parking requirement for the residential portion of the proposed project may be reduced to **214 stalls**.

Retail Uses:

Section 5.1.4.A requires one parking stall per 300 square feet of retail space, plus one stall per each three employees working at the busiest shift. The applicant anticipates two retail spaces on site.

Retail 1: 13,075 square feet, 26 employees; requiring a total of 53 parking stalls

Retail 2: 1,280 square feet, 3 employees; requiring a total of 6 parking stalls

The combined total retail parking requirement is **59 parking stalls** per Section 5.1.4.A.

Restaurant Uses:

Section 5.1.4.A requires one stall per each three seats in a restaurant, plus one stall per each three employees on the busiest shift. The applicant anticipates four restaurants on site.

Restaurant 1: 1,250 square feet, 50 seats, four employees; requiring a total of 19 stalls

Restaurant 2: 3,890 square feet, 156 seats, 15 employees; requiring a total of 57 stalls

Restaurant 3: 5,095 square feet, 204 seats, 20 employees; requiring a total of 75 stalls

Restaurant 4: 2,415 square feet, 97 seats, 17 employees; requiring a total of 36 stalls

The combined proposed restaurant uses will require **187 parking stalls** per Section 5.1.4.A.

Health Club Use:

The applicant proposes a health club use in the 7,835 square foot commercial space. Pursuant to Section 5.1.4.A, a health club requires one stall per 150 square feet of space, plus one stall for every three employees. The applicant anticipates 27 employees in the 7,835 square foot space, which would require **62 parking stalls** pursuant to Section 5.1.4.A.

Business Office/Community Use:

The applicant proposes an office use/community meeting space on the second floor of the proposed building. It is anticipated that this space will have 2,150 square feet. Section 5.1.4.A requires one parking stall per 250 square feet. The total business office/community use parking requirement is **9 parking stalls**.

Medical Office Use:

Section 5.1.4.A requires one stall per every 200 square feet of medical office space and one stall for every three laboratory employees. The applicant anticipates 4,905 square feet dedicated to medical office and up to six laboratory employees, which requires a total of **27 parking stalls** per Section 5.1.4.A.

The commercial uses on site require a combined 344 parking stalls. Section 5.1.4.C allows for up to a one-third reduction in the parking requirement in the case of a development with three or more uses. With the one-third reduction, the commercial uses require a total of **229 parking stalls**. The residential units on site require 214 stalls. The total combined parking requirement for the residential and commercial uses on the site is **443 stalls**. There are 346 stalls proposed to be built on the property between surface parking and below-grade garage parking. The applicant requests a **waiver of 97 parking stalls** for the site.

21. Section 5.1.8.A.2 states that no outdoor parking shall be located within five feet of a building containing residential units. Three parking stalls are located within five feet of the building on the western side of the property. A waiver from this section is required.
22. The minimum dimensional requirement for parking stalls is 9 feet wide by 19 feet deep per Sections 5.1.8.B.1, 5.1.8.B.2 and 5.1.10.B.3. The applicant proposes several compact stalls in the below-grade parking garage measuring 18 feet long, which require a waiver per Section 5.1.13.
23. 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 applicant seeks a waiver from this provision per Section 5.1.13.
24. Section 5.1.9.B requires interior landscaping for surface parking containing at least twenty stalls. The applicant is proposing 2.1% of the parking area with landscaping and requests a waiver from this section in its entirety pursuant to Section 5.1.13.

25. All 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 applicant requests a waiver from this provision per Section 5.1.13.
26. Section 5.1.10.B.5 requires curbing, wheel stops, guard rails or bollards at the edges of surfaced areas to protect landscaping. The applicant requests a waiver from this provision per Section 5.1.13.
27. Section 5.1.12 provides the requirements for off-street loading facilities. This section requires one loading bay for retail uses from 5,000 to 50,999 square feet, and one bay for offices of the same size range. The applicant intends to provide one loading bay, and requests a waiver from the requirement of the second bay per Section 5.1.12.
28. Section 5.11.4 requires that a project requiring a special permit for residential or mixed use development including residential development beyond that allowable as of right or totaling more than two new additional units be subject to the inclusionary housing provisions. The ordinance requires that the project provide no fewer than 15% of the number of dwelling units proposed to be added by the development. The applicant is proposing to provide 26 affordable units out of the 171 units, which is 15% of the total, in accordance with the Ordinance.

MU4 Zone	Required	Proposed
Lot Size	10,000 square feet	123,956 square feet
Frontage	80 feet	+/- 340 feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	<10 feet 20 feet 20 feet	0 feet 20.3 feet 46 feet
Lot Area Per Dwelling Unit	1,000 square feet	725 square feet
Total Gross Floor Area		238,075 square feet
Building Height (by Special Permit)	36 feet (60 feet)	60 feet
Max Number of Stories (by Special Permit)	3 (5)	5
FAR (by Special Permit)	1.5 (2.5)	1.92
Beneficial Open Space	5%	10.7%

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Rezone parcels to Mixed Use 4	
§4.2.2.B.1	To allow a building in excess of 20,000 square feet of gross floor area	S.P. per §7.3.3
§4.2.5.A.2	To allow building height of 60 feet and five stories	S.P. per §7.3.3
§4.2.2.A.2, §4.2.5.A.3	To reduce required lot area per unit to 725 square feet per unit	S.P. per §7.3.3

§4.2.3, §4.2.5.A.2	To allow for an FAR of 1.92	S.P. per §7.3.3
§4.2.5.A.4.c §4.2.5.A.4	Waive the setback requirement for buildings taller than 40 feet	S.P. per §7.3.3
§4.2.5.A.6.a, §4.2.5.A.6	Waive the requirement for at least one entrance every 50 feet of frontage	S.P. per §7.3.3
§4.2.5.A.6.b, §4.2.5.A.6	Waive the façade transparency requirements	S.P. per §7.3.3
§4.4.1	To allow retail sales uses over 5,000 square feet, restaurants with more than 50 seats, personal service uses over 5,000 square feet, stand-alone ATMs, health club on the ground floor, health club above or below the ground floor, animal services, and street-level office uses	S.P. per §7.3.3
§5.1.4.A	To allow a reduction in the residential parking to 1.25 stalls per unit	S.P. per §7.3.3
§5.1.4.C	To allow up to a one-third reduction in parking for more than three uses	S.P. per §7.3.3
§5.1.4, §5.1.13	To allow a waiver of 97 parking stalls	S.P. per §7.3.3
§5.1.8.A.2 §5.1.13	To allow outside parking within five feet of a structure containing residential units	S.P. per §7.3.3
§5.1.8.B.1, §5.1.8.B.2, §5.1.10.B.3, §5.1.13	To waive the dimensional requirements for parking stalls	S.P. per §7.3.3
§5.1.8.B.6, §5.1.13	To waive end stall maneuvering space requirements	S.P. per §7.3.3
§5.1.9.B, §5.1.13	To waive the interior landscaping requirements	S.P. per §7.3.3
§5.1.10.A.1, §5.1.13	To waive the lighting requirements for parking lots	S.P. per §7.3.3
§5.1.10.B.5 §5.1.13	Waive the requirement for curbing, wheel stops, guard rails and bollards	S.P. per §7.3.3
§5.1.12 §5.1.13	Allow for only one loading bay	S.P. per §7.3.3
§5.2.13	Allow for free-standing signs	S.P. per §7.3.3
§5.2.13	Waive the number of signs allowed	S.P. per §7.3.3