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ZONING REVIEW MEMORANDUM

Date: December 11, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Alfredo Cedrone, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to further extend an existing nonconforming three-family use to allow for four units, a section 6 finding for nonconforming lot area per unit and minimum open space, and to waive certain design standards relative to parking

Applicant: Alfredo Cedrone	
Site: 4-6 Middle Street	SBL: 12001 0015
Zoning: MR2	Lot Area: 11,281 square feet
Current use: Three-unit multi-family dwelling	Proposed use: Four-unit multi-family dwelling

BACKGROUND:

The property located at 4-6 Middle Street consists of an 11,281 square foot lot improved with a nonconforming three-unit multi-family dwelling constructed circa 1895. The petitioner states that City Directories and Census Polls from as early as 1972 indicate the existence of a fourth unit on the property. The applicant is seeking a special permit to allow for the legal use of the fourth unit, as well as legitimizing some dimensional and parking nonconformities.

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

- Zoning Review Application, prepared by Terrence P. Morris, Attorney, submitted 10/30/2017
- Site Plan, prepared VTP Associates Inc, dated 10/26/2017

ADMINISTRATIVE DETERMINATIONS:

1. The preponderance of evidence in the Inspectional Services files indicates that the circa 1895 structure is a legal nonconforming three-unit multi-family dwelling in a Multi Residence 2 zoning district per Section 3.4.1. The Assessors' records as far back as 1996 indicate that the property had four dwelling units, though only three were legal. The petitioner seeks a special permit pursuant to Section 7.8.2.C.2 to extend the nonconforming three-unit multi-family dwelling use in the Multi Residence 2 zoning district to allow four units.
2. Per Section 3.2.6, the lot area per unit requirement in the MR2 zoning district is 3,000 square feet. The applicant's lot is 11,297 square feet, thus the lot meets the lot area per unit for the permitted three-unit multi-family dwelling. To allow for four units, a 12,000 square foot lot would be required. However, the 2016 amendment to Section 7 of MGL Chapter 40A (The Zoning Act) allows for a special permit granting authority to make a finding that a dimensionally non-compliant structure in existence for ten years without any action being taken for enforcement may be deemed a nonconforming structure and subject instead to a "Section 6" finding for extensions or modifications to the nonconformity. This new provision deals only with dimensionally noncompliant structures, and does not apply to uses. According to the petitioner, the fourth unit has been in existence for several decades, and creates a dimensional noncompliance with regard to lot area per unit. If a Section 6 finding is not applicable, and the Council does not consider the change from three units to four an extension of the nonconformity, the petitioner requires a variance from the Zoning Board of Appeals to allow the lot area per unit to be reduced.
3. GIS aerial photos indicate that the parking on the property has existed in its current configuration for at least ten years. To the extent that the legalization of the fourth unit extends any nonconformities to the existing parking, the following relief is required.
4. Section 5.1.8.A.1 requires that no parking be located within a required side setback. There are eight parking stalls behind the dwelling structure, of which two are located in the side setback. A special permit to allow two parking stalls in the side setback per section 5.1.13 is required.
5. The parking stalls are 17 feet in depth, where 19 feet is required per section 5.1.8.B.2. A special permit to allow a reduced stall depth is required per section 5.1.13.
6. There are two curb cuts on the property allowing for one-way traffic flow. Per section 5.1.8.C.1, an access aisle width of 24 feet is required for one-way traffic in connection with 90 degree parking. The aisle behind the parking is 15.3 feet wide, requiring a waiver per section 5.1.13 of the aisle width provision.
7. Section 5.1.8.D.1 requires a minimum driveway width of 12 feet for one-way traffic. The driveway entering the property at the front right corner of the dwelling is only 11.2 feet wide at the street, and exiting the property narrows to 8.7 feet at the rear left corner of the dwelling. A waiver from this section is required per section 5.1.13.
8. Section 5.1.8.E.1 requires that parking be designed so that each vehicle is able to proceed to and from each stall without requiring the moving of any other vehicle. Of the eight parking stalls, four

are tandem and require a car to be moved for access. A special permit is required per section 5.1.13 to waive this section.

9. Section 5.1.9 requires adequate perimeter screening for outdoor parking for more than five vehicles. No vegetation or solid fencing is shown on the plans, or proposed in the application. To the extent that there is inadequate perimeter screening on the property, a special permit is required per section 5.1.13.
10. To the extent that the parking does not meet the lighting and surfacing requirements of section 5.1.10, a special permit per section 5.1.13 is required.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	11,281 square feet	No change
Frontage	80 feet	61.83 feet	No change
Setbacks			
• Front	25 feet	-0.4 feet (over the lot line)	No change
• Side	7.5 feet	8.7 feet	No change
• Rear	15 feet	123.3 feet	No change
Max Lot Coverage	30%	21.9%	No change
Min. Open Space	50%	46%	No change

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to extend the existing nonconforming three unit multi-family use to allow four units	S.P. per §7.3.3
§3.2.6 §7.8.2.C.2	Section 6 finding to legalize noncompliant lot area per unit	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.2 §5.1.13	To allow reduced stall depth	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	To allow reduced aisle width	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	To allow a reduced driveway width	S.P. per §7.3.3
§5.1.8.E.1 §5.1.13	To allow tandem parking	S.P. per §7.3.3
§5.1.9 §5.1.13	To waive the perimeter screening requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive the lighting and surfacing requirements	S.P. per §7.3.3