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ZONING REVIEW MEMORANDUM

Date: July 29, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, attorney
Katherine Braucher Adams, Attorney
Seltzers Realty LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request for a zone change from MR1 to BU2, and a special permit to construct elderly housing with services and for associated dimensional waivers

Applicant: Seltzers Realty LLC	
Site: 11 Florence Street and 318 Boylston Street	SBL: 82004 0049, 82004 0047
Zoning: BU2 and MR1	Lot Area: 82,945 square feet
Current use: Greenhouse/nursery and parking	Proposed use: Elderly housing with services facility

BACKGROUND:

The subject site is comprised of two lots with a total area of 82,945 square feet: 11 Florence Street is zoned Multi Residence 1, contains 75,487 square feet; and is improved with a greenhouse and garden nursery; 318 Boylston Street is zoned Business Use 2, contains 7,458 square feet, and is used for parking for the greenhouse.

The applicant proposes to rezone the Florence Street lot from MR1 to BU-2, raze the structure, combine the lots, and construct an elderly housing with services facility containing 95 living units with 120 beds in a four-story building of approximately 102,469 square feet with underground garage and surface parking. The proposed project will provide a total of 45 parking stalls on site.

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 6/8/2021, updated 7/28/2021
- Project Information, submitted 6/8/2021

- Existing Conditions Plan of Land, prepared by VHB, dated October 5, 2021
- Zoning Assessment Plan, prepared by VHB, dated 6/7/2021

ADMINISTRATIVE DETERMINATIONS:

1. The site is comprised of two properties. The property along Florence Street is zoned MR1, while the lot on Boylston Street is zoned BU2. The applicant requests to rezone the Florence Street parcel to BU2. The petitioner intends to combine the two lots into one BU2-zoned parcel.

The administrative determinations and relief requested by this application assume that the entire site is zoned BU2.

2. The applicant proposes to construct an elderly housing with services facility. Per section 6.2.10, an elderly housing with services facility is defined as “elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.” Section 4.4.1 requires a special permit for elderly housing with services in the BU2 zoning district.
3. The applicant proposes to raze the building and construct a four-story building of approximately 102,469 square feet, with 88,935 square feet of facility space and a 20,750 square foot underground parking facility. Section 4.1.2.B.1 requires a special permit for any development in a Business district of 20,000 square feet or more of new gross floor area.
4. The applicant proposes to construct a four-story structure at 48 feet in height. Section 4.1.2.B.3 requires a special permit for four stories or more in the Business 2 zoning district with a maximum FAR of 2.00. A special permit allowing four stories legitimizes the proposed height and FAR allowed per section 4.1.3.
5. A retaining wall varying in heights up to approximately 6 feet is proposed within the western side setback. Per section 5.4.2.B, a special permit is required for a retaining wall in excess of 4 feet in a setback.
6. The facility will contain 95 living units with 120 beds. Each living unit will contain sleeping and sanitary facilities, but no separate individual cooking facilities. Per Section 1.5.1.E, a dwelling unit is defined as “one or more rooms forming a habitable unit for one family, with facilities used or intended to be used, in whole or in part, for living, sleeping, cooking, eating and sanitation.” As the units will lack cooking facilities, they do not meet the definition of a dwelling unit.
7. The applicant proposes to construct 45 parking stalls on site, with 30 stalls located in the proposed underground garage and 15 surface stalls. Per Section 5.1.4.A, an elderly housing with services facility requires one parking stall per every two dwelling units, one per every four nursing beds, plus one stall per three employees. As stated, the proposed facility will not have “dwelling units” as defined by the Ordinance, as each unit will not provide independent cooking facilities. Nor will the units provide nursing beds, as the facility will not provide skilled nursing care. However, for the purposes of determining the parking requirement, the number of beds and employees will be used, as there are no dwelling units. The parking requirement for 120 beds and 30 employees at the busiest shift is 40 stalls. As 45 stalls are provided, no waiver from the number of parking stalls is required.

8. The applicant proposes to construct 10 surface parking stalls with an entrance off of Boylston Street and five along the front entrance drive off of Florence Street. Section 5.1.8.A.1 requires that no parking be located within a front or side setback. Several parking stalls within the two lots are located within the required 24-foot front setback from Florence Street requiring a special permit per section 5.1.13.
9. Section 5.1.8.B.2 requires that a parallel parking stall measure 21 feet in length. The applicant proposes two parallel parking stalls measuring 20 feet in length, requiring a special permit per section 5.1.13.
10. Per section 5.1.9, outdoor parking facilities with more than five stalls must be screened from abutting streets and properties with a five-foot landscaping strip and/or fencing. No landscaping or fencing is indicated on the proposed plans, requiring a special permit per section 5.1.13.
11. Section 5.1.10.A requires outdoor parking facilities used at night to provide security lighting with a minimum intensity of 1-foot candle. The applicant did not indicate lighting on the proposed plans for the two surface parking facilities, requiring a special permit per section 5.1.13.
12. A monument sign is indicated on the proposed conditions plans along the Boylston Street frontage near the surface parking lot and a second free-standing sign is proposed in a landscape wall along the Florence Street frontage. The proposed signs are both approximately 28 square feet. Per section 5.2.13, free-standing signs require a special permit.
13. Section 5.11.11 requires that Elder Housing with Services meet certain requirements of the Inclusionary Housing provisions. This contribution may be residential units, beds, or a cash payment.

BU2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	82,945 square feet	No change
Setbacks			
• Front (½ Building Height)	24 feet	10.3 feet	9.5 feet
• Side	24 feet	58.5 feet	24 feet
• Rear	24 feet	63.5 feet	24 feet
Total Gross Floor Area		±11,500 square feet	102,469 square feet
Building Height	48 feet		48 feet
Max Number of Stories	4	2	4
FAR	2.0	±.15	.99

Zoning Relief Required

<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Request to rezone parcel to BU2	
§4.4.1 §6.2.10	To allow an Elder Housing with Services facility	S.P. per §7.3.3
§4.1.2.B.1	Development of 20,000+ square feet of gross floor area	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To allow a building with four stories	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall in excess of 4 feet in a setback	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking within the front setback	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	To reduce the parking stall length	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.A §5.1.13	To waive lighting requirements	S.P. per §7.3.3
§5.2.13	To allow free-standing signs	S.P. per §7.3.3
§5.13	To waive the Sustainable Development requirements	S.P. per §7.3.3