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Mayor

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#70-19

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 5, 2019
Land Use Action Date:	May 14, 2019
City Council Action Date:	May 20, 2019
90-Day Expiration Date:	June 3, 2019

DATE: March 1, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner
Michael Gleba, Senior Planner

SUBJECT: **Petition #70-19** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit school in the existing building at **739 Beacon Street**, Ward 6, Newton Centre, on land known as Section 61 Block 27 Lot 17, containing approximately 10,498 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.3.14.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



739 Beacon Street

EXECUTIVE SUMMARY

The subject property at 739 Beacon Street consists of a 10,498 square foot lot at the northwest corner of Beacon Street and Chesley Road. Located in a Business 2 (BU2) zoning district, the site is improved with a one-story, 3,235 square foot commercial building constructed in 1995. The building is currently occupied by a bank. The petitioner proposes to occupy a currently vacant storefront formerly occupied by a dry cleaner with a martial arts studio focusing on semi-private instructional classes for children. Enrollment would be limited to seven or eight students per class, with one class occurring at a time. No changes to the building or site are proposed.

As it is considered a “for-profit school,” per sec. 6.3.14 of the Newton Zoning Ordinance the proposed martial arts studio requires a special permit to allow a for-profit educational use in the BU2 zoning district. Planning Department is not concerned about the proposed use given its location and sufficiency of the existing parking facilities.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site located a Business 2 (BU2) zoning district is an appropriate location for the proposed for-profit school (§7.3.3.C.1);
- The proposed for-profit school will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed for-profit school will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located in Newton Centre on the northwest corner of Beacon Street and Chesley Road. The surrounding Newton Centre neighborhood is a mix of residential, commercial, open space and public uses (**Attachment A**). The site and surrounding areas zoning designation reflect this mix with Single Residence 2 (SR2), Multi-Residence 1 (MR1) and Multi-Residence 2 (MR2) zoning generally to the north and south and Business 1 (BU1) and Business 2 (BU2) parcels along Beacon Street and to the west (**Attachment B**).

B. Site

The property consists of a level 10,498 square foot corner lot improved with a one-story, 3,235 square foot commercial building built in 1995.

There is a paved 14-stall parking area in the rear of the building accessed by a curb cut on Chesley Road. The lot features two light poles and a small landscaped island located along the sidewalk on Chesley St. adjacent to the entrance. A wooden stockade fence screens the adjacent residential property to the north, and there is a chain-link fence along the parking

area's western boundary.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner proposes to operate a for-profit martial arts school in one of the subject property's storefronts. As described by the petitioner, the proposed operation would include classes with up to eight students, with only one class held, and one or two instructors on-site, at any one time. As proposed, the martial arts studio would operate 12:00 pm to 8:00 pm Mondays-Wednesdays, 2:00 pm to 8:00 pm Thursdays, 2:00 pm to 6:00 pm Fridays, and 9:00 am to 1:00 pm Saturdays.

The existing bank would remain unchanged.

B. Building and Site Design

No changes to the building or site are proposed. The petitioner is not proposing any modifications to the exterior of the building or the site plan. Access to the storefront space would be via an existing entry on Beacon Street. The space also has an entry from the parking in the rear of the building.

C. Parking and Circulation

No changes to the existing parking and circulation are proposed.

The petitioner proposes to have no more than two employees working on-site at any time, and the existing bank occupies 2,000 square feet and has five employees working at the busiest shift. Therefore, per section 5.1.4 the total proposed parking requirement for the property would be 11 stalls- nine for the bank, two for the proposed school. As there are fourteen parking stalls at the rear of building in the existing surface parking area accessed off Chesley Road and on-street parking in the immediate area, the Planning Department is not concerned about the sufficiency of the existing parking facilities for the proposed use.

D. Landscaping and Lighting and Signage

No changes to the landscaping or parking area lighting are proposed.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to allow a for-profit educational use (§4.4.1, §6.3.14.B.2)

B. Engineering Review

No review by the Engineering Division is required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Order

ATTACHMENT A

Land Use

739 Beacon St.

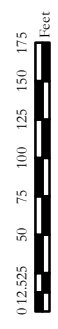
City of Newton,
Massachusetts

- Single Family Residential
- Multi-Family Residential
- Commercial
- Mixed Use
- Open Space
- Nonprofit Organizations
- Vacant Land
- Tax Exempt

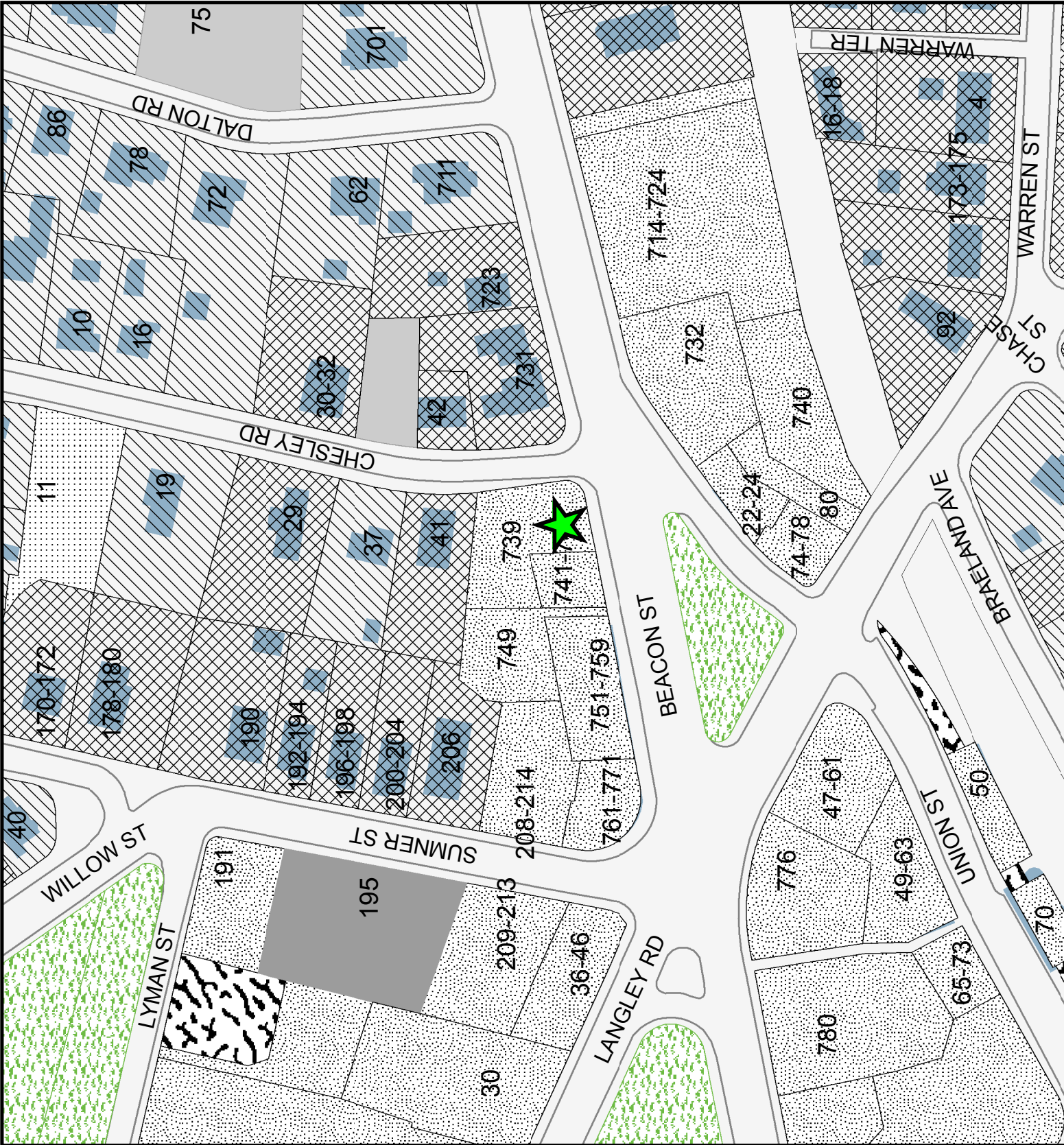


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: February 26, 2019

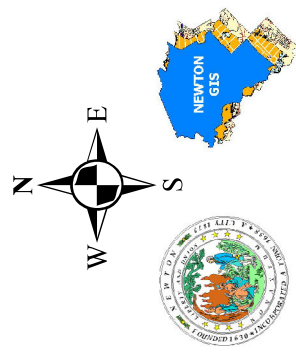


ATTACHMENT B

Zoning

739 Beacon St.
City of Newton,
Massachusetts

- Single Residence 2
- Multi-Residence 1
- Multi-Residence 2
- Business 1
- Business 2
- Public Use

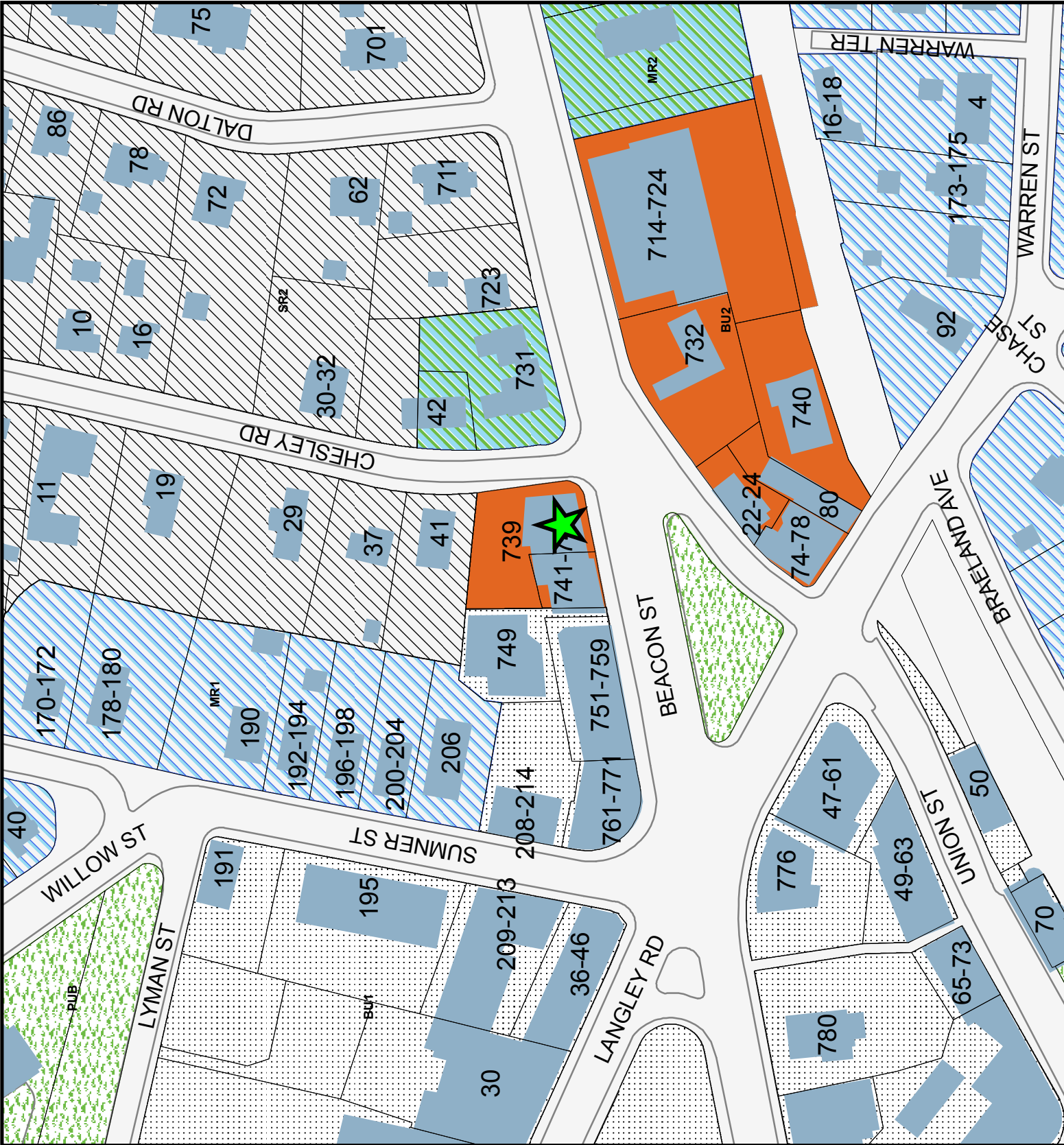


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ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 28, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Katherine Adams, Attorney
Equity Realty, LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow a for-profit school

Applicant: Equity Realty LLC	
Site: 739 Beacon Street	SBL: 61027 0017
Zoning: BU2	Lot Area: 10,498 square feet
Current use: Dry cleaner	Proposed use: For-profit school (martial arts)

BACKGROUND:

The property at 739 Beacon Street consists of 10,498 square feet improved with a one-story commercial building constructed in 1995 at the corner of Beacon Street and Chesley Road. The two-tenant building is currently occupied by a Cambridge Savings Bank, and a vacant space formerly occupied by a Zoots dry cleaner. The petitioner intends to occupy the vacant space to operate a martial arts studio, which is recognized in the Ordinance as a for-profit school. No changes to the site plan are proposed.

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

- Zoning Review Application, prepared by Katherine Adams, attorney, dated 1/3/2019
- Land Title Survey, signed and stamped by Thomas F. Winslow, surveyor, dated 5/21/1996
- Floor Plan, prepared by CID Associates, Inc, architect, dated 5/9/1995
- Proposed Floor Plan, signed and stamped by Donald Lang, architect, dated 12/10/2018

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to operate a martial arts studio focusing on semi-private instruction, primarily geared toward children, and limiting enrollment to seven or eight students per class, with one class at a time. The martial arts studio is considered a for-profit school, per section 6.3.14. Pursuant to sections 4.4.1 and 6.3.14.B.2, a special permit is required to allow a for-profit educational use in the BU2 zoning district.
2. There are fourteen parking stalls in an existing surface parking facility behind the building accessed off of Chesley Road. The existing bank occupies 2,000 square feet and has five employees working at the busiest shift. Per section 5.1.4, a bank is parked as a personal service use, which requires one stall per every 300 square feet plus one stall per every three employees. The existing bank requires a total of nine stalls.

Per section 5.1.4, a for-profit school requires one stall per each employee. The petitioner proposes to have not more than two employees working at any time.

The total proposed parking requirement for the property is 11 stalls per section 5.1.4, where 14 are provided on site. No relief is required.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§4.4.1 §6.3.14.B.2	Request to allow a for-profit educational use	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit educational in a Business 2 (BU2) zoning district (§4.4.1; §6.3.14.B.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed for-profit educational use as it is located in an active commercial area with a mix of retail, service, office and residential uses (§7.3.3.C.1);
2. The proposed for-profit educational use as developed and operated will not adversely affect the neighborhood as the site is located in a mixed-use area with active commercial uses and has adequate off-site parking to meet the projected parking demand for the proposed uses (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians; (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #70-19

PETITIONER: SSDS MA Studio 4, LLC

LOCATION: 739 Beacon Street, on land known as Section 61, Block 27, Lot 17, containing approximately 10,49860 square feet of land

OWNER: Equity Realty, LLC

ADDRESS OF OWNER: 825 Beacon Street
Newton, MA 02459

TO BE USED FOR: For-profit educational use

EXPLANATORY NOTES: Special permit per §7.3.3 to allow a for-profit educational use (§4.4.1; §6.3.14.B.2)

ZONING: Business 2 (BU2) district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. a plan entitled "ALTA/ACSM Land Title Survey in Newton, Mass., Owner: 739 Beacon Corporation, Deed Reference: Book 24786, Page 99, Recorded with the Middlesex South Registry of Deeds," prepared by Hayes Engineering, Inc., signed and stamped by Thomas F. Winslow, Professional Land Surveyor, dated May 21, 1996;
 - b. a plan entitled "Floor Plan," prepared by CID Associates Inc., dated May 9, 1995, as revised through July 21, 1995;
 - c. a plan entitled "Kung Fu School, 739 Beacon Street, Newton, MA 02459," prepared by DLA Architecture, signed and stamped by Donald Lang, Registered Architect, dated December 10, 2018
2. The educational use staff is limited to two employees on the largest shift.
3. Any changes to signage shall be subject to review by the Urban Design Commission and approval of the Commissioner of Inspectional Services.
4. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
5. No Certificate of Occupancy for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.