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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: September 10, 2013

TO: Land Use Committee of the Board of Aldermen

FROM: CHavens, Director of Planning and Development
Alexandra Ananth, Chief Planner
Stephen Pantalone, Senior Planner

CC: Petitioner

In response to questions raised at the Land Use Committee public hearings, and/or staff technical reviews, the Planning Department is providing the following information for the upcoming working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #231-13

30 Ossipee Road/70 Linden Street

Request for Special Permit/Site Plan Approval to locate a for-profit physical educational use for children (MyGym) at 30 Ossipee Road/70 Linden Street.

A public hearing for this project was held on August 13, 2013.

Parking Policy and Marked Parking Spaces.

At the public hearing the Land Use Committee raised several questions about on-site parking, including how the parking lots are being used by the existing business and other businesses in the building. It noted that on a few site visits the Ossipee parking lot appeared full.



The Planning Department believes that with 178 parking spaces between the Ossipee Road and Linden Street parking lots, allocating 18 parking spaces (staff and students) should satisfy MyGym's parking needs, and is more than required under zoning. There are also more than 40 spaces between the one-hour, two-hour and metered parking spaces around the site. To encourage parents to park in the correct spaces the petitioner will take the following actions:

1. The petitioner will provide all parents with a parking policy when they enroll in classes, which will be approved by the Planning Department prior to issuing a Certificate of Occupancy. The parking policy will ask parents to park in the Ossipee Road parking lot and encourage carpooling and walking whenever possible.
2. The owner will mark 15 parking spaces for MyGym customers in the Ossipee Road parking lot. The spaces are currently marked for Microfluidics employees.
3. Employees will be encouraged to park in the Linden Street parking lot or in the lower level of the Ossipee Road Parking lot.
4. The MyGym owners will speak with the property owner about enforcement if they find that employees of other businesses are using MyGym parking spaces. The MyGym owner could also provide parents with a sticker or pass to place in their car.

Class Sizes and Hours.

At the public hearing the Land Use Committee suggested that the petitioner analyze their business needs in terms of class sizes and operating hours. The petitioner's council provided a letter to the Committee indicating that the class schedule provided at the public hearing and as reflected in the Board Order is sufficient for their needs. The petitioner is aware that if they increase the class size or operating hours above the maximum they must come back to the Land Use Committee to amend their special permit.

Recommendation. Staff recommends **approval with conditions**. See Draft Board Order.

ATTACHMENT A: DRAFT BOARD ORDER

CITY OF NEWTONIN BOARD OF ALDERMEN

September 16, 2013

ORDERED:

That the Board, 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 for a for-profit educational use, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The site is an appropriate location for the proposed for-profit educational use.
2. The use as developed and operated will not adversely affect the neighborhood.
3. Access to parking is appropriate for the number of vehicles involved.

PETITION NUMBER: #231-13

PETITIONER: James Koert, CU Inc., d/b/a, MyGym /Dan Wooley & John Finley, III, Trustees c/o Creative Development Co., LLC

LOCATION: 1254 Chestnut Street/70 Linden Street, Ward 5, on land known as Section 51, Block 34 and 35, Lots 1 and 2, containing approximately 93,480 sq. ft. of land

OWNER: Charlotte Maynard, authorized managing/rental agent for Dan Wooley & John Finley III, Trustees c/o Creative Development Co., LLC

ADDRESS OF OWNER: PO Box 95, Newton Upper Falls, MA, 02464

TO BE USED FOR: Establishing a for-profit educational use as an allowed nonconforming use on the site.

CONSTRUCTION: Interior changes only

EXPLANATORY NOTES: Section 30-5(b)(2) to allow for a for-profit educational use in a Manufacturing zone.

ZONING: Manufacturing

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 the plans entitled:
 - a. Certified Plot Plan, 1238 Chestnut St. & Linden St., signed and stamped by Verne T. Porter Jr., Professional Land Surveyor, dated June 26, 2013.
 - b. Floor Plan, My Gym, 30 Ossipee Road, John Cunningham Architects, Inc.
2. No classes are allowed between the hours of 10:00 p.m. and 8:00 a.m.
3. No more than 24 students shall be allowed on the site at any one time.
4. No more than 6 staff shall be allowed on the site at any one time during operating hours.
5. At least twice a year, and for as long as a this educational use is operated on this site, the petitioner shall provide all parents or guardians with a copy of the approved Parking Policy.
6. At least 15 parking spaces shall be marked for MyGym customers only in the upper parking lot off of Ossipee Road.
7. 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 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.
8. No occupancy permit for the use 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 engineer certifying compliance with Condition #1.
 - b. The petitioner shall submit a Parking Policy to the Director of Planning and Development for review and approval.