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Barney Heath
Director

MEMORANDUM

Public Hearing Date: January 4, 2019
Land Use Action Date: March 25, 2019
City Council Action Date: April 1, 2018
90-Day Expiration Date: April 8, 2018

DATE: January 8, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition 620-18** for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permits #213-12(1) and #213-12(2) to allow a bank use at 71 Needham Street, Ward 5, Newton Highlands, on land known as Section 51, Block 28, Lot 20, containing approximately 58,875 sq. ft. of land in a district zoned MU1. Ref: 7.3, 7.4, 4.4.1 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 which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



71 Needham Street

EXECUTIVE SUMMARY

The subject property at 71 Needham Street consists of 58,875 square feet improved with two newly constructed single-story commercial buildings and accessory parking allowed by Special Permit #213-12 (1) and (2). The petitioner proposes to locate a bank at 71D Needham Street. The subject property is located in a Mixed Use 1 (MU-1) Zone, and requires a special permit for a bank use on the site.

The Planning Department believes the site is a suitable location for the proposed bank. There are a mix of uses nearby and the proposed bank, which operates more like an office, would fit into that mix without adversely impacting the area. The front door to the business is also on Needham Street, orienting the business towards the street. The proposed bank will add to the mix of uses, as Needham Street does not have an abundance of banks. While the Planning Department supports the bank use, it is strongly advised that the building owner reconfigure the ADA spaces on site to shorten the distance from the front of the Partners Urgent Care, or have Partners Urgent Care make their rear entrance a public entrance to comply with the American with Disabilities Act regulations regarding parking. The Planning Department will not sign off on a building permit or certificate of occupancy until the spaces are brought into compliance.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the City Council shall consider whether:

- The specific site in a MU-1 zone is an appropriate location for the proposed bank. (§7.3.3.C.1)
- The proposed bank will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed bank 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. (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Needham Street in the MU-1 zone. The adjacent properties on the eastern side of Needham Street are zoned MU-1 as well. The properties on the western side of Needham Street are located in the Mixed Use 2

(MU-2) zone, and to the west is an Open Space/Recreation zone (**Attachment A**). The properties fronting Needham Street are mostly commercial while the properties beyond the commercial uses on both sides of the street are single and multi-family uses (**Attachment B**).

B. Site

The site consists of 58,875 square feet improved with two newly constructed single-story commercial buildings and accessory parking allowed by Special Permits #213-12 (1) and (2). In the front of the building, there are parallel concrete sidewalks, separated by a vegetated strip. The site is served by two curb cuts along Needham Street with entrance access in the middle of the site and a driveway to the right of the site which serves the site as well as the Avalon Bay apartment complex, located directly behind the site. The left access is an exit driveway onto Needham St. There are 64 stalls on the property, located to the rear of the commercial buildings.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principle land use of the site is and will remain commercial. The proposed bank will occupy 1,947 square feet of commercial space.

B. Building and Site Design

The petitioner is not proposing any physical changes to either the building or site.

C. Parking

Special Permits 212-12 (1) and (2) waived 14 parking stalls. There are 64 existing parking stalls on the property. For the purposes of parking, a bank use is treated as a personal service use, which was contemplated by the previous special permits which waived 14 parking stalls. The proposed use does not increase the parking requirement allowed by the previous special permits, and no waiver is required.

There are two ADA parking stalls behind 71D Needham Street that the Planning Department believes are not in compliance with the American with Disabilities Act. The Americans with Disabilities Act states that “accessible spaces must connect to the shortest possible route to the accessible building entrance or facility they serve.” The Planning Department observed that the accessible stalls are in violation of this concerning 71A Needham Street, the Partners Urgent Care site. With the current configuration, it is not the shortest accessible route for patients with disabilities, forcing them to go around the building to the front on Needham Street. The

Planning Department recommends the spaces be relocated, or Partners Urgent Care make their rear entrance a public entrance to comply with the ADA standards thus shortening the distance from the accessible spaces to the entry of Partners Urgent Care. The Planning Department recommends that no building permit, nor Certificate of Occupancy be issued before this is rectified.

D. Landscape Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations

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

- Amend Special Permits 212-12 (1) and (2).
- Section §4.4.1 to allow a bank in a mixed use 1 zone.

B. Newton Historical Commission

This petition does not meet the minimum threshold for review from the Chief Preservation Planner.

C. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum, dated December 4, 2018
- Attachment D:** DRAFT Council Order

ATTACHMENT A

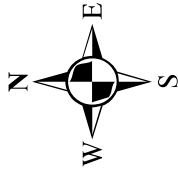
Zoning

71 Needham St.

City of Newton,
Massachusetts

Legend

- Multi-Residence 1
- Manufacturing
- Mixed Use 1
- Mixed Use 2
- Public Use

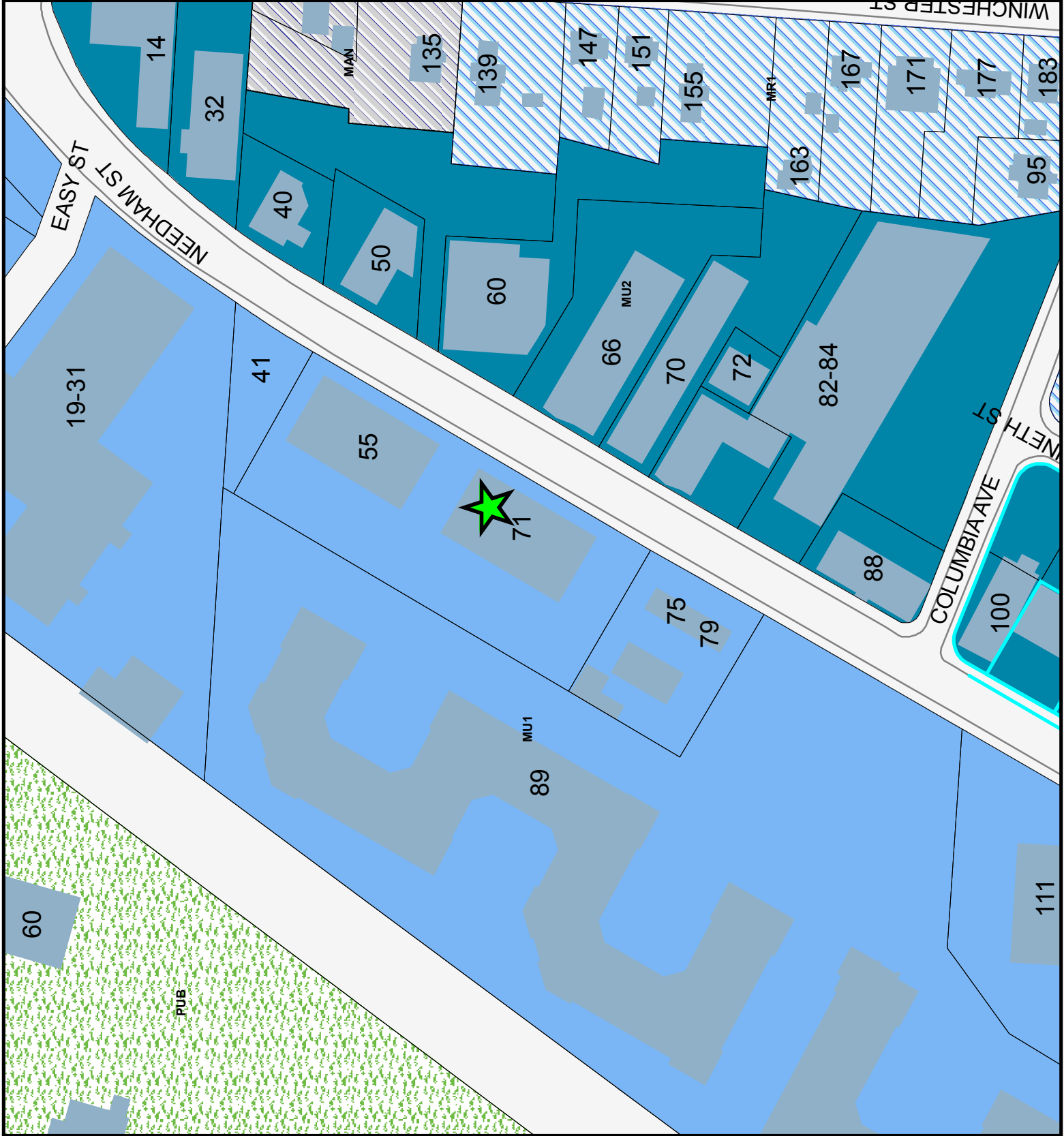


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: January 04, 2019



ATTACHMENT B

Land Use

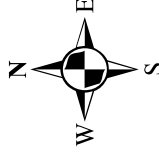
71 Needham St.

*City of Newton,
Massachusetts*

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations

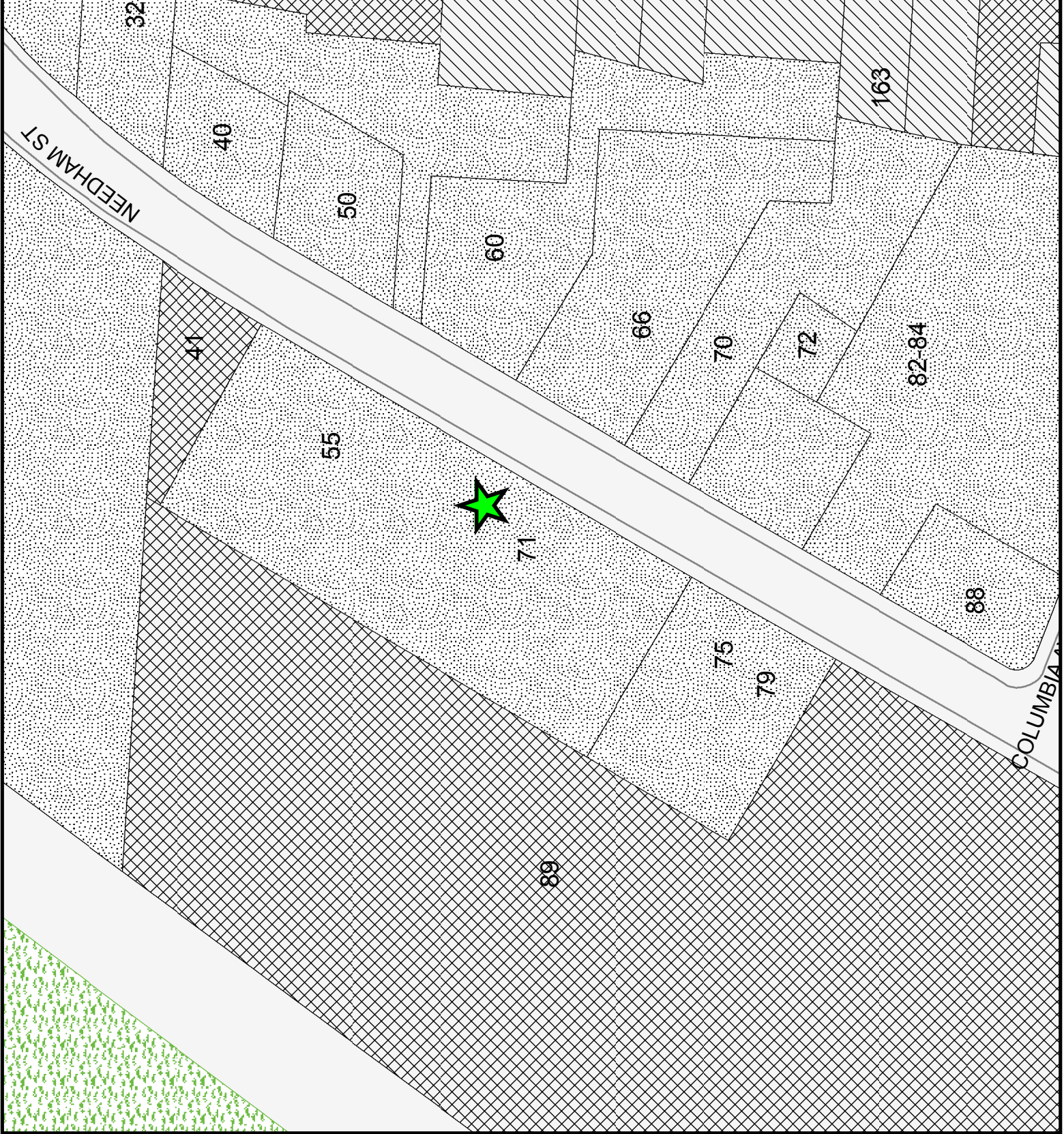


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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0 12.5 25 50 75 100 125 Feet

Map Date: January 04, 2019





Setti D. Warren
Mayor

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Attachment D
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: December 4, 2018

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Alan Schlesinger, Attorney
Needham Street Village Shops, LLC
Barney S. Heath, Director of Planning and Development
Alissa Giuliani, City Solicitor

RE: **Request to allow a bank and to amend Board Order #213-12(1) and (2)**

Applicant: Needham Street Village Shops LLC	
Site: 71 Needham Street	SBL: 51028 0020
Zoning: MU1	Lot Area: 58,875 square feet
Current use: Vacant	Proposed use: Bank

BACKGROUND:

The property at 71 Needham Street consists 58,875 square feet improved with two newly constructed single-story commercial buildings and accessory parking allowed by Special Permit #213-12(1) and (2). The special permits authorized the extension of the nonconforming retail and personal service uses, as well as 110 seats for restaurant use. A bank use is proposed for 1,947 square feet of commercial space which has been vacant since construction. The petitioner requests an amendment to the existing special permits to allow for occupancy by a bank.

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

- Zoning Review Application, prepared by Alan Schlesinger, attorney, dated 10/26/2018
- Special Permit #213-12(1) and (2), dated November
- Site Plan, prepared by Fusion Design Consultants, dated 9/10/2018, 10/2/2018
- Proposed Floor Plan, prepared by Fusion Design Consultants, dated 9/10/2018, 10/2/2018

ADMINISTRATIVE DETERMINATIONS:

1. Special Permits #212-12(1) and (2) were granted in 2012, authorizing the continued nonconforming retail uses on the site, as well as to allow personal service uses and restaurants with more than 50 seats. A total of 14 parking stalls were also waived, as well as various dimensional requirements relative to outdoor parking. The special permits also allowed for a free-standing sign.
2. The applicant proposes to introduce a bank use (Beal Bank) to a vacant commercial space on site. Per Section 4.4.1, a special permit is required to allow a bank use in the Mixed Use 1 zoning district.
3. There are 64 existing parking stalls on the property. For the purposes of parking, a bank use is treated as a personal service use, which was contemplated by the previous special permits which waived 14 parking stalls. The proposed use does not increase the parking requirement allowed by the previous special permits, and no waiver is required.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permits 212-12(1) and (2)	
§4.4.1	To allow a bank	S.P. per §7.3.3

71 Needham Street
#620-18

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City 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 amend Special Permit Board Orders #213-12(1) and #213-12(2) to allow a bank use at 71 Needham Street 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 bank because the site is located in an area containing a mix of uses and the proposed use is compatible with that mix. (§7.3.3.C.1.)
2. The proposed bank will not adversely affect the neighborhood given the mixed use nature of the area. (§7.3.3.C.2.)
3. The proposed bank will not create a nuisance or serious hazard to vehicles or pedestrians because the use does not require any alterations to the site. (§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: #620-18

PETITIONER: Beal Nevada Service Corporation

LOCATION: 71 Needham Street, Section 51, Block 28, Lot 20, containing approximately 58,875 square feet

OWNERS: Needham Street Village Shops, LLC

ADDRESS OF OWNERS: 420 Bedford Street, Lexington, MA 02420

TO BE USED FOR: Bank

CONSTRUCTION: One Story, multi-tenant, commercial building

EXPLANATORY NOTES: To amend Council Orders #213-12 (1) and 213-12 (2) which authorized the redevelopment of the site for a mix of office, restaurant, retail, and service uses and §4.4.1 and §7.3.3 to allow a bank use.

ZONING: Mixed Use 1 District

The prior special permits for this property is as follows: Council Order #213-12(1), to construct two single story commercial buildings with an aggregate total gross area of 19,200 sq. ft.; to permit retail and/or service uses, to waive up to 6 parking stalls and certain dimensional requirements and associated landscaping, fencing, and lighting requirements for parking facilities greater than five stalls, to waive one required loading dock facility; and to allow a freestanding sign and the number of secondary signs and dimensional requirements for signs at 49, 55, and 71 Needham Street and Council Order #213-12(2), to permit a restaurant use(s) containing up to 110 seats in the multi-tenant commercial buildings authorized by Board Order #213-12(1); and to waive up to 8 parking stalls at 49, 55, 71 Needham Street. The conditions set forth in Council Orders #213-12(1) and #213-12(2) remain in full force and effect.

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. As-built plan of Needham Street Village Shops dated January 23, 2015, signed and stamped by William J. Doucet, Professional Land Surveyor.
 - b. A set of architectural plans, Beal Bank-Newton MA Interior Construction – Issued for Permit dated October 2, 2018 prepared by Fusion Design Consultants, Inc. signed and stamped by James E. Duffey, Registered Architect.
 - i. Title Sheet (A0);
 - ii. Construction Plan (1A.1);
 - iii. Power/Data Plan (1A.3);
 - iv. Elevations (A6.1); and
 - v. Elevations (A6.2)
2. All signage shall be reviewed and approved by the Urban Design Commission.
3. 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.
4. No Certificate of Occupancy/Final Inspection 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.