



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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#231-17

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 7, 2017
Land Use Action Date:	November 28, 2017
City Council Action Date:	December 4, 2017
90-Day Expiration Date:	December 6, 2017

DATE: September 1, 2017

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Neil Cronin, Senior Planner

SUBJECT: **Petition #231-17**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #437-03, to allow a ground level health club use, and waive the parking requirement or allow the parking requirement to be met off site at **60 Needham Street**, Ward 8, Newton Highlands, on land known as SBL 83, 28, 02, containing approximately 25,753 sq. ft. of land in a district zoned Mixed Use 2. Ref: §4.4.1, §5.1.4, and §5.1.13, or §4.4.1, §5.1.6.A, §5.1.6.B, §5.1.13, and §7.3.3.

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.



60 Needham Street

EXECUTIVE SUMMARY

The property located at 60 Needham Street consists of a 25,753 square foot lot improved with a one-story 9,200 square foot commercial building. The property is located in the Mixed Use 2 (MU-2) zoning district in Newton Highlands. In 2003, the site received a special permit to allow a bank use and to locate the associated parking requirement off site (**Attachment A**). The bank use is no longer located on site and the building is now occupied by an office and a retail use. The petitioners are seeking to subdivide the existing retail space to create a third tenant space to accommodate a first floor health club use. Per the Newton Zoning Ordinance (NZO), a first floor health club use requires a special permit in the MU-2 zone. In addition, the parking requirement for the building, including the proposed health club, exceeds the number of stalls available on site. Therefore, the petitioners are seeking special permits to amend Board Order #437-03, to allow a ground floor health club use, and either waive the associated parking requirement or to locate the required parking requirement off site.

The Planning Department is not concerned with allowing the health club at this location. The petitioners are not modifying the exterior of the structure or site and the petitioners have a lease to utilize parking off site. As a result, staff believes the petition is consistent with the Mixed Use 2 zone. Lastly, if this project is approved, staff suggests the project be approved with the request to locate the parking off site, not the request to waive the parking requirement.

SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site is an appropriate location for a health club use (§7.3.3.C.1).
- The health club as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2).
- There will be no 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).
- Literal compliance with the number of parking stalls is impractical due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot such that these exceptions will be in the public interest, or the interest of safety, or protection of environmental features (§5.1.13).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Needham Street in an MU-2 zoning district in Newton Highlands. The immediate area comprises the Needham Street corridor which was first developed as an industrial and manufacturing zone, but over time became a retail focused area. The north side of Needham Street is zoned MU-1

while the south side is zoned MU-2, but both zones contain similar uses. The site directly abuts a Single Residence 2 district which contains single-family residences, as well as some nonconforming multi-family uses (**Attachments B & C**).

B. Site

The site consists of 25,753 square feet and is improved with a one-story 9,200 square foot commercial building circa 1961 and on-site parking which consists of 18 parking stalls at the southern edge of the site. The site is served by two curb cuts which facilitate a circular movement around the building; both curb cuts are approximately 24 feet wide.

II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioners are seeking to subdivide the existing retail space to allow a first floor health club use. If approved, the structure will consist of an office, retail, and a health club.

B. Building and Site Design

The petitioners are proposing to subdivide the existing retail space into two tenant spaces. The retail space will decrease in size from 5,700 square feet to 2,136 square feet. The proposed health club space will be approximately 3,564 square feet, while the real estate office will remain unchanged. Staff notes there are no proposed changes to either the site or exterior of the structure. Primary access for the proposed health club use will be via the ramp at the southwest corner of the structure.

C. Operational Controls

The owner of the proposed health club has submitted a draft class schedule operating under the following schedule.

- 37 classes per week. Monday through Friday 5:00 a.m. to 7:15 p.m. with no classes offered between 9:00 a.m. and 4:00 p.m. Two classes on Saturday from 8:00 a.m. to 10:00 a.m. There will be a 15 minute period between classes to allow for the parking areas to empty before clients arrive for the next class.*
- 15 to 25 clients per class.
- Maximum of three employees on site at any one time

*The owner of the health club has stated this is a draft schedule and actual class times may change based on demand.

D. Traffic and Parking

The site is served by two curb cuts. This facilitates a circular one-way flow of vehicles as they enter the site at the northwest corner, travel around the building and then exit via the northeast corner. The property owner has a lease agreement with the owner of the property at the rear of 133 and 135 Winchester Street, now known as 56 Needham Street. This property contains 53 parking stalls, ten of which are designated for the restaurant at 40 Needham Street (The Farmgrill) per Board Order #172-97(2) (**Attachment D**).

Board Order #437-03, which allowed the bank use, allowed 15 of the 53 parking stalls at 56 Needham Street to be used for the existing uses at 60 Needham Street. Therefore, subtracting the 10 stalls for the Farmgrill and the 15 stalls for the bank use, 56 Needham Street has 28 parking stalls remaining. The proposed health club requires an additional 15 stalls which can be met due to the 28 remaining stalls. For a complete summary of the parking requirement, please see the Zoning Review Memorandum (**Attachment E**). To ensure the parking facility at 56 Needham Street will be able to accommodate the demand for the users of 60 Needham Street, staff suggests the petitioner submit an affidavit stating that the 53 stalls are available only to the users of 60 Needham Street and the Farmgrill prior to the issuance of a building permit. Lastly, staff notes the lease for the parking stalls at 56 Needham Street expires at the same time as the lease for the proposed health club use.

E. Landscape, Lighting, and Signage

The parking areas for 56 Needham Street and 60 Needham Street were nonconforming parking facilities, but were legalized under Board Order #437-03, and there are no proposed changes. Since these parking facilities abut the residences on Winchester Street, they have been improved with landscaping and fencing to provide adequate screening; parts of the parking facilities are also below the grade of the residences as well. The petitioners have not requested waivers as to the number and types of signage; therefore all signs are expected to be by-right and will be reviewed and approved by the Urban Design Commission.

F. Consistency with the Mixed Use 2 Zoning District

The Planning Department notes first floor health club uses require a special permit in the MU-2 zone; however, health clubs are allowed-by right above and below the ground floor. This distinction is most likely due to the fact that health clubs have a large parking requirement. Satisfying this requirement can affect traffic in the nearby area as well as urban design by creating parking. Staff notes that the bank use was allowed under Board Order #437-03 partially due to the fact that stalls would be removed from the front of the site to create a more inviting storefront for pedestrians. In addition, health clubs do not traditionally create inviting storefronts for pedestrians. Instead, windows are often blacked out to allow for privacy. By restricting health clubs, and other uses, from the ground floor, the Ordinance can

encourage what type of use can occupy a site. Therefore, by allowing health clubs above or below the ground floor, the Ordinance allows health clubs as of right on parcels that can accommodate the parking demand and a encourage a mix of uses as well as shared parking; this theory is why the MU-2 zone was created.

After reviewing the petition, staff believes this petition is consistent with the MU-2 zone, although it seeks to locate a health club on the ground floor. Staff believes this petition creates an additional tenant space within a mixed use building and utilizes shared parking. Lastly, the health club will occupy a space at the rear of the structure, thereby removing any concerns regarding an inactive storefront.

III. TECHNICAL REVIEW

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

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

- Amend Board Order #437-03
- Allow a first floor health club use (§4.4.1 and §7.3.3)
- Waive fifteen (15) parking stalls (§5.1.4 and §5.1.13) or Allow the parking requirement to be met off site (§5.1.6.A, §5.1.6.B, and §5.1.13).

B. Engineering Review

No engineering review is required at this time. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit, should this project be approved.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Board Order #437-03
Attachment B: Zoning Map
Attachment C: Land-Use Map
Attachment D: Board Order #172-97(2)
Attachment E: Zoning Review Memorandum
Attachment F: DRAFT Board Order

Attachment A

#437-03

CITY OF NEWTONIN BOARD OF ALDERMEN

December 1, 2003

2003 DEC -4 PM 2:51
CITY CLERK
NEWTON, MA 02459

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL to locate required parking off-site and to waive certain dimensional parking facility design requirements for existing non-conforming parking in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the public convenience and welfare will be served through the use of an existing parking lot located to the rear of 133 and 135 Winchester Street to provide some of the required parking stalls for businesses located at 60 Needham Street because:
 - a. The location of some of the required parking stalls off-site will further the goals of the Needham Street Redevelopment Plan by removing parking stalls from the front of the building at 60 Needham Street, resulting in the addition of greenspace and improved pedestrian access.
 - b. The relocation of 14 required parking stalls off-site will permit the existing non-conforming parking facility at 60 Needham Street to be improved by eliminating some of the existing non-conformities such as stacked parking stalls.
 - c. The petitioner has a long-term lease until the year 2024 for the existing non-conforming parking lot adjacent to 60 Needham Street, which lot has sufficient capacity to accept the parking stalls being relocated.
 - d. The existing handicapped parking stalls on the adjacent leased parking facility will be improved by creating conforming stall dimensions and are appropriately located to the rear of the building near the existing handicapped ramp.

PETITION NUMBER: #437-03

PETITIONER: Sullivan Realty Trust, Jean Greer, Trustee/Winchester Realty Trust, and James McDonald, Trustee

Board Order No. 437-03

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LOCATION: 60-64 Needham Street, Ward 8, Newton, on land known as Section 83, Block 11, Lot 18, containing approximately 25,731 square feet of land; rear of 133-135 Winchester Street, on land known as Section 83, Block 11, Lot 17 and a portion of Lot 12.

OWNER: Sullivan Realty Trust, Jean Greer, Trustee (60-64 Needham Street)/Winchester Realty Trust, James McDonald, Trustee (133-135 Winchester Street)

ADDRESS OF OWNER: Three Newton Executive Park, Newton, MA 02462

TO BE USED FOR: Use of 15 parking stalls located in an adjoining parking facility on land leased at the rear of 133-135 Winchester Street to satisfy the required parking demand for 60-64 Needham Street; the proposed and current businesses at 60 Needham Street (branch bank and framing store) have a parking requirement of 32 stalls.

CONSTRUCTION: Restripe a portion of existing paved parking; no new parking

EXPLANATORY NOTE: Section 30-19(f)(2) allows the Board of Aldermen to grant a special permit to allow required parking to be located on an off-site parking facility that is under lease; Section 30-19(f)(3) allows the Board to grant a special permit to allow the use of residence-zoned land for accessory business parking. Section 30-19(m) allows the Board to grant a waiver of certain parking facility standards. The total on and off-site parking stalls provided pursuant to this special permit is 33.

Land referred to is located in Mixed Use 2 and Multi-Residence 1 zoning districts.

Approved, subject to the following conditions:

1. All buildings, structures, and other site features associated with this special permit shall be located and constructed consistent with the following plan:
 - a. "Layout and Materials Plan" prepared by SMMA, consisting of one sheets, dated 14 October 2003, revised 26 November 2003;
2. The existing vegetated hillside between the site and the residences to the rear should be maintained to ensure adequate screening of the off-site parking area.
3. If Mass Highway approves a temporary curb cut barrier, the petitioner shall install this temporary improvement and install plantings consistent with the narrowed curb cut.

Board Order No. 437-03

Page 3

4. No building permit shall be issued pursuant to this SPECIAL PERMIT and SITE PLAN APPROVAL until:
 - a. The petitioners shall have applied to Mass Highway to install a temporary curb barrier, designed in conjunction with the City Traffic Engineer and Fire Department, to reduce to curb cut at the entrance driveway to the property. The filing of a request with Mass Highway shall satisfy this condition.
 - b. The petitioners shall have submitted a final landscape plan, consistent with the landscape concept depicted in the "Layout and Materials Plan" approved by Board of Aldermen, listed in Condition 1, to the Director of Planning and Development for review and approval.
 - c. The petitioners shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT and SITE PLAN APPROVAL.
 - d. A certified copy of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
5. No portion of the building that requires the off-site parking stalls permitted by this SPECIAL PERMIT and SITE PLAN APPROVAL shall be occupied until:
 - a. The petitioners shall have filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition 1 has been complied with.
 - b. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, and other site improvements related to this special permit.
 - c. Notwithstanding the provisions of Condition 5(b), the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 excused (Ald. Hess-Mahan)

Board Order No. 437-03

Page 4

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on December 4, 2003. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

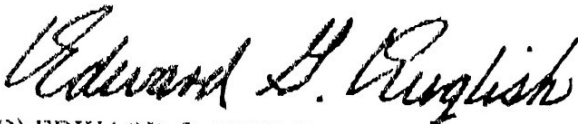
ATTEST:



(SGD) EDWARD G. ENGLISH, City Clerk
Clerk of the Board of Aldermen

I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 12/4/03 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



(SGD) EDWARD G. ENGLISH, City Clerk
Clerk of the Board of Aldermen

Attachment B Zoning Map Needham St., 60

*City of Newton,
Massachusetts*

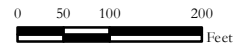
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Manufacturing
-  Mixed Use 1
-  Mixed Use 2
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

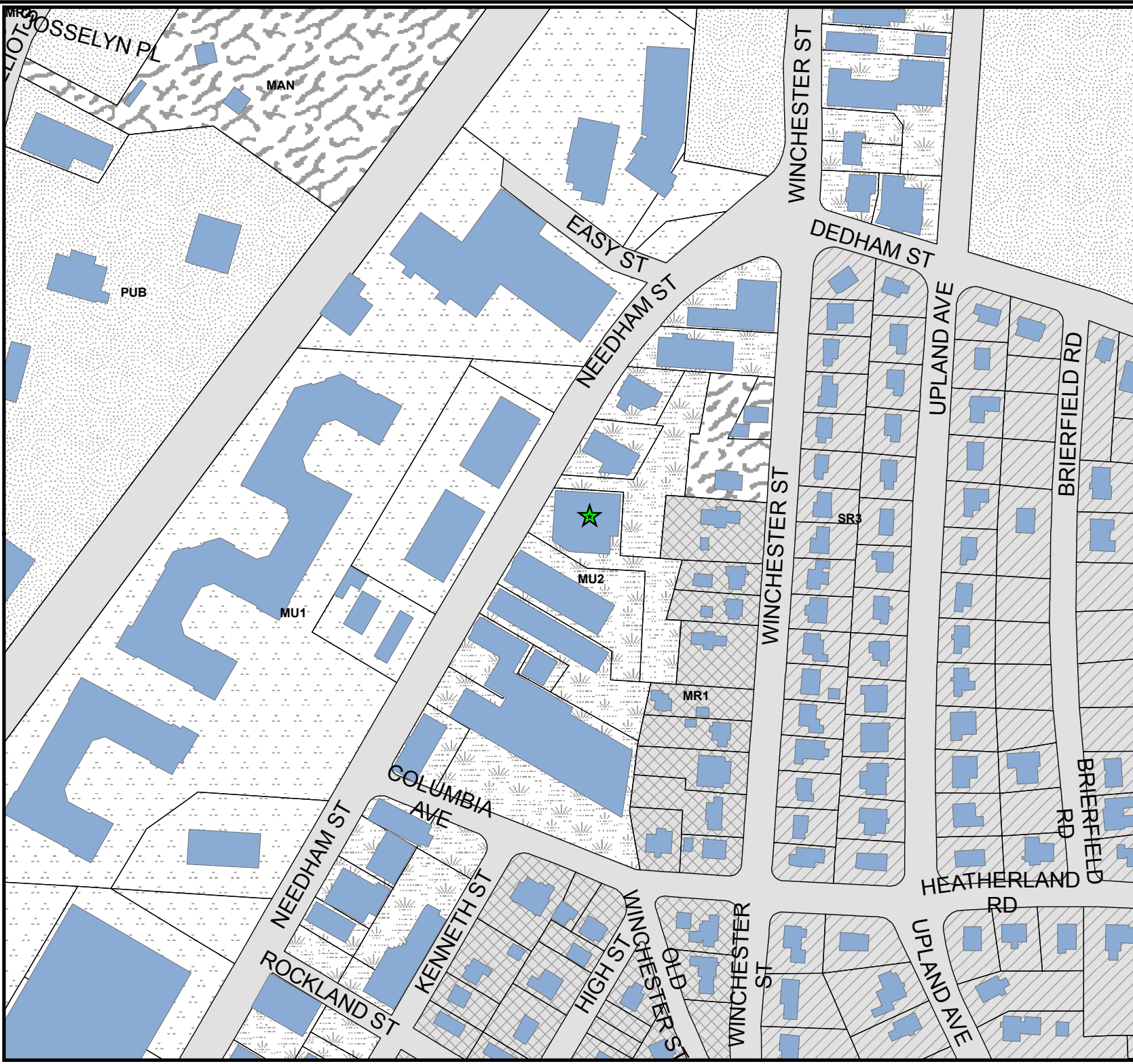


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: August 28, 2017







Attachment C Land Use Map Needham St., 60

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Open Space
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries

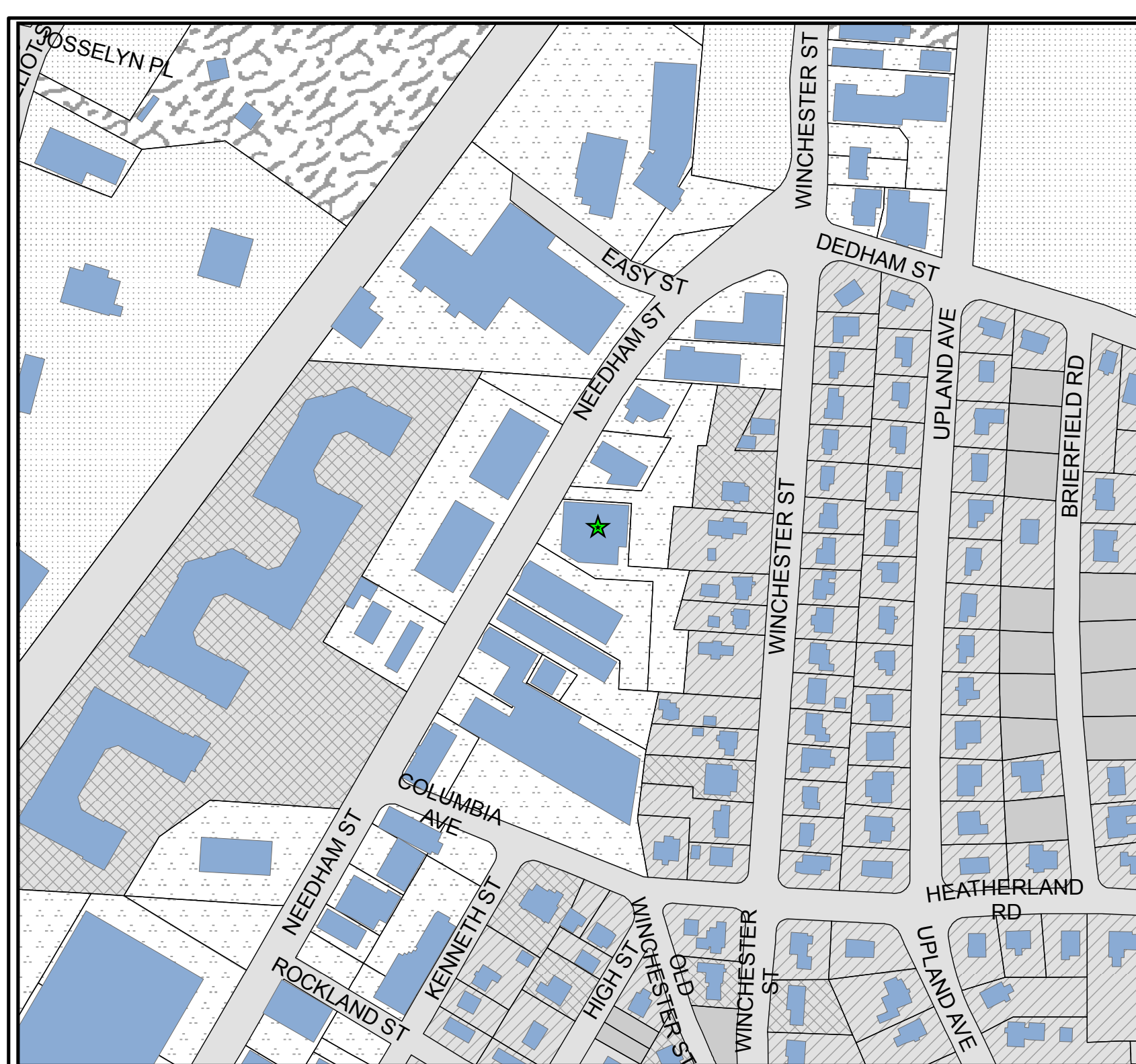


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 50 100 200
Feet

Map Date: August 28, 2017



DS

#172-97(2)

CITY OF NEWTON
IN BOARD OF ALDERMEN

November 3, 1997

1997 NOV 14 PM 12:58
CITY CLERK
NEWTON, MA. 02159

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the petitioner will provide additional parking which will enable him to provide additional seats for his customers.
2. the Board finds that the additional seating will allow the petitioner's local business to grow.
3. The board finds that there will be no negative traffic impact as a result of the additional parking.

PETITION NUMBER: 172-97

PETITIONER: Savvas Iliades/Thomas Sullivan, Trustee, Sullivan Realty Trust

LOCATION: 40 Needham Street, Ward 8, Section 51, Block 28, Lot 15 and portions of Lots 16 and 17, containing approximately 12,000 sq. ft. of land.

OWNER: Lot 15 - Ronald Ruggiero
Lot 16 - James Mitchell, Trustee, Mitchell Trust
Lot 17 - Thomas Sullivan, Trustee, Sullivan Realty Trust

ADDRESS OF OWNER: Ronald Ruggiero Thomas Sullivan
205 Mill Shore Drive 60 Stony Brae Road
Hempstead, N.H. Newton, MA.

13918/369

TO BE USED FOR: Permission for ten (10) off-site parking spaces and parking lot redesign

A True Copy
Attest
Edward S. English
City Clerk of Newton, Mass.

MSD 12/04/97 03:47:48 1304 14.75

CONSTRUCTION: None to the restaurant; landscape improvements to the parking lot

EXPLANATORY NOTE: Section 30-19(f)(2) allows the Board of Aldermen to grant a special permit for off-site parking on an adjacent lot which, in this case, will permit an increase of 30 seats to a total of 46 seats for a restaurant.

Section 30-19(m) allows the Board of Aldermen to grant a special permit for a parking design exceptions if literal compliance is impracticable due to the nature of the use, or the location, size, width, depth, shape or grade of the lot.

Land referred to is in a Mixed Use 2 District.

Approved, subject to the following conditions:

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with plans entitled "Site Plan of Land - 40 Needham Street, Newton, Mass. - Proposed Parking Layout and Traffic Flow", dated March 19, 1997, by Verne T. Porter, Jr., submitted by the petitioner and filed herewith, except that said plan shall be revised to number the ten (10) spaces closest to 40 Needham Street and "Schematic Landscaping plan for McDonald Parking Lot - 58 Needham Street", dated September 21, 1995, by Kenn Eisenbraun.
2. That the dumpster shall continue to be screened and that the stockade fence screening shall be maintained in good condition.
3. That trash pick-up shall not occur before 7 am. or later than 7 pm. and shall be done at least three times a week.
4. That the hours of operation for the restaurant shall be 11 am. to no later than 10 pm.
5. That the petitioner shall not seek a license for alcohol for at least one year from the date of approval of this special permit.
6. That employees shall be instructed to park on Lot 17 in the designated parking spaces closest to Lot 15.
7. That the restaurant will not have outside seating.
8. That snowplowing shall not occur from midnight to 6 am except when the snow exceeds six (6) inches.

A True Copy exceeds
Attest
Edward S. English
City Clerk of Newton, Mass.

9. That the landscaping approved by this board order shall be maintained in good condition and that any plant material that becomes diseased or dies shall be replaced with similar material.
10. That the lighting located along the stockade fence adjacent to Lot 13 shall be no higher than said six (6) foot high fence. Any other pole lighting shall be no higher than ten (10) feet and designed so that there is no light overspill onto adjacent lots.
11. That the lighting on Lot #15 shall be shut off 1/2 hour after the restaurant closes, although low level security lighting may be kept on, the lighting shall be designed so that the source of the lighting cannot be seen from off-site.
12. That the petitioner obtain a cross-easement with the owner of #50 Needham Street that runs co-terminously with the sublease for the parking on Lot #17.
13. That the additional 30 seats are permitted so long as the petitioner has a sublease to park ten (10) cars on Lot #17.
14. That the petitioner amend the existing Common Victualer's license for 16 seats for the additional seating.
15. That the petitioner shall use best reasonable effort to recycle all materials used in the operation of the restaurant.
16. That the petitioner shall install a bike rack on his site.
17. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL until:
 - a. A final landscape plan, including lighting and fixture design, indicating the location, number, size and type of landscaping and landscape materials to be installed shall have been submitted to and approved by the Director of Planning and Development and statement of certifying such approval for consistency with the plans cited in Condition #1 shall have been filed with the City Clerk and the Department of Inspectional Services. Said plan shall include the means, including tree wells, to preserve and maintain the two existing trees on the Lot 13 side of the recently relocated fence.
 - b. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.

A True Copy
Attest
Edward J. English
City Clerk of Newton, Mass.

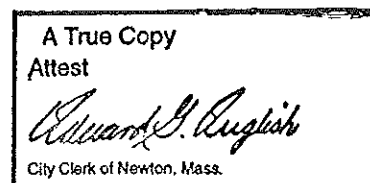
- c. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
18. That expansion of the seating subject to this SPECIAL PERMIT/SITE PLAN APPROVAL shall not be occupied until:
- a. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, parking areas, and lighting installation in accordance with a
 - b. Notwithstanding the provisions of Section 18a, hereof, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy of all or portions of the buildings prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
 - c. A cross-easement with the owner of #50 Needham Street and the petitioner's lease of Lot #17 shall have been submitted in a form satisfactory to the Law Department for its review and approval.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 1 nay (Ald. Salvucci)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL and is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on November 14, 1997. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

Binda Finucane, acting
(SGD) ~~EDWARD G. ENGLISH~~, City Clerk
Clerk of the Board of Aldermen
HINDA FINUCANE





Setti D. Warren
Mayor

Attachment E

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 14, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Christine D'Amico, Applicant
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow a health club on the ground floor, to waive 15 parking stalls, or to locate required stalls off site, and to amend Board Order #437-03

Applicant: Christine D'Amico	
Site: 60 Needham Street	SBL: 83028 0002
Zoning: MU2	Lot Area: 25,753 square feet
Current use: Retail/service	Proposed use: Health club

BACKGROUND:

The property located at 60 Needham Street consists of a 25,753 square feet lot improved with a single-story building and parking. Special permit #437-03 was issued in 2003 allowing for the tenants at 60 Needham Street to lease land at the rear of 133 and 135 Winchester Street for parking. There are currently two commercial spaces in the building; one is currently occupied by Big Picture Framing store and another by a real estate office. The applicant proposes to divide the space occupied by Big Picture Framing to create a third commercial space to operate a fitness center.

It is generally City practice that zoning district boundaries fall along lot lines, thus eliminating lots split by zoning districts wherever possible. The previous Official Zoning Map showed this lot as having a small section at the rear located in the Private Residence District. This was most likely due to error, and the lot line between 60 Needham Street and the abutting properties to the rear on Winchester Street should have been the zoning district boundary. There are two previous board orders for this property that mention that the lot was a split lot, with a small rear section located in what is now the Multi-Residence 1 zoning district. The first, Board Order #345-61, issued in 1961, allowed that portion of the lot which at the time was residentially zoned to be used for parking for the commercial building. The second special permit, #437-03, allowed for the parking requirements to be met with some stalls off-site on the adjacent parcel at 135 Winchester Street.

Research into the Inspectional Services files and previous special permits indicate that at some point around 1995, the rear portion of 135 Winchester was carved off as a separate lot to be used for the purposes of parking, while the front lot remained a residential use. The rear lot with the parking is currently referred to as 56 Needham Street on the GIS map, and has historically been known as 135 Rear Winchester Street, as well as 58 Needham Street. Regardless, the parcel's boundaries with the Winchester Street parcels had not been addressed at the time of issuance in 2003, and the explanatory note mentions that what was then Section 30-19(f)(3) allowed for accessory parking for a business to be located in a residential zone with a special permit. In 2015 the official zoning map for the City was clarified for such inconsistencies and has since been updated to assume that 60 Needham Street, the lot known currently as 56 Needham Street, and the adjacent parcel at 66 Needham Street are completely located within the Mixed Use 2 zoning district.

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

- Zoning Review Application, prepared by Christine D'Amico, dated 5/16/2017
- Lay-Out and Materials Plan, prepared by SMMA, surveyor, dated 2003
- Proposed Floor Plan, submitted 5/16/2017

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to introduce a ground floor health club use to the newly partitioned third commercial space on site. Per Section 4.4.1, a special permit is required to allow a ground floor health club use in the Mixed Use 2 zoning district.
2. There are 18 parking stalls on site. The property was granted Special Permit #437-03 in 2003 allowing for the parking requirements to be met by locating 15 stalls on the adjacent parcel at 135 Winchester Street (the portion with the parking was carved off into a separate lot in the 1990s and is now known as 56 Needham street), bringing the total available stalls for this property to 33. This was seen as an improvement, as the special permit allowed the owners of the property to eliminate some of the required parking stalls from the front of the building to further the goals of the Needham Street Redevelopment Plan. At the time the special permit was granted, the uses on the site required 32 parking stalls; therefore, the off-site parking eliminated the need for a parking waiver. The order mentions that the property has a long-term lease until 2024 for the parking on the adjacent parcel (56 Needham Street). There are 53 parking stalls available under lease at 56 Needham Street and 135 Winchester Street (contiguous, commonly-held parcels). Ten of these stalls are leased by The Farm Grill restaurant located at 40 Needham Street, 15 are dedicated to the existing uses of 60 Needham Street per the Applicant's 2003 decision, and the remaining are available under the lease.

There are currently only two tenant spaces in the building. The applicant intends to divide the 5,700 square foot space occupied by Big Picture Framing into two spaces, with Big Picture Framing retaining 2,136 square feet, and the proposed fitness center occupying 3,564 square feet. The current parking requirement for the two existing is as follows:

Big Picture Framing	5,700 square feet @ 1 stall per 300 square feet = 19 stalls
	Up to 3 employees @ 1 stall per each 3 employees = 1 stall

Total: **20 stalls**

Real Estate Office 3,500 square feet @ 1 stall per 250 square feet = 14 stalls
Total: **14 stalls**

TOTAL: 34 stalls

The proposed parking requirement once the third tenant space is created per Section 5.1.4 is as follows:

Big Picture Framing 2,136 square feet @ 1 stall per 300 square feet = 8 stalls
Up to 3 employees @ 1 stall per each 3 employees = 1 stall
Total: **9 stalls**

Real Estate Office 3,500 square feet @ 1 stall per 250 square feet = 14 stalls
Total: **14 stalls**

Health Club 3,564 square feet @ 1 stall per 150 square feet = 25 stalls
Up to 3 employees @ 1 stall per each 3 employees = 1
Total: **26 stalls**

TOTAL: 49 stalls

Per Section 5.1.3, the following formula may be used to determine the parking requirement where there is a change of use:

A (stalls required for proposed use) – B (stalls required for existing use) + C (number of stalls available) = Number of required stalls

Thus;

49 (required for proposed) – 34 (required for previous) + 33 (available) = 48 stalls required

A total of 48 stalls are required for the proposed uses, where 33 exist between the on-site parking and those available off-site through the 2003 special permit. A special permit to waive 15 parking stalls is required per Section 5.1.13.

Alternatively, the Applicant can meet the parking requirement for the proposed use with an option to dedicate an additional 15 stalls under the lease agreement with the adjacent property and meet their parking off-site by special permit, per Section 5.1.6.

3. The 2003 special permit addressed the existing nonconformities of the two parking facilities. No changes are proposed to either property's parking conditions.
4. The 2003 special permit authorized the petitioners to meet their parking requirements off-site with 15 stalls on the adjacent parcel. To the extent that the proposed use and requested

parking waiver impact the conditions of the special permit, an amendment to Order #437-03 is required.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Board Order #437-03	
§4.4.1	To allow a ground level health club	S.P. per §7.3.3
§5.1.4 §5.1.13 -OR- §5.1.6.A §5.1.6.B §5.1.13	To waive 15 parking stalls -OR- To allow required off-street parking to locate off site	S.P. per §7.3.3

Next Steps:

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. Plans (Twelve sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application. Such information may include but shall not be limited to:

- Historic Review/Sign-off
- Conservation Review/Sign-off
- Engineering Plans including Utilities and Drainage Calculations
- Massing Model or 3D computer model
- Traffic Impact Assessment
- Parking Demand Study
- Parking and Screening Plan
- Transportation Demand Management Plan
- Loading/Trash Location and Screening Plan
- Schedule of Activities
- Hours of Operation
- Photometric Plan
- Inclusionary Housing Plan
- Comprehensive Sign Package
- Street Views
- Site Sections
- Turning Template

- Fire Department Review/sign-off
- Average height of abutting residential buildings
- Area Plan showing distances from proposed buildings
- Construction Management Plan
- Proposed Phasing Schedule
- Shadow Study
- Roof Plan
- Tree Removal Plan
- Sustainability Plan
- Fiscal Impacts Report

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON
IN CITY COUNCIL

September 11, 2017

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 to amend Board Order #437-03, allow a first floor health club use and to locate the parking requirement off site as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The site in an Mixed Use 2 district is an appropriate location for first floor health club because the subject property and the surrounding neighborhood along Needham Street are characterized by commercial uses (§7.3.3.C.1).
2. The proposed health club will not adversely affect the neighborhood (§7.3.3.C.2).
3. The proposed health club use will not create a nuisance or serious hazard to vehicles or pedestrians due to the one-way circular flow of traffic through 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).
5. Literal compliance with the number of parking stalls is impractical due to the shape of the lot. The petitioner has a long term lease until the year 2024 for the existing parking lot adjacent to 60 Needham Street, which has sufficient capacity to accept the stalls being relocated.

PETITION NUMBER: #231-17

PETITIONER: Christine D'Amico

LOCATION: 60 Needham Street, Section 83, Block 28, Lot 02, containing approximately 25,753

OWNERS: Sullivan Realty Trust

ADDRESS OF OWNERS: P.O. Box 122
Newton, MA 02456

TO BE USED FOR: Retail, office, health club

CONSTRUCTION: Single-story, multi-tenant, commercial building

EXPLANATORY NOTES: Amend Board Order #473-03 to allow a first floor health club use; Special permit per Sec. 7.7.3 to allow bank use in a Mixed Use 1 (MU1) zoning district (§4.4.1)

ZONING: Mixed Use 2 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) Layout and Materials Plan, prepared by Symmes, Maini, & McKee Associates (SMMA), unsigned and unstamped, dated October 14, 2003 revised 11/7/2003, 11/13/2003, 11/20/2003, and 11/26/2003
 - b) Architectural Set entitled "Interior Renovations to 60 Needham Street" prepared by UDA Architects, unsigned and unstamped dated consisting of three (3) sheets:
 - i. A1.1 New Work Floor Plan & Reflected Ceiling Plan, dated July 12,2017
 - ii. A-1 Existing Condition Floor Plan, dated July 12,2017
 - iii. A-0 Site Plan, dated July 13, 2017
2. Prior to the issuance of a building permit, the petitioner shall submit an affidavit to the Director of Planning and Development stating that the parking facility at 56 Needham Street will be dedicated to the users of 60 Needham Street only.
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 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. Filed final engineering plans for review and approval by the City Engineer. A copy of such written approval shall be filed with Clerk of the Board, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

4. 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 Commissioner of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
 - b. Submitted to the Director of Department of Planning and Development, Commissioner of Inspectional Services and the City Engineer, a final as-built plans in digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.