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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 25, 2022
Land Use Action Date: January 10, 2022
City Council Action Date: January 16, 2023
90-Day Expiration Date: January 23, 2023

DATE: October 21, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner

SUBJECT: **Petition #456-22**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit education use at 49-51 Winchester Street, Ward 5, Newton, on land known as Section 51 Block 28 lot 30, containing approximately 79,500 sq. ft. in a district zoned MIXED USE 1. Ref: 7.3.3, 7.4, 4.4.1, 6.3.14.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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.



49-51 Winchester Street

EXECUTIVE SUMMARY

The subject property consists of a 79,500 square foot lot in the Mixed Use 1 (MU-1) zone in Newton Highlands. The property is improved with a two-story 19,000 square foot commercial building, a detached 3,600 square foot metal storage shed, and a second detached 1,378 square foot wooden shed at the front of the property. The petitioner seeks to locate a for-profit Irish dance studio on site. This is considered a for-profit educational use by the Ordinance, which is only allowed by special permit. For this reason, the petitioner requires a special permit to establish the school.

Given the site's location in the MU-1 zone and the mix of uses within the site and within the area, Planning believes the location to be appropriate for the for-profit educational use. The petitioner indicated the class sizes would be small, with an average class size of 8-10 students. Their class schedule indicates weeknight classes starting at 5 PM, and weekend classes during the day. The site has multiple access points from three different streets, ample parking, and the use satisfied the parking requirement.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site located in a Mixed Use 1 (MU-1) 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. (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on a corner lot at the intersection of Winchester Street and Curtis Street in the MU-1 zone in Newton Highlands near the Route 9/Boylston Street overpass. The site abuts the MBTA Green Line railroad tracks to the west, Curtis Street to the north, and the Evergreen Cemetery to the south.

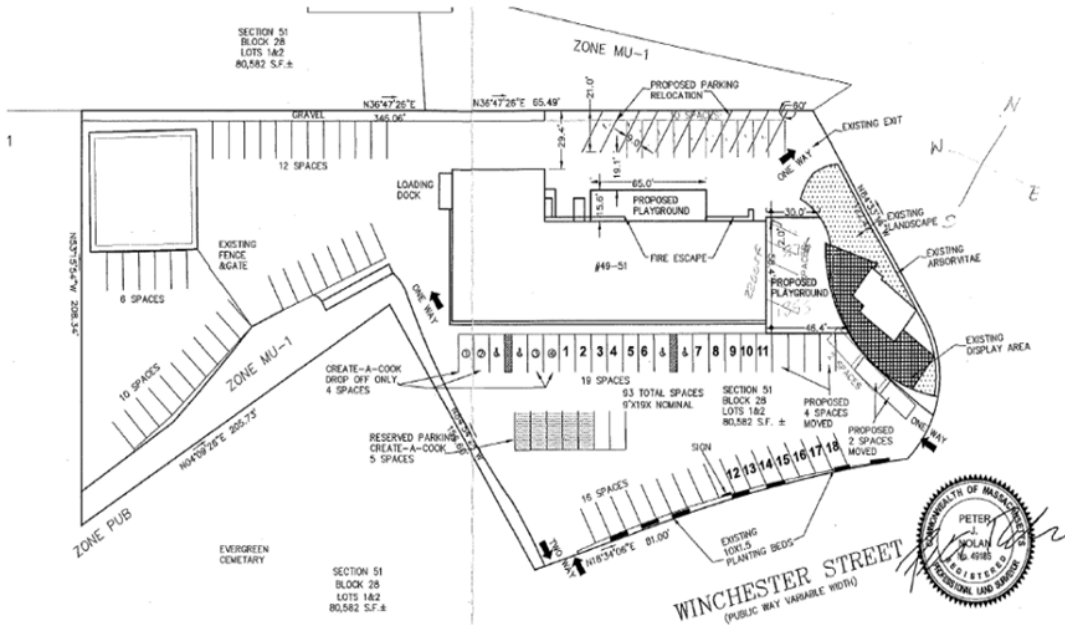
This location lies between the Newton Highlands commercial area and the Needham Street Corridor. Land uses in the surrounding area vary, with much of the land nearby used for multi-family and commercial uses, and open space located at the abutting cemetery and nearby Newton Highlands Playground. The zoning districts in the

surrounding neighborhood are a mix of Mixed Use 1, and Mixed Use 2 Districts, and Multi-Residence 1 to the north and Business 2 to the northeast. (ATTACHMENTS A AND B).

B. Site

The property consists of 79,500 square feet of land, with a portion of the property wrapping around the abutting Evergreen Cemetery to the southwest. The land is improved with a two-story commercial building, a metal storage structure in the southwestern corner of the site, and a small wood framed building and vegetated area along Curtis Street.

Site Plan



Access to the property is provided via three curb cuts, with one located on Winchester Street, one on Curtis Street, and one at the corner of Winchester and Curtis Street. The site also includes a large surface parking lot, with approximately 70 parking stalls. Several dimensional requirements of the parking facility were waived under Special Permit 132-14 due to the existing uses and development patterns on the site.

The commercial building is currently occupied by several tenants with varying uses, including office space, a day care center and a cooking school.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain mixed use should the petition be approved.

B. Building and Site Design

The petitioner is not proposing any changes to the commercial building or the parking facilities.

C. Proposed Operations

The petitioner is proposing to establish a dance studio in a 900 square foot space on the second floor of the main building on the site. Per the submitted narrative and sample class schedule, the petitioner is proposing to hold classes on weekday evenings, and morning and afternoons on the weekend (**ATTACHMENT C**). Only one class would be held at a time, with an average of 8-10 children per class. Students range from age six to eighteen.

The dance school would be located above the daycare on the first floor. Based on the petitioner's narrative, the day care is fully soundproofed, and any noise associated with the dance studio would not impact the daycare.

D. Parking and Circulation

The tenant space the petitioner rents for the dance studio was previously used as an office, which required 4 parking stalls. The proposed for-profit educational use will have only one employee, resulting in a requirement of one parking stall. No waiver is required, as the credit from the previous use satisfies the parking requirement for this petition.

Parking for student pick up and drop off is available in parking in stalls facing Winchester Street until after 6:00 P.M. There would be a potential overlap in pick up times for students at the proposed school and the existing daycare on the site between 5:00-6:00 P.M. on weekdays.

IV. TECHNICAL REVIEW

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

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

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

B. Historic Preservation Review

The project does not require historic preservation review.

C. Engineering Review

Engineering Review is not required.

V. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

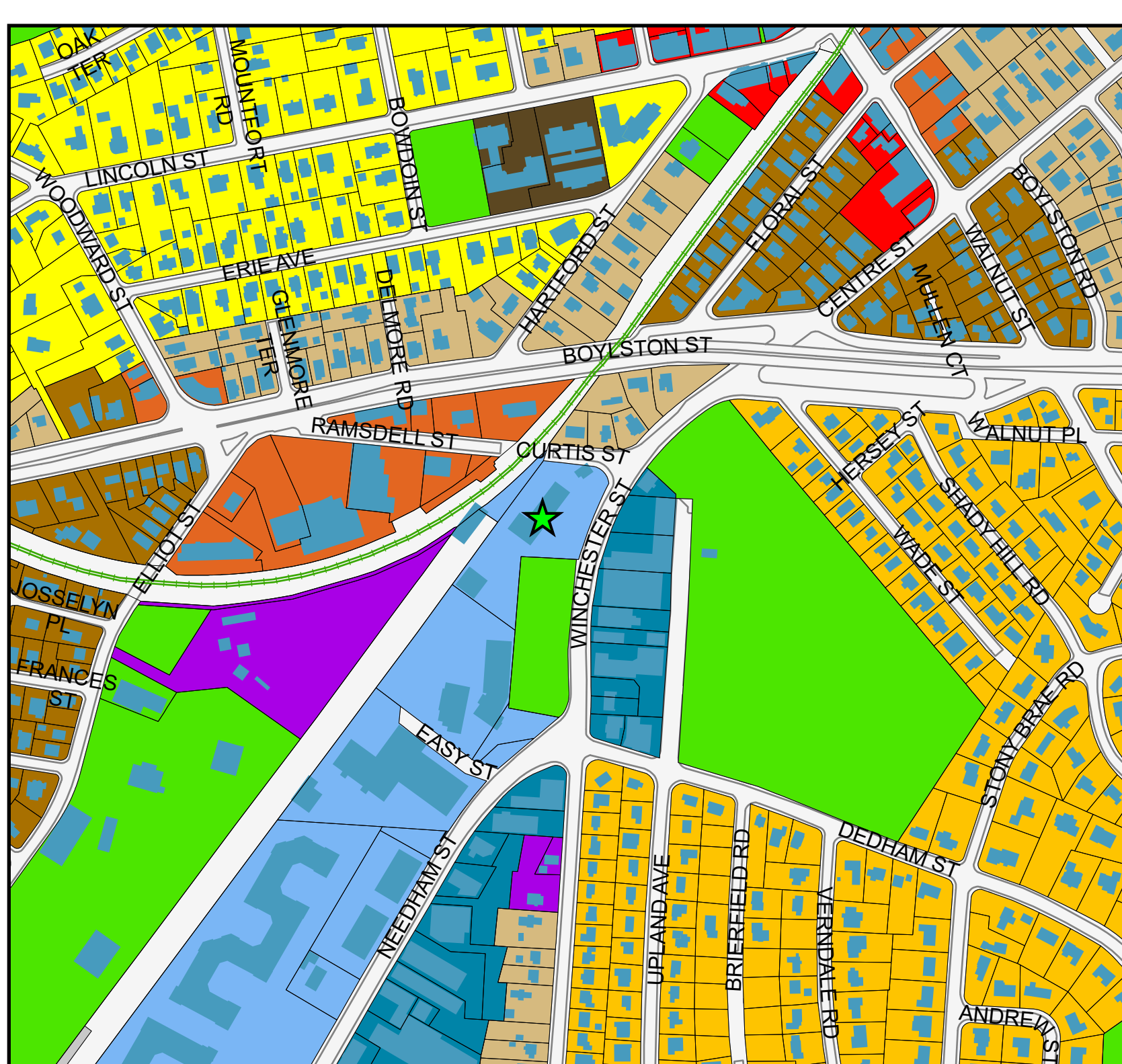
- ATTACHMENT A:** Zoning Map
- ATTACHMENT B:** Land Use Map
- ATTACHMENT C:** Project Narrative
- ATTACHMENT D:** Zoning Review Memorandum
- ATTACHMENT E:** Draft Council Order

ATTACHMENT A



Zoning

49-51 Winchester Street

*City of Newton,
Massachusetts*




Zoning

- | | | | |
|---|--------------------|---|---------------|
|  | Single Residence 2 |  | Business 2 |
|  | Single Residence 3 |  | Manufacturing |
|  | Multi-Residence 1 |  | Mixed Use 1 |
|  | Multi-Residence 2 |  | Mixed Use 2 |
|  | Multi-Residence 3 |  | Public Use |
|  | Business 1 | | |



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

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Map Date: October 20, 2022

ATTACHMENT B









Land Use

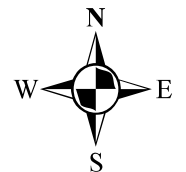
49-51 Winchester Street

*City of Newton,
Massachusetts*

Land Use


Land Use

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

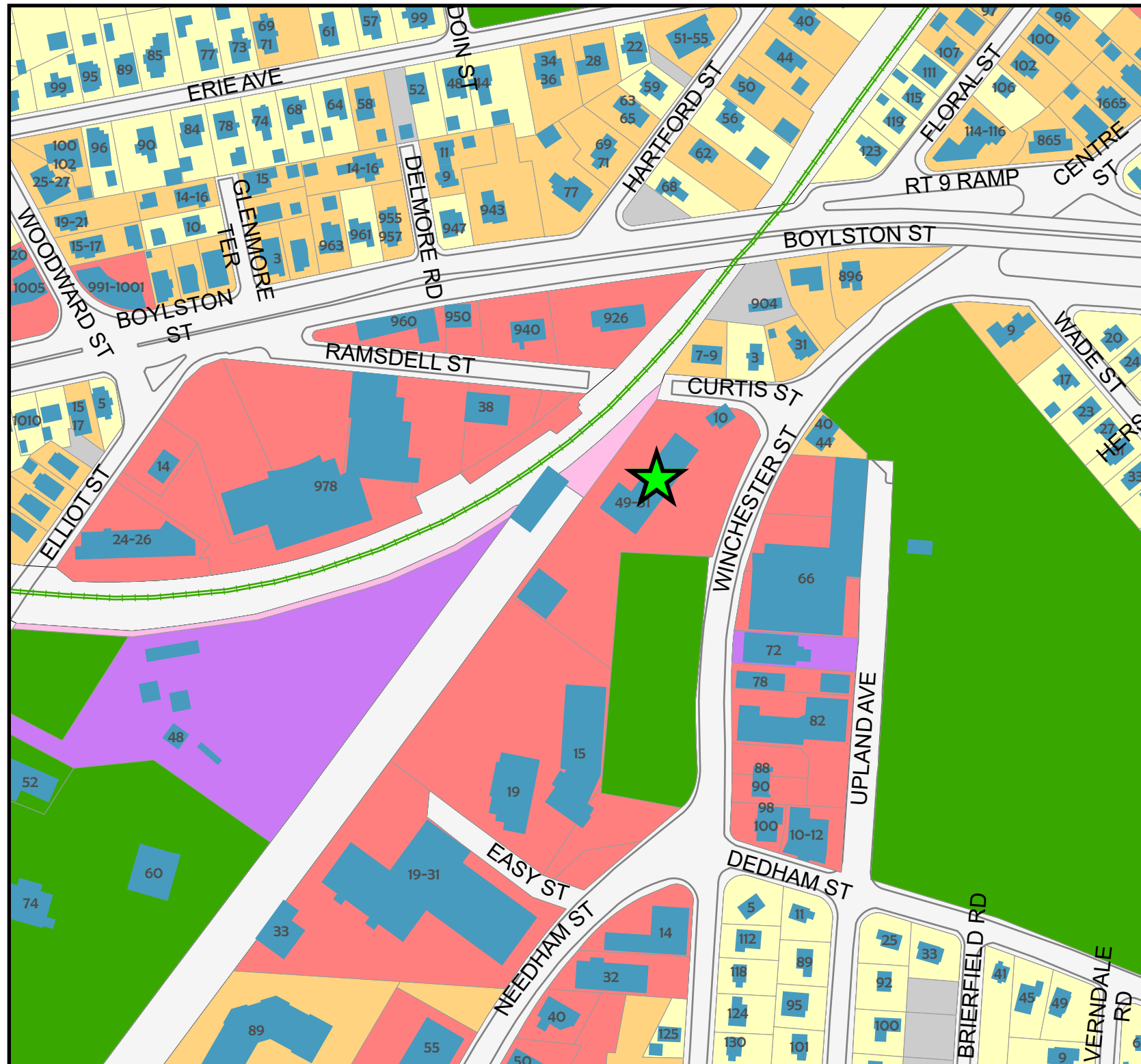


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

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Map Date: October 20, 2022



4.13.22

For: Petition for Special Permit for second floor of 49 Winchester St.

Location: 49-51 Winchester St. Newton MA 02461., Ward 5, Newton Upper Falls, on land known as SBL 51, 28, 30, containing approximately 79,500 sq. ft. of land in a district zoned MU1. Ref: 7.3, 7.4, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ordinance 2015.

From Clare Sullivan T.C.R.G

Director of Sullivan School of Irish Dance LLC

To The Honorable Board of Alderman, City of Newton

Explanatory Remarks: Sullivan School of Irish Dance LLC, rents 1,256 SF of space on the second floor of 49 Winchester St. (18,634 SF) and proposes to use it for a dancing school. 46 Winchester St. is a two-story building and is in a MU1 and 2, Zoning District. Sullivan School of Irish dance LLC is a Massachusetts for-profit limited liability company and is required to obtain a special permit under section 4.4 of the Newton Zoning Ordinance.

As a tenant I do not wish to make any improvements or changes to the property.

Sections

- A- sample class schedule
- B- lot plan of the parking and a respectful plan for pick-up and drop off that does not interfere with the operation of the daycare or other businesses in the location.

Attached:

- C- certification as T.C.R.G from Commission of Irish Dance in Ireland, vetting information, and special training in child safety.
- D- Professional resume and that of the dancing school

49-51 WINCHESTER ST >

Land Use	3400
Land Use Description	OFFICE BLD
Lot Size	79,500 sq ft
Frontage	210 ft
Zoning	MU1
Map ID	118SW
ID	51028 0030

Property Image 11 ^



Exhibits: Pictures of space

- Entrance space to hang coats and change shoes size



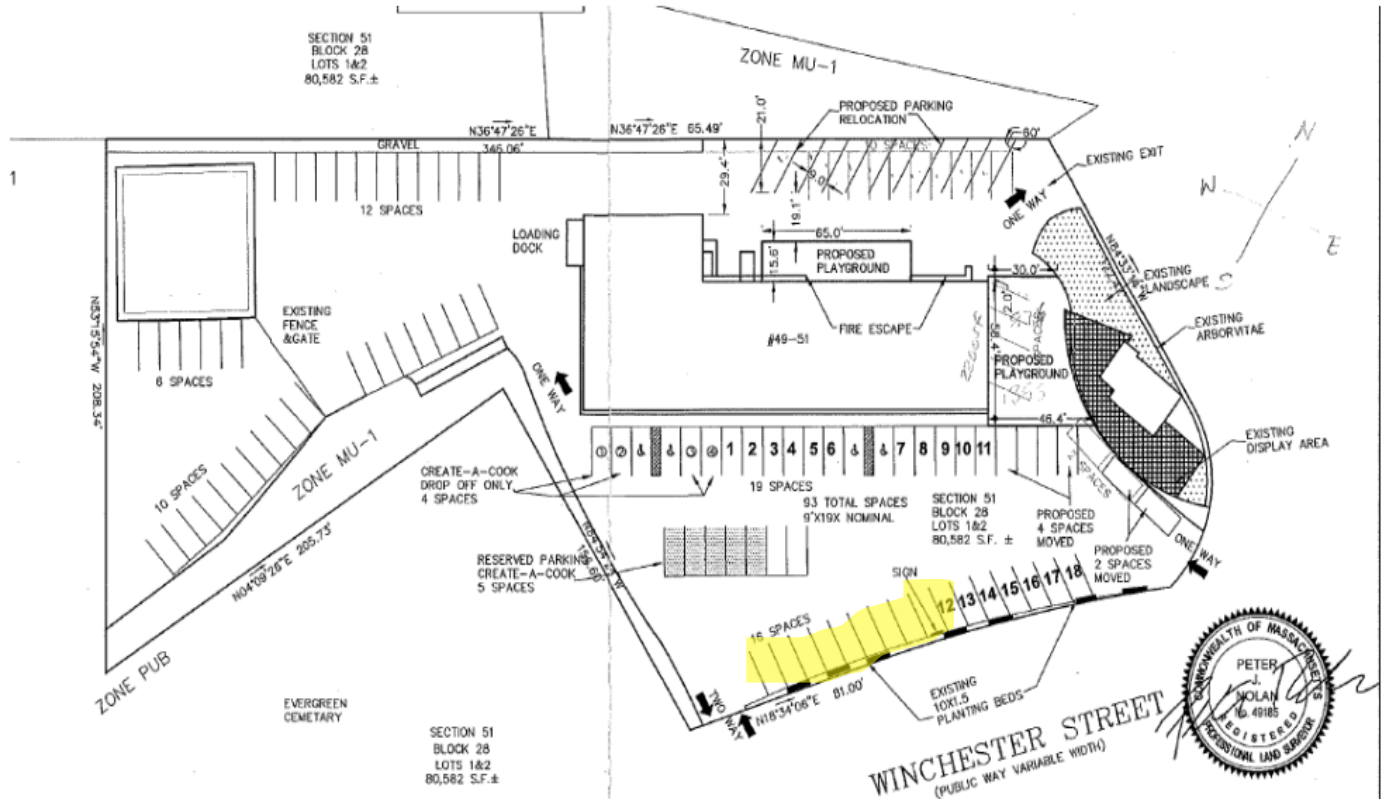
- A large open room size: xx with a sink and 2 cabinets, with access to a second-floor bathroom from the large open room.
- A small additional room front of building, size X



A- **Sample class schedule:** class size are 8-10 children, ages 6-18 yrs. old.

Times	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
10am							Beginners
11am							
12noon	champs						
1pm							
2pm							Prep class
3pm							
4pm							
5pm		Beginners	Advanced Beginners	off	Beginners	Advance Beginners	
6pm							
7pm		Intermediates	Champs		Champs	Champs	
8pm							
9pm							

B-Parking: Pictures included of 49 Winchester St. Lot. As a tenant I have general use of the parking spaces of the property, subject to rules of the LANDLORD, Pg1 lease I HAVE ONLY ONE EMPLOYEE-MYSELF



Parents park in stalls facing Winchester St. away from daycare until after 6pm (yellow). Parking is allowed in spaces 12-18 after 6pm. Due to the small size of the waiting area, parents, drop off and pick up. They are use to this as a result of the pandemic. Our dancers, parents and siblings still wear masks and this will remain a precaution with respect to the overlapping 5-6pm with day care pick up during the weekdays until such time that the daycare is unmasked and children under 5 are immunized.

Nearby street traffic: Winchester St, near the Needham St intersection and the Rte 9 underpass. Due to the small size of classes, and the small number of daily classes, this should not adversely affect the neighborhood. It is 3-4 cars per hour, over a two hour period each day. Many of my families car pool.

Nuisances: Surrounding the immediate location.

-To the back of the building is a small parking lot, and the green line T.

-To the side a warehouse with a brick fireplace display, that does not seem to have any pedestrian traffic noted.

-To the front is the parking lot and Winchester St.

-Beneath, on the first floor is the day care center. They are fully soundproofed. During the overlap on weekdays from 5-6pm, there is no concern that children are sleeping. They are generally being picked up 4-5p, when I arrive, and generally very few are left from 5-6pm. Their staff leave at 6pm sharp.

<https://newtonma.mapgeo.io/datasets/properties?abuttersDistance=100&latlng=42.317971%2C-71.209293&panel=search&previewId=51028%200030&zoom=18>



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Attachment D
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 12, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Winchester Street Realty Trust
Clare Sullivan, Sullivan School of Irish Dance
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a for-profit educational use

Applicant: Clare Sullivan	
Site: 49-51 Winchester Street	SBL: 51028 0030
Zoning: MU1	Lot Area: 79,500 square feet
Current use: Mixed use	Proposed use: Mixed use

BACKGROUND:

The property at 49-51 Winchester Street consists of a 79,500 square foot lot in a Mixed Use 1 zone. The site is at the corner of Winchester and Curtis Streets and is improved with a 19,000 square foot commercial building, a detached 3,600 square foot metal shed used for storage in the rear of the property and a detached 1,378 square foot wooden shed at the front of the property used by a landscape materials company. The shed is located in an approximately 4,800 square foot landscaped area used as a display showcase for the landscape materials. Additionally, the site is improved with a large surface parking facility.

The commercial building is currently occupied by several tenants with varying uses, including office space, a day care center and a cooking school. The petitioner seeks to locate a for-profit Irish dance school on site, requiring a special permit.

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to introduce a for-profit educational use, Sullivan School of Irish Dance, to a vacant 900 square foot tenant space formerly used as an office. Per sections 4.4.1 and 6.3.14.B.2, a special permit is required to allow a for-profit educational use in the MU1 zoning district.
2. The 900 square foot tenant space was previously used as an office. The previous office use required 4 parking stalls per section 5.1.4.A. The proposed for-profit educational use will have only one employee at any time, resulting in a requirement of one parking stall. No waiver is required, as the credit from the previous use satisfies the proposed parking requirement.

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

#456-22
49-51 Winchester Street

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 to allow a for-profit educational use in the Mixed Use 1 zoning district, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site in a Mixed Use 1 zone is an appropriate location for the proposed for-profit educational use because the site is located in Newton Highlands, containing a mix of uses (§7.3.3.C.1)
2. The proposed for profit educational use, as developed and operated, will not adversely affect the neighborhood because there is sufficient parking to meet the projected demand for the proposed uses (§7.3.3.C.2)
3. The proposed for profit educational use will not create a nuisance or serious hazard to vehicles or pedestrians because the class sizes are small (§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: #456-22

PETITIONER: Clare Sullivan

LOCATION: 49-51 Winchester Street, Newton, Section 51 Block 28 lot 30, containing approximately 79,500 sq. ft.

OWNER: Joni Cline

ADDRESS OF OWNER: 49 Winchester Street
Newton, MA 02461

TO BE USED FOR: For Profit Educational Use

CONSTRUCTION:	Use change only
EXPLANATORY NOTES:	To allow a for profit educational use (§4.4.1, §6.3.14.B.2)
ZONING:	Mixed Use 1

The prior special permits for this property are as follows: Council Order #134-14, which allowed a retail use, associated outdoor use and dimensional waivers for parking facilities, Council Order 134-14 (2) which allowed a second free-standing sign, and Council Order 132-14(2) which waived the screening requirement for an outdoor play area. The conditions set forth in Council Orders #134-14, 134-14 (2), and 132-14 (2) remain in full force and effect.

Approved subject to the following conditions:

1. The petitioner shall operate the for-profit educational use in accordance with the project narrative submitted with the special permit petition and on file with the City Clerk and the Department of Planning and Development.
2. The petitioner shall communicate the drop-off and pick-up policy to caretakers and students parking on the site.
3. There shall be no more than one employee on site at any one time.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this council 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/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 statements by a registered architect certifying compliance with Condition #1.