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**Barney S. Heath**  
Director

**PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** November 8, 2019  
**MEETING DATE:** November 12, 2019  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Katie Whewell, Planning Associate  
**CC:** Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

**PETITION #620-18 (2)**

**55-71 Needham Street**

Special Permit/Site Plan Approval to amend Special Permit Board Orders #213-12 (1), #213 (2) and 620-18 to allow a for profit education use as well as other uses which could include animal services, dry cleaners, and ground floor health clubs.

The Land Use Committee (the "Committee") opened the public hearing on this petition on Tuesday, October 3, 2019 and held the hearing open, for the petitioner to respond to questions and concerns raised in the Planning Department's Memorandum (the "Memorandum") and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns.

**Conditions related to the For-Profit Educational Use, and Ground Floor Health Club**

The Planning and Law Departments came up with the following conditions to allow for administrative approval of the for-profit educational use and ground floor health club. They are as follows:

Planning Administrative Approval if:

1. Any age of student with no standardized classes, e.g. drop in model  
OR
2. Class sizes of less than fifteen students, and the students are older than eighteen years of age.

Should a parking waiver be required, an amendment to the special permit will be necessary.

Additionally, the Planning Department recommends a condition that any future gym maintain transparency along Needham Street and the proposed tenants that fall under the allowed uses locate their front door to Needham Street, which would activate the streetscape and create a more vibrant area.

### **Background**

In the Memorandum dated September 27, 2019, the Planning Department stated that the site is a suitable location for the proposed uses and was supportive of the for-profit educational use's proposed tenant, Code Ninjas. Following the issuance of the Memorandum, Code Ninjas decided not to pursue the special permit. The petitioner is still pursuing the for-profit educational use, a ground floor health club, animal services, and dry cleaner use. After learning of Code Ninjas decision to not pursue the special permit, the Planning Department remained supportive of the ground floor health club, animal services and dry cleaners, but expressed concerns about allowing a for profit educational use due to the broad category of businesses the use covers and because the use is often geared towards children, requiring special attention to the safety of circulation and pick up and drop off. The for-profit educational use is evaluated on a case by case basis and operations are specific to the proposed tenant. In advance of a special permit filing, there are early discussions and subsequent analysis regarding pick up and drop off times, class schedules, peak times for arrival and departure based on the program between the applicant and Planning Department. Other operational characteristics are analyzed, and recommendations are made from the Planning Department to the applicant.

At the Land Use Committee public hearing on October 3, 2019, the petitioner requested approval for all uses to allow for flexibility in leasing the remaining vacant spaces. Planning expressed concerns with the for-profit educational use, while members of the committee expressed concerns with the for-profit educational use and the ground floor health club use. Both uses generally are known for scheduled classes and groups of people coming and going at the same time. Depending on the nature of the use, the age of student can be cause for concern, such as if the use is geared towards children. The Committee asked that the Law Department work with the Planning Department to draft conditions that allow for adequate review of circulation at the site as appropriate, with some flexibility to allow the petitioner to market and lease spaces.

### **Attachments**

Attachment A: Draft Council Order

55-71 Needham Street  
#620-18 (2)

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), #213-12(2), and #620-18 to allow a for profit educational use, animal services, dry cleaners and ground floor health club uses at 55-71 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 uses because the site is in an area containing a mix of uses and the proposed uses are compatible with that mix. (§7.3.3.C.1.)
2. The proposed uses will not adversely affect the neighborhood given the mixed-use nature of the area. (§7.3.3.C.2.)
3. The proposed uses 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 (2)

PETITIONER: Needham Street Village Shops

LOCATION: 55-71 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: Mixed Use building

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 Council Order #620-18 which allowed a bank use. §4.4.1 and §7.3.3
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, Council Order #213-12(2), to permit a restaurant use(s) containing up to 110 seats in the multi-tenant commercial buildings authorized by Council Order #213-12(1); and to waive up to 8 parking stalls at 49, 55, 71 Needham Street and Council Order #620-18 that allowed a bank use on site. The conditions set forth in Council Orders #213-12(1), #213-12(2), and 620-18 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.
2. All signage shall be reviewed and approved by the Urban Design Commission.
3. Tenants shall locate their front door to Needham Street and any future health club use shall maintain transparency along Needham Street.
4. The for-profit educational use and ground floor health club use shall only be approved administratively by the Planning Department if it meets the following:
  - a. Any age of student with no standardized classes, e.g. drop in model  
OR
  - b. Class sizes of less than fifteen students, and the students are older than eighteen years of age.
5. 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.
6. 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.