CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: January 15, 2016

TO: All Members, City Council

FROM: Ouida C.M. Young, Associate City Solicitor

RE: Special Permit/Site Plan Approval Applications
#412-12 (6) & (7)
242-244 Commonwealth Avenue

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The attached draft Order for above referenced Special Permit/Site Plan Approval applications has been extensively revised from the draft Order which was reviewed and discussed at length by members of the Land Use Committee ("LUC") and other councilors attending the LUC's meeting on January 12, 2016.

The applications are complicated by the fact that there are two applications – one relating to the Owner's use of the Site and the second relating to the Fitness Studio Service Use. In addition, the Site is subject to several earlier special permits/site plan approvals relating to the legal non-conforming use of the Site which are being brought forward and modified in the approval voted for the Owner's application by the LUC. Finally, there are additional conditions related specifically to the Fitness Studio Service Use application.

Both the Planning Department and Law Department staff understood the LUC's intend in approving the applications to seek to impose a cap on the intensity of use at the Site that applied the same standard regardless of whether the two tenants permitted on the Site were for office, retail, or service uses. Those conditions apply to Order #416-12(6). In addition, there are conditions specific to the Fitness Studio Service Use which both control the operation of the studio, and further cap the intensity of use of the 2nd tenant to the level (as we understand it) that currently exists at the Site.

Hopefully, the attached draft Order accurately reflects what the LUC intended in its approval of these two applications. If, however, you believe something has been missed in this revised draft, please contact Dan Sexton in the Planning Department or Ouida Young in the Law Department.

Thank you.