



City of Newton, Massachusetts
Department of Planning and Development
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Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 12, 2022
Land Use Action Date: September 27, 2022
City Council Action Date: October 3, 2022
90-Day Expiration Date: October 10, 2022

DATE: July 8, 2022

TO: City Council

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

SUBJECT: **Petition #352-22**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend prior Special Permit Council Order #285-20 to allow a medical office use and to waive 17 additional parking stalls at 141-149 California Street, Ward 1, Newton, on land known as Section 11 Block 01 Lots 01A, containing approximately 65,568 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



141-145, 149A California Street

EXECUTIVE SUMMARY

The subject property consists of a 65,568 square foot lot improved with five structures and associated surface parking facilities at 141-149A California Street. The property is located within the Manufacturing (MAN) zone in Nonantum. The petitioners obtained a special permit in 2020 to allow a for profit educational use (adult day care), dimensional parking waivers, lighting waiver and combined parking waiver of 44 parking stalls. The petitioner is seeking to amend Council Order #285-20 allow a medical office use within the first floor at 149 California Street and to waive an additional 17 parking stalls. The petitioner is not proposing to increase the number of clients, which is capped at 258 under Council Order #285-20. The proposed medical office use replaces area previously used for storage and requires 17 additional parking stalls.

The Planning Department notes that the proposed medical office use is accessory to the adult day care use. While the proposed medical office use requires additional parking stalls, the petitioner is not requesting to increase the number of clients on site and the medical office is proposed to function in such a way that the doctor on site would only serve existing clients as their primary care physician. Planning is supportive of the petition subject to conditions limiting the number of employees in the medical office, and that the combined parking waiver is for the adult day care and medical office use only and any change in ownership requires the petitioner to reach out to the Planning Department to ensure the relief is still justified.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The site is an appropriate location for the proposed medical office use and waiver of 17 parking stalls. (§4.4.1 and §7.3.3.C.1)
- The proposed medical office use and waiver of 17 parking stalls as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be 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)
- Literal compliance with the required number of parking stalls is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13,).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

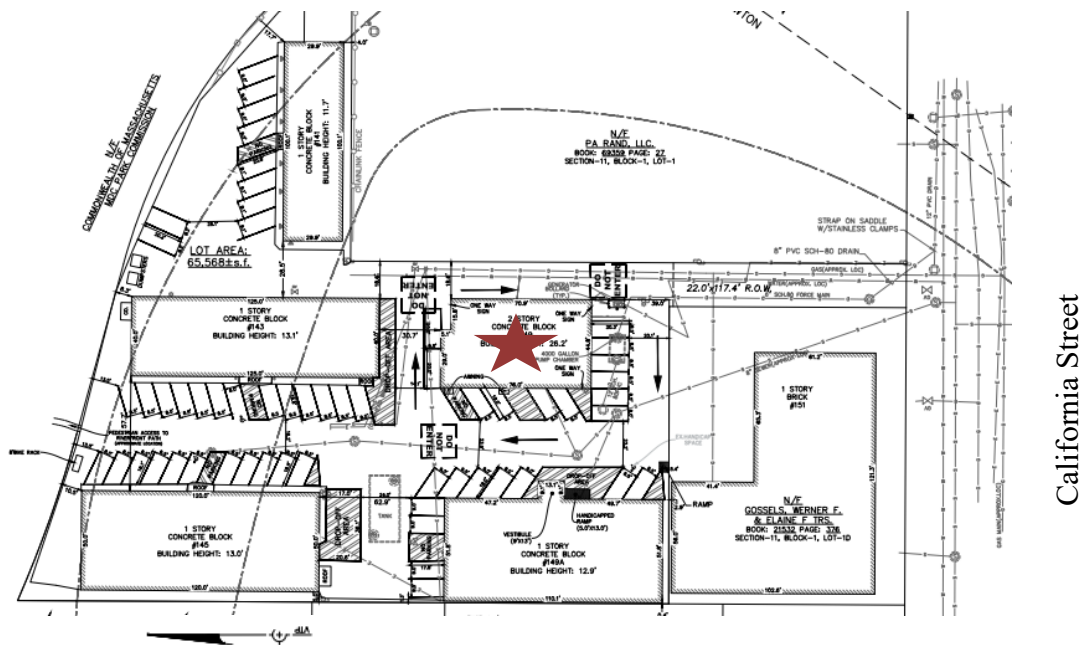
A. Neighborhood and Zoning

The subject property is located on California Street in the MAN zone in Nonantum. The surrounding area on California Street is also within the MAN zoning district, while Multi Residential zoning districts exist southwest of the site on Los Angeles Street. The Charles River runs north of the site, as well as a Public Use zone (**Attachment A**). The area consists of a mix of uses consisting of commercial, industrial, an multi residential uses (**Attachment B**).

B. Site and Background

The site consists of 65,568 square feet of land and it is improved with five commercial buildings: 141, 143, 145, and 149A California Street. The site is accessed by a 19-foot driveway from California Street. The site includes several nonconformities including setbacks, parking stall dimensions, drive aisle widths, and landscaping/screening; the site is completely impervious. There are 67 parking stalls with varying dimensions that are located adjacent to the existing structures.

The petitioner obtained prior special permits relative to expansion of the use, and parking waivers. Special Permits #215-08 and #215-08(2) were granted in conjunction with two expansions of the adult day-care. Special Permit #285-20 granted waivers around the dimensional parking standards which reflected existing conditions and waived 22 additional parking stalls. To date, the use has been granted a combined waiver of 44 parking stalls.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is an adult daycare use. If approved the site would consist of an adult day care and a medical office use.

B. Site Plan and Proposed Use

No changes are proposed to the site plan. The petitioner is proposing a medical office use within the first floor of 149 California Street, consisting of 3,400 square feet. The petitioner anticipates the space will be occupied by one primary care physician and up to two additional staff members. The second floor of 149 California Street will be used for storage.

The petitioner stated that the medical office would only serve clients of the day care use and function as their primary care physician.

C. Parking and Circulation

Special Permit #285-20 allowed a combined waiver of 44 parking stalls based on the specificity around the operations of the use where clients are less likely to drive themselves to the site and the now implemented Transportation Demand Management Plan. The proposed medical office requires 17 parking stalls per the zoning ordinance.

If this petition is approved, the site would have a combined 61-stall parking waiver. The petitioner is amenable to a condition in the Council Order prohibiting the doctor from seeing any outside patients at 149 California Street. Should this petition be approved, Planning supports this condition and recommends carrying forth the condition that the combined parking waiver is for the adult day care and medical office use only and any change in ownership requires the petitioner to reach out to the Planning Department to ensure the relief is still justified. Planning also recommends a condition stating no more than three employees associated with the medical use be on site at one time. Should the aforementioned conditions be incorporated into an approved Council Order, Planning has no concerns with the additional parking waiver as it will not result in an increase of trips to the site and the site's occupancy is remains capped at 258 clients and 46 employees, approved by Council Order 285-20.

D. Landscaping and Screening

A landscaping plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the

proposal regarding zoning (**Attachment D**). Based on the Memorandum, the petitioner is seeking the following relief:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #285-20	
§5.1.4 §5.1.13	Request to waive 17 parking stalls	S.P. per §7.3.3

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time.

C. Newton Historical Commission Review

Review from the Newton Historical Commission is not required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order, changes from prior order outlined in red (plan referencing and updates to previously conditions)

ATTACHMENT A

Zoning

141-149 California Street

*City of Newton,
Massachusetts*

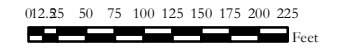
Zoning

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

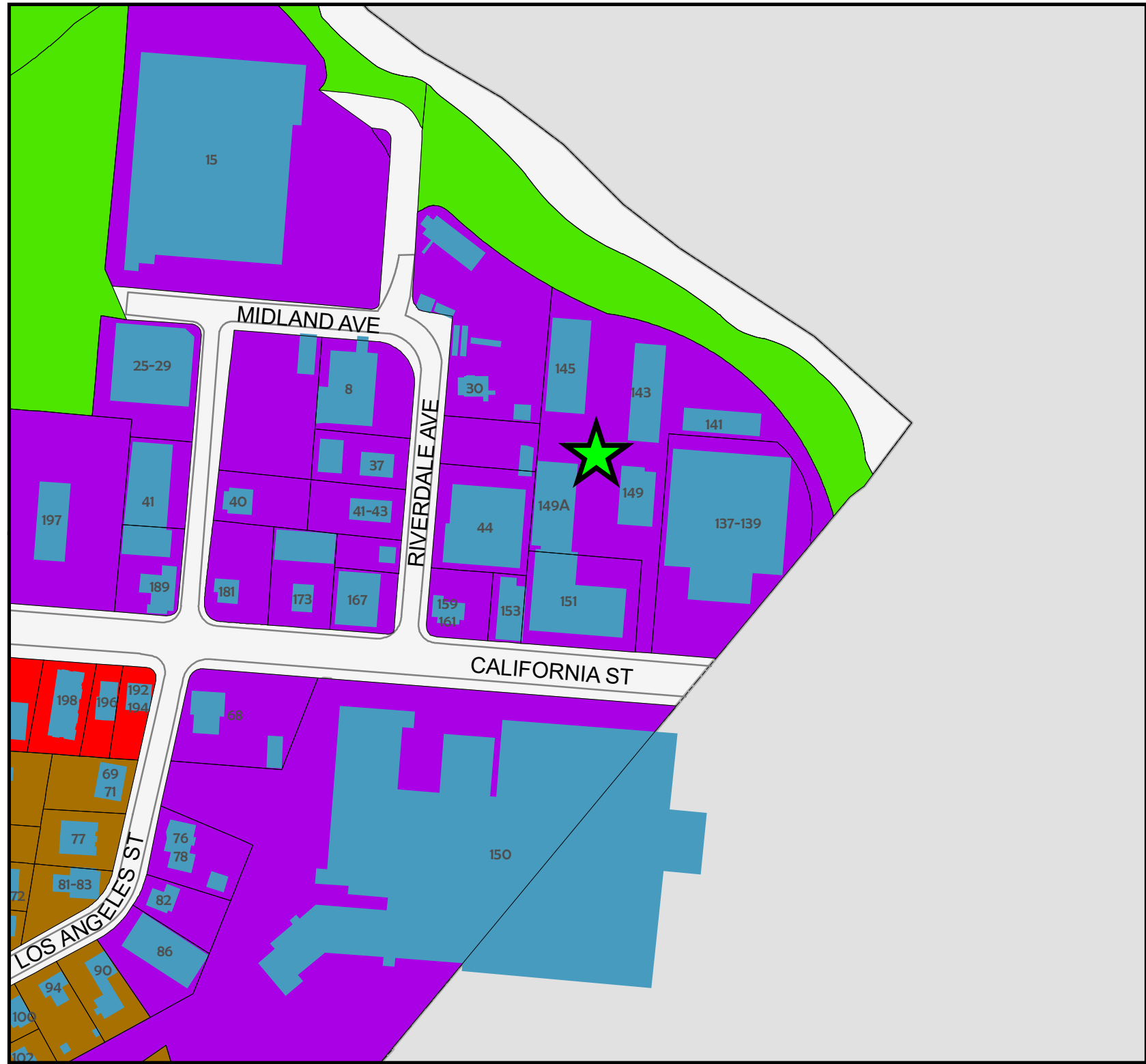


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: June 23, 2022



ATTACHMENT B








Land Use

141-149 California Street

*City of Newton,
Massachusetts*

Land Use

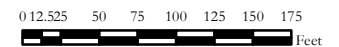
Land Use

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

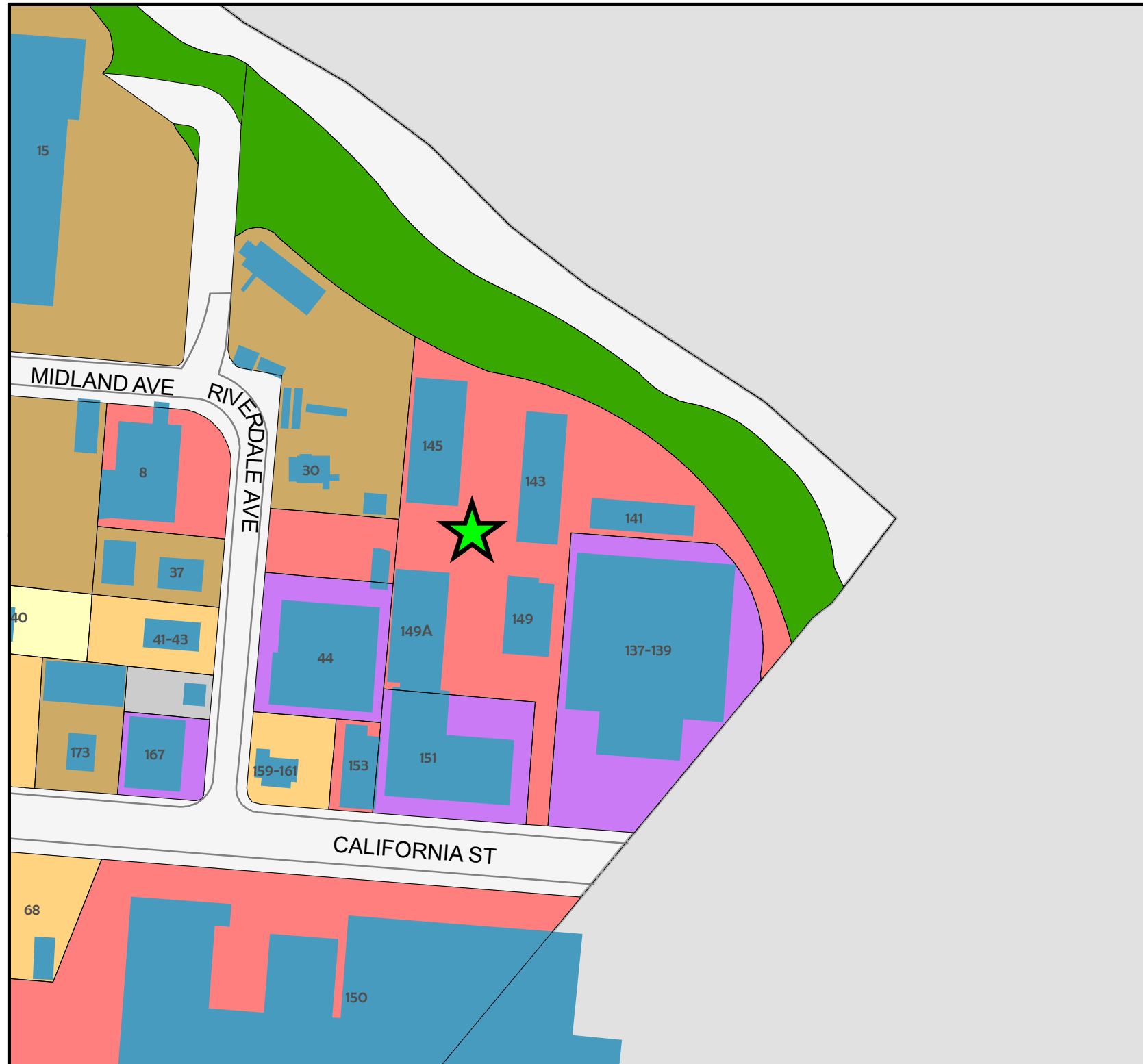


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 18, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Mazzi Realty, Applicant
Katherine Adams, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to amend Special Permit #285-20 to allow a medical office use and to waive 17 parking stalls

Applicant: Mazzi Realty	
Site: 141-149 California Street	SBL: 11001 0001A
Zoning: MAN	Lot Area: 65,568 square feet
Current use: Adult day care	Proposed use: Adult day care and medical office

BACKGROUND:

The property located at 141-149 California Street consists of 65,568 square feet and is improved with five separate buildings and associated surface parking facilities. The petitioner received a special permit in 2008 to operate a non-profit adult day care center at 149A California Street as well as a waiver of 16 parking stalls. In 2011, the petitioner amended the special permit to expand their operations and the parking waiver was increased to 22 parking stalls. A 2020 amendment allowed for expansion of the program to 258 clients and 46 employees, requiring a waiver of 44 stalls. The petitioner now seeks to convert existing first floor storage space at 149 California Street into a medical office to serve the clients of the program.

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

- Zoning Review Application, prepared by Katherine Adams, attorney, submitted 4/7/2022
- Project Information, prepared by Katherine Adams, attorney, submitted 4/7/2022
- Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 1/4/2021
- Floor Plans, signed and stamped by Richard A. Volken, engineer, dated 3/22/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner was granted Special Permit #285-20 in 2020, consolidating all previous special permits, and allowed for an expansion of the for-profit adult day care and an associated parking waiver. The petitioner intends to convert 3,400 square feet of first floor space at 149 California Street from storage to a medical office, and to move the storage to the second floor, requiring an amendment to the special permit.
2. The petitioner has a parking waiver of 44 stalls for the entire property, which includes five buildings housing an adult day care, commercial kitchen for food preparation for the operation’s two locations (Newton and Natick) and on-site storage for the operation in the first floor of 149 California Street (with the second floor unused). The petitioner intends to convert the 3,400 square foot first floor storage into a medical office for the clients of the operation and move the storage to the second floor. Per section 5.4.1:

Existing Use: Storage (first floor)

1 parking stall per every 2,500 square feet: $3,400/2,500 \text{ sf} = 1.36$

Existing Parking Requirement: 2 parking stalls

Proposed Use: Medical office (first floor) and storage (second floor)

Medical Office – 1 parking stall per every 200 square feet: $3,400/200 \text{ sf} = 17$

Storage - 1 parking stall per every 2,500 square feet: $3,400/2,500 \text{ sf} = 1.36$ (rounds to 2)

Total proposed stalls required: **19**

The storage use required two parking stalls. With the proposed medical office moving into the storage space, and the now-vacant second floor space converted to 3,400 square feet of storage, the proposed parking requirement is 19 stalls, 17 more than currently required. The petitioner requests a waiver of 17 additional parking stalls per section 5.1.13 resulting in a total combined waiver of 61 parking stalls.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #285-20	
§5.1.4 §5.1.13	Request to waive 17 parking stalls	S.P. per §7.3.3

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 Council Orders #258-20 to allow a medical office use, and to waive 17 additional parking stalls at 141-149A California Street as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed medical use and waiver of 17 parking stalls because the clients do not drive to the site and the medical office use is accessory to the adult day care use. (§4.4.1 and §7.3.3.C.1)
2. The proposed medical use and waiver of 17 parking stalls as developed and operated will not adversely affect the neighborhood because the medical office use is accessory to the adult day care and will not result in an increase of clients. (§7.3.3.C.2)
3. There will be no a nuisance or serious hazard to vehicles or pedestrians. (§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 required number of parking stalls is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13,).

PETITION NUMBER: #352-22

PETITIONER: Zdorovie Senior Services, LLC

LOCATION: 141-149A California Street, Section 11, Block 1, Lot 1A,
containing approximately 65,568 square feet

OWNERS: Mazzi Reality

ADDRESS OF OWNERS: 34 Peregrine Road
Newton, MA 02459

TO BE USED FOR: For Profit Education Use/Adult Daycare

CONSTRUCTION: NA

EXPLANATORY NOTES: To amend Council Order 285-20, which allowed the for profit educational use with parking dimensional waivers, lighting waivers, and parking waiver; to allow a medical office use and 61 stall parking waiver (§4.4.1, §5.1.4, §5.1.13, §5.1.8.B.1, §5.1.8.B.2, §5.1.8.B.4, §5.1.8.B.6, §5.1.8.C.1, §5.1.8.D.2, §5.1.9.A, §5.1.9.B, §5.1.10.A, and §7.3.3)

ZONING: Manufacturing District

This special permit supersedes, consolidates, and restated provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this Special Permit #352-22 are null and void.

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. Site Plan showing proposed conditions at #141-149A California Street, dated May 16, 2020, most recently revised August 11, 2020, prepared by VTP associates, unsigned and unstamped.
 - b. Site Plan showing proposed conditions at #141-149A California Street, dated May 16, 2020, most recently revised August 11, 2020, prepared by VTP associates, unsigned and unstamped showing site circulation, and directional striping.
2. Architectural/Floor Plans, approved under #285-20, consisting of the following:
 - a. First Floor, Mazzi Realty, proposed plan at 143 California Street, prepared by Dooling and Company Architects, signed and stamped by Mark J. Dooling, dated February 10, 2020, A1
 - b. California Street Catering, Proposed Plan at 141 California Street, prepared by RAV & Assoc., Inc., dated April 20, 2020, A2
 - c. Proposed Floor Plan at 145 California Street, prepared by RAV & Assoc., Inc., dated June 8, 2020, A3

- d. Floor Plan at 149A California Street, prepared by RAV & Assoc., Inc., dated May 1, 2020, A2
Architectural Floor Plan approved under Special Permit XXX-22:
 - e. Proposed First Floor Plan at 149 California Street, prepared by RAV & Assoc., Inc., **dated March, 22, 2022, A-1**
 - f. Proposed Second Floor Plan at 149 California Street, prepared by RAV & Assoc., Inc., **dated March, 22, 2022, A-2**
3. All signage shall be reviewed and approved by the Urban Design Commission.
 4. The adult day care shall have no more than 258 clients and 46 employees. Any increase to the number of clients or employees shall require an amendment to this special permit/site plan approval.
 5. **The proposed medical office use shall have no more than three employees. Any increase to the number of medical office employees shall require an amendment to this special permit/site plan approval.**
 6. The petitioner shall maintain the planter boxes, including plantings at the front seating area, installed on the property in good condition with all-season plant material and replace any diseased or dead plant material.
 7. The petitioner shall maintain all signage and directional markings as well as the striped parking stalls as shown on the plan referenced in Condition #1.
 8. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Ordinance.
 9. The combined parking waiver of **61** stalls shall only apply to the for-profit educational use and **medical office use**, any change in use pertaining to this site shall require an amendment to this Council Order. Any change in ownership shall require the petitioner contact the Planning Department to ensure the site operations still justify the granted relief.
 10. Prior to any occupancy permit, the petitioner shall reach out and make best efforts to work with DCR to determine the possibility of a partnership to improve the quality of the abutting DCR greenspace with modest efforts such as litter pick up, erosion control, invasive plant control and the feasibility of sponsoring the installation of benches at the abutting greenspace. The petitioner shall keep the Planning Department updated with its efforts.
 11. The Petitioner shall implement a Transportation Demand Management Plan to reduce vehicle trips to the site. The Plan shall include, but not be limited to:
 - a. Providing subsidized transit passes at 100% subsidy which shall include but not limited to the MBTA services known as Link pass, express bus, and commuter rail.
 - b. Providing a bicycle rack at the location shown on plan referenced in Condition #1.
 - c. Providing shuttles to transport clients to and from the site.
 12. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

- d. Recorded a certified copy of this Council Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - e. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - f. 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.
13. 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.