



#285-20

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: August 4, 2020
Land Use Action Date: October 23, 2020
City Council Action Date: November 2, 2020
90-Day Expiration Date: November 2, 2020

DATE: July 31, 2020

TO: City Council

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

SUBJECT: **Petition #285-20**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Orders #215-08 and #215-08(2) to allow a for-profit educational use and reconfiguration of the parking stalls, and associated parking, lighting, and landscaping requirements at 141-145 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, 4.4.1, 5.1.3.B, 5.1.13, 5.1.4, 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, 5.1.11 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.



141-143, 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 petitioner is seeking to amend Council Order #215-08 (2) to convert the existing adult daycare at 149A California Street, which formerly operated as a non-profit educational use, to a for-profit educational use. In addition to changing the use, the petitioner is looking to expand the operation from 72 clients and 12 staff members to 258 clients and 46 staff members. The petitioner is also seeking to waive 18 parking stalls, to reconfigure the surface parking facilities thereby extending the nonconformities of the facilities and requiring a special permit.

The Planning Department is unconcerned with the request to allow the for-profit educational use as well as portions of the relief which reflect existing conditions of the site such as relief for restricted end stalls, minimum driveway width, and landscaping requirements. This relief is due to the existing conditions of the site. Staff is concerned with the substandard stall sizes and recommends the applicant restripe the parking facilities to bring the stalls closer to compliance with the zoning ordinance.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The site is an appropriate location for the for-profit educational use. (§4.4.1 and §7.3.3.C.1)
- The proposed for-profit educational use 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 lighting, landscaping and parking requirements 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, §5.1.3.B, §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, §5.1.11,).

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

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.

C. Background

In 2005, the petitioner only occupied 149A California Street as a nonprofit educational use. The use was permitted via Administrative Site Plan Review which governs the review of uses protected under M.G.L. Chapter 40A, Section 3, also known as the "Dover Amendment".

The petitioner later obtained Special Permits #215-08 and #215-08(2) in conjunction with two expansions of the adult day-care. In total, the use has been granted a waiver of 22 parking stalls. Both special permits were granted due to the site's proximity to transit, because the petitioner shuttles clients to and from the site, and because many employees do not drive to the site.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is commercial. The site most recently consisted of the adult daycare, a dance studio, a dental office, as well as video rental and production. If the petition is approved, the entire site will be used as for the adult daycare use.

B. Parking, and Circulation

The proposed expanded daycare requires 101 parking stalls per the zoning ordinance. The petitioner is proposing to restripe the facility to create drop-off and pick-up areas as well as to create accessible parking, resulting in 61 parking stalls on site. When added to the previous waiver of 22 parking stalls, the petitioner requires an additional waiver of 18 parking stalls. For a complete zoning analysis, including the parking requirement, please see the Zoning Review Memorandum, dated June 22, 2020 (**Attachment C**).

The existing parking stalls vary in dimensions from 7.3 feet to 8.9 feet wide and from 16.4 to 21.6 feet deep, where the zoning ordinance requires 9 feet wide by 19 feet long. Additionally, the accessible stalls are substandard. The Massachusetts Architectural Access Board (MAAB) requires accessible parking stalls to be at least eight feet wide. The Planning Department suggests that the petitioner restripe the parking facility to bring the parking stalls closer to compliance with the zoning ordinance as well as the MAAB. Staff recognizes that restriping may result in a larger waiver but believes the existing dimensions will not result in a functional parking facility.

The petitioner is also requesting relief for bicycle parking; however, they have submitted plans that indicate bicycle parking on site at the northwest corner. As such, the petitioner should withdraw the relief.

C. Operations

Table 1. Proposed Operations

Address	Use/sq. footage	Clients	Employees
141 California Street	Kitchen <i>3,000 sf</i>	0	2
143 California Street	Adult daycare <i>5,000 sf</i>	75	13
145 California Street	Adult daycare <i>6,000 sf</i>	96	16
149 California Street	Storage <i>3,400 sf</i>	0	0
149A California Street	Existing adult daycare <i>5,700 sf</i>	87	15
Totals		258	46

The petitioner currently operates an adult daycare with a capacity of 87 clients and 15 staff members. The daycare currently occupies 149A California Street and the petitioners intend to expand into the other four buildings on site. 143 and 145 will be

converted into adult daycare facilities, similar to the existing daycare space at 149A California Street. 141 California Street will be used as a kitchen to service the site and other facilities, while 149 California Street will be used for storage.

The petitioner stated that clients do not drive themselves to the facility and that will continue. Clients would be transported in vans to the site every 15 minutes from 8:00 AM to 9:00 AM with an additional route at 9:30 AM. Clients begin to leave the facility at 2:00 PM and vans will depart the site every 15 minutes from 2:00 PM to 3:00 PM with an additional route, if needed at 3:30 PM. The vans will be stored on site when not in use. The petitioner stated that when the daycare expands, there will be 46 employees on site. The applicant stated that currently 2/3 of the employees drive to work, with the remaining 1/3 carpooling or walking to work. Staff arrive on site around 7:30 AM and leave at 4 PM.

D. Landscaping and Screening

The petitioner is seeking relief from the internal and perimeter landscaping requirements of the zoning ordinance. Prior special permits required the petitioner to maintain window boxes in lieu of landscaping on site. The Planning Department is unconcerned with the request to waive the landscaping requirements given the nature of the site. Staff suggests that the window boxes continue to be maintained and be incorporated into the rest of the buildings on site.

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:

- To amend Special Permits #215-08 and #215-08 (2)
- §4.4.1 and §7.3.3 of Section 30, to allow a for profit educational use
- §5.1.3.B, §5.1.13, and §7.3.3 of Section 30, to waive the requirement to use the formula A-B+C to determine the parking requirement
- §5.1.4, §5.1.13, and §7.3.3 of Section 30, to waive 18 parking stalls
- §5.1.8.B.1, §5.1.8.B.2, §5.1.8.B.4, §5.1.13, and §7.3.3 of Section 30, to waive minimum stall dimensions and waive accessible stall dimensions
- §5.1.8.B.6, §5.1.13, and §7.3.3 of Section 30, to allow restricted end stalls
- §5.1.8.C.1, §5.1.8.D.2, §5.1.13, and §7.3.3 of Section 30, to waive minimum aisle and driveway widths
- §5.1.9.A, §5.1.9.B, §5.1.13, and §7.3.3, to waive perimeter and interior

landscaping requirements

- §5.1.10.A, §5.1.13, and §7.3.3, to waive lighting requirements for parking areas
- §5.1.11, §5.1.13, and §7.3.3 to waive bicycle parking requirements

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

Zoning

141-149 California Street

City of Newton,
Massachusetts

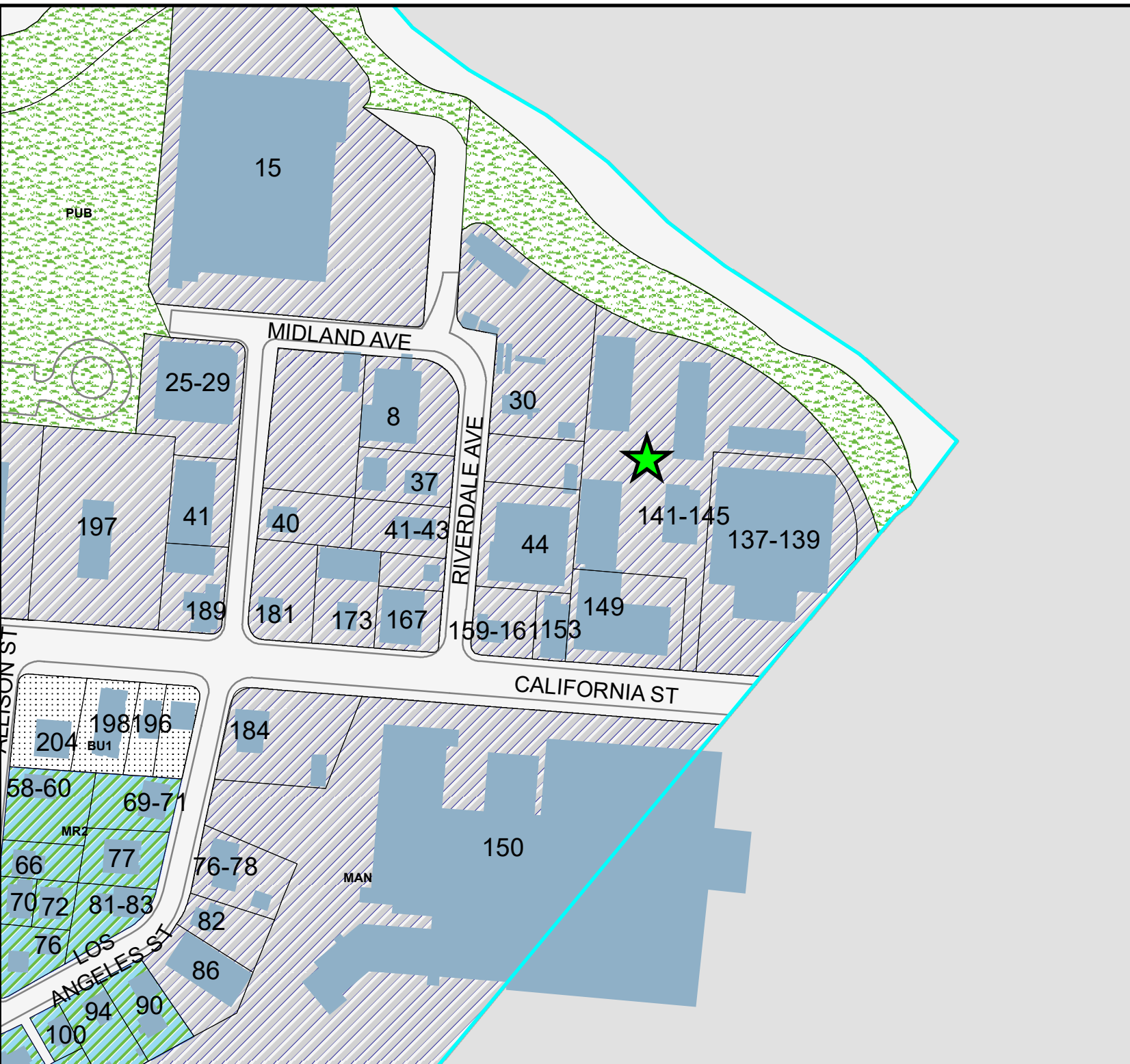
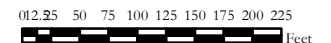
Legend

-  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 - Setti D. Warren
GIS Administrator - Douglas Greenfield



ATTACHMENT B

Land Use

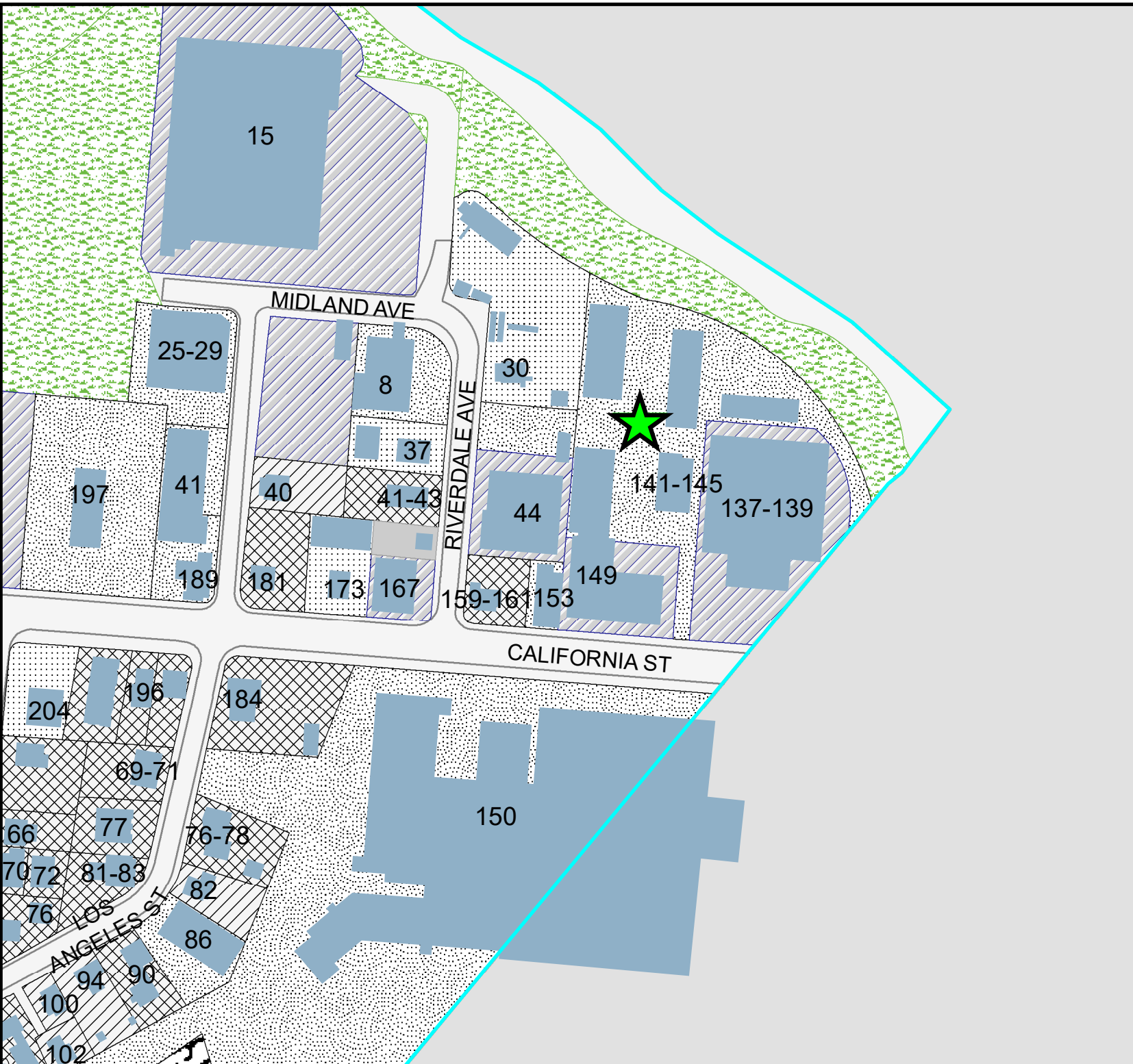
141-149 California Street

*City of Newton,
Massachusetts*

Land Use

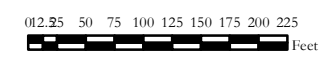
Land Use

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



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: July 31, 2020



Ruthanne Fuller
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 22, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

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

RE: Request to allow for an amendment to Special Permit #215-08(2), to allow a for-profit educational use and to waive 18 parking stalls

Applicant: Mazzi Realty	
Site: 141-145, 149, 149A California Street	SBL: 11001 0001A
Zoning: MAN	Lot Area: 65,568 square feet
Current use: Adult day care, dance studio, dental office, and video rental and production	Proposed use: Adult day care

BACKGROUND:

The property located at 141-145 California Street and 149A California Street combined consist of 65,568 square feet and are 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 his operations and the parking waiver was increased to 22 parking stalls. The adult day care provider has recently purchased the site to expand operations.

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

- Zoning Review Application, prepared by Katherine Adams, attorney, submitted 5/18/2020
- Project Information, prepared by Katherine Adams, attorney, submitted 5/18/2020
- As-Built Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 8/24/2011
- Proposed Conditions Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 1/7/2020

ADMINISTRATIVE DETERMINATIONS:

1. Special permit #215-08 was issued in 2008 permitting the operation of a non-profit adult day care with up to 72 clients and 12 staff. At the time the special permit was granted, the adult day care use was determined to be an educational use. The facility is no longer a non-profit organization and is now operating as a for-profit educational institution. Per section 4.4.1, a special permit is required for a for-profit educational use in the Manufacturing district. Additionally, the existing special permit needs to be amended to reflect the change in the for-profit status of the petitioner.
2. The petitioner intends to eliminate some parking to create drop off areas, as clients are either brought to the site via vans operated by the petitioner or are dropped off. There are 67 striped stalls on site. Whenever there is a change in use that increases the parking requirement, section 5.1.3.B requires compliance with the formula $A+B+C = \text{required parking}$. However, as there is an existing parking waiver and stalls are being eliminated, application of this formula does not accurately reflect the existing and proposed conditions. The petitioner seeks a waiver from the requirement of using 5.1.3.B to determine parking after a change of use.
3. The petitioners intend to use four additional buildings for their adult day care operations, for a total of five buildings dedicated to the expanded use. The buildings at 143 and 145 California Street will be used as additional day care facility space for clients, with a proposed total additional 171 clients and 29 staff between the two buildings. The petitioners propose to install a commercial kitchen to prepare food for the facility's operations in Newton as well as Needham and Natick in the existing building at 141 California Street. Two staff are expected to work in the building, previously used as a dance school. The building at 149A California Street will be used for the day care operation and the building at 149 California Street will be used for storage. There will be no staff or clients in this building. As determined by the previous special permit, the parking requirement for the adult day care use was based on the most similar use listed in Section 5.1.4 of a day care center, requiring one stall per every five clients plus one stall for every employee.

Building	Square Footage	Clients	Staff	Required Parking	Parking Provided	Previous Parking Requirement
141 California (Kitchen)	3,000 sf	0	2	2 (1/5 clients +1/staff)	10	2 (1/employee)
143 California (day care)	5,000 sf	75	13	15 + 13 = 28 (1/5 clients +1/staff)	13	25 (1/200 sf for a med office)
145 California (day care)	6,000 sf	96	16	20 + 16 = 36 (1/5 clients +1/staff)	13	22 (1/300 sf + 1/3 employees)
149 California (storage)	3,400 sf (1 st fl only)	0	0	2 (1/2,500sf)	13	2
149A California (existing day care)	5,700 sf	87	15	18 + 15 = 33 (1/5 clients +1/staff)	12	22 (SP waiver)
TOTAL		258	46	101	61	51+22=73

The proposed adult day care operation requires 101 parking stalls per section 5.1.4. After creating drop-off areas for the facility's vans, the petitioner will be providing 61 parking stalls on site. With the existing parking waiver of 22 stalls from the two previous special permits, the petitioner requires an additional waiver of 18 parking stalls.

4. The petitioners purchased the property recently, with the parking lot striping as shown in the existing conditions plan. The parking facility for the overall site was not designed by the previous owners in accordance with the design and dimensional requirements of section 5.1.8 through 5.1.13. To ensure that there are no issues with zoning compliance, the petitioners seek the following waivers for the existing conditions and proposed changes to the parking facility.
5. The minimum dimensional requirement for parking stalls is 9 feet wide by 19 feet deep for angle parking per Sections 5.1.8.B.1 and 5.1.8.B.2. The proposed parking stalls range from 7.3 to 8.9 feet in width and 16.4 to 21.6 feet in depth, requiring a waiver per section 5.1.13.
6. Section 5.1.8.B.4 requires a minimum depth of 19 feet and a minimum width of 12 feet for an angled accessible parking stall. This requirement is particular to the Newton Zoning Ordinance and not a requirement of Massachusetts Architectural Access Board. The proposed accessible parking stalls are deficient in meeting the local provisions for depth and width, requiring a waiver per section 5.1.13.
7. Section 5.1.8.B.6 states that end stalls restricted on one or both sides by curbs, walls, fences or other obstructions require maneuvering space at the aisle end of at least five feet in depth and nine feet in width. The petitioners seek a waiver from this provision per Section 5.1.13.
8. Section 5.1.8.C.1 requires a minimum width of 24 feet for a one-way aisle for 90-degree parking. The petitioner proposes a one-way aisle of 21.1 feet to the south of 149 California Street. Additionally, a 20-foot wide drive aisle is required for two-way use for angled parking. The petitioner proposes a 14.9-foot wide two-way drive aisle between 143 and 145 California Street, requiring a waiver per section 5.1.13.
9. Section 5.1.8.D.2 requires that entrance and exit driveways may have a minimum width of 20 feet for two-way use. The petitioner proposes a two-way drive of 18.6 feet in width, requiring a special permit per section 5.1.8.D.2.
10. Section 5.1.9.A requires perimeter landscape screening is required for parking facilities containing more than five stalls. There is no perimeter screening proposed, requiring a waiver per section 5.1.13.
11. Section 5.1.9.B requires interior landscaping for surface parking containing at least twenty stalls. This section requires planting areas within outdoor parking facilities, and landscaped bumper overhangs. No interior landscaping is proposed, requiring a waiver from this section in its entirety pursuant to Section 5.1.13.
12. All outdoor parking facilities which are used at night are required to have security lighting maintaining a minimum intensity of one-foot candle on the entire surface of the parking facility per Section 5.1.10.A.1. The petitioners request a waiver from this provision per Section 5.1.13.

13. Section 5.1.11 requires that parking facilities with 20 stalls or more must provide one bicycle parking space per 10 vehicle parking stalls. No bicycle parking is proposed, requiring a waiver per section 5.1.13

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #215-08 and 215-08(2)	
§4.4.1	Request to allow a for-profit educational use	S.P. per §7.3.3
§5.1.3.B §5.1.13	Request to waive the requirement to use the formula A-B+C for parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 18 parking stalls	S.P. per §7.3.3
§5.1.8.B.1 §5.1.8.B.2 §5.1.13	Request to waive minimum stall dimensions	S.P. per §7.3.3
§5.1.8.B.4 §5.1.13	Request to waive minimum accessible stall dimensions (The proposed stalls will be ABA compliant)	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	Request to allow restricted end stalls	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	Request to waive minimum aisle widths	S.P. per §7.3.3
§5.1.8.D.2 §5.1.13	Request to waive minimum driveway width	S.P. per §7.3.3
§ 5.1.9.A §5.1.13	Request to waive perimeter landscaping requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	Request to waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10.A §5.1.13	Request to waive lighting requirements for parking areas	S.P. per §7.3.3
§5.1.11 §5.1.13	Request to waive bicycle parking requirements	S.P. per §7.3.3