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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 16, 2014
Land Use Action Date: October 14, 2014
Board of Aldermen Action Date: December 1, 2014
90-Day Expiration Date: December 15, 2014

DATE: September 12, 2014

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner 

SUBJECT: **Petition #257-13(3) and (4)**, WELLS AVENUE BUSINESS CENTER LLC requesting that the restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended to reflect a waiver of use restriction to permit an interior place of amusement, and for a SPECIAL PERMIT/SITE PLAN APPROVAL to permit a "place of amusement," an indoor bouncy house, in an existing building housing a day care and to waive seven parking stalls, reduce minimum aisle width for one-way traffic and waive interior landscaping requirements at **145 Wells Avenue**, Ward 8, on land known as SBL 84, 34, 2G, containing approx. 86,256 sq. ft. of land in a district zoned LIMITED MANUFACTURING. Ref: Sec 30-24, 30-23, 30-5(a)(3)(d)(iii), 30-12(e)(8), 30-19(d)(13) and (16), 30-19(h)(3(a), 30-19(i)(2), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



145 Well Avenue

EXECUTIVE SUMMARY

The property at 145 Wells Avenue consists of an 86,256 square foot lot in a Limited Manufacturing zoning district in the Wells Avenue Office Park (“Office Park”). The site is improved with a two-story commercial building with a day care center (Newton Child Care Academy, “NCA”) that received administrative site plan approval in 2013. NCA comprises approximately 12,000 square feet of the existing building, and the petitioner is proposing to use the remaining 5,700 square feet for an indoor bouncy house business, which is considered a “place of amusement” use under the Newton Zoning Ordinance (“NZO”). The properties in the Office Park are subject to a Deed Restriction that limits the types of uses allowed. The petitioner had previously amended the Deed Restriction for this property to allow the existing day care use, and is now proposing to further amend the Deed Restriction to allow a place of amusement. The petitioner must also seek a special permit for the proposed place of amusement use, as it is not allowed by right in a Limited Manufacturing zoning district.

The petitioner is proposing to make several changes to the existing 30-stall parking lot, including expanding the parking area and increasing the number of parking stalls to 45, and striping an area in the center of the parking lot in order to create one-way circulation. The addition of a new use to the site, and the proposed expansion of NCA from 70 children to 120 children, increases the required number of parking stalls under the NZO to 52, thereby requiring the petitioner to seek a waiver of seven parking stalls. The petitioner is also seeking zoning relief from interior landscaping requirements and to reduce the minimum aisle width for one-way traffic. The site falls within the buffer zone of a perennial intermittent stream bed. The petitioner presented the site plan to the Conservation Commission which gave preliminary approval. An approval of this special permit application should be conditioned upon the Conservation Agent’s final signoff.

In terms of the proposed uses, the Planning Department has no particular concerns. Day care uses are generally an allowed use in all zoning districts, and are complimentary to existing office uses. Furthermore, at its proposed size the bouncy house business will be accessory and complimentary to NCA, and will only be open during nights and weekends. As such, the Planning Department does not expect the parking demands for the two uses to overlap and considers the proposed parking supply to be adequate.

The Planning Department and the Transportation Division reviewed the site plan and do not believe that the proposed striped center island provides any significant improvement in circulation, and that it may be used by parents for parking. The Planning Department believes that providing landscaping within a portion of the proposed island would provide value to the site from an aesthetic and environmental perspective, would deter vehicles from parking on it, and allow for reasonable fire access. The Planning Department encourages the petitioner to explore this option.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The waiver of up to seven parking stalls is appropriate for the following reasons:
 - Based on the information available, there appears to be adequate parking on the site for the proposed day care and bouncy house uses. (§30-19(c)(3),(d)(13) and (m))
 - The 2007 *Newton Comprehensive Plan* encourages economic development that does not adversely impact the surrounding neighborhood.
- The specific site is an appropriate location for the proposed use. (§30-24(d)(1))
- The use as developed and operated will not adversely affect the neighborhood. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians (§30-24(d)(3))
- Access to the site over streets is appropriate for the types and number of vehicles involved. (§30-24(d)(4))
- The Deed Restriction on the properties within the Office Park requires more restrictive lot coverage and open space percentages than the NZO, and a waiver of unnecessary parking stalls is consistent with these dimensional controls.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located in the Office Park in a limited manufacturing zoning district (**ATTACHMENT A**). All properties in the Office Park are subject to a Deed Restriction that further restricts the types of allowed uses, as well as other controls. Over time the Deed Restriction has been amended to allow other types of uses, including educational facilities and a sports club. In 2013, the Board of Alderman amended the Deed Restriction for the subject property to allow a for-profit day care center and all accessory uses that are customary with a day care. The site is adjacent to the Boston Sports Club to the south, an office building to the north, and office buildings across the street to the east (**ATTACHMENT B**).

B. Site

The site consists of an 84,256 square foot lot improved with a two-story commercial building, a parking lot with approximately 30 parking stalls, and a playground at the rear of the commercial building. The second story is approximately 2,500 square feet of the approximately 17,000 square foot building. The rear portion of the lot slopes up dramatically in the form of a wooded hillside. The site is within the 100-foot buffer zone of a perennial intermittent stream.

The site is currently used as a day care center (NCA) with a maximum of 70 children and 12 staff on site at any one time. NCA is a for-profit pre-school for children from three months to five years old.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to locate a bouncy house facility in approximately 5,800 square feet of the existing building. The bouncy house will operate between 6:00 p.m. and 9:00 p.m., Monday through Friday, and 9:00 a.m. to 9:00 p.m. Saturday and Sunday. The bouncy house will serve as a celebration/birthday party venue for children between the ages of 2 and 12. The interior space will be designed to allow two parties of approximately 15 children each at any one time. The petitioner expects that its peak hours will be between 12:00 p.m. and 7:00 p.m. on the weekends, and that most parents will drop-off and pick-up their children. The Planning Department does not have any particular concerns with the proposed bouncy house use, and recommends that the operating hours for the bouncy house, as stated above, are conditions of the special permit, if approved.

NCA is planning to expand from 70 children and 12 staff, to 120 children and 17 staff. The proposed expansion increases the parking requirement for the site, which contributes to the need for a parking waiver. The Planning Department does not have any particular concern with the increased intensity of the day care use; as its operating times will differ from the operating times of the proposed bouncy house, and the two proposals help maximize the use of the remaining space in the existing building.

B. Building and Site Design

The petitioner is not proposing any changes to the exterior of the building, but is proposing changes to the parking lot. The changes include the expansion of the number of parking stalls from 30 to 45, and the creation of one-way circulation

around a striped area in the middle of the parking lot. The striped area will not have any physical barriers around the edges to restrict cars from passing over it. The expansion of the parking area will require the removal of some vegetation, but overall appears to be appropriate for the site, and has been approved by the Conservation Commission.

The Planning Department consulted with the City's Transportation Division and the Fire Department on the proposed parking layout, particularly on the creation of the striped area in the center of the parking lot. The Transportation Division is not concerned with the existing circulation on the site, and does not consider the conversion to one-way circulation to be a benefit or detriment. They are concerned that the striped area in the center of the lot might be used for temporary parking, which could create a hazard. The Fire Department indicated that the existing parking lot is already narrow, and fire trucks would likely have to back out of the parking lot regardless of whether an island is created.

The Planning Department encourages the petitioner to consider landscaping a portion of the striped area, which will to improve the site aesthetically, provide more pervious surfaces, and physically restrict cars from parking on it. The Planning Department notes that the landscaping should not extend the full area of the proposing striping, as the Fire Department requests a traversable aisle width of more than 12 feet along the building.

C. Parking and Traffic

The petitioner is proposing to increase the number of parking stalls on the site from 30 to 45, where 52 are required for the proposed uses. Based on the peak usage times of the proposed bouncy house and the existing day care, it does not appear that the parking demands will overlap significantly. In addition, both uses have a very high and fluid parking demand for a total of a few hours a day, but a much lower parking demand most of the day. For these reasons the Planning Department believes that the proposed parking supply is adequate for the proposed uses without creating a significant or extended parking overflow onto Wells Avenue.

In terms of traffic impacts, the Planning Department and Transportation Division believe that the surrounding streets are designed to handle the additional vehicle trips from the intensification of the site, and note that the timing of the vehicle trips generated by two uses on the site will not coincide. For these reasons, the Planning Department does not have any particular concerns regarding the impact on traffic in the surrounding neighborhood.

D. Landscape Screening

The site is well landscaped along the property lines. The Planning Department encourages the petitioner to replace a portion of the striped area in the middle of the parking lot with a vegetated island.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal with regard to zoning. Based on the Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-12(e)(8), to allow an indoor place of amusement
- Section 30-19(d)(13) and (16), Section 30-19(m), Section 30-5(a)(3)(d)(iii), to waive seven parking stalls
- Section 30-19(h)(3)(a), Section 30-19(m), to reduce minimum aisle width for one-way traffic
- Section 30-19(i)(2), Section 30-19(m), to waive interior landscaping requirements
- Amend Wells Ave Deed Restriction

B. Engineering Review

As the petitioner is not increasing the impervious surfaces on the lot by more than 4%, an engineering review is not required.

The Planning Department notes that the petitioner had originally replaced the pavement behind the building where the playground is located with a pervious surface. However, the petitioner then placed a foam or rubber material over the pervious surface. In order to comply with the site plan provided to the Conservation Commission and to ensure that the impervious surfaces on the site are not increased, the petitioner is proposing to remove the foam/rubber material and replace it with woodchips or another similar pervious surface.

C. Conservation Commission Review

The Conservation Commission approved this project with modifications to the site plan, to be reviewed by the City's Conservation Agent prior to final sign-off. As of the completion of this memo, the Conservation Agent had not provided final sign-off. The outstanding items appear to include the location of snow storage in the rear of the site and the current impervious surface of the playground, neither of which should significantly change the site plan when addressed. The Planning

Department recommends that the petitioner address the Conservation Agent's concerns, either as a condition of the granting of this special permit, or prior to the next scheduled working session.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should address concerns raised by the City's Conservation Agent.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum

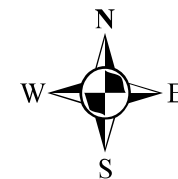
Zoning Map 145 Wells Ave

*City of Newton,
Massachusetts*

Legend

- Building Outlines
- Zoning**
 - Single Residence 1
 - Limited Manufacturing
 - Public Use

ATTACHMENT A

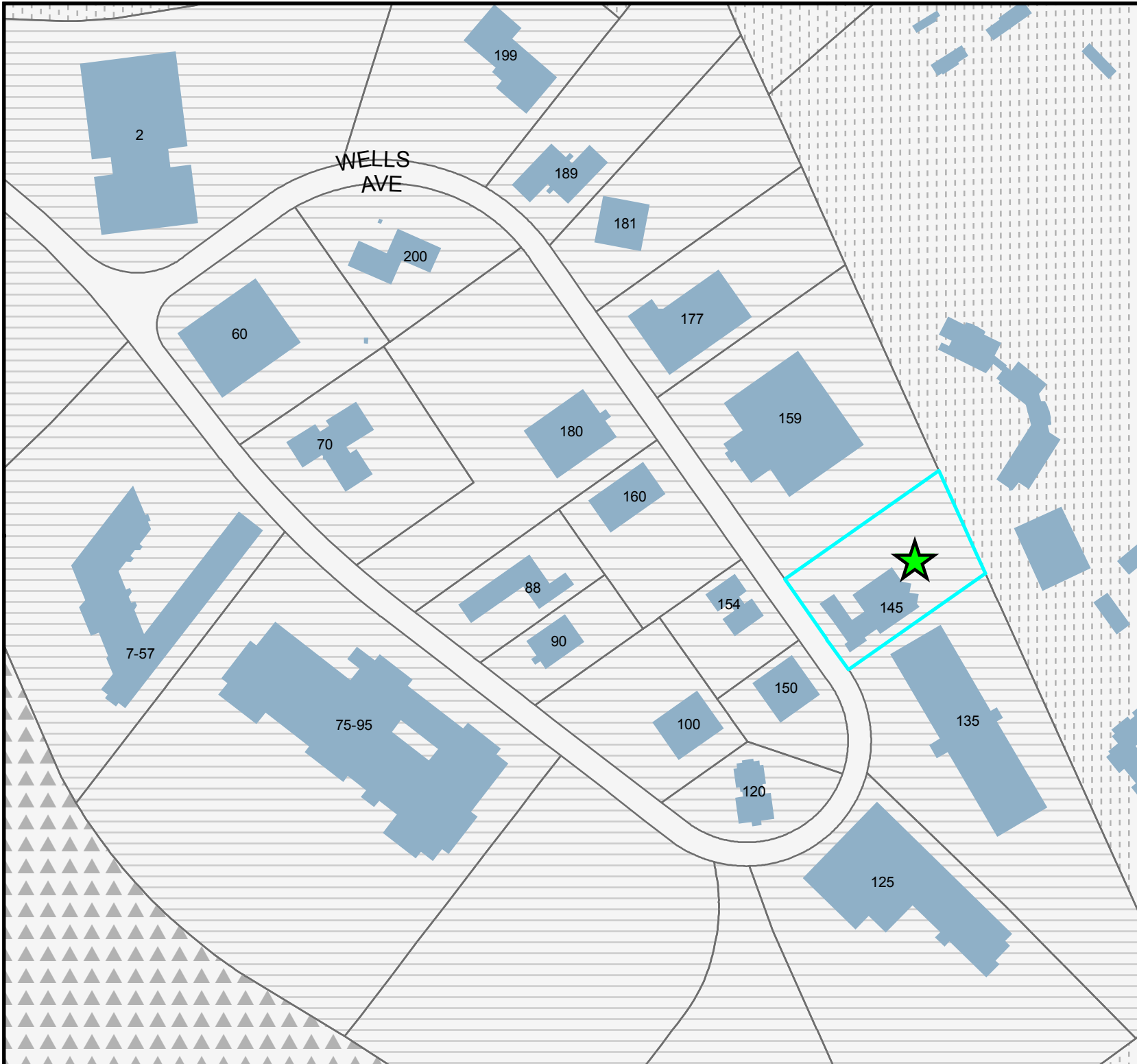


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

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Fees

Map Date: September 11, 2014








Land Use Map

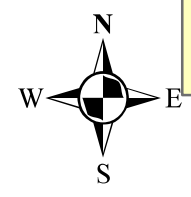
145 Wells Ave

*City of Newton,
Massachusetts*

Legend


-  Building Outlines
- Land Use**
-  Commercial
-  Open Space
-  Private Educational
-  Nonprofit Organizations

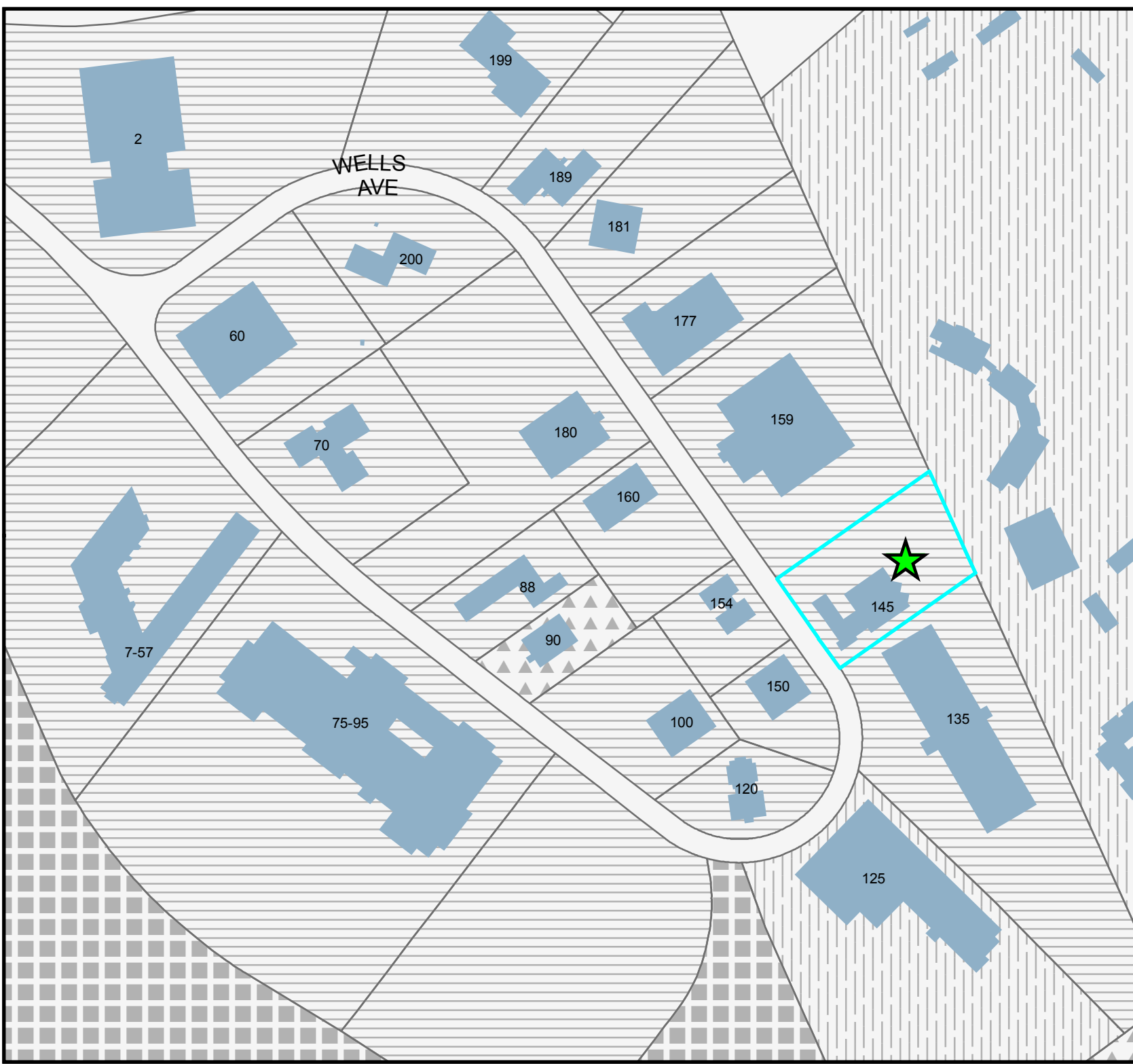
ATTACHMENT B



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ATTACHMENT C

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: July 28, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Adrian Shapiro, Manager, Wells Ave Business Center LLC
Terrence Morris, Attorney
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Special permit to allow indoor place of amusement and associated parking waiver

Applicant: Adrian Shapiro, Wells Ave Business Center, LLC	
Site: 145 Wells Ave	SBL: 84 34 2G
Zoning: Limited Manufacturing	Lot Area: 86,256 square feet
Current use: Day care	Proposed use: Day care and indoor amusement

BACKGROUND:

The applicant is proposing to locate an indoor bouncy house business in a building housing a day care center at 145 Wells Ave, a 1.98 acre parcel located within the Limited Manufacturing district bound by Wells Avenue and Nahanton Street. There are no planned physical changes to, or expansion of, the existing building necessary to accommodate the two uses. However there are proposed changes to the design of the parking lot and to increase parking capacity from 30 to 45 stalls.

The Limited Manufacturing zoning district requires a special permit for a place of amusement. Further, the Deed Restriction for Wells Ave will need to be amended to allow a portion of the building to be used for amusement.

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

- Zoning Review Application, prepared by Terrence Morris, Attorney, dated 5/21/2014
- Existing conditions parking plan, prepared by Verne T. Porter, dated 5/2/2013
- Proposed conditions parking plan, prepared by Verne T. Porter, dated 11/12/2013

- Zoning Table & Parking Calculation, prepared by Terrence Morris, Attorney, dated 9/19/2013

ADMINISTRATIVE DETERMINATIONS:

1. The proposed use of the property for an indoor bouncy house space would be considered a place of amusement. Per section 30-12(e)(8), a special permit is required for a place of amusement in the Limited Manufacturing district.
2. The Deed Restriction for Wells Ave does not allow for amusement uses. An amendment to the Restriction is required to allow for this use.
3. The proposed amusement use requires one parking stall per each three employees at the highest shift, one stall per each three seats, plus one stall per each 45 square feet of space used concurrently with seating space per section 30-19(d)(13). The applicant is proposing capacity for two parties at any one time with a maximum of 15 children each. The children will be in either the play space or the party room, so the spaces will not be used at the same time. The applicant proposes 30 seats and 3 employees, requiring a total of 11 parking stalls. Given that the play space and the party space will not be used concurrently, no additional parking is required.

The parking requirement of 26 stalls for the day care is based on the start-up capacity of 70 children and twelve employees for the facility. The intention is for the day care to expand to a maximum capacity of 120 children and 17 employees, which would increase the parking demand to 41 stalls, per sections 30-5(a)(3)(d)iii and 30-19(d)(16).

There are currently 30 parking stalls on site. The applicant proposes to add an additional 15 stalls, creating 45 stalls total. The amusement space requirement of 11 stalls plus the day care requirement of 41 stalls at its maximum creates a total parking demand of 52 stalls. A waiver of seven stalls is required per section 30-19(m).

4. The existing parking stalls are dimensionally compliant at 9 feet by 19 feet. The applicant is proposing to create a 12 foot wide one-way drive with a center island to facilitate safer drop-off to the building. The new drive will shorten 12 of the existing parking stalls along it by two feet. Section 30-19(h)(2)d allows for a stall length reduction of two feet provided there is a bumper overhang. These twelve stalls nose in to a vegetated open area where the two foot overhang is available. No waiver is required.
5. Section 30-19(h)(3)a requires a minimum aisle width of 24 feet for one-way aisles providing access to stalls perpendicular to the aisle. The proposed aisle is 12 feet with stalls. A waiver is required to allow for a 12 foot access aisle per section 30-19(m).
6. Section 30-19(i)(2) requires interior landscaping for parking facilities with more than twenty stalls. It is unclear from the submitted plans of what the proposed interior island of the one-drive will consist. It appears no interior landscaping has been proposed. A waiver from this section is required per 30-19(m).

7. While the applicant has not indicated any signs, all signs are subject to the permitting requirements established in Section 30-20.

Zone Limited Manufacturing	Required	Existing	Proposed
Lot Size	N/A	86,256 square feet	No change
Setbacks			
• Front	25 feet	25 feet	No change
• Side	20 feet	20 feet	No change
• Rear	40 feet	154 feet	No change
Building Height	36 feet	N/A	No change
Max number of stories	3	1.5	No change
Max building lot coverage	25%	19.58%	No change
Minimum open space	40%	56.32	58.05
Parking stalls	52	30	45

*Many of the required dimensional controls fall under the provisions of the Deed Restriction

8. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§30-12(e)(8)	To allow an indoor place of amusement	§30-24
§30-19(d)(13) §30-5(a)(3)(d)iii) §30-19(d)(16) §30-19(m)	Waive requirement for seven parking stalls	§30-24
§30-19(h)(3)a) §30-19(m)	Reduce minimum aisle width for one-way traffic	§30-24
§30-19(i)(2) §30-19(m)	Waive interior landscaping requirements	§30-24
	Amend Wells Ave Deed Restriction	