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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 8, 2018  
*\*continued to June 12, 2018*  
Land Use Action Date: July 10, 2018  
City Council Action Date: July 16, 2018  
Expiration Date: August 6, 2018

DATE: June 8, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #178-18**, SPECIAL PERMIT/SITE PLAN APPROVAL to extend the hours of operation and increase the number of customers at one time, requiring an amendment to Special Permit Board Order #257-13(4) at **145 Wells Avenue**, Ward 8, Newton Centre, on land known as Section 84 Block 34 Lot 2G, containing approximately 86,256 sq. ft. of land in a district zoned LIMITED MANUFACTURING. Ref: 7.3.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



**145 Wells Avenue**

## EXECUTIVE SUMMARY

The property at 145 Wells Ave consists of an 86,256 square foot lot in a Limited Manufacturing (LM) zoning district in the Wells Ave Office Park. The site is improved with a two-story commercial building that is occupied by an approximately 12,000 square foot day care center that received administrative site plan approval in 2013 and a 5,700 square foot indoor amusement center which received a special permit in 2014. The deed restriction which limits the uses on Wells Ave was amended in both cases to permit the uses. There are 45 parking stalls on the site.

Special Permit #257-13(4) permitted the use of the site an indoor amusement center, subject to several conditions, including provisions limiting the hours of operation and prohibiting the amusement center (a.k.a. the “bouncy house”) from operating concurrently with the day care center, limiting the number of patrons and regulating the scheduling of parties. The petitioners request amendments to that special permit to increase the hours of operation to include weekday mornings and afternoons and to allow the two uses to be operated concurrently. While the initial petition also requested an increase in “the number of children/customers in the amusement center at any one time” from the 30 now allowed, the petitioner has indicated that that relief is no longer being sought.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The specific site is an appropriate location for the proposed use (§7.3.3.1),
- The use as developed and operated will not adversely affect the neighborhood. (§7.3.3.2),
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.3),
- Access to the site over streets is appropriate for the types and number of vehicles involved (§7.3.3.4).

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The site is located in the Wells Avenue office park in a Limited Manufacturing (LM) 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 45 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.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The site is currently used as a 12,000 square foot, for-profit day care center with a maximum of 120 children from three months to five years old and 17 staff on site at any one time, and a 5,800 square foot amusement center (the “bouncy house”) that currently operates between 6:00 p.m. and 9:00 p.m., Monday-Friday, and 9:00 a.m. to 9:00 p.m. on Saturday and Sunday. The amusement center/“bouncy house” functions as a “celebration/birthday party venue” for children between the ages of 2 and 12 and can host two parties of approximately 15 children each at any one time.

B. Building and Site Design

The petitioner is not proposing any changes to the building or site.

C. Parking and Traffic

The petitioner is not proposing any changes to the parking or circulation.

Condition #5 1 of Special Permit #257-13(4) limits the hours of operation for the “bouncy house” to 6:00 p.m. to 9:00 p.m. on weekdays and from 9:00 a.m. to 7:00 p.m. on weekends. It also states that the bouncy house and day care uses may not be open to users at the same time. The condition does not accommodate for holidays when the day care would not typically be open. The petitioner requests an amendment to Condition #5 to allow the hours of operation to increase to weekdays from 10:30 a.m. to 9:00 p.m. and to 9:00 a.m. to 9:00 p.m. weekends and holidays. This amendment would also require that the condition that the two uses not operate concurrently be eliminated.

The petitioner has submitted information regarding current parking usage (**Attachment D**) as well security camera photos of the parking area. The data (for

the week of May 7-May 12, 2018) indicates that weekday use of the parking area between 10:30 am and 3:30 pm is consistently steady at 11, reflecting staff use of the stalls. From 3:30 to about 5:00 pm to usage climbs to around 13-17 cars, reflecting pick-ups from the childcare facility.

The parking requirement for the amusement center when operating with thirty children and three staff is 11 stalls. It would appear from the submitted information that there is, at this time, a sufficient supply of parking stalls for the simultaneous weekday operation of the day care facility and entertainment center during the additional time frames sought by the petitioner. Planning staff also has some concerns about the effect any growth in the day care facility or amusement center operations would have on future parking demand and, as such, Planning staff notes that a condition requiring some form of "look back" provision and/or occasional periodic review and reporting of conditions could be a condition of any order.

D. Landscape Screening

The petitioner is not proposing any changes to the site's landscaping.

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:

- amend Special Permit #257-13(4)

B. Engineering Review

No engineering review is required at this time.

V. PETITIONER'S RESPONSIBILITIES

Th petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum  
**Attachment D:** Petitioner's parking information

# ATTACHMENT A

## Land Use

145 Wells Ave.

*City of Newton,  
Massachusetts*

### Land Use

### Land Use



Commercial



Mixed Use



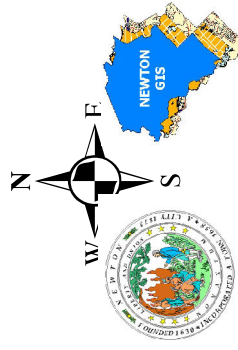
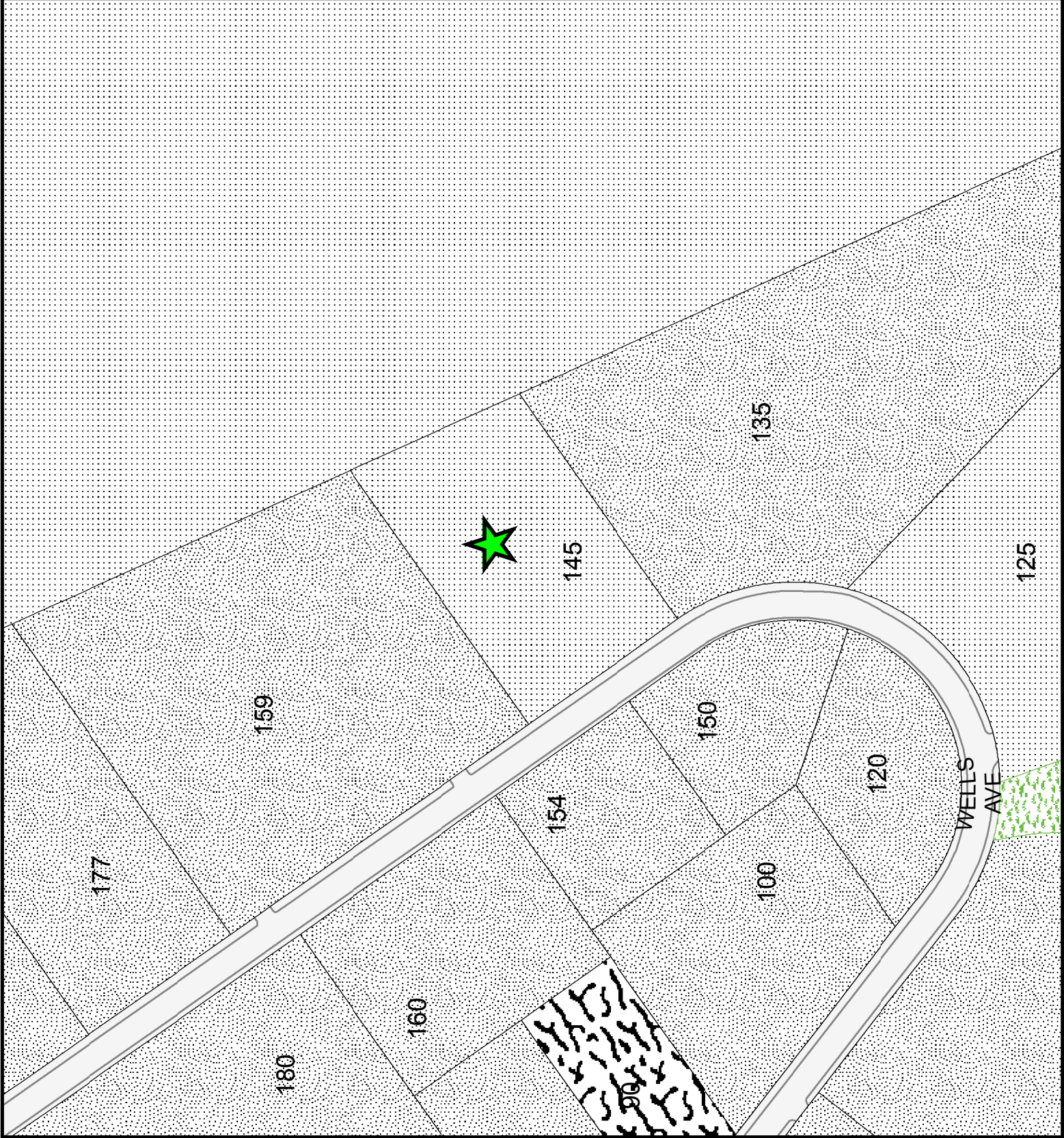
Open Space



Private Educational



Nonprofit Organizations



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

0 12.5 25 50 75 100 125 150 175 200 225 Feet

# ATTACHMENT B

## Zoning

145 Wells Ave.

*City of Newton,  
Massachusetts*

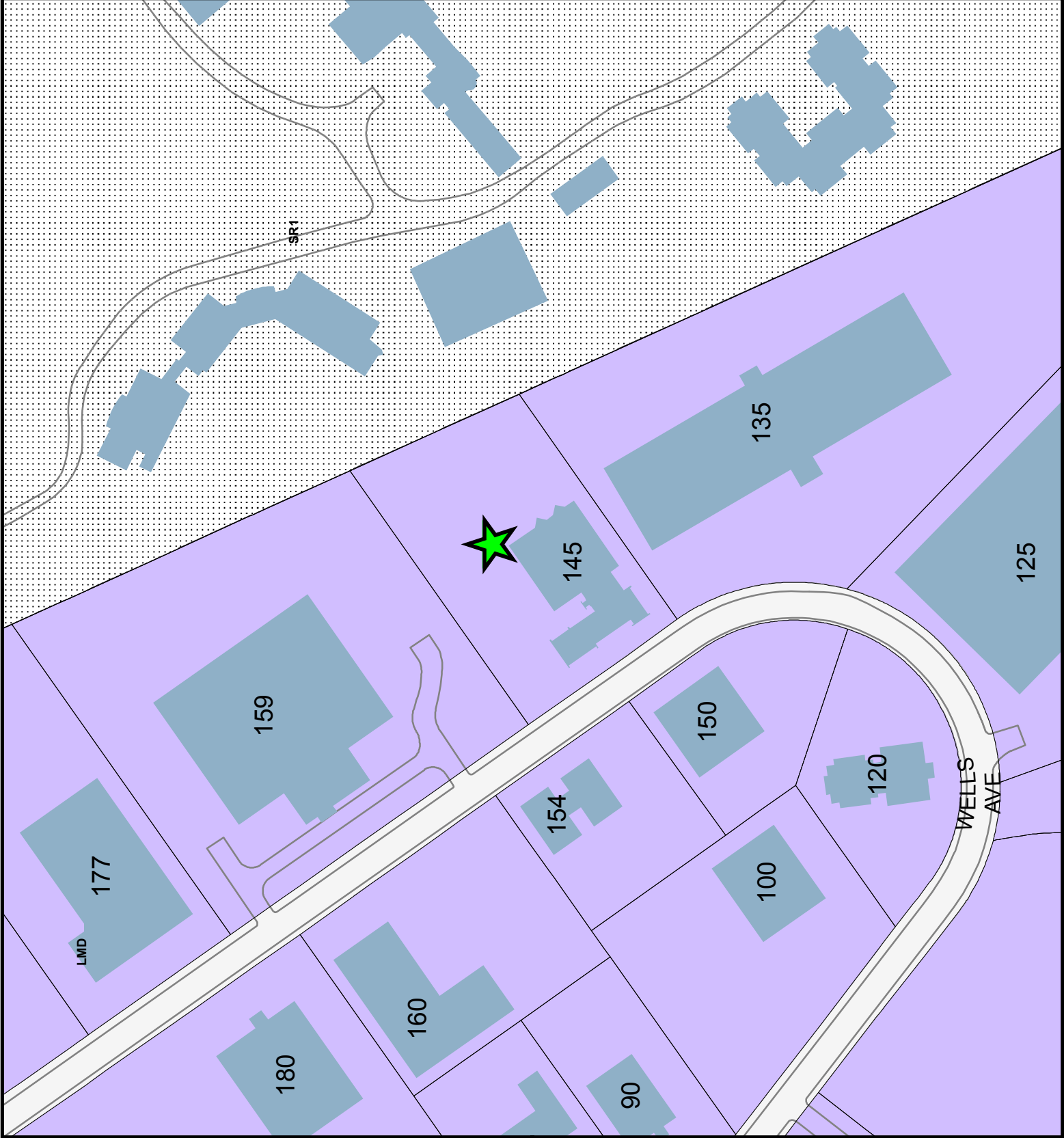
### Legend



Single Residence 1



Limited Manufacturing



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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# ATTACHMENT C



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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: March 12, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: Andrian Shapiro, Manager, Wells Avenue Business center LLC  
Terrence P. Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Acting City Solicitor

RE: Request to amend Special permit #257-13(4)

Applicant: Wells Avenue Business Center LLC	
Site: 145 Wells Ave	SBL: 84034 0002G
Zoning: Limited Manufacturing	Lot Area: 86,256 square feet
Current use: Day care and amusement	Proposed use: No change

### BACKGROUND:

The property at 145 Wells Ave consists of an 86,256 square foot lot in the Limited Manufacturing District in the Wells Ave Office Park. The site is improved with 45 surface parking stalls and a two-story commercial building with a day care center that received administrative site plan approval in 2013 and an indoor amusement center which received a special permit in 2014. The deed restriction which limits the uses on Wells Ave was amended in both cases to permit the uses.

Special permit #257-13(4) permitted the use of the site for Jump'n'Slide Amusement Center, however several conditions within the permit limit the hours of operation, number of patrons and regulates the scheduling of parties. The petitioners request an amendment to these conditions to increase the hours of operation and number of patrons and parties. No changes are proposed for the site.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 1/22/2018
- Site Survey, prepared by Verne T. Porter, surveyor, dated 8/2/2016
- Special Permit #257-13(4), dated 10/6/2014

**ADMINISTRATIVE DETERMINATIONS:**

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1. Special Permit #257-13(4) authorized the use of the property for a place of amusement (an indoor bouncy house) and a day care, with an associated waiver of seven parking stalls. Condition #4 of the special permit limited the number of staff at the amusement center to three, and the number of children/customers to 30 at any one time. Condition #6 requires that there may not be more than two concurrent events or parties at the bouncy house, and that the event start times are staggered by 15 minutes.
  
2. Condition #5 limits the hours of operation for the bouncy house to 6:00 p.m. to 9:00 p.m. on weekdays and from 9:00 a.m. to 7:00 p.m. on weekends. It also states that the bouncy house and day care uses may not be open to users at the same time. The condition does not accommodate for holidays when the day care would not typically be open. The petitioner requests an amendment to Condition #5 to allow the hours of operation to increase to weekdays from 10:30 a.m. to 9:00 p.m. and to 9:00 a.m. to 9:00 p.m. weekends and holidays. This amendment would also require that the condition that the two uses not operate concurrently be eliminated.
  
3. There are 45 surface parking stalls on the property. The original proposal for the bouncy house was for a maximum of 30 children (seats) and three employees at any given time, requiring a total of 11 parking stalls. The day care use was permitted with up to 120 children and 17 teachers, requiring 41, for a total of 52 stalls required for the combined uses (at the time of the most recent special permit, the day care had a projected start-up operation with 70 children and 12 employees, requiring 26 stalls). The petitioner received a parking waiver of seven stalls for the uses in 2014.

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
	Request to amend Special Permits #257-13(4)	



Total Staff Daycare	19
Staff with car Daycare	11

ELITE DAY CARE & JUMP 'N SLIDE AMUSEMENT CENTER  
145 WELLS AVENUE  
CURRENT PARKING USAGE STUDY

	05.07.18 - 05.12.18						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
7:00 AM - 7:30 AM	16	15	15	15	13	0	0
7:30 AM - 8:00 AM	17	14	15	16	15	0	0
8:00 AM - 8:30 AM	15	15	14	14	14	0	0
8:30 AM - 9:00 AM	13	13	16	16	15	2	1
9:00 AM - 9:30 AM	12	12	17	13	13	5	3
9:30 AM - 10:00 AM	14	13	13	11	14	15	5
10:00 AM - 10:30 AM	11	12	12	11	13	23	7
10:30 AM - 11:00 AM	11	11	11	11	11	23	13
11:00 AM - 11:30 AM	11	11	11	11	11	25	22
11:30 AM - 12:00 PM	11	11	11	11	11	31	20
12:00 PM - 12:30 PM	11	12	11	11	11	33	14
12:30 PM - 1:00 PM	11	11	11	11	11	37	16
1:00 PM - 1:30 PM	12	12	11	11	11	35	22
1:30 PM - 2:00 PM	11	11	11	11	11	32	31
2:30 PM - 3:00 PM	11	11	11	11	11	28	34
3:00 PM - 3:30 PM	11	11	11	11	11	31	29
3:30 PM - 4:00 PM	15	16	15	11	13	37	28
4:00 PM - 4:30 PM	13	15	14	14	15	35	16
4:30 PM - 5:00 PM	14	14	16	15	17	24	14
5:00 PM - 5:30 PM	7	9	7	9	13	25	5
5:30 PM - 6:00 PM	4	6	8	5	7	29	19
6:00 PM - 6:30 PM	0	0	0	0	5	19	9
6:30 PM - 7:00 PM	0	0	0	0	7	21	7
7:00 PM - 7:30 PM	0	0	0	0	5	13	7
7:30 PM - 8:00 PM	0	0	0	0	2	19	8
8:00 PM - 8:30 PM	0	0	0	0	3	6	0
8:30 PM - 9:00 PM	0	0	0	0	0	3	1

Parking Capacity (sp)	45		45	
	Current Usage #	Spaces	Approved Usage #	Spaces
Parking Requirements Day Care Center				
Children (1 sp/5)	90	18	120	24
Staff (1 sp/1)	17	16*	17	17
Amusement Center				
Seats (1 sp/3)	30	10	30	10
Staff (1 sp/3)	3	1	3	1
<b>Total Requirement</b>		29		52
Waiver (BO#257-13(4))				-7
<b># Sp Needed/Approved</b>		45		45

\* Staff Size varies during the day; max # at one time is 12

CURRENT PARKING USAGE STUDY  
NEWTON CHILDCARE ACADEMY  
05.07.18 - 05.12.18

