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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 8, 2022
Land Use Action Date:	May 24, 2022
City Council Action Date:	June 6, 2022
90-Day Expiration Date:	June 6, 2022

DATE: March 4, 2022

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 #160-22**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Order #332-65 to allow a change of use, a 25 stall parking waiver stalls, and remove Sunday parking restriction for associated parking lot at 381 Elliot Street, Ward 5, Newton, on land known as Section 51 Block 01 Lot 06, containing approximately 186,883 sq. ft. in a district zoned MAN. 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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



365-381 Elliot Street

EXECUTIVE SUMMARY

The property located at 365-381 Elliot Street known as the “Echo Bridge Office Park” consists of a 186,883 square foot lot improved with a mill building featuring a mix of uses. The site is in a Manufacturing (“MAN”) zone in Upper Falls.

The petitioner is seeking to expand a religious use on site to allow for expanded sanctuary seating and a Sunday School, which requires a 25-stall parking waiver. They are also seeking to amend a prior special permit from 1965 which allowed the petitioner to use the parking lot across the street at Elliot Street/River Avenue. The prior special permit prohibited Sunday parking at the parking lot across Elliot Street. Therefore, the petitioner seeks a special permit to waive 25 parking stalls and amend the prior special permit to allow parking on Sundays at an associated parking lot across Elliot Street.

City Staff are unconcerned with the 25-stall parking waiver and the proposed amendment to Special Permit #332-65 to allow parking on Sundays at the non-accessory parking lot. The mix of uses are compatible in that most of the parking is utilized Monday through Friday in accordance with regular business hours. As the proposed religious use would operate on Sunday, it is unlikely to be any overlap amongst the uses.

SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the 25 stall parking waiver (§7.3.3.C.1).
- The specific site is an appropriate location for the proposed amendments to Council Order 332-65, to allow parking on Sundays at the Elliot Street/River Avenue parking lot (§7.3.3.C.1).
- The expansion of the religious use and 25 stall parking waiver will adversely affect the neighborhood (§7.3.3.C.2).
- There will be nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3); and
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).
- A waiver of 25 parking stalls is impracticable due to the nature of the use, or the location, 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)

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

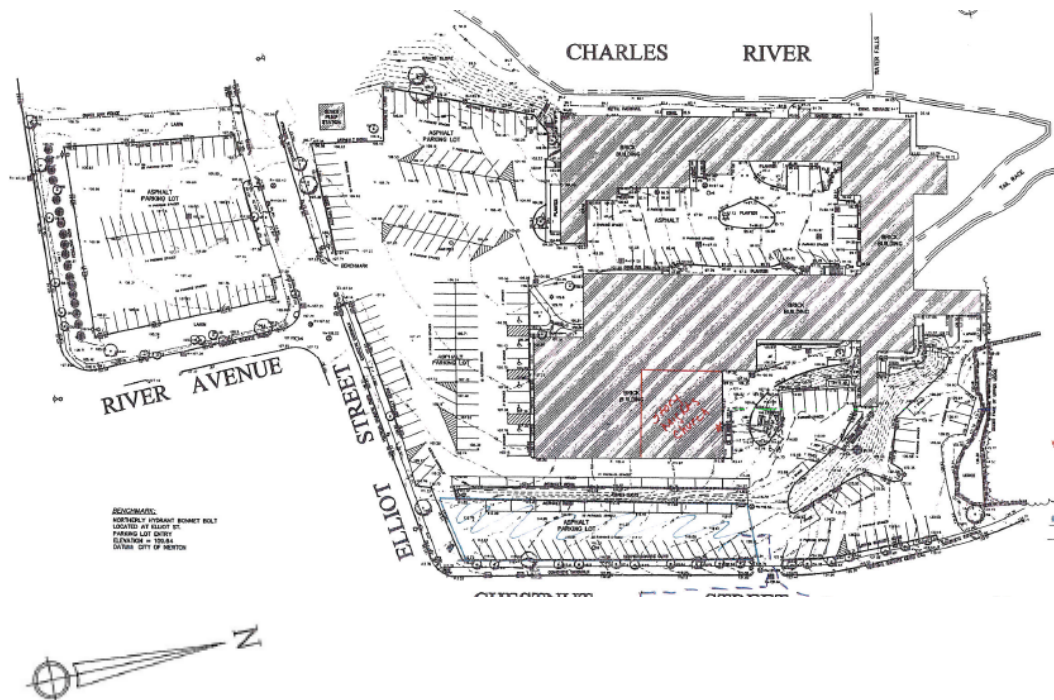
The subject property is located at the corner of Elliot and Chestnut Streets in a MAN

zone in Upper Falls. The parcel with the accessory parking on Elliot Street is in the Multi Residence ("MR-1") zone (**Attachment A**). The immediate neighborhood is comprised of a mix of land uses including single as well as multi-family residences, commercial, mixed-use, and open space (**Attachment B**).

B. Site

The property consists of 186,883 square feet of land and is improved with a mill building which contains a mix of uses. The site consists of one U shaped mill building and 291 surface parking stalls between the subject lot and the non-accessory lot at 7 River Avenue. The building and associated parking areas along the frontages are at a lower grade than Chestnut Street, and the site has a significant grade change of approximately 25 feet from east to west.

Site Plan



II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

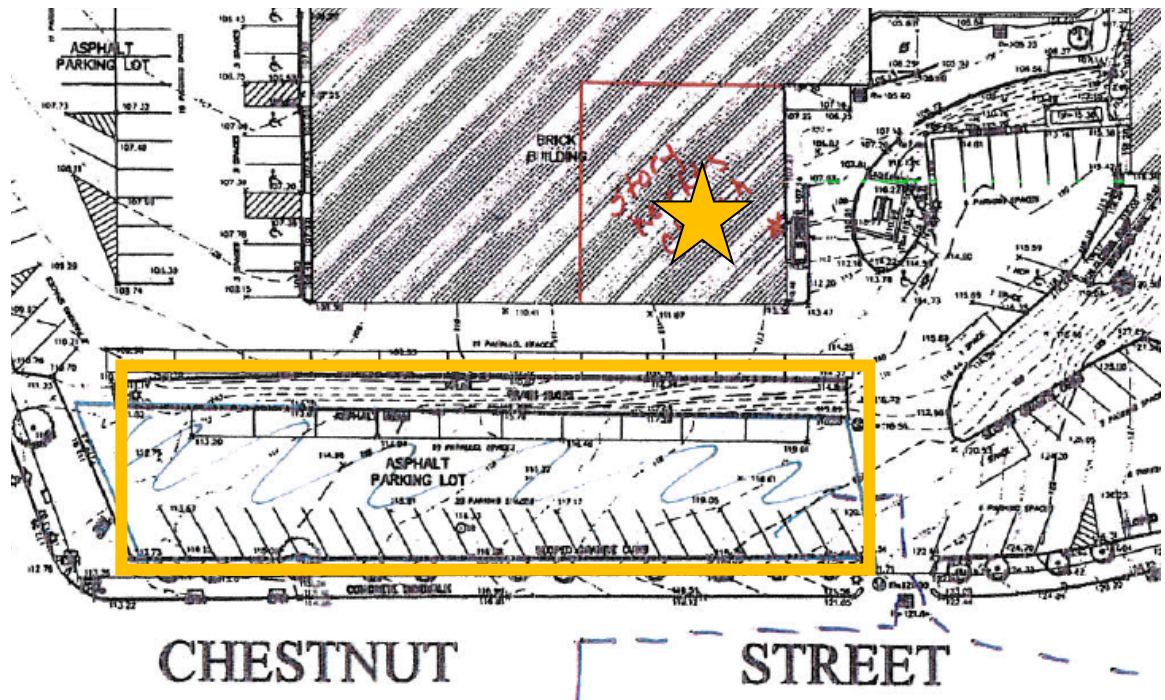
The site will remain mixed-use with the expansion of the religious use.

B. Building Design

The petitioner is not proposing any alterations to the footprint. The petitioner is seeking to relocate the Sunday School within the existing building to allow for more sanctuary seating.

C. Site Design

The petitioner seeks to expand an existing religious use to incorporate an additional 5,840 square feet. The additional space will allow for the relocation of the Sunday School and administrative space. The petitioner indicated that vehicles would access the site from Chestnut Street and utilize the parking nearest the religious use's tenant space.



D. Parking and Circulation

There are 291 parking stalls available for the use of 365-381 Elliot Street; 229 stalls on-site at 265-281 Elliot Street and 62 stalls at the Elliot Street/River Avenue lot across the street. The Sunday School was determined to have the same parking requirement as a day care center, requiring one stall for every five children and one stall for every employee. The petitioner estimates approximately 52 children and 13 teachers. As such, the revised parking requirement is 50 stalls. 25 of those parking stalls can be accommodated on site, therefore the petitioner requires a parking

waiver of 25 stalls.

The parking for the site works as follows:

Table 1. On-Site Parking and Operations

Use	Parking Requirement	Days of Operation
Office	214	M-F
Medical Office	16	M-F
Retail	24	M-Sun
Storage	3	N/A
Other	1	M-F
Religious Use	58	Sunday
Total	316 stalls	-
Provided	291 stalls	-

The proposed expansion of the religious use requires a parking waiver for 25 stalls. The Planning Department is unconcerned with the proposed parking waiver of 25 stalls for the religious use because the use operates when other businesses on site are closed. In the interest of safety of those using the Elliot Street/River Avenue lot, the Transportation Division suggested that the property owner design, install and construct a cross walk with Rectangular Rapid-Flashing Beacons (“RRFB”) across Elliot Street. Due to the mix of uses on site, city staff are unconcerned with the proposed parking waiver of 25 stalls. The Planning Department also recommends a condition that the parking waiver apply to the religious use only and any change in use would require an amendment to the special permit, if approved.

E. Special Permit #332-65

Special Permit #332-65 (**Attachment C**) allowed off-site parking at the Elliot Street/River Avenue parking lot. The Elliot Street/River Avenue contains 62 parking stalls. The petitioner seeks to amend Condition 3 Special Permit #332-65 to allow parking in the Elliot Street lot on Sundays and retain the overnight restriction during the week. As the prior Special Permit is from 1965, Planning Staff made minor updates allow for consistency with more recent special permits. A redlined version of a proposed consolidated Council Order, should this petition be approved, is attached (**Attachment D**).

F. Landscaping and Lighting

The petitioner is not altering the parking facility. As such, relief for the landscaping and

lighting requirements for parking facilities with more than twenty stalls is not required.

III. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment E**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Amend Special Permit #332-65 and
- §5.1.4.A and §5.1.13 to waive 25 parking stalls.

IV. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the Transportation Division's suggestion that the property owner design, construct, and install a crosswalk with RRFBs across Elliot Street. Otherwise, the petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Map
Attachment B: Land-Use Map
Attachment C: Special Permit 332-65
Attachment D: DRAFT Redlined Council Order
Attachment E: Zoning Review Memorandum








ATTACHMENT A

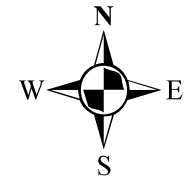
Zoning

365-381 Elliot Street

City of Newton,
Massachusetts


Zoning

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Manufacturing
-  Public Use

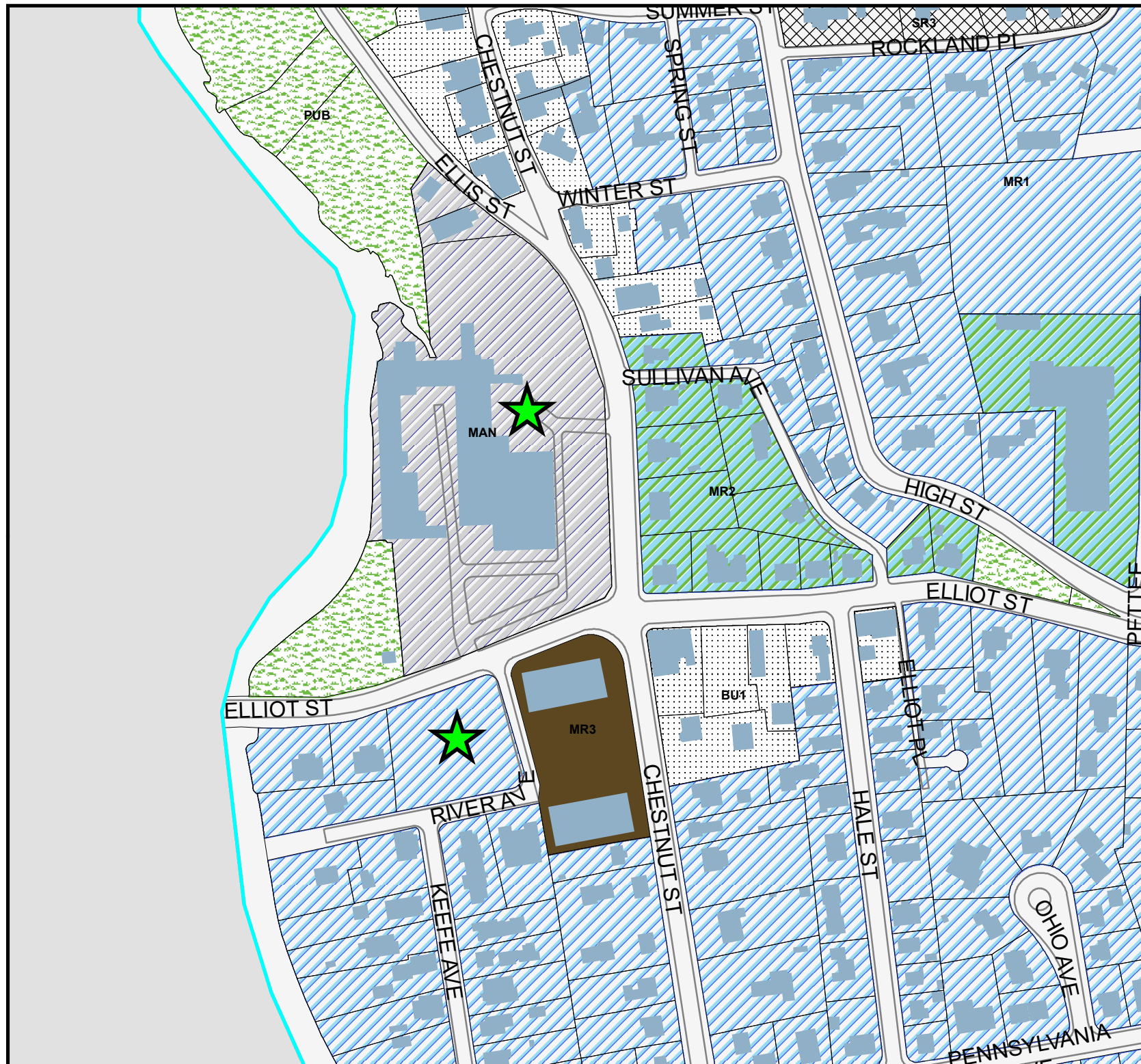


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

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 Feet

Map Date: March 01, 2022



ATTACHMENT B








Land Use

365 - 381 Elliot Street

*City of Newton,
Massachusetts*

Land Use


Land Use

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

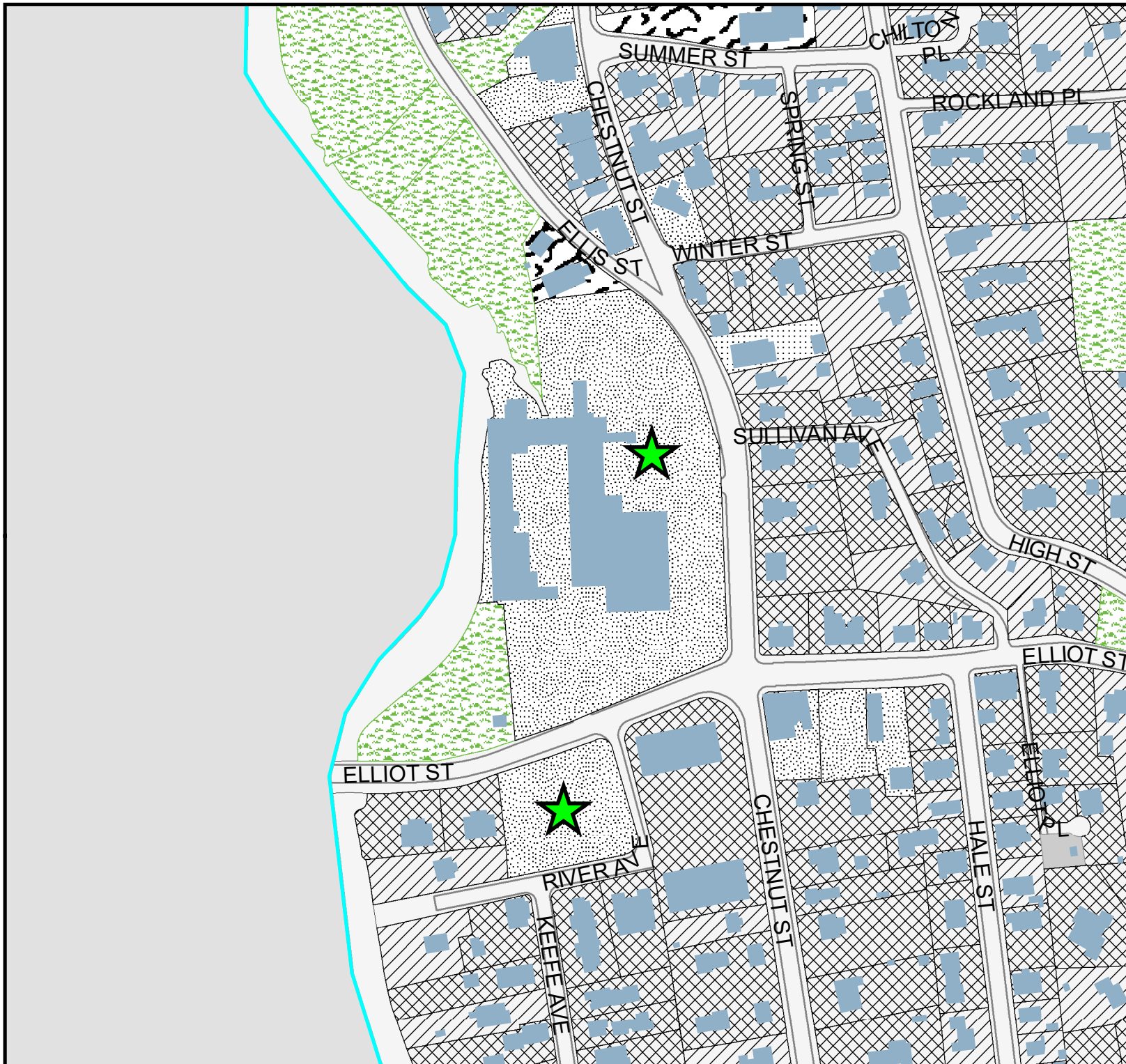


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

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 Feet

Map Date: March 01, 2022



CITY OF NEWTON

IN BOARD OF ALDERMEN

August 23, 1965

the Board finding that the public convenience and will be substantially served by its action and that there will be without substantial detriment to the public and without substantially derogating from the intent or purposes of said ordinance, the following permissive use is hereby

No. : 352-65

Applicant: Telmwood Realty Trust

Address: 7 River Avenue, corner Elliot St., Ward 5
Section 51, Block 43, Lot 1, containing
approx. 34,100 sq. ft.

Used for: Parking of passenger automobiles of employees,
guests or customers of the person or firm
operating the lot.

Surface: Gravel base and bituminous concrete

Notes: Private parking lot in conjunction with office
park. All within 150' of a business zone.
Entrance and exit to parking lot will be from
Elliot Street only, all as shown on plan filed
herewith.

Location: Referred to herein is in the Private Residence District.

- Conditions:
1. Vehicular and pedestrian ingress and egress to and from the site shall be limited to the two driveway openings on Elliot Street shown on the petitioner's revised site plan dated April 19, 1965, and filed with the City Clerk on July 8, 1965.
 2. Use of the site shall be limited to the parking of private passenger vehicles of employees and guests of tenants of Telmwood Realty Trust and no commercial vehicles or other property of any kind or description shall be parked, stored or placed on the site at any time.
 3. Parking on the site shall be prohibited before 7 AM and after 8 PM on Monday through Saturday of each week and all day on Sundays.
 4. No parking shall be permitted on the site during construction and until the petitioner shall have filed with the Commissioner of Public Buildings a statement signed by a registered civil engineer certifying that all work has been completed in accordance with the site plan and with conditions 5 through 14 hereof.

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-65) ✓

- 17. The petitioner shall maintain the parking area, trees, shrubbery and fencing in good order and repair and shall engage such personnel as may be necessary to enforce compliance with conditions one to five inclusive and condition 16 hereof and to prevent the use of the site for any purpose other than parking. The Police Department in its discretion may require the owner to install appropriate gates to be used in closing off the Elliot Street openings when the premises are not open for parking pursuant to condition 3 above.
- 18. The permissive use herein granted shall not become effective until a statutory notice thereof with a reference to the book and page of the recording of the petitioner's title deed to the site endorsed thereon, shall have been recorded with Middlesex South District Registry of Deeds and a certified copy of such recorded document filed with the City Clerk.

EXECUTIVE DEPARTMENT

Suspension of Rules
Regs Waived & Adopted
as 4 Absent 1 Vacancy (Holden)
at - Ald. Bruce, Dangel, Hicks &

Approved August 25, 1965

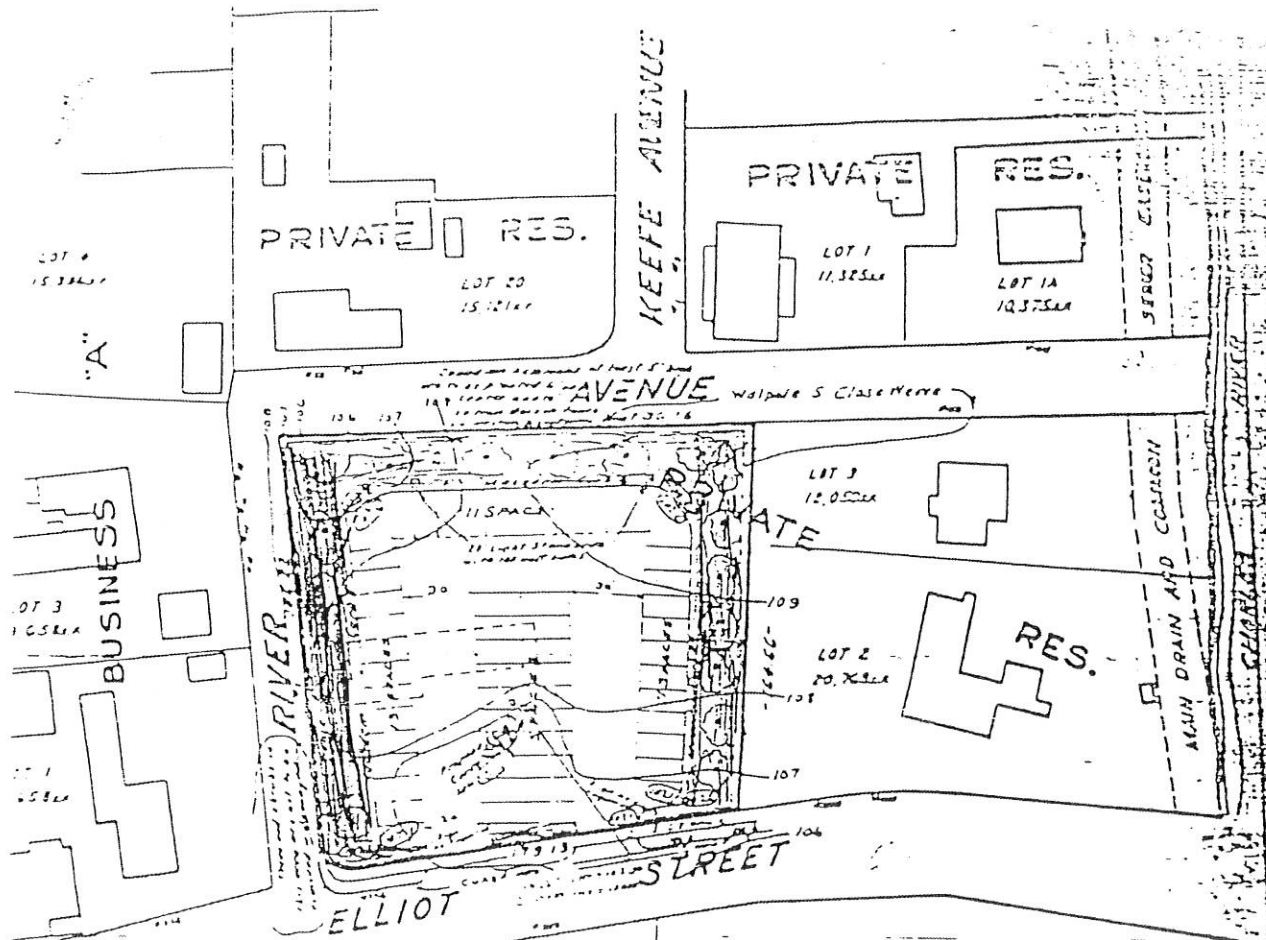
Monte G. Easbas

Donald L. Gibbs

MONTE G. EASBAS City Clerk

(Sgd) DONALD L. GIBBS Mayor

*Copy to Mr. Anderson
9-5-65*




MANUFACTURING

COMM. OF MASS.

PLAN OF LAND
IN
NEWTON • MASS.

TO ACCOMPANY THE PETITION OF
TELEPHONE REALTY TRUST
OF
89 ELM ST.
WEST NEWTON MASS.
FOR PERMISSIVE USE

SCALE: 
EVERETT M. BROOKS CO.
NEWTONVILLE • WAYLAND • WILMINGTON

APRIL 17, 1965
CIVIL ENGINEERS
MASS.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #332-65, and to waive 25 parking stalls as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the 25 stall parking waiver due to the mix of uses on site and their hours of operation (§7.3.3.C.1).
2. The specific site is an appropriate location for the proposed amendment to Council Order #332-65, to allow parking on Sundays at the Elliot Street/River Avenue parking lot because the site is currently used for parking all other days of the week and has been in existence for over 57 years. (§7.3.3.C.1).
3. The expansion of the religious use and 25 stall parking waiver will not adversely affect the neighborhood because the use operates on Sundays, when other uses on site are closed. (§7.3.3.C.2).
4. There will be no nuisance or serious hazard to vehicles or pedestrians because there are no changes to the site plan proposed (§7.3.3.C.3);
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4).
6. A waiver of twenty-five parking stalls is in the public interest because the proposed religious use does not create additional parking demand during peak hours and only operates on Sundays. (§5.1.13)

PETITION NUMBER: #160-22

PETITIONER: Echo Bridge LLC

LOCATION: 381 Elliot Street, Section 51, Block 01, Lot 06 containing approximately 186,883 square feet of land

OWNER: Echo Bridge LLC

ADDRESS OF OWNER: 34 Washington Street, Wellesley, MA 02481

TO BE USED FOR: Expansion of religious use

CONSTRUCTION: Internal Modifications

EXPLANATORY NOTES: §5.1.4, §5.1.13, §7.3.3 to allow a parking waiver of 25 stalls, to amend Special Permit #332-65 which allowed the office park to use the accessory parking facility at Elliot Street and River Ave

ZONING: MAN

The prior special permit for this property is Special Permit #332-65. This special permit supersedes, consolidates, and restates provisions of the prior special permit 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 #160-22 are null and void.

Approved subject to the following conditions:

Conditions associated with this Special Permit/Site Plan Approval, Special Permit #160-22

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 the following plans:
 - i. "Topographic Site Plan -Echo Bridge Office Park" dated December 7, 2004
 - ii. Architectural Plans prepared by D.W. Arthur Associates Architecture, signed and stamped by Dogan W. Arthur, dated July 8, 2021, revised August 2, 2021 consisting of eight sheets.
2. This Special Permit/Site Plan Approval governs both 365-381 Elliot Street and 25 River Avenue (Elliot Street/River Avenue parking facility). As such, this Special Permit/Site Plan Approval shall be recorded against both lots at the Middlesex South Registry of Deeds.
3. The parking waiver of 25 stalls shall only apply to the religious use, any change in use seeking to use the parking waiver, requires 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.

4. In the event the accessory parking is no longer available, the property owner shall contact the Planning Department to ensure compliance with this special permit and to determine if an amendment to this special permit is required.
5. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Recorded a certified copy of this council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County for both parcels.
 - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
6. No occupancy permit for the use 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 statements by a registered architect.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.

Conditions incorporated from Special Permit #332-65 governing the Elliot Street/River Avenue parking facility consisting of 62 surface parking stalls.

7. Vehicular and pedestrian ingress and egress to and from the site shall be limited to the two driveway openings on Elliot Street shown on the site plan referenced in Condition 1.
8. Use ~~of the site~~ Elliot Street/River Avenue parking facility shall be limited to the parking of private passenger vehicles of employees and guests of the owner of 365-381 Elliot Street.
9. Parking on the ~~site~~ Elliot Street/River Ave parking facility shall be prohibited before 7 AM and after 8 PM on Monday through ~~Saturday~~ Sunday of each week.
- ~~10. No parking shall be permitted on site during construction and until the petitioner shall have filed with the Commissioner of Public Buildings a statement signed by a registered civil engineer certifying that all work has been completed in accordance with the site plan and with conditions 5-14 thereof.~~
10. The petitioner shall maintain the parking area, trees, shrubbery and fencing in good order and repair and shall engage such personnel as may be necessary to enforce compliance ~~with conditions one to five inclusive and condition 8 hereof~~ with this Council Order and to prevent the use of the site for any purpose other than parking. The Police Department in its discretion may require the owner to install appropriate gates to be used in closing off Elliot Street openings when the premises are not open for parking. ~~pursuant to Condition 3 above.~~

11. ~~The permissive use herein granted shall not become effective until a statutory notice thereof with a reference to the book and page of the petitioner's title deed to the site endorsed thereon, shall have been recorded with Middlesex South District registry of Deeds and a certified copy of such recorded document filed with the City Clerk.~~



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 8, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Mary Butler, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Special Permit #332-65, to waive parking stalls

Applicant: Mary Butler	
Site: 381 Elliot Street	SBL: 51001 0006
Zoning: MAN	Lot Area: 186,883 square feet
Current use: Mixed use	Proposed use: No change

BACKGROUND:

The Mall at Echo Bridge was constructed circa 1875 as a mill building and is currently occupied by mixed retail and office uses as well as Story Heights Church. The site received a special permit in 1965 to allow parking on an adjacent parcel in the MR1 zoning district. The petitioner seeks to expand the space occupied by the religious use and amend the special permit to remove certain conditions.

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

- Administrative Site Plan Review Application, prepared by Mary Butler, applicant, dated 1/5/2022
- Special Permit #332-65
- Site Plan, signed and stamped by Sean Reardon, surveyor, dated 12/6/2004
- Parking calculation, submitted 1/5/2022
- Floor Plans, signed and stamped by D.W. Arthur, architect, dated 7/8/2021, revised 8/2/2021

ADMINISTRATIVE DETERMINATIONS:

1. The property is subject to Special Permit #332-65 which granted the office park the right to use an accessory parking lot located across Elliot Street in a residential district. Condition #3 of the special permit prohibits parking in that lot before 7 AM and after 8 PM on Monday through Saturday and all day on Sunday. The petitioner seeks to amend that condition to allow parking in the lot on Sundays.
2. The expansion of the religious use is subject to the administrative site plan review procedure per sections 6.3.12.B.1 and 7.5.2 of the Newton Zoning Ordinance. This procedure governs the review of uses protected under MGL Chapter 40A, Section 3, also known as the "Dover Amendment".
3. The religious use currently occupies 5,000 square feet and is limited to 70 seats. They seek to occupy an additional 5,840 square feet of space currently used as for business offices.

Approximately 4,100 square feet will be used for Sunday School during church services on Sundays and the remaining space will be used for administration and reception. The Commissioner of Inspectional Services has determined that the Sunday school use should be subject to the parking calculation used for day care centers, which requires one stall per every five children plus one for every employee. It is anticipated that there will be 52 children and 13 adult teachers, requiring a total of 24 stalls for the Sunday school use.

The remaining 1,733 square feet of space will be used for the administrative offices and reception. Offices require one parking stall per every 250 square feet of space, resulting in a requirement of seven stalls.

Per Section 5.1.4, religious institutions require one stall for every three seats, plus one stall for every three employees. The current requirement is 27 stalls. The applicant seeks to expand the sanctuary seating to 140, resulting in a total requirement of 50 stalls.

There are 291 parking stalls associated with the entire property: 229 stalls on the main parcel; and an additional 62 located in an accessory parking area across Elliot Street.

Uses on the property are as follows:

Use	Square Footage	Zoning Requirement	Required Stalls
Retail	4,244 sf	1 per 300sf 1 per 3 employees	14 10
Office	20,000 sf 38,876 sf	1 per 250 sf 1 per 333 sf	80 134
Medical Office	3,197 sf	1 per 200 sf	16
R/D, Wholesale, Man	960	1 per 1,000 sf	1
Storage	8,239 sf	1 per 2,500 sf	3
Non-rentable	16,549 sf		0
Church sanctuary	140 seats 9 employees	1 per 3 seats 1 per 3 employees	24 3
Sunday School	52 children 13 teachers	1 per 5 children 1 per teacher	11 13
Admin and reception	1,733 sf	1 per 250 sf	7
TOTAL REQUIRED			316
TOTAL AVAILABLE			291

The total number of stalls required for the existing uses and the expanded religious use is 316 stalls, where 291 are available. A waiver of 25 stalls is required per section 5.1.13.

Zoning Relief Required		
Ordinance		Action Required
	Amend Special Permit #332-65	
§7.5.2	Administrative Site Plan Review for a private non-profit religious use	§7.5.2
§5.1.4 §5.1.13	Request to waive parking stalls	§7.3.3