

CITY OF NEWTON  
BOARD OF ALDERMEN

May 18, 1998

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good and without derogating from the intent of the Zoning Ordinance, the following SPECIAL PERMIT and SITE PLAN APPROVAL is hereby granted, in accordance with the recommendations of the Land Use Committee and the reasons given by the Committee, therefor, through its chairman, Susan M. Basham:

1. The Board finds that there is an increasing number of elderly persons in Newton, that many of these people cannot live totally independently but do not require nursing home placement, and that there is a lack of housing alternatives in Newton to fill this need. The provision of this type of congregate living for independent elders will be beneficial to the community by allowing seniors to remain in this community, by allowing adult children to provide adequate care for their aging parents within their community and by maintaining the diversity of our community.
2. The Board finds that the site contains a single lot of approximately 125,512 sq. ft. of land in a Single Residence 3 District which would permit a conventional subdivision of up to 10 single family house lots. The Board finds that the independent elderly congregate living facility with support services proposed by the petitioner has numerous advantages over these other possible development scenarios, including:
  - a. Reduced traffic volume in the congregate living use by the provision of a scheduled private transportation.
  - b. More control of the site design, greater setbacks, more landscaping and more than 2 acres of open space.
  - c. No negative impact on the public school system
  - d. Less impact on abutting residential properties on Richard Circle.
  - e. Greater control by the City over development on the site, including review of architectural, landscaping and other design elements to minimize visual and other impacts of the development on the adjacent community.

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NEWTON, MA. 02159

3. The Board finds that the plans reflect efforts taken to minimize the affect on abutting properties on Richard Circle.
4. The Board finds that the creation of this development as mixed income rental housing will provide a housing opportunity for seniors of more modest means and will assure affordability for the long term. The provision of 25% of the units with services for low income individuals and 25% of the units for moderate income individuals represents a benefit to the community and that the institutional lenders for the facility will require the provision for such low and moderate income units for 40 years or the life of the financing if longer.
5. The Board finds that there will be a preservation restriction on the front lawn to preserve the area as open space.
6. The Board finds that the site is an appropriate location for the proposed use.
7. The Board finds that the use as developed and operated will not adversely affect the neighborhood.
8. The Board finds that there will be no nuisance or serious hazard to vehicles or pedestrians.
9. The Board finds that access to the site over streets is appropriate for the types and numbers of vehicles involved.
10. The Board finds that the petitioner has given assurance that elderly persons of low and moderate income who reside in the development will be able to remain despite changes in private and governmental subsidy programs because the petitioner is a non-profit charitable corporation whose primary purpose in its charter is to provide housing with accompanying services for low- and moderate-income elders.

PETITION: 61-98

PETITIONER: Swedish Charitable Society of Greater Boston

LOCATION: 206 Waltham Street, Section 31, Block 16, Lot 80,  
containing approximately 125,512 sq. ft. of land.

OWNER: Swedish Charitable Society of Greater Boston

ADDRESS OF OWNER: 206 Waltham Street  
West Newton, MA

TO BE USED FOR: 40 units of housing for the elderly in a congregate living facility

CONSTRUCTION: Wood frame

EXPLANATORY NOTE: A Special Permit is required per Section 30-8(b)(2) of the Zoning Ordinance for a congregate living facility in a Single Residence 3 District.

APPROVED, subject to the following conditions:

All references hereinafter to the Petitioner shall include the Petitioner or its successor.

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with a set of 15 plans entitled "Special Permit Review Drawings for Swedish Home for Scandinavians, 206 Waltham Street, Newton, MA. dated February 10, 1998: "X-1 Existing Conditions Plan" by Welch Associates, dated May 10, 1996; "X-2 Locus Plan by Geller Associates; "LR-1 Layout and Materials Plan" by Geller Associates; "LR-2 Grading and Utility Plan" by Geller Associates; "LR-3 Landscape Plan" by Geller Associates with revised date 5/1/98; "LR-4" and "LR-5 Site Details" by Geller Associates; "A1 Main Level Plan" by CBT revised 5/1/98; "A-2 Garden Level Plan" by CBT revised 5/1/98; "A-3 North and West Elevations" by CBT; "A4 South and East Elevations" by CBT revised 5/1/98; "A5 North and West Courtyard Elevations" by CBT; "A6 South and East Courtyard Elevations" by CBT; "A7 View to Main House and View to Garden Entry" by CBT; and "A8 View from Crafts Street and Side Garden View" by CBT
2. That all utilities, including telephone and electrical service, shall be installed underground from the street line.
3. That all transformers, chillers, air conditioners, mechanical ventilation systems, HVAC equipment, and similar devices shall be located, designed and baffled so as to comply with City of Newton Noise Ordinance standards and Massachusetts Division of Air Quality Control Policy #90-001, dated February 1, 1990. These items shall be screened by shrubs, if applicable, which screening shall be subject to approval by the Director of Planning and Development as to type and placement.
4. That all trash removal from the site be by private contractor. Trash pickup shall occur only between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. The Petitioner/Owner, its successors and assigns, shall use best efforts to implement a program for recycling of materials from all operations of the building and its support services and shall facilitate recycling for each of the residents. The location of the

COPY OF PLAN

trash dumpster and any recycling bins shall be reviewed and approved by the Director of Planning and Development. The dumpster shall be screened with a solid wood fence and appropriate vegetative screening.

5. That, if the City fails to improve the sidewalk along the Crafts Street frontage adjacent to the site by December 31, 1999, the sidewalk improvements shall be installed along the street frontage on Crafts Street adjacent to the site through the City betterment process.
6. The affordable congregate living units shall be proportionately distributed throughout the building, shall proportionately reflect both unit size and level of services, shall include all services provided other residents and shall be indistinguishable from other units in the building. The petitioner shall dedicate at least ten (10) units with services for low income persons as defined by HUD income standards and at least ten (10) units with services for moderate income persons. The low and moderate income elderly residents shall also have available the basic service package which is made available to all of the market rate residents. Said units shall continue to be provided to low and moderate income persons affordable for so long as the site is used as an assisted living facility.
7. That during construction the following safeguards shall apply:
  - a. The Petitioner shall construct and maintain security fencing around the site in accordance with the requirements of the State Building Code.
  - b. All access to the site during construction, for both construction vehicles and employees, shall be from Waltham Street..
  - c. There shall be no parking on neighborhood streets by employees of contractors and subcontractors working on the site. This requirement may be waived for specified periods of time if a severe hardship arises with the written approval of the Commissioner of Inspectional Services.
  - d. During construction the Petitioner shall provide street cleaning to remove mud or construction debris from streets abutting the site as requested by the Commissioner of Public Works.
  - e. The hours of exterior construction shall be no earlier than 7:00 a.m. to 5:00 p.m. on weekdays. Work on Saturdays or Sundays may occur only with the advance approval of the Commissioner of Inspectional Services.
  - f. The Petitioner shall designate a person responsible for the construction process. That person shall be identified to the Police Department, the

Commissioner of Inspectional Services, and the abutters and shall be contacted if problems arise during the construction process.

- g. The Petitioner shall take appropriate steps to minimize the dust generated during grading of the site, excavation and construction and shall require subcontractors to place covers over any open trucks transporting construction debris.
  - h. That noise levels shall comply with the City's Noise Control Ordinance, Section 20-13.
- 8. That common area space for meetings to be made available on a space available basis for the community neighborhood organization at no charge.
  - 9. That a marketing plan shall be utilized to maximize the opportunity of local residents to gain admission to the facility. Eligible applicants for low income units shall be requested from the Newton Housing Authority and, to the extent consistent with state and federal law and funding, Newton residents and immediate relatives of Newton residents shall be given preference in admission to the facility.
  - 10. That to the extent permitted by applicable law and funding requirements, the Petitioner and/or Owner, or their successors or assigns, shall design, develop and lease the development's apartments for occupancy by persons who have attained the age of at least sixty-five (65) years of age or older and market and advertise the development as exclusively for elderly persons sixty-five (65) years of age or older.

There shall be written Rules and Regulations governing the operation of the development which shall include provisions describing the occupancy requirements substantially as follows:

- a. No apartment shall be occupied unless there is at least one person occupying such apartment who has attained the age of 65 years, but persons who have not attained such age may occupy such apartment with such elderly person (the "occupancy requirement").
- b. The occupancy requirement shall not preclude the following occupancy:

If a couple occupies an apartment and if one of them who is at least 65 years of age dies and is survived by the partner who is under 65 years of age, the surviving partner may continue to occupy the apartment irrespective of his or her age;

If a married couple occupies an apartment and is divorced or separated, either

spouse may continue to occupy the apartment irrespective of his or her age.

The occupancy requirements should not preclude temporary occupancy by guests whether related by blood, adoption or marriage to the occupant or not. A guest shall mean and refer to any person who is visiting and occupying the apartment without any requirement to contribute money, perform any services, or provide any other consideration in connection with said visit/occupancy who does not intend the apartment to be such person's home.

The occupancy requirement shall not prohibit the occupants of an apartment (like those living at home) from having medical personnel (nurse, attendant, social worker, etc.) pre-approved by the Petitioner of any age, visit, or temporarily occupy an apartment.

11. That the Petitioner shall make available scheduled private transportation for its residents to travel to local areas, to be arranged and scheduled through the management of the development.
  12. That the site lighting shall not be sodium lighting and shall not overspill into abutting properties. Lighting shall be on poles that are no higher than 12 feet, residential in scale and downlit. The source of the light shall not be visible from adjoining properties. The Planning Department shall review and approve the lighting location and fixtures.
  13. That there shall be no more than sixty (60) residents of the building.
  14. That the north driveway at the intersection of Waltham and Crafts Streets shall be restricted from use except by emergency vehicles by signage and lighting.
  15. That the front lawn of the site shall be protected by a preservation restriction to be administered by the Newton Historical Commission. This preservation restriction shall be drafted by the petitioner and shall be reviewed by the Historical Commission and reviewed and approved by the Law Department prior to a certificate of occupancy being issued for the building. The area to be restricted shall be shown on a plan attached to the preservation restriction.
  16. That no building permit shall be issued in pursuance of the SPECIAL PERMIT and SITE PLAN APPROVAL until:
    - a. A landscape plan, including lighting and other site features, indicating the location, number, size and type of landscaping and landscaping materials to be installed on site shall be reviewed and approved by the Director of Planning and Development for consistency with the originally approved plans.
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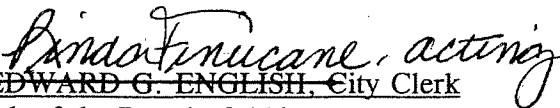
- b. Architectural and facade plans including colors and materials of all facades and roofing, shall be reviewed and approved by the Director of Planning and Development for consistency with the plans cited in Condition #1.
  - c. The City Engineer shall have reviewed and approved the site plans for the site grading and storm and sewer drainage, water services, the underground installation of utilities, and a statement by the City Engineer certifying such approval shall have been filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - d. That the Fire Department has reviewed and approved all plans and evidence of such approval as been submitted to the Commissioner of Inspectional Services.
  - e. The Petitioner shall have recorded with the Registry of Deeds for the Southern Middlesex County a certified copy of the Board Order granting this SPECIAL PERMIT and SITE PLAN APPROVAL with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon. A certified copy of such recorded notice shall have been filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development.
17. That no building or structure, or portion thereof subject to this SPECIAL PERMIT and SITE PLAN APPROVAL shall be occupied until:
- a. The Petitioner shall have filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that Condition 1 has been complied with.
  - b. There shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development, a statement by the City Engineer certifying that the finish grades and final construction details of the driveways, parking areas, drainage systems, utility installations have been constructed to the standards of the City of Newton Engineering Department.
  - c. A statement by the Department of Inspectional Services that there has been full compliance with Massachusetts State building Code, including any permits issued by said Department, and that the premises are suitable for occupancy shall have been filed with the City Clerk and the Department of Planning and Development.
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- d. There shall have been filed with the City Clerk and the Commissioner of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant material, final landscape features, parking areas and lighting installation on the site required in Conditions #1 and 12.
- e. Notwithstanding the provisions of Section a, b, and d hereof, the Commissioner of Inspectional Services may issue one or more certificates for temporary occupancy of all or portions of the building prior to the installation of final landscaping and other site, features provided that the Petitioner shall first have filed with the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- f. The preservation restriction for the front lawn which has been reviewed and approved by the Law Department has been recorded in the Southern Middlesex Registry of Deeds.

Under Suspension of Rules  
Readings Waived and Approved  
23 yeas 1 nay (Ald. Gentile)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on May 29, 1998. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

  
(SGD) ~~EDWARD G. ENGLISH, City Clerk~~  
Clerk of the Board of Aldermen  
LINDA FINUCANE

I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby



certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 5/29/98 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST *Edward G. English*  
EDWARD G. ENGLISH, City Clerk  
*acting*