

CITY OF NEWTON

IN BOARD OF ALDERMEN

June 2, 1997

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 substantially derogating from the intent or purpose of the Zoning Ordinance, the following SPECIAL PERMIT/SITE PLAN APPROVAL AND EXTENSION OF NON-CONFORMING USE AND STRUCTURE is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the specific site is an appropriate location for such use, structure for the following reasons:
 - a) The site has been used for commercial purposes since at least the 1930's;
 - b) The office use is allowed as-of-right in both the Manufacturing and Business 4 districts;
 - c) The site is abutted to the west by the terminus of the Riverside MBTA station;
 - d) Public transit is available.

2. The Board finds that the use as developed and operated will not adversely affect the neighborhood for the following reasons:
 - a) The proposed office building will be smaller than the existing building;
 - b) The use of a multi-level parking structure will reduce the amount of surface level parking on the site, permitting more open space and landscaping;
 - c) The provision of an accessory restaurant and coffee shop with more than 50 seats will provide additional amenities for the individuals using the proposed office building and minimize the generation of additional trips from the office building;
 - d) The petitioner proposes a transportation demand management plan to promote the use of public transportation and thereby minimize the number of vehicles coming to the site;
 - e) The petitioner proposes traffic mitigation in front of the site to permit safe turning movements and traffic flow;
 - f) The drainage on the site shall meet the Massachusetts DEP Stormwater Guidelines dated November 18, 1996, rev. March 1997 and represents an improvement over the existing site conditions;

- g) The as-of-right alternatives reviewed by the committee and considered economically feasible by the petitioner will generate almost as much traffic as the special permit proposal; however, it is unlikely that there will traffic mitigation with the as-of-right alternatives;
 - h) There will be less impervious surface and less building coverage than the existing conditions.
3. The Board finds that there will be no nuisance or serious hazard to vehicles or pedestrians and that access to the site is appropriate for the types and numbers of vehicles involved for the following reasons:
- a) The petitioner's traffic report, and the review of that report made by the City Engineer and Howard Stein-Hudson, concluded that the proposed office use will not overburden Grove Street or the streets feeding into Grove Street;
 - b) The petitioner will control access and egress from the site to minimize traffic congestion and hazards at those points and will provide a more "pedestrian friendly" sidewalk by relocating the sidewalk back from the curbline of Grove Street adjacent to the site.
4. The Board finds that the criteria for site plan approval have been satisfied for the following reasons:
- a) The petitioner has made adequate provisions for: sewage and refuse disposal; off-street loading to service the building and controls for restricting use of the loading docks during peak traffic hours; and, screening of the parking area and structures from adjacent properties, especially in the front of the office structure, parking areas and the slope surrounding the parking structure;
 - b) The petitioner has minimized major topographical changes by extending part of the hillside adjacent to the parking structure to compensate for removal of a portion of such hill and providing a landscape buffer with heavier and more attractive vegetation than currently exist;
 - c) The petitioner will locate utility service lines underground.
5. The Board finds that the proposed structures are not substantially more detrimental to the neighborhood than the existing structure in the following manner:
- a) The proposed office structure and garage will not be substantially more detrimental than the existing structure to the neighborhood.
 - b) The footprint of the proposed structure and garage combined will be less than the existing structure. The reduced footprint will enable the structures to have conforming setbacks; and the proposed structure will be set back further from Grove Street than the existing structure.
 - c) The proposed structures will be no higher than the existing building.
6. The Board finds that the special permit gives greater planning control over the site than as-of-right alternatives. The Board further finds that the parcel is a flat, totally covered and paved 487,578 sq. ft. lot with a non-conforming 600,000 sq. ft. building and is

distinguishable from parcels which surround it by a diversity of uses and zoning districts. Furthermore, the site is in an existing Manufacturing District which permits a wider variety of potentially obnoxious and intensive uses on the site to neighbors. Therefore the Business 4 District is preferable to the Manufacturing District.

7. The Board finds that the petitioner has proposed to restrict the use of the site more restrictively than permitted by right in a Business 4 zone.
8. The Board finds that the petitioner has volunteered to provide site specific traffic mitigations which will enhance safety on Grove Street, to provide funding for technical assistance and other traffic improvements which the City will determine and to provide a long range study of the Grove Street areas.
9. The Board finds that the petitioner's promotion of public transportation will include an annual contribution to the Newton Nexus bus system and an additional bus service between Auburndale and Newton Lower Falls during midday hours as well as connections to the Auburndale commuter rail station during peak traffic hours.
10. The Board finds that the petitioner will provide landscaping off-site that will reduce the impact of the project on abutters.
11. The Board finds that the zone change and the special permit serve the public convenience and welfare by meeting the goals of the Newton Comprehensive Plan by providing open space, providing access to and encouraging the use of open space enhancing the appearance of neighborhood through landscaping and architectural design and the rehabilitation of an unsightly building and lot, by providing access to and encouraging the use of public transportation, by improving the effect on the environment.

PETITION NUMBER: 40-97(2)

PETITIONER: Cabot, Cabot & Forbes of New England, Inc. or its assignee/ Auburndale Realty, Inc.

LOCATION: 275 Grove Street, Ward 4, Auburndale, Section 43, Block 29, Lot 24, containing approximately 487,578 sq. ft. of land

OWNER: Auburndale Realty, Inc.

ADDRESS OF OWNER: 7 West 7th Street
Cincinnati, Ohio 45202

TO BE USED FOR: Redevelopment of approximately 600,000 sq. ft. of existing manufacturing, warehouse, distribution and office space for office use and accessory office uses by demolishing approximately 103,000 sq. ft., inserting one floor plate within the existing southern portion of the building, and

adding approximately 9'1" in height to the northern portion of the building, and in a proposed 5 story, 8 level parking structure including 2 levels below grade.

CONSTRUCTION:

Steel, concrete, masonry and glass.

EXPLANATORY NOTE:

Section 30-11(d)(7) allows the Board of Aldermen to grant a special permit for a multi-level accessory parking facility.

Section 30-21(b) allows the Board of Aldermen to alter, extend or enlarge a non-conforming structure.

Section 30-15 Table 3 allows the Board of Aldermen to grant a special permit for a building of up to 8 stories and up to 96 feet. The proposed office structure will be four stories and an average height of 51.42 feet. The proposed garage structure will be up to 5 stories (8 levels including 2 levels underground) and an average height of 37.32 feet.

Section 30-11(d)(9) allows the Board of Aldermen to grant a special permit for a accessory restaurant with more than 50 seats.

Section 30-19 (h)(4) and (m) allows the Board of Aldermen to grant a special permit to waive provision of the parking requirements if literal compliance with the requirements is impracticable.

Land referred to is in a Business 4 District.

Approved, subject to the following conditions:

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with the following set of plans dated March 6, 1997 and revised May 27, 1997, except as noted, which have been submitted by the petitioner and filed herewith:

Drawing Title	No.	Prepared by
Existing Conditions and Demolition	C2	Rizzo Associates, Inc.
Site Layout and Materials Plan	C3	Rizzo Associates, Inc.
Grading and Drainage Plan	C4	Rizzo Associates, Inc.
Erosion Control Plan	C5	Rizzo Associates, Inc.
Utility Plan	C6	Rizzo Associates, Inc.
Construction Management Plan	C7	Rizzo Associates, Inc.
Miscellaneous Construction Details	C8	Rizzo Associates, Inc.
Miscellaneous Construction Details	C9	Rizzo Associates, Inc.

Site Lighting Plan	E1	Rizzo Associates, Inc.
Site Landscape Plan	L1	Carol R. Johnson Associates, dated 5/26/97
Grove Street Landscape Plan	L2	Carol R. Johnson Associates, dated 5/26/97
Grove Street Grading Plan	L2A	Carol R. Johnson Associates, dated 5/26/97
Site Area Enlargements	L3	Carol R. Johnson Associates, dated 5/26/97
Site Details	L4	Carol R. Johnson Associates, dated 5/26/97
Site Details	L5	Carol R. Johnson Associates, dated 5/26/97
Architectural Site Plan 5/20/97 rev.5/27/97	A1	Elkus/Manfredi Architects, Ltd. dated
Building Floor Plans 5/20/97	A2	Elkus/Manfredi Architects, Ltd. dated
Building Elevations 5/20/97	A3	Elkus/Manfredi Architects, Ltd. dated
Garage Floor Plans 5/20/97	A4	Elkus/Manfredi Architects, Ltd. dated
Garage Elevations 5/20/97	A5	Elkus/Manfredi Architects, Ltd. dated

2. That all transformers, chillers, air conditioners, mechanical/ventilation systems, HVAC equipment, and similar devices shall be designed, located and baffled using appropriate acoustical screening to minimize the noise produced. The noise produced by this equipment shall comply with the City of Newton Noise Ordinance and shall not exceed 51 dBA during the day and 46 dBA during the night as measured at the property line or any location on immediately abutting residential properties. Emergency generators will be designed to meet City of Newton noise regulations.

During the first summer of operation of the building, the petitioner shall retest and reconfirm the noise levels of the rooftop equipment. In the event of a variance from the dBA levels set forth in the preceding paragraph, the petitioner shall provide additional noise controls as needed to comply with the stated levels. In event that the City of Newton Noise Ordinance requires a lower dBA level than the levels set forth in the preceding paragraph, any replacement equipment shall comply with the City of Newton Noise Ordinance.

3. That the petitioner, its successors and assigns, shall install a charcoal filtration ventilation system and shall operate the kitchen without impact from cooking odors on the tenants in the building or on adjoining properties.

4. That the parking spaces in front of the building shall be designated for short term guest parking only; these parking spaces shall not be used from 7-9 AM. The petitioner shall install signs indicating such restrictions.
5. That if the MBTA creates a new access roadway from the Route 128 ramp into its Riverside property extending to the site's property line, the petitioner shall make all necessary modifications on its site to connect to such roadway and permit access to the site, thereby making it possible to reduce the use of Grove Street for vehicular access to and from the site. An amendment to this special permit will not be required for such modification.
6. That during construction the Construction Management Plan (C-7) dated January 28, 1997 rev. date 5/27/97 shall be implemented which shall include among other provisions the following safeguards:
 - a. Prior to the request for a demolition permit for the existing building, the petitioner shall submit a rodent control plan to the Health Commissioner for his review and approval. Evidence of such approval shall be submitted to the Commissioner of Inspectional Services prior to the issuance of a demolition permit.
 - b. The petitioner shall construct and maintain a security fence around the construction area of the site in compliance with the requirements of the State Code.
 - c. Except to allow for paving, all employees of contractors and subcontractors shall park on site and not on neighborhood streets.
 - 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 or structural construction shall be 7 AM. to 6 PM. Monday through Friday and 8 AM. to 6 PM. on Saturday. Work at other times may occur only with the advance approval of the Commissioner of Inspectional Services. Interior construction may be permitted at any time so long as noise levels comply with the City's Noise Ordinance.
 - f. The petitioner shall designate a person responsible for the construction process. That person shall be identified to the Police Department and the Commissioner of Inspectional Services, the Ward 4 Aldermen, the Auburndale Community Association, the Lower Falls Improvement Association, the Tri-Village Association 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 the grading of the site, excavation and construction and shall require subcontractors to place covers over any open trucks transporting debris and material to or from the site.
 - h. Noise levels shall comply with the City's Noise Control Ordinance, Section 20-13.
 - i. Trucks shall only access the site to and from Route 128, except when the MBTA bridge is too low to allow passage of large equipment, in which case, the routes and times shall be reviewed and approved by the Police Department.
 - j. Noise from heaters used during construction in winter conditions shall comply with the City's Noise Control Ordinance.
7. That the City Engineer shall review and approve the final site grading and drainage plans which should include oil and gas traps. Such grading and drainage plan shall meet the Massachusetts Department of Environmental Protection Stormwater Management Guidelines dated November 18, 1996, and revised March 1997.
 8. That the petitioner, its successors and assigns, shall clean at its expense the gas traps and catch basins at least two times per year. Evidence of such bi-annual cleaning shall be submitted to the City Clerk.
 9. That services such as a restaurant, coffee shop, newsstand, dry cleaning drop-off and pick-up, ATM, and similar accessory uses to service the primary office use of the building are allowed. There shall be no advertising or promotion of such uses to the general public. There shall be no advertising of such uses on the exterior *or grounds* of the office building. The accessory restaurants shall meet all applicable Health Department requirements.
 10. That, if access from the site over MDC and MBTA property is approved by these agencies and if approved by the Newton Conservation Commission as shown on a plan entitled "C3 Site Layout and Materials Plan", the petitioner shall construct a pedestrian walkway over MBTA and MDC property from the subject site to the Charles River. Such walkway and access to it shall be open for the users of the site and the general public from dawn to dusk.
 11. That if access from the site to the MBTA property is approved by the MBTA as shown on a plan entitled "C3 Site Layout and Materials Plan" and "L2 Tree Planting at Grove Street" cited in Condition #1, the petitioner shall construct a pedestrian walkway to the MBTA Riverside Station which walkway and access to it shall be open to the users of the site and the general public.
 12. That, except in emergencies, the petitioner shall not permit entry of vehicles for parking on the roof of the garage from 9 PM. to 6 AM. Lights on the top level of the parking garage shall be shut off no later than 9 PM. and turned on no earlier than 6 AM. seven days a week. There shall be no light poles on the roof of the garage.

13. That, except for security lighting, lighting in the surface parking areas shall be shut off no later than 11 PM.
14. That the lighting along the residential side of the property shall be focused inward to the site on poles which are no higher than 18 feet. The source of the lighting throughout the site shall not be able to be seen from abutting properties. Lighting shall not overspill onto abutting properties.
15. That roadway lighting to and from the garage will either be bollard or step lighting with directed light reflectors aimed downward. The source of the lighting shall not be visible.
16. That all lighting in the atrium shall be aimed downward and be designed to minimize intrusion into the neighborhood at night.
17. That the petitioner, its successors and assigns, shall be responsible for snow plowing and snow removal from the site. The petitioner shall make best reasonable efforts to minimize the use of sodium chloride on the site. There shall be no snow removal before 5 AM. on business days or before 8 AM. on weekends, and no later than 9 PM. These hours will be observed except in cases of major snowfall occurrences. Snow removal equipment may only be parked or stored on the site inside the building or the garage structure.
18. That the petitioner, its successors and assigns, shall use best reasonable effort to recycle all materials used in the operation of the site and shall include such a requirement in tenant leases.
19. That the petitioner, its successors and assigns, shall be responsible for removal of solid waste from the site. The pick-up of solid waste and recyclables shall occur only between the hours of 7 AM. and 9 PM. Monday through Friday unless the hours of trash pick-up are further restricted by subsequent City ordinance.
20. That the final location of the dumpster and any screening for it shall be reviewed and approved by the Director of Planning and Development.
21. That there shall be no deliveries to the loading docks from, 10 PM. to 6 AM., 7-9 AM. and 4-6 PM. Any truck seeking the use of the loading docks during these time periods shall be denied access to the loading dock and will be directed to leave the site. The petitioner shall control the route of tractor trailers and large single-body delivery trucks which are under contract for deliveries to the building and contracts will include a penalty clause for violation of the provisions of this paragraph. Travel to and from the site shall be via Route 128. This condition shall not apply to US postal, Federal Express and United Parcel Service type services.
22. That the petitioner, its successors and assigns, shall be responsible for the maintenance of landscaping and irrigation system, including landscaping on the islands in Grove Street,

- in good condition and, at least annually, shall replace plant material that dies, is damaged, or is diseased.
23. That the petitioner, its successors and assigns, shall designate a person who shall be responsible for the management, maintenance and operation of the site, including security, parking plan management, truck management plan and clean site appearance. The petitioner, its successors and assigns, shall notify the Police Chief, Commissioner of Inspectional Services, Ward 4 Aldermen, Auburndale Community Association, and Lower Falls Improvement Association and the immediate abutters of the name of the designee. The management and operations plan of the petitioner shall be on file with the city clerk and the department of planning and development.
 24. That the petitioner shall execute a Traffic Mitigation Fund Agreement of \$249,000 which it has offered to be used to pay for the cost of traffic improvements and transportation programs selected by the City that will mitigate potential impacts of the project or improve traffic safety and flow in other locations of Lower Falls and Auburndale including the area around the Williams School as set forth in Exhibit A of that Agreement. Each traffic improvement or transportation program that is undertaken by the City with the Traffic Mitigation Fund shall be constructed or operated by the City or a contractor engaged by the City, not the petitioner. Members of the Board of Aldermen or the Public Works Department through the City Traffic Engineer, shall request the Mayor to request an appropriation from the Board of Aldermen from the Traffic Mitigation Fund for any traffic improvement or transportation program from Exhibit A of that Agreement.
 25. That, in addition to the Traffic Mitigation Fund Agreement and the \$249,000 to fund it, the petitioner shall provide technical traffic engineering assistance to the City Traffic Engineer, upon request, and at a cost not to exceed \$75,000 to assist with the preparation of any traffic plans or studies required by the City Traffic Engineer or Board of Aldermen relative to the those items listed on Exhibit A of the Agreement. Such technical traffic engineering assistance shall be provided by Sam Park & Associates or another traffic engineering firm designated by the City.
 26. That in addition to Conditions #24 and #25 above and the funding amounts therein, the petitioner shall undertake a study within six months of occupancy, in consultation with the City Traffic Engineer and the Planning Department, at a cost not to exceed \$50,000 for possible long range improvements for regional access to the Grove Street area. This study will be completed on or within one year of occupancy and will include alternatives to reduce "cut through" traffic on Grove Street in Lower Falls and existing impacts from the Riverside MBTA Station and Route 128 ramps on to Grove Street. The petitioner, together with the City Traffic Engineer and the Planning Department shall initiate communication with the Commonwealth (Mass. Highway Department) during the study process to discuss mutual resolutions for issues identified during the study and to encourage mitigations for them in this area to occur as expeditiously as possible.
 27. That the petitioner shall implement a Transportation Demand Management program which shall encourage the use of public transportation, promote the use of bicycles by the provision of lockers and shower facilities for cyclists, and promote ridesharing

28. That the petitioner agrees to record a Covenant of Restrictions with the South Middlesex Registry of Deeds that prohibits for 99 years the primary use of the site as retail, movie or performance theater. Any change to the covenant shall require the approval of the Board of Aldermen by a 2/3 vote of the membership. Said covenant shall be reviewed and approved by the Law Department.
29. That the petitioner, its successors and assigns, shall make an annual contribution of \$25,000 to the City's operational inter-village bus service.
30. That in addition to the contribution to the City's inter-village bus service, the petitioner its successors and assigns, shall provide a bus at its own expense which shall operate from the site to Lower Falls and Auburndale from at least 11:30 AM. to 2 PM. and from the site to the Auburndale commuter rail station from at least 7-9 AM. and 4-6 PM. This bus shall be available to the public free of charge at any point along the route. The petitioner, its successors and assigns, shall not be precluded from implementing other uses of the bus. Any modifications to the Auburndale commuter rail station route shall be made in accordance with the City's bus licensing process and in consultation with the Ward 4 Aldermen and the Board of the Auburndale Community Association, but will not require an amendment to this special permit.
31. That all utility lines from the street to the site shall be underground.
32. That the petitioner, its successors and assigns, will make the atrium common space available on a non-exclusive basis during non-business hours to neighborhood groups for civic meetings without charge or an insurance/indemnification requirement. Scheduling will be handled by the on-site management personnel.
33. That as shown on a plan entitled "C3 Site Layout and Materials Plan", right turns into the site and left turns out of the site shall be permitted at the northern driveway. The center driveway shall be used only as an entrance. Only right turns out of the southernmost driveway shall be permitted.
34. That the petitioner, its successors and assigns, shall provide a private police detail to augment the traffic signal and to educate drivers in the morning and the evening peak hours unless the City Traffic Engineer determines that the police officer is no longer required. In making his determination the Traffic Engineer shall consider if the signal is providing sufficient guidance for motorists and if the traffic in the area of the site has normalized. The Traffic Engineer shall make his determination in consultation with the captain of the traffic bureau of the Police Department. If at a later date the Traffic Engineer, in consultation with the captain of the traffic bureau of the Police Department, determines that for public safety a police detail is needed, the private police detail shall be reinstated, until such time as the Traffic Engineer, in consultation with the captain of the traffic bureau determines that the police detail is no longer needed.
35. That, prior to the exercise of this Special Permit and Site Plan approval, the relocation of the public sidewalk on the northwest side of Grove Street and the revised layout of Grove

Street as shown on plan "C3 Site Layout and Materials Plan" cited in Condition #1 must be approved by the Board of Aldermen acting through its Public Facilities Committee. If this required approval is not granted, this Special Permit and Site Plan approval cannot be exercised unless the petitioner seeks and is granted an amendment of this Special Permit and Site Plan approval which addresses the issues presented by the lack of a modified layout to Grove Street along the site. Any request for such an amendment shall require notice and a public hearing pursuant to G.L. c. 40A, § 11.

36. That the petitioner shall, at its sole expense, pay for the cost of the design and construction of all public way and traffic signal work required in the plan entitled "C3 Site Layout and Materials Plan" cited in Condition #1 above. The petitioner, its successors and assigns shall be responsible at its expense to maintain and remove snow on the public sidewalk to be installed on the site pursuant to this condition.
37. That this special permit shall be deemed exercised upon the issuance of a building permit.
38. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE and STRUCTURE until:
 - a. A final landscape plan, consistent with Condition #1 of this special permit, including lighting and fixture design, indicating the location, number, size and type of landscaping and landscape materials to be installed. This final landscape plan shall be reviewed for consistency have been submitted to and approved by the Director of Planning and Development and statement of certifying such approval for consistency with the plans cited in Condition #1 shall have been filed with the City Clerk and the Department of Inspectional Services. If the petitioner successors and assigns has made alterations or additions to the final landscape plan listed in Condition #1, said revised plan, prior to determination of consistency by the Director of Planning and Development, the revised plan shall be distributed to the aldermen from Ward 4 for their review.
 - b. The City Engineer has reviewed and approved site grading and drainage, and the installation of sidewalk and curbing improvements along the Grove Street frontage and a statement by the City Engineer certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - c. The petitioner shall have granted an easement to the City of Newton for the improvements to Grove Street, including the sidewalk, as shown on plan "C3 Site Layout and Materials Plan" cited in Condition #1, which plan shall have been approved by the Board of Aldermen through its Public Facilities Committee.
 - d. The petitioner shall have recorded a Covenant of Restrictions which prohibits the primary use of the site as retail, movie or performance theater. The restriction shall have been reviewed and approved by the Law Department.

- e. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL and the Covenant of Restrictions with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
 - f. A certified copy of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
 - g. The petitioner has contributed the first \$25,000 payment to the *inter-village* city bus system as required by Condition #29.
39. That no building or structure, or portion thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE and STRUCTURE 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 Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking area, drainage systems, sidewalks along Grove Street, curbing and utility installations have been constructed to standards of the City of Newton Engineering Department.
 - c. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, parking areas, and lighting installation.
 - d. Notwithstanding the provisions of Section 39c, hereof, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy of all or portions of the buildings prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
 - e. The petitioner has donated \$249,000 pursuant to the Traffic Mitigation Fund Agreement as noted in Condition #24.

- f. Construction of all public way and traffic signal work required in Condition # 36 above has been completed.

Under Suspension of Rules

Readings Waived and Approved

21 yeas 2 nays (Ald. Baker, Parker)

1 vacancy

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL and is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on _____. 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

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 _____ and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST

EDWARD G. ENGLISH, City Clerk