



CITY OF CAMBRIDGE

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May 1, 1989

Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Questions of the East Cambridge Stabilization Committee,
as Referred by the City Council in Council Order No. 30,
April 24, 1989

Dear Mr. Healy:

In reviewing the above-referenced questions this office has examined the zoning issues as submitted by the City Council and the neighborhood. If the proposed Short-term Intensive Inpatient Treatment (STIIT) facility can be viewed as a continuation of the pre-existing nonconforming Chronic Disease Hospital formerly operated at the site, then the proposed use would be permitted without further review or approval under local zoning laws. If the proposed STIIT facility is a change of use, however, then local zoning review would require compliance with the current provisions of the Cambridge Zoning Ordinance.

The subject site is a 14,990 square foot parcel of land with a street address of 85 Otis Street. Five thousand (5,000) square feet of the parcel are located in a Business A district; and 9,990 square feet are located in a Residence C-1 district.

The Otis Hospital, which occupied the subject property for many years, was licensed by the Massachusetts Department of Public Health as a Chronic Disease Hospital pursuant to M.G.L. c. 111, ss. 51-56. Such a use in a Residence C-1 district was a pre-existing nonconforming use under the Institutional Use Regulation, Article 4.56(e)(1), which indicates that a hospital is not a permitted use outside an Institutional Overlay District.

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The proposed use as a Short-term Intensive Inpatient Treatment facility does not appear to be a continuation of the pre-existing nonconforming use. Under the general use table of the Cambridge Zoning Ordinance, Health Care Facilities are divided into seven (7) separate use categories, as follows:

1. Hospital
2. Infirmary
3. Nursing or convalescent home
4. Clinic not affiliated with any other institution
5. Clinic affiliated with a hospital or an accredited university medical school
6. Clinic connected to a community center
7. Other health care facility.

Article 2.000 of the Zoning Ordinance defines "hospital" as "An institution licensed under Sec. 51, Chapter 111, G.L., for the purpose of caring for persons admitted thereto for diagnosis, medical, surgical or restorative treatment which is rendered within said institution."

"Infirmary" is not defined in the Zoning Ordinance. Neither is "nursing or convalescent home." "Clinic" is defined as "an institution licensed under Sec. 51, Chapter 111, G.L., for the purpose of providing medical, surgical, dental, or restorative or mental hygiene services to persons not residing therein."

A review of the Notice of Determination of Need for the proposed facility indicates that the facility would provide short-term intensive substance abuse treatment, including detoxification and rehabilitation services. The application for the Determination of Need (DON) makes it clear that the goal of the facility will be to provide "a secure and supportive non-judgemental environment for individuals receiving treatment for alcoholism and drug abuse."

In the Staff Summary for Determination of Need by the Public Health Council the "Legal Status" of the facility is described as a "unique application for Determination of Need pursuant to M.G.L. c. 111B, ss. 6 and 6B for the original licensure of a freestanding alcoholism treatment facility." (Note: It should be pointed out that all references to the DON are taken from the application of ENOBLE Corp. for the formerly proposed Waltham site. Staff at the Mass. DPH informed us that the same application will be used for the Otis Hospital site.)

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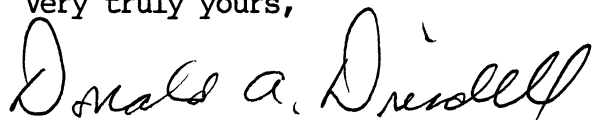
Given the fact that the proposed facility would provide both alcohol and drug related detox and rehabilitation services, it would seem that the licensing of such a facility should be accomplished through the Division of Drug Rehabilitation pursuant to M.G.L. c. 111E, s. 7, as well as the Division of Alcohol, M.G.L. c. 111B, ss. 6, 6B, and 7.

For purposes of local zoning the fact that such a facility is not licensed pursuant to M.G.L. c. 111, ss. 51-56 leads to the conclusion that the facility is not a "hospital" within the meaning of the Zoning Ordinance. Likewise, the facility does not fit the definition of a "clinic." Infirmaries and nursing or convalescent homes are defined elsewhere in the General Laws and do not apply to the proposed facility. The proposed facility, therefore, falls within the use category of "other health care facility."

Changing from a "hospital" to an "other health care facility" is a change of use category that requires compliance with the current Zoning Ordinance. The fact that nearly two-thirds of the lot on which the proposed facility would exist is in a Residence C-1 district requires compliance with the Institutional Use Regulations. The site qualifies as an Existing Lot Status (3) under Section 4.551(3). Table 4.56(e)(7) indicates that the proposed facility would only be allowed on the site by special permit.

Such a special permit would have to be granted by the Board of Zoning Appeals. The BZA could grant the special permit only if the Board determines that the use will have fewer adverse impacts on the neighborhood than the pre-existing institutional use. See, Section 4.56, footnote 5.

Very truly yours,



Donald A. Drisdell

DAD/jml



CITY OF CAMBRIDGE

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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

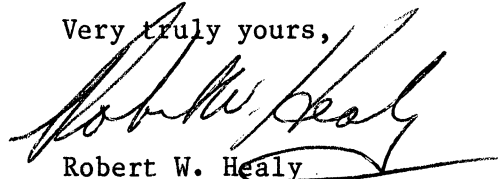
RICHARD C. ROSSI
Deputy City Manager

May 1, 1989

To the Honorable, the City Council:

With respect to Awaiting Report Items No. 44 and No. 51 relative to the proposed use of the Otis Hospital, enclosed please find copy of the opinion of the Deputy City Solicitor.

Very truly yours,



Robert W. Healy
City Manager

RWH/mbf
Enc.

Agenda Item # 12 S-313

Response to Awaiting Report Item Numbered
44 and 51 re: questions concerning the
proposed use of the Otis Hospital.

In City Council,

May 1, 1989

referred to Hearing