



CITY OF CAMBRIDGE

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March 5, 1996

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

Re: *Council Order No. 33, dated 2/12/96 Regarding the Possibility of Changing the Curb Cut Policy*

Dear Mr. Healy:

You have asked that I review the above-referenced Council Order, to determine what steps the City Council must take to implement a changed curb cut application review process. The City Council's authority to grant or deny curb cuts is derived from its authority, granted by state statute, to layout, alter, relocate, and discontinue public ways within the City. Research has indicated that there is some doubt whether the City Council may delegate its responsibility to approve curb cuts, absent a special act of the legislature. Accordingly, I recommend that the most prudent approach to assure a proper delegation of this authority requires that a Home Rule Petition be filed with the state legislature requesting the passage of a Special Act authorizing the delegation. I am attaching a Home Rule Petition prepared by my office.

The Council order proposes a delegation to the Commissioner of Inspectional Services, except in circumstances when a variance is required, in which case the Board of Zoning Appeals would have the authority to grant or deny the curb cut. In my view, it would be advisable to delegate the authority only to the Commissioner. The Council could provide that the Commissioner may not grant a curb cut when a variance is required unless the applicant first obtains the variance from the BZA. I recommend this approach because

the responsibilities of the BZA are delineated by state statute, and a reference to the BZA in the petition may raise complicating issues in the legislature regarding granting additional powers to the BZA.

Please let me know if I can be of further assistance in this matter.

Very truly yours,


Russell B. Higley



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-

AN ACT

TO PERMIT THE CAMBRIDGE CITY COUNCIL TO AUTHORIZE THE
CAMBRIDGE COMMISSIONER OF INSPECTIONAL SERVICES TO
GRANT OR DENY APPLICATIONS FOR CURB CUTS WITHIN THE
CITY OF CAMBRIDGE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the
authority of the same, as follows:*

SECTION 1. Notwithstanding the provisions of any general or special act to the contrary,
the Cambridge City Council may authorize the Cambridge Commissioner of
Inspectional Services to grant or deny applications for access (in the form
of so-called "curb cuts") to all public ways which the City Council has
jurisdiction to lay out, alter, relocate and discontinue.

*To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.*

*The undersigned, citizens of....., respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation*

Petitioners are requested to sign names and addresses legibly.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 18, 1996

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 16, regarding the possibility of changing the curb cut process, received from City Solicitor Russell B. Higley.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #7

5-117

Relative to Awaiting Report Item
Number Sixteen, regarding the
possibility of changing the curb
cut process.

In City Council March 18, 1996

3/25/96

Referred to Government
Operations Committee

sent to C. Sullivan 3/27/96 gwt