

February 14, 2001

Stephen H. Kaiser
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Cambridge, Mass. 02139

Councilor Kathleen Born, Co-Chair of the Ordinance Committee
Vice-Mayor David Maher, Co-Chair of the Ordinance Committee
Cambridge City Council
Cambridge, Mass. 02139

SUBJECT: City-Wide Rezoning : Eastern Cambridge "Exclusion"

Dear Councilors Born and Maher,

I am in accord with many citizens and Councilor Braude in particular in our concern over the lack of adequate time for both public and professional review of the City Council version of the City-Wide zoning proposals. I feel that release of a complex document late on a Friday afternoon with a deadline vote on the following Monday is a barrier to the proper review, checking and "de-bugging" of the zoning proposals. No human being is perfect and no human endeavor is perfect, and the hope in our democracy is that many minds can check out the draft zoning text and if errors were made they might be speedily corrected before becoming enacted into Law.

I did not have a chance to digest the Council's zoning version before Monday's Council meeting. Only on Tuesday did I realize that there is a series of technical flaws which occur twice in the text with reference to Business and Industrial Districts (Tables 5-3 and 5-4, pages 5 and 6 of Part IIa). It appears that footnote (t) is designed to provide the exemption of the Eastern Cambridge study area from the rezoning. The method attempted is to define the Eastern Cambridge study area and set all zoning at the previous levels. Several technical flaws come from the new, abbreviated and incomplete description of the study/moratorium area. It produces the following results:

1. The bounds of the "area" attempted in the definition are open and incomplete on the westerly side.
2. The reference to the municipal boundary and its "intersection with Bridge Street/O'Brien Highway" fails to recognize that there are two intersections and also introduces a gap into the area boundary to the north.
3. The line which follows along First Street to O'Brien Highway stops short of the Boston municipal boundary, and thus does not complete the boundary to the east.

The Larkin Petition, passed by the Council in January 2000, had a much more precise definition of the study area, and thereby avoided most of the technical problems contained within footnote (t).

- (1) The westerly bounds are incomplete.

Unlike the Larkin petition, footnote (t) refers only to the centerline of Windsor Street and makes no reference about any extension to the Cambridge/Somerville boundary. The westerly edge from Hampshire Street to the Somerville border is left open and undefined.

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- (2). The intersection of any municipal boundary with "Bridge Street/O'Brien Highway" is ambiguous and may produce a gap in the area boundary.

Today, O'Brien Highway extends from the Somerville line at McGrath Highway to Land Boulevard and the Gilmore Bridge. Bridge Street extends from Land Boulevard to the Boston line near the Science Museum. When we consider the roadway link comprised of O'Brien Highway and Bridge Street, we would find *two* intersections with municipal boundaries -- not just one as specified in the rezoning. In addition, the gap in the defined area between the west and north sides would be even larger.

- (3). The easterly boundary from First Street to O'Brien Highway is incomplete.

Again, the zoning refers to a roadway centerline and not its geometric extension. O'Brien Highway does not intersect with the Boston municipal boundary, as specified in the new zoning language. The result is another gap in the "area": this one between Land Boulevard and the Boston line.

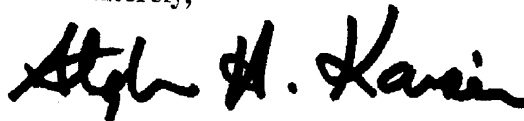
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The net effect of these three points is that any one of the flaws in the "area" described in footnote (t) means that no actual area is enclosed at all. The function of footnote (t) is logically and legally voided. By the rules of severance, the loss of footnote (t) would mean that all Business B and Industry A zones in the Eastern Cambridge area would now be subject to the new zoning and that indeed Eastern Cambridge was *not* exempted from the city-wide rezoning. I believe that all three of these flaws are present in footnote (t).

These technical flaws have a significant outcome. Any one of them means that East Cambridge was actually included in the recent rezoning for Business B and Industry A. Such a conclusion is contrary to what I believe the City Council thought it approved on Monday night and what many citizens have been informed to believe.

Any legal controversy of this sort could have been avoided, including any possible legal action to interpret the actions one way or the other -- had there been a reasonable and rational schedule for the review of the new zoning ordinance. There must be a priority for clarity and precision in language, such as was achieved in the Larkin petition and not in the poorly drafted terminology of footnote (t). The value in having *more public review time* in the interests of *quality control* means better review and fewer legal flaws. The method of Friday-release, Monday-vote made it virtually impossible to achieve the kind of quality control in law and regulation which this city needs for a healthy future and for the trust of all its citizens.

Sincerely,



Stephen H. Kaiser

cc. R. Healy, City Mgr.
D. Drisdell, Law Dept
C. Bellew, ECSC
S. Horowitz, ACN

B. Rubenstein, CDD
L. Brown, Planning Board
J. Moot, ACN
E. Yarden, ACN

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Consent Communication #3

A communication was received from Stephen H. Kaiser, regarding the Citywide Rezoning: Eastern Cambridge "Exclusion."

In City Council February 26, 2001

Referred to the City Manager