



CITY OF CAMBRIDGE

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November 11, 1974

To The Honorable City Council
City Hall
Cambridge, Massachusetts

Dear Councillors:

You have asked the following questions:

1. Can the City Council vote to split a parcel of property resulting in two zoning designations for the same parcel?

The City Council has in the past taken similar action. The present Zoning Map has a number of parcels which have two zoning designations. If in such a situation the result of the ordinance is that a portion of the owner's land is rendered useless for any conforming purpose, the ordinance would be unconstitutional. I do not have sufficient information to pass upon this aspect. However, the fixing of such boundaries is a legislative function, generally left to the reasonable discretion and judgment of the City Council.

a. How many votes are required?

If you adopt the Planning Board's recommendation, 6 votes are required. In this case the Planning Board has made 2 alternate recommendations. In my opinion, either may be adopted by 6 votes.

2. How many votes are necessary if 20% of adjoining owners protest in writing?

If there is filed with the City Clerk "prior to the close of the first hearing before the city council or committee thereof a written protest against such change, stating the reasons, duly signed by the owners of twenty per cent or more of the area of the land proposed to be included in such change,

To The Honorable City Council -2-
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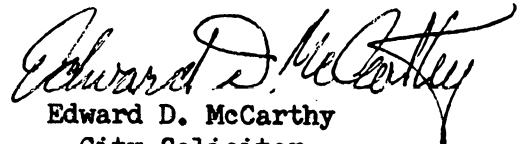
or of the area of the land immediately adjacent, extending three hundred feet therefrom, or of the area of other land within two hundred feet of the land proposed to be included in such change, no such change of any such ordinance shall be adopted except by a unanimous vote of all the members of the city council, whatever its form, if it consists of less than nine members or, if it consists of nine or more members, by a three-fourths vote of all the members thereof where there is a commission form of government or a single branch, or of each branch where there are two branches."

Assuming the above conditions have been complied with, 7 votes would be necessary.

3. May the Council amend the original petition to extend the proposed boundaries?

If the Planning Board approves the amendment, 6 votes are required. If they fail to approve said amendment prior to final action, 7 votes are required.

Very truly yours,


Edward D. McCarthy
City Solicitor

EDMcC:jm

City Solicitor Opinion re: splitting
Parcels

269