

City of Cambridge

The Ordinance Committee held a public hearing on Tuesday, July 9, 1996, beginning at 5:43 p.m. in the Sullivan Chamber for the purpose of considering a petition by Mary Rowe, et.al., to amend the zoning ordinances of the City of Cambridge by rezoning an area of Linnaean Street from Residence C-2 and Residence B to Residence A-2.

Present at the hearing were Councillor Francis H. Duchay, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Anthony D. Galluccio, Councillor Kenneth E. Reeves, Mayor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present were Lester Barber, Zoning Specialist, Community Development Department, and Nancy Glowa, Legal Counsel.

Councillor Duchay convened the hearing and explained the purpose of the hearing and the procedures. He invited the petitioners to make a presentation.

Dexter Eames, 6 Avon Place, stated that he has been very involved in neighborhood discussions regarding this position and feels that he represents the neighborhood.

Mr. Eames presented some history of the development of Linnaean Street, and distributed historical zoning maps beginning with an 1878 map showing the original subdivision of land forming Avon Hill Street. By 1979, the C-2 zoning had been narrowed to only three buildings on the north side of Linnaean Street. He stated that the history shows a consistent pattern of downzoning. The 1978 rezoning did not include 33 Linnaean Street because the owner opposed the downzoning and so a tactical decision was made.

He stated that Mary Rowe cannot be here because her plans were made in accord with the original scheduling date that had to be changed due to the Chronicle's error in failing to publish the legal advertisement. However, she has consistently supported downzoning even though she could make a large profit by selling to a developer under the present zoning. Mr. Eames stated that the petition would affect three properties, and only one owner out of three is opposing the downzoning.

Mr. Eames described a neighborhood meeting with the developer, Steven Cohen. Although Mr. Cohen agreed to work with the neighborhood, he would only accept a purchase price of \$105,000 over his initial purchase price. Mr. Eames characterized the matter as a developer exploiting a zoning anomaly.

Mr. Eames stated that 33 Linnaean Street is not an appropriate development site. The Historical Commission has found the building "preferably preserved". The proposed development is too large and out of scale with the neighborhood. There are far more small homes than apartment buildings on Linnaean Street. The neighborhood is zoned B and A-2,

S-380

Committee Report #5

A report from Councillor Duehay, Chair Ordinance Committee, for a meeting held on July 9, 1996 for the purpose of considering a petition by Mary Rowe, et. al, to amend the zoning ordinances of the City of Cambridge by rezoning an area of Linnaean Street from Residence C-2 and Residence B to Residence A-2.

In City Council July 29, 1996

*Passed to a second reading
on motion of Councillor
Galluccio.*

with only a few islands of C-2. He urged the City Council to join these three parcels to the Avon Hill neighborhood of which they have always been a part.

Joel Bard, 51 Wendell Street, stated that he is an attorney with Kopelman & Page, Boston, and he represents the petitioners. The legal issues fall into three categories. First is the allegation of spot zoning. The entire area behind the area at issue is zoned A-2, and the proposal is to zone these parcels A-2. All three lots are already in part zoned B-2. A good portion of the lot at 33 Linnaean is already zoned A-2. In addition, courts rely heavily on the judgement of local legislative bodies in spot zoning cases.

Mr. Bard stated that the second issue is the allegation of an unconstitutional taking of private property without just compensation. The test is whether the owner has been deprived of all economic use. However, the lot is presently used for a single family house, and that use would be continued. Clearly substantial value would remain.

Mr. Bard stated that the final issue is whether the property would run afoul of pending federal takings legislation. Mr. Bard stated that the proposed law has a long way to go before it would become law, if ever, and would not have any retroactive effect.

Councillor Duehay then invited questions from the members of the committee. There were none.

Councillor Duehay then invited public comment in support of the petition.

Alice Wolf, 48 Huron Avenue, former Mayor of Cambridge, spoke in support of the Rowe petition. She stated that it was fair and sensible. In the 1970's one parcel was spot-zoned, for strategic rather than policy reasons. Now 20 years later, neighbors are almost universally opposed to the level of development the zoning would allow. It was a public action that caused the problem; it should be a public action that solves the problem.

Adam Weisenberg, 51 Martin Street, stated that he is a resident and a real estate lawyer, and he supports the petition. This is different from several zoning battles. It is to fix a zoning anomaly. Linnaean Street is all built out. There is no obligation of the City Council to permit an apartment building to be built here.

George Despotes, Dunster Street, stated that the notice of the hearing was problematic. It did not include the City seal. He said that increases in the population destroy the residential character of the City. He stated that he hopes that this downzoning will be the beginning of a trend to protect the quality of life.

Tom Sawyer, Avon Place, spoke in support of the petition. It is consistent with creating a uniform zoning. In the event that the City Council does not support this petition, the consequences would exacerbate the traffic and parking problems in the Avon Hill area.

E.J. Corey, Avon Hill Street, stated that he is speaking in support of the petition as part of a united neighborhood. There are elements in the 33 Linnaean Street case that are very

important to resolve. There is a large question of whether neighborhood stability is possible or whether it is subject to exploitation. The 1978 zoning treatment of 33 Linnaean Street was a mistake which should be corrected. The development potential of Linnaean Street has been fulfilled. The proposed development disregards the importance of the environment, especially the priceless Japanese maple tree.

Councillor Duehay then requested that the City Clerk read the names of those who wrote to City Council in support of the petition. A list of those names is attached to this report. (Attachment A).

Councillor Duehay next requested that those in support of the petition raise their hands. Twenty four persons did so.

Councillor Duehay then requested public testimony from those opposed to the petition.

Steven Cohen, 26 Fayette Street, stated that he has lived in Cambridge for twenty-two years and sits in the Mid Cambridge Conservation District Commission. He believes in the City and does not come as an outsider to exploit the City. His most recent work in the City includes the seven houses built at Arsenal Square two years ago. Neighbors were very concerned with that project. He worked with neighbors and modified the project. It was completed two years ago and several neighbors who initially opposed the project stated that they were pleased with the results.

Mr. Cohen stated that he is now the owner of 33 Linnaean Street. When it first came on the market, several people suggested to him that he purchase it and develop something suitable. The zoning would permit fourteen units, which he considered inappropriate. He had many meetings with neighbors. He scrapped his first plan completely in response to neighborhood concern. He distributed written materials which compared the number of units permitted by zoning, his first proposal and his present proposal, which is for five units, a height of forty feet and an FAR of '84. He presented a drawing of the proposed development. He said that the Historical Commission has approved the present proposal. He noted that the proposal preserves sixty-seven percent of the open space, and reduces the density. The new building would be four units. Parking would be provided for two cars per unit, all underground. The Japanese maple tree would be moved fifteen feet and preserved.

Mr. Cohen stated that major concessions have been made. He believes that the neighborhood also needs to compromise. Their position is unreasonable. With regard to the issue of spot zoning, he noted that from the turn of the century Linnaean Street has been viewed and used differently from the Avon Hill area behind it. He believes there is a serious issue of spot zoning with respect to this petition. In addition, there is a question of basic fairness.

Lindsay Allison, 159 Mt. Auburn Street, stated that she used to live on Linnaean Street, and she is a realtor who has worked with Steve Cohen for many years. He is a reputable developer. This property will provide options for older persons in the Avon Hill Neighborhood whose houses are too big for them but want to stay in the neighborhood.

In response to Councillor Duehay's request for a show of hands of those in opposition to the petition, two persons raised their hands.

Councillor Duehay then invited discussion by the Council.

Councillor Galluccio thanked all those who came to the hearing. He stated that he has supported the downzoning petition from the outset. He appreciates the developer's attempt to compromise, but he cannot accept the argument that downzoning would be unfair because of the developer's reliance. This position essentially negates the City Council's ability to change its zoning ordinances. Councillor Galluccio urged support of the downzoning to correct a zoning inconsistency. This really is an A-2 zoning area.

Councillor Reeves welcomed all those present. He said that his view is that the present zoning constitutes the spot zoning. Councillor Reeves stated that he supports the petition because the character of the neighborhood would be destroyed by development. Cambridge is a magnificent City, but recent overbuilding is endangering it.

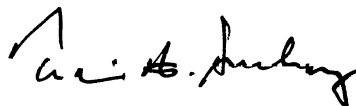
Vice Mayor Born stated that she has lived in this neighborhood for twenty-six years. Ten years ago she worked on the establishment of a Neighborhood Conservation District. It failed at that time, but she understands that there have been renewed efforts, and she encourages those involved to keep working on this. She stated that she supports this petition, but with sadness that it has come so late. As a result of this, she intends to request that the Community Development Department carefully review the zoning in the City and report on what other anomalous zoning exists. Vice Mayor Born encouraged Mr. Cohen to attempt further scaling-down and compromise. She knows him as a fair and reasonable person. She also cautioned that she had not yet seen the Planning Board report, and she does want to see that report before her position is "cast in stone."

Councillor Davis stated that she would like to support Vice Mayor Born's comments about waiting for the Planning Board's report. Additional compromises are needed by the developer. A-2 zoning does not seem quite right. Residence B might work better. She can imagine a couple more units on the site than presently exist.

Councillor Davis moved referral to the full City Council. The motion passed unanimously.

The hearing was adjourned at 7:25 p.m.

For the Committee,



Councillor Francis H. Duehay, Chair

ATTACHMENT A

Ms. Ann Austin
48 Avon Hill Street
Cambridge, MA 02140

Ms. Lillian Bulwa
31 Linnaean Street
Cambridge, MA 02138-1530

Mr. Addison W. Closson, Jr.
31 Linnaean Street
Cambridge, MA 02138

Ms. Caroline H.B. Whitney
31 Linnaean Street
Cambridge, MA 02138

Mr. Robert Cogan
24 Avon Hill
Cambridge, MA 02140

Dr. and Mrs. E.J. Corey
20 Avon Hill Street
Cambridge, MA 02140

Ms. Sarah Cullen
43 Linnaean Street, #35A
Cambridge, MA 02138-1569

Mr. Dexter Eames
6 Avon Place
Cambridge, MA 02138

Wynelle Evans
38 Linnaean Street #6
Cambridge, MA 02138

Mr. Stephen & Ms. Charlotte S. Diamond
27 Linnaean Street
Cambridge, MA 02138

Ms. Joan Esch
36 Linnaean Street
Cambridge, MA 02138

Ms. Melinda F. Greason
31 Linnaean Street #2
Cambridge, MA 02138

Richard Cranford
& Laura Jennings-Cranford
43 Linnaean Street, #34A
Cambridge, MA 02138-1569

William R. McKelvy & Patricia McKelvy
31 Linnaean Street
Cambridge, MA 02138

Dr. Jessica Miller & Dr. Robert Birnbaum
10 Avon Place
Cambridge, MA 02138

Ms. Margo M. Miller
36 Linnaean Street, #8
Cambridge, MA 02138

Ms. Martha Pappenheim
9 Washington Avenue, Apt. 2
Cambridge, MA 02140

Ms. Maxine Pestronk
40 Linnaean Street
Cambridge, MA 02138

Mr. Eric VanHelene
38 Linnaean Street
Cambridge, MA 02138

Ms. Judy Redmayne
42 Linnaean Street
Cambridge, MA 02138

Ms. Valerie Fullum
42 Linnaean Street
Cambridge, MA 02138

Ms. Susan Kaufman
38 Linnaean Street
Cambridge, MA 02138

Ms. Susan M. Pollack
51 Martin Street
Cambridge, MA 02138

Ms. Angelica W. Sawyer
14 Avon Place
Cambridge, MA 02138

Ms. Carole Schildhauer
33 Huron Avenue
Cambridge, MA 02138

Mr. James M Snyder, Jr.
32 Linnaean Street
Cambridge, MA 02138

Ms. Carol Sussman
43 Linnaean Street
Cambridge, MA 02138

Mr. Adam N. Weisenberg
51 Martin Street
Cambridge, MA 02138

Ms. Alice K. Wolf
48 Huron Avenue
Cambridge, MA 02138

Ms. Mary P. Rowe
39 Linnaean Street
Cambridge, MA 02138

Mr. Robert A. Fein
39 Linnaean Street
Cambridge, MA 02138

William and Ruth Hsiao
21 Washington Avenue
Cambridge, MA 02140

Mr. Andrew Sorokowski
41 Linnaean Street, #3
Cambridge, MA 02138-1570

Mr. Nathan Hasson
41 Linnaean Street, #7
Cambridge, MA 02138

Ms. Andria Rossi
37 Linnaean Street
Cambridge, MA 02138

Ms. Sylvia Fine
6 Avon Place
Cambridge, MA 02138

Mr. David Cohen
43 Linnaean Street
Cambridge, MA 02138

City of Cambridge

MASSACHUSETTS

In City Council 9/16, 1996

FD

Unfinished Bus. # 11 On Tabling

YEA	NAY	ABSENT	PRESENT	
✓				V.M. Kathleen L. Born
✓				Ms. Henrietta Davis
✓				Mr. Francis H. Duehay
✓				Mr. Anthony Galluccio
✓				Mr. Kenneth E. Reeves
	✓			Mr. Michael A. Sullivan
	✓			Mr. Timothy J. Toomey, Jr.
✓				Ms. Katherine Triantafillou
	✓			Mayor Sheila T. Russell

6 3 0 0

In Honor of Reasoning

Call An

Rosanna Michalakis	104 Grand Hill St.
Mary Farg	9 Bowden St.
Bruce McDonald	6 Herkub St.
Heanna Gait	31 Linnaea St.
Clearor, Lake	
Helen Hark	34 Ann St.
Leann Castedo & Danny Clerman	36 Lancaster
Susan Beland	54 Grand Hill
Arthur Gaffe	27 Lancaster St.
Elizabeth Miller	98 Washington Ave
Bill McKinley	31A Linnaea St
Neel Smith	27 Gray St.
Judith Parker	
Patrick DeGnomat	32 Ann St.
Lynn Krensky	5 Washington Ave.
Walter & Mary Johnson	14 Wright
Li-hi Chen	186 Upland Rd
Virginia Myvarinen	38 Bowden St.
Judy Ree	36 Linnaea #12
John & Shelly Chesler	10 Linnaea St
Betty Peterson	5 Washington Street
Mary Ellen Beveridge	40 Linnaea Street
William Nowlin	Lancaster Street
Susan + Anthony Winkler	32 Bowden Street

Daniel Preis	13 Meckam St.
Nancy Preis	41 Kemmer St.
Marta MacDonald	104 Avar Hill St.
Don Weller	43 Linnaean St.
Shelley Chesky	10 Linnaean Street
Anne + William Strong	31 Gray St.

LAURA JENNINGS-CRANFORD
RICHARD CRANFORD
43 Linnaean Street, #34A
Cambridge, MA 02138-1569
email: RCranford@aol.com
617-876-3212

RECEIVED BY
OFFICE OF CITY CLERK
96 JUN 10 PM 3:36
CAMBRIDGE MA.

June 4, 1996

Committee on Ordinances
Cambridge City Council
City Hall
Cambridge, MA 02139

TO WHOM IT MAY CONCERN:

RE: Public Hearing, Thursday, June 27, 1996 at 6:30 p.m.: Zoning Petition by
Mary Rowes et al. to Rezone the Lots at 33, 37, and 39 Linnaean Street to
Permit Only Single Family Residential Uses, i.e. Residence A-2

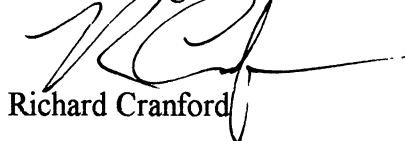
My husband and I will be out of town for this hearing or we would attend in person.
We wish to be on record as opposed to the building of any more apartment buildings
in this area and the moving of the house at 33 Linnaean Street to the back of the lot.

We are in favor of the rezoning to restrict development to Residence A-2 permitting
only single family residential uses in the affected area.

Sincerely,



Laura Jennings-Cranford



Richard Cranford

cc: Mary Rowe, 39 Linnaean St., Cambridge, MA 02138
Dexter Eames, 6 Avon Place, Cambridge, MA 02138
Wynelle Evans, 1 Osborne Rd., Arlington, MA 02174
City Councillor Anthony Gallucio, City Hall, Cambridge 02139
✓ Chairman Frank Duehay, Committee on Ordinances, City Council, City Hall,
Cambridge 02139

Consent Communication #7

Communication was received from
Laura Jennings-Cranford and
Richard Cranford, transmitting
their opposition to the building
of anymore apartment buildings
in their area and the moving
of the house at 33 Linnaean
Street to the back of the lot.

In City Council June 24, 1996

Referred to the Petition.

24 Linnaean Street
Cambridge, MA 02138
June 9, 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

RE: Down-zoning Petition for 33 Linnaean Street

Dear City Council:

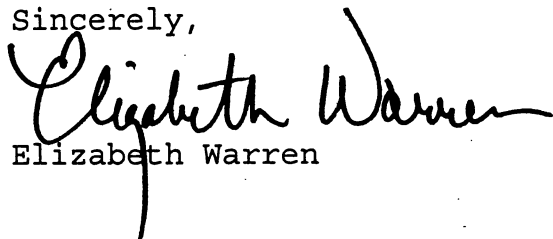
I am writing to support the down-zoning petition for 33 Linnaean Street. I am a nearby neighbor for the house at 33 Linnaean, and I would be significantly affected if the house were moved and a new building of condominiums were built in front of it.

My husband and I have worked hard to preserve the residential nature of Linnaean Street. We bought a house at the corner of Linnaean and Bowdoin, and we have worked long and hard to restore it to its original one-family residential character. We have made significant renovations, attempting to be true to the original character of the house. If we had known that three nearby lots on the block were zoned differently from the others and that the houses there could be torn down and replaced with high-rise condos or apartments, we would have had to reconsider undertaking this work.

We have invested in Cambridge and in this neighborhood. We have invested with our money, our hearts, and our hopes. We do not want to see this neighborhood destroyed and become a pass-through for more traffic and greater density. Nor do we want to see old houses that reflect the history of Cambridge moved off the block and out of sight to be replaced with standard new housing. Every time we lose a front yard on the block and pack seven families in where one family used to live, we decrease the strength of Cambridge's neighborhoods and make the whole area more urban.

Please support the down-zoning petition filed by the concerned neighbors of 33 Linnaean Street.

Sincerely,


Elizabeth Warren

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96 JUN 10 PM 3:36

CAMBRIDGE, MA.

36 Linnaean St. #8
Cambridge, MA 02138
4 June 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

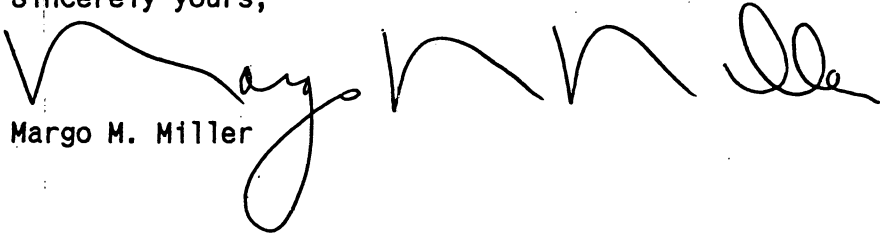
Dear Members of the City Council:

I urge you to approve the down-zoning petition for 33 Linnaean Street to bring the lot into compliance with the A-2 zoning on most of the block.

It is important to reduce the rate of increasing congestion, traffic, environmental and noise pollution, density of population, and overdevelopment in the City as a whole. Any larger building on the 33 Linnaean lot would severely compromise the light and view of abutters in all directions and of the neighbors across the street. Some open spaces must remain in the neighborhood to maintain a liveable quality. The current mix of single and multiple family dwellings works reasonably well but seems to have reached its maximum as far as the ability to tolerate more units per square feet. On trash day one can clearly see the burden of increasing population. More multiple units would increase the amount, noise, and pollution of cars and would increase the potential for vehicular accidents.

Please approve the down-zoning petition in order to protect the health and comfort of the neighborhood and to slow down the rate of rampant overdevelopment in the City.

Sincerely yours,


Margo M. Miller

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96 JUN 10 PM 3:36

CAMBRIDGE MA.

31 Linnaean St.
Cambridge, Ma.02138-1530
June 7, 1996

Councillor Francis H. Duehay
Chairman, City Council
City Hall
Cambridge, MA 02139

Dear Councillor Duehay;

Thank you for sending me the notice of the public hearing June 27th, concerning the Zoning Petition by Mary Rowe on Linnaean St. Since I shall not be able to attend, would you please read ^{above} this letter of firm support for Ms. Rowe's petition, in order to oppose encroachments upon the architectural significance of an historic Cambridge street, the loss of views by neighbors, to say nothing of a huge increase in noise, congestion, and visitors' parking. I shall appreciate your entering this statement of support for single family residential uses only in the area concerned into the record as well.

(not for
hearing)

In a symbolically related other "development," would you let me know at your convenience if any attempts are being made to track down the one or more graffiti vandals whose "encroachments" along Linnaean St., particularly the area from Massachusetts Avenue to the street (north side) opposite the Peabody School, seem to be increasing. Several mailboxes have already been painted over to cover the signature of one boastful signature, "Snipe," but the person has even written his name in black spray paint on the newly painted fence (side of post) of the oldest house in Cambridge. Names also appear on the sides of buildings; it's a disturbing sign of the times, of course, and I trust you want to know about it. Would posting announcements of fines for defacement further encourage culprits?

Thank you for taking the time to respond to my note about snow clearance.

Sincerely yours,



Lillian Bulwa

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OFFICE OF CITY CLERK

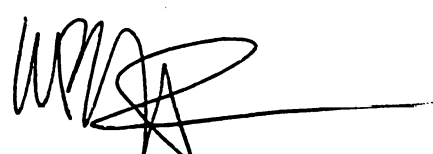
95 JUN 10 PM 3:36
June 4, 1996

Mr. Francis Duehay
Committee on Ordinances of the City Council
Cambridge City Council
City Hall
Cambridge, MA 02139

Dear Mr. Francis Duehay :

My wife and I are writing to express our strongest support for re-zoning 33 Linnaean St. to be in compliance with the A-2 zoning prevailing on the block. We are new residents and are dismayed to learn that our beautiful block of Mansard Victorian homes is going to be broken up because of this zoning anomaly. As you know, 33 Linnaean has been determined to be an historically significant home and it seems perfectly fair that it should be zoned just as the neighboring homes are. We hope you will agree with us that it is in the best interest of the neighborhood and Cambridge to prevent the destruction of this landmark by down-zoning the lot.

Sincerely,



William R. McKelvy and Patricia F. McKelvy
31 A Linnaean Street
Cambridge, MA 02138

Carol Sussman
43 Linnaean Street
Cambridge, MA 02138
(617) 864-7046

95 JUN 10 AM 3:35

UNIVERSITY MA.

June 6, 1996

3

Committee on Ordinances
City Council

DEAR SIRs-

I have been a resident of 43 Linnaean St. Cambridge since 1967. I enjoy my neighborhood and take great pleasure in those areas of history and charm on Linnaean St. Please protect my neighborhood and change the zoning of # 33 Linnaean Street to A-2 zoning which prevails on the block. Please act to down-zone # 33 Linnaean St. This will protect our neighborhood, it will lessen congestion and prevent overconcentration of population. I believe that ^{proposed} development of the land and building at # 33 is totally inappropriate for this neighborhood and the developer would serve the city and himself best by economic development elsewhere.

Sincerely,
Carol Sussman

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96 JUN 10 PM 3:36

CAMBRIDGE MA.

LAURA JENNINGS-CRANFORD
RICHARD CRANFORD
43 Linnaean Street, #34A
Cambridge, MA 02138-1569
email: RCranford@aol.com
617-876-3212

June 4, 1996

Committee on Ordinances
Cambridge City Council
City Hall
Cambridge, MA 02139

TO WHOM IT MAY CONCERN:

RE: Public Hearing, Thursday, June 27, 1996 at 6:30 p.m.: Zoning Petition by
Mary Rows et al. to Rezone the Lots at 33, 37, and 39 Linnaean Street to
Permit Only Single Family Residential Uses, i.e. Residence A-2

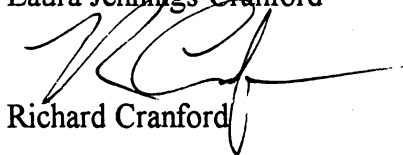
My husband and I will be out of town for this hearing or we would attend in person.
We wish to be on record as opposed to the building of any more apartment buildings
in this area and the moving of the house at 33 Linnaean Street to the back of the lot.

We are in favor of the rezoning to restrict development to Residence A-2 permitting
only single family residential uses in the affected area.

Sincerely,



Laura Jennings-Cranford



Richard Cranford

cc: Mary Rowe, 39 Linnaean St., Cambridge, MA 02138
Dexter Eames, 6 Avon Place, Cambridge, MA 02138
Wynelle Evans, 1 Osborne Rd., Arlington, MA 02174
City Councillor Anthony Gallucio, City Hall, Cambridge 02139
✓ Chairman Frank Duehay, Committee on Ordinances, City Council, City Hall,
Cambridge 02139

RECEIVED BY
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16 JUN 11 PM 2:11
CAMBRIDGE, MA.

4 June 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

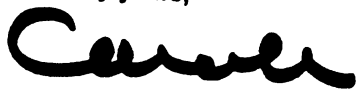
Dear Members of the City Council:

I urge you to approve the down-zoning petition for 33 Linnaean Street to bring the lot into compliance with the A-2 zoning on most of the block.

It is important to reduce the rate of increasing congestion, traffic, environmental and noise pollution, density of population, and overdevelopment in the City as a whole. Any larger building on the 33 Linnaean lot would severely compromise the light and view of abutters in all directions and of the neighbors across the street. Some open spaces must remain in the neighborhood to maintain a liveable quality. The current mix of single and multiple family dwellings works reasonably well but seems to have reached its maximum as far as the ability to tolerate more units per square feet. On trash day one can clearly see the burden of increasing population. More multiple units would increase the amount, noise, and pollution of cars and would increase the potential for vehicular accidents.

Please approve the down-zoning petition in order to protect the health and comfort of the neighborhood and to slow down the rate of rampant overdevelopment in the City.

Sincerely yours,



Carole Schildhauer
33 Huron Avenue
Cambridge, Ma
02138

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86 JUN 12 PM 2:50

36-42 Linnaean Street
Cambridge, MA 02138
June 10, 1996

CAMBRIDGE, MA.

Francis Duehay, Chairperson
Cambridge City Council
Committee on Ordinances
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: 33 Linnaean Street

Dear Chairperson Duehay:

We are the trustees of the Linnaean Street Condominium. We have talked with nearly all of the owners in our building about the effort presently underway to down-zone the property at 33 Linnaean Street. We informed those neighbors that we would be writing to you and attending the June 27th public hearing as concerned neighbors of 33 Linnaean Street and that we would be glad to carry their opinions along with our own to the Council.

We and all of the other owners in our building with whom we have spoken are very much in favor of the down-zoning. We are very much aware that we live in a neighborhood that is primarily made up of single-family homes. Our sixty-unit building and the other apartment/condominium buildings like it that face Linnaean Street are the exceptions in the area. These buildings have behind them the hundreds of single-family homes that really make up the Avon Hill area.

The tone for the area is set by the residents of the single-family homes and by the Peabody Elementary School. Being aware of this, we tread as lightly as we can and constantly take into consideration when undertaking building operations that we must keep a low profile. We do all we can to minimize the impact of our out-of-character buildings on the families with whom we share our neighborhood. We realize that the density we represent and the cars, noise, and activity we generate need to be kept to a minimum in order that we have as little negative effect on our neighbors as possible.

33 Linnaean Street has been a single-family residence since it was built and we would like to add our voices to those hoping that it can remain so by having the lot downzoned to an A-2 category. We recognize that the neighborhood has, over the years, dealt with increasing crowding and use and wishes to keep any additional increases to a minimum. We support our neighbors in this effort.

Thank you.

Maxine Pestronk
Eric VanHelene
Judy Redmayne
Valerie Fullum
Susan Kaufman

Sincerely,

Maxine Pestronk

Eric VanHelene

Judy Redmayne

Valerie Fullum

Susan Kaufman

RECEIVED BY
CITY CLERK
JUN 11 AM 11:22
CITY OF CAMBRIDGE, MA.

Martha Pappenheim
9 Washington Avenue, Apt. 2
Cambridge, MA 02140

June 7, 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

To Whom It May Concern:

I am writing in regard to the upcoming petition for the down zoning of 33 Linnaean Street. I was born in Germany in 1900, and have been a resident of Cambridge for nearly 30 years. For the past 18 years, in my apartment on Washington Avenue I have greatly enjoyed waking up to the sounds of the birds in the back garden, seeing the leaves of the trees change their colors as the seasons change, observing the antics of the squirrels as they leap from limb to limb, and watching the play of light and shadow on my wall as the sun sets.

Due to my age, I am somewhat limited in what I can do, and this open natural view has come to mean a great deal to me. Although I am basically in favor of development, it is my opinion that the development of 33 Linnaean Street will drastically impact upon this natural beauty. In specifically addressing Article 1.30 of the Cambridge zoning ordinance, this planned development can only adversely affect "the provision of adequate light and air, the overcrowding of land, and the conservation of the natural resources of Cambridge." Cambridge is now and has been known for its lovely character. Indeed, in a paper read to the Cambridge Historical Society in 1946 written by Frances H. Eliot, daughter-in-law of past Harvard President Charles Eliot, she wrote:

"Down Concord Avenue we now turn to the Turnpike over which on that hot April day the Red Coats fled, and into Garden Street, named for the Botanical Garden, off of which runs a street named Linnaean after the great Botanist Linnaeus. There used to be many students studying botany when I was young and I remember sitting on top of one of the high gateposts in front of the Storers' walk ..."

During my 95 years, I have seen much beauty. On Washington Avenue, I have enjoyed eating my breakfast as the little sparrows came to the window for their seed. It is my hope that the children today will be able to enjoy what I have come to enjoy. Linnaean Street has long been recognized for its natural beauty, and I believe that we must look closely at the cost of what such a loss would mean.

Very sincerely yours,

Martha Pappenheim



**Harvard Medical
School**

Robert J. Birnbaum, MD, PhD

Instructor in Psychiatry
Harvard Medical School



**Beth Israel Hospital
Boston**

Director of Psychopharmacology
Director, Neuroscience Training

Department of Psychiatry
Beth Israel Hospital
330 Brookline Avenue
Boston, MA 02215
(617) 735-3781

Cambridge City Council
City Hall
Cambridge, Massachusetts 02139

6/9/96

Dear Francis Duehay:

My wife and I will be out of town on June 27th and therefore can not attend the public hearing to be held on that date before the Committee on Ordinances of the City Council. We wish to express our total support for the down-zoning petition for 33 Linnaean Street that will be considered that evening.

We own a single family house located at 10 Avon Place, which is directly behind the proposed development project. My wife was raised in Cambridge and I have lived here most of my life. We still remember when Harvard Square was more than just a collection of large retail outlets, similar to those that can be found in every city in the United States; a time before this city started to be drained of it's cultural and racial diversity.

We sincerely support appropriate economic development but too few enclaves in Cambridge have been spared the overcrowding, congestion and socioeconomic homogenization that has robbed Cambridge of it's uniqueness as a livable, enriching city. We hope that you will abide by the mandate of your charter and act in a manner that reflects the wishes of the majority of your constituency. Please bring the zoning for 33 Linnaean Street into compliance with the A-2 zoning that prevails on the rest of the block.

There is no merit to this development project and only one clear motivation; to line the pockets of a developer who has failed to demonstrate any sensitivity to the issues raised by the individuals who will have to live with the aftermath of his actions.

sincerely,

Dr. Jessica K. Miller

Dr. Robert J. Birnbaum

cc City Councillor Anthony Gallucio

SARAH CULLEN
43 Linnaean Street, #35A
Cambridge, MA 02138-1569

June 9, 1996

Committee on Ordinances
Cambridge City Council
City Hall
Cambridge, MA 02139

TO WHOM IT MAY CONCERN:

RE: Public Hearing, Thursday, June 27, 1996 at 6:30 p.m.: Zoning Petition by
Mary Rows et al. to Rezone the Lots at 33, 37, and 39 Linnaean Street to
Permit Only Single Family Residential Uses, i.e. Residence A-2

I wish to be on record as opposed to the building of any more apartment buildings in
this area and the moving of the house at 33 Linnaean Street to the back of the lot.

I am in favor of the rezoning to restrict development to Residence A-2 permitting only
single family residential uses in the affected area.

Sincerely,



Sarah Cullen

cc: Mary Rowe, 39 Linnaean St., Cambridge, MA 02138
Dexter Eames, 6 Avon Place, Cambridge, MA 02138
Wynelle Evans, 1 Osborne Rd., Arlington, MA 02174
City Councillor Anthony Gallucio, City Hall, Cambridge 02139
Chairman Frank Duehay, Committee on Ordinances, City Council, City Hall,
Cambridge 02139

Avon Hill Association
To save 33 Linnaean Street

June 13, 1996

To: The Honorable
Francis H. Duehay
City Hall
Cambridge, MA

From: Prof. E.J. Corey
David Cohen
Dexter Eames
Wynelle Evans
Melinda Greason
Adam Weisenberg

RECEIVED BY
CITY CLERK
JUN 14 PM 12:48
CITY HALL

We are writing to register our strong support for the zoning petition filed by Mary Rowe et al. for 33-39 Linnaean St.

We understand that you have many pressing issues before you, but we hope that you might be able to find time within your schedule to meet with us and discuss the merits of the petition more fully.

One of us will call your office in the next few days to see if a meeting can be arranged.

Thank you for your time and consideration.

Avon Hill Association
To save 33 Linnaean Street

June 13, 1996

To: The Honorable
Francis H. Duehay
City Hall
Cambridge, MA

From: Prof. E.J. Corey
David Cohen
Dexter Eames
Wynelle Evans
Melinda Greason
Adam Weisenberg

10

RECEIVED BY
CITY CLERK
96 JUN 14 PM 12:48
CITY OF CAMBRIDGE

We are writing to register our strong support for the zoning petition filed by Mary Rowe et al. for 33-39 Linnaean St.

We understand that you have many pressing issues before you, but we hope that you might be able to find time within your schedule to meet with us and discuss the merits of the petition more fully.

One of us will call your office in the next few days to see if a meeting can be arranged.

Thank you for your time and consideration.

Consent Communication #25

Communication was received from the Avon Hill Association, transmitting their support for the zoning petition filed by Mary Rowe et al for 33-39 Linnaean Street.

In City Council June 24, 1996

Referred to the Petition

RECEIVED BY
OFFICE OF CITY CLERK
96 JUN 11 PM 2:11
CAMBRIDGE MA.

4 June 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

Dear Members of the City Council:

I urge you to approve the down-zoning petition for 33 Linnaean Street to bring the lot into compliance with the A-2 zoning on most of the block.

It is important to reduce the rate of increasing congestion, traffic, environmental and noise pollution, density of population, and overdevelopment in the City as a whole. Any larger building on the 33 Linnaean lot would severely compromise the light and view of abutters in all directions and of the neighbors across the street. Some open spaces must remain in the neighborhood to maintain a liveable quality. The current mix of single and multiple family dwellings works reasonably well but seems to have reached its maximum as far as the ability to tolerate more units per square feet. On trash day one can clearly see the burden of increasing population. More multiple units would increase the amount, noise, and pollution of cars and would increase the potential for vehicular accidents.

Please approve the down-zoning petition in order to protect the health and comfort of the neighborhood and to slow down the rate of rampant overdevelopment in the City.

Sincerely yours,



Carole Schildhauer
33 Huron Avenue
Cambridge, Ma
02138

Consent Communication #8

Communication was received from Carole Schildhauer, transmitting her support for the re-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

In City Council June 24, 1996

Referred to the Petition

Carol Sussman
43 Linnaean Street
Cambridge, MA 02138
(617) 864-7046

96 JUN 10 PM 3:36

CAMBRIDGE MA.

June 6, 1996

Committee on Ordinances
City Council

DEAR SIRs-

I have been a resident of 43 Linnaean St. Cambridge since 1967. I enjoy my neighborhood and take great pleasure in those areas of history and charm on Linnaean St. Please protect my neighborhood and change the zoning of # 33 Linnaean Street to A-2 zoning which prevails on the block. Please act to down-zone # 33 Linnaean St. This will protect our neighborhood, it will lessen congestion and prevent overconcentration of population. I believe that ^{proposed} development of the land and building at # 33 is totally inappropriate for this neighborhood and the developer would serve the city and himself best by economic development elsewhere.

Sincerely
Carol Sussman

Consent Communication #6

Communication was received from Carol Sussman, transmitting her support for the re-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

In City Council June 24, 1996

Referred to The Petition

24 Linnaean Street
Cambridge, MA 02138
June 9, 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

RE: Down-zoning Petition for 33 Linnaean Street

Dear City Council:

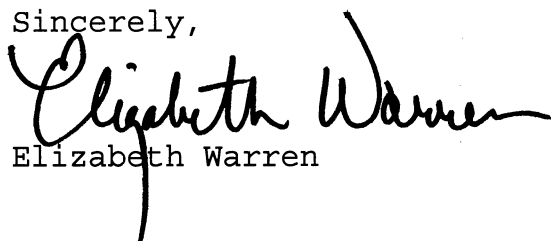
I am writing to support the down-zoning petition for 33 Linnaean Street. I am a nearby neighbor for the house at 33 Linnaean, and I would be significantly affected if the house were moved and a new building of condominiums were built in front of it.

My husband and I have worked hard to preserve the residential nature of Linnaean Street. We bought a house at the corner of Linnaean and Bowdoin, and we have worked long and hard to restore it to its original one-family residential character. We have made significant renovations, attempting to be true to the original character of the house. If we had known that three nearby lots on the block were zoned differently from the others and that the houses there could be torn down and replaced with high-rise condos or apartments, we would have had to reconsider undertaking this work.

We have invested in Cambridge and in this neighborhood. We have invested with our money, our hearts, and our hopes. We do not want to see this neighborhood destroyed and become a pass-through for more traffic and greater density. Nor do we want to see old houses that reflect the history of Cambridge moved off the block and out of sight to be replaced with standard new housing. Every time we lose a front yard on the block and pack seven families in where one family used to live, we decrease the strength of Cambridge's neighborhoods and make the whole area more urban.

Please support the down-zoning petition filed by the concerned neighbors of 33 Linnaean Street.

Sincerely,


Elizabeth Warren

0

Consent Communication #15

Communication was received from Elizabeth Warren, transmitting her support for the down-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

00

RECEIVED BY
OFFICE OF CITY CLERK
95 JUN 13 AM 10:55
CITY OF BOSTON

In City Council June 24, 1996

Referred to the Petition

RECEIVED BY
OFFICE OF CITY CLERK

96 JUN 12 PM 2:50

36-42 Linnaean Street
Cambridge, MA 02138
June 10, 1996

CAMBRIDGE MA.

Francis Duehay, Chairperson
Cambridge City Council
Committee on Ordinances
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: 33 Linnaean Street

Dear Chairperson Duehay:

We are the trustees of the Linnaean Street Condominium. We have talked with nearly all of the owners in our building about the effort presently underway to down-zone the property at 33 Linnaean Street. We informed those neighbors that we would be writing to you and attending the June 27th public hearing as concerned neighbors of 33 Linnaean Street and that we would be glad to carry their opinions along with our own to the Council.

We and all of the other owners in our building with whom we have spoken are very much in favor of the down-zoning. We are very much aware that we live in a neighborhood that is primarily made up of single-family homes. Our sixty-unit building and the other apartment/condominium buildings like it that face Linnaean Street are the exceptions in the area. These buildings have behind them the hundreds of single-family homes that really make up the Avon Hill area.

The tone for the area is set by the residents of the single-family homes and by the Peabody Elementary School. Being aware of this, we tread as lightly as we can and constantly take into consideration when undertaking building operations that we must keep a low profile. We do all we can to minimize the impact of our out-of-character buildings on the families with whom we share our neighborhood. We realize that the density we represent and the cars, noise, and activity we generate need to be kept to a minimum in order that we have as little negative effect on our neighbors as possible.

33 Linnaean Street has been a single-family residence since it was built and we would like to add our voices to those hoping that it can remain so by having the lot downzoned to an A-2 category. We recognize that the neighborhood has, over the years, dealt with increasing crowding and use and wishes to keep any additional increases to a minimum. We support our neighbors in this effort.

Consent Communication #14

Communication was received from the trustees of the Linnaean Street Condominium, transmitting their support for the down-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

In City Council June 24, 1996

Referred to the Petition

Thank you.

*Miss Prof
Eric VanHelene
Judy Redmayne
Valerie Fullum
Susan Kaufman*

Sincerely,

Maxine Pestronk

Eric VanHelene

Judy Redmayne

Valerie Fullum

Susan Kaufman

RECEIVED BY
OFFICE OF CITY CLERK

96 JUN 10 PM 3:36

CAMBRIDGE MA.

36 Linnaean St. #8
Cambridge, MA 02138
4 June 1996

Cambridge City Council
City Hall
Cambridge, MA 02139


Dear Members of the City Council:

I urge you to approve the down-zoning petition for 33 Linnaean Street to bring the lot into compliance with the A-2 zoning on most of the block.

It is important to reduce the rate of increasing congestion, traffic, environmental and noise pollution, density of population, and overdevelopment in the City as a whole. Any larger building on the 33 Linnaean lot would severely compromise the light and view of abutters in all directions and of the neighbors across the street. Some open spaces must remain in the neighborhood to maintain a liveable quality. The current mix of single and multiple family dwellings works reasonably well but seems to have reached its maximum as far as the ability to tolerate more units per square feet. On trash day one can clearly see the burden of increasing population. More multiple units would increase the amount, noise, and pollution of cars and would increase the potential for vehicular accidents.

Please approve the down-zoning petition in order to protect the health and comfort of the neighborhood and to slow down the rate of rampant overdevelopment in the City.

Sincerely yours,



Margo M. Miller

Consent Communications #3

Communication was received from Margo M. Miller, transmitting her support for the down-zoning petition for 33 Linnaean Street to bring the lot into compliance with the A-2 zoning on most of the block.

In City Council June 24, 1996

Referred to the Petition

RECEIVED BY
OFFICE OF CITY CLERK

96 JUN 10 PM 3:36
June 4, 1996
CAMBRIDGE MA.

Mr. Francis Duehay
Committee on Ordinances of the City Council
Cambridge City Council
City Hall
Cambridge, MA 02139

Dear Mr. Francis Duehay :

My wife and I are writing to express our strongest support for re-zoning 33 Linnaean St. to be in compliance with the A-2 zoning prevailing on the block. We are new residents and are dismayed to learn that our beautiful block of Mansard Victorian homes is going to be broken up because of this zoning anomaly. As you know, 33 Linnaean has been determined to be an historically significant home and it seems perfectly fair that it should be zoned just as the neighboring homes are. We hope you will agree with us that it is in the best interest of the neighborhood and Cambridge to prevent the destruction of this landmark by down-zoning the lot.

Sincerely,



William R. McKelvy and Patricia F. McKelvy
31 A Linnaean Street
Cambridge, MA 02138

Consent Communications #5

Communication was received from William and Patricia McKelvy, transmitting their support for the re-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

In City Council June 24, 1996

Referred to the Petition

RECEIVED BY
CITY CLERK
JUN 11 AM 11:22
CITY CLERK

Martha Pappenheim
9 Washington Avenue, Apt. 2
Cambridge, MA 02140

June 7, 1996

Cambridge City Council
City Hall
Cambridge, MA 02139

To Whom It May Concern:

I am writing in regard to the upcoming petition for the down zoning of 33 Linnaean Street. I was born in Germany in 1900, and have been a resident of Cambridge for nearly 30 years. For the past 18 years, in my apartment on Washington Avenue I have greatly enjoyed waking up to the sounds of the birds in the back garden, seeing the leaves of the trees change their colors as the seasons change, observing the antics of the squirrels as they leap from limb to limb, and watching the play of light and shadow on my wall as the sun sets.

Due to my age, I am somewhat limited in what I can do, and this open natural view has come to mean a great deal to me. Although I am basically in favor of development, it is my opinion that the development of 33 Linnaean Street will drastically impact upon this natural beauty. In specifically addressing Article 1.30 of the Cambridge zoning ordinance, this planned development can only adversely affect "the provision of adequate light and air, the overcrowding of land, and the conservation of the natural resources of Cambridge." Cambridge is now and has been known for its lovely character. Indeed, in a paper read to the Cambridge Historical Society in 1946 written by Frances H. Eliot, daughter-in-law of past Harvard President Charles Eliot, she wrote:

"Down Concord Avenue we now turn to the Turnpike over which on that hot April day the Red Coats fled, and into Garden Street, named for the Botanical Garden, off of which runs a street named Linnaean after the great Botanist Linnaeus. There used to be many students studying botany when I was young and I remember sitting on top of one of the high gateposts in front of the Storers' walk ..."

During my 95 years, I have seen much beauty. On Washington Avenue, I have enjoyed eating my breakfast as the little sparrows came to the window for their seed. It is my hope that the children today will be able to enjoy what I have come to enjoy. Linnaean Street has long been recognized for its natural beauty, and I believe that we must look closely at the cost of what such a loss would mean.

Very sincerely yours,

Martha Pappenheim

Consent Communication #12

Communication was received from Martha Pappenheim, transmitting her mixed feelings to the re-zoning of 33 Linnaean Street because it is her opinion that the development will drastically impact upon this natural beauty of this street.

In City Council June 24, 1996

Referred to the Petition



**Beth Israel Hospital
Boston**

Director of Psychopharmacology
Director, Neuroscience Training

Department of Psychiatry
Beth Israel Hospital
330 Brookline Avenue
Boston, MA 02215
(617) 735-3781

Cambridge City Council
City Hall
Cambridge, Massachusetts 02139

6/9/96

Dear Francis Duehay:

My wife and I will be out of town on June 27th and therefore can not attend the public hearing to be held on that date before the Committee on Ordinances of the City Council. We wish to express our total support for the down-zoning petition for 33 Linnaean Street that will be considered that evening.

We own a single family house located at 10 Avon Place, which is directly behind the proposed development project. My wife was raised in Cambridge and I have lived here most of my life. We still remember when Harvard Square was more than just a collection of large retail outlets, similar to those that can be found in every city in the United States; a time before this city started to be drained of it's cultural and racial diversity.

We sincerely support appropriate economic development but too few enclaves in Cambridge have been spared the overcrowding, congestion and socioeconomic homogenization that has robbed Cambridge of it's uniqueness as a livable, enriching city. We hope that you will abide by the mandate of your charter and act in a manner that reflects the wishes of the majority of your constituency. Please bring the zoning for 33 Linnaean Street into compliance with the A-2 zoning that prevails on the rest of the block.

There is no merit to this development project and only one clear motivation; to line the pockets of a developer who has failed to demonstrate any sensitivity to the issues raised by the individuals who will have to live with the aftermath of his actions.

sincerely,

Dr. Jessica K. Miller

Dr. Robert J. Birnbaum

cc City Councillor Anthony Gallucio

Consent Communication #11

Communication was received from Dr. Jessica K. Miller and Dr. Robert J. Birnbaum, transmitting their support for the re-zoning of 33 Linnaean Street to bring the lot into compliance with the A-2 zoning which prevails on the block.

89

RECEIVED BY
CLERK OF CITY CLERK
95 JUN 11 PM 2:44
MILWAUKEE ILL.

In City Council June 24, 1996

Referred to The Petition



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

September 3, 1996

To the Honorable, the City Council:

SUBJECT: Planning Board Recommendation on the Rowe, et al Petition rezoning portions of three lots, now designated Residence B or Residence C-2, to Residence A-2.

Recommendation: The Planning Board recommends adoption of the Petition as filed.

Findings

The proposed rezoning affects three lots on Linnaean Street that are currently divided between a Residence A-2 designation to their rear and a Residence C-2 or Residence B designation along the front 100 feet of each lot. While subject to differing zoning limitations, the lots are currently similarly developed with a single structure of wood-frame construction containing from one to three dwelling units. Unlike 37 and 39 Linnaean Street, however, the zoning limitations at 33 Linnaean Street would permit much additional construction to occur on that site (13 additional housing units and a commensurate amount of additional gross floor area); in comparison, only one additional unit would be permitted at 39 Linnaean Street under the Residence B regulations currently applicable to the lot.

The Petitioners contend that the current zoning designations, particularly at 33 Linnaean Street, would permit excessive development on the affected lots and have proposed a uniform Residence A-2 zoning designation to forestall that possibility. The Planning Board agrees that future development permitted with the current Residence C-2 designation at 33 Linnaean Street in particular is unacceptable and that a Residence A-2 designation for all three subject lots is appropriate. Such a designation would place all lots entirely within a single zoning district (Residence A-2), which district is applied to the many blocks north of this location within the Avon Hill neighborhood that are developed in a similar character. The current development on each of the three lots is generally consistent with the limitations imposed in a Residence A-2 district, although some aspects of the development may be non conforming (the number of units at 37 Linnaean Street and a side yard setback at 39 Linnaean Street). However, such minor non conforming aspects exist with regard to the present Residence B designation for two of the lots and are unavoidable, regardless of zoning designation, in a city where most present development was in existence before zoning of any kind was adopted.

RECEIVED BY
OFFICE OF CITY CLERK
96 SEP -4 PM 1:38
CAMBRIDGE MA

In 1978, in considering a rezoning petition affecting these same lots, the City chose not to alter the Residence C-2 designation at 33 Linnaean Street, while at the same time making a change to Residence B at 37 and 39 Linnaean Street. In reviewing the physical context of these lots in 1996, the Board finds the Residence C-2 designation clearly inappropriate. While the Board does believe that more development on the lot at 33 Linnaean Street than permitted by the Residence A-2 district would be acceptable, there is no other zoning designation that allows a modest level of development while protecting the major public assets of this and the adjacent lots: preservation of historic structures, preservation of open space, and, at 33 Linnaean Street at least, the potential for preservation of existing trees of considerable distinction. A rezoning to Residence A-2 is consistent with the character of the existing development on the lots, a logical extension of that designation that now prevails over similarly developed blocks adjacent to these lots, and allows a reasonable use of the lots while preserving their essential character, which is a major public asset.

Toward a Sustainable Future: *Cambridge Growth Policy Document*, the Planning Board's recommended draft land use policy statement for the City, suggests that the issues raised by this proposed rezoning, i.e. questions of neighborhood character and transition between differing development patterns, are important considerations whenever the future of land use in the City is deliberated (**Policies 1, 4, 26 and 62** are particularly relevant). As always the difficulty lies in defining the boundaries of the neighborhood, the character of the place within those boundaries, where the transition to another neighborhood should be located, and how that transition should be accomplished. In the Avon Hill area and along Linnaean Street, the City's view of these issues has evolved over time.

The north side of Linnaean Street has a character, over most of its length, more dense and urban than on the streets surrounding it, or on its south side. In 1924, with the adoption of the City's first zoning ordinance, the zoning district designation (R3) along the street affirmed that higher density character, which was already well established with the range of brick apartment buildings that still stand today. However, over the next seventy years, in periodic changes to the zoning map, the City revised its policy direction: along Linnaean Street and much of the surrounding neighborhood the development norm to be encouraged was the small, one, two and three-family structures on individual lots rather than the large multifamily housing blocks the 1924 zoning regulations had permitted. The current Rowe Petition proposes to refine further that gradual progression to more stringent and limiting zoning regulations for three lots at a clear point of transition; particularly with regard 33 Linnaean Street a judgment must be made as to how the transition from low density to high density is to be made across a span of 80 feet on a single lot.

The Board finds that the three lots subject to this petition, and the character of the development on them, are a part of the neighborhood north and south of Linnaean Street that are currently zoned either Residence B or Residence A-2. The large masonry apartment buildings that form a conspicuous presence along Linnaean Street are a form of

development the city has chosen not to encourage further in this neighborhood, as illustrated by a number of rezoning actions taken over the last several decades. Acting on this petition favorably will place the three lots in question within a regulatory framework that will protect their essential character, which the City has determined to be of considerable public value and clearly consistent with the policy objectives enumerated by the Planning Board in **Toward a Sustainable Future**.

Respectfully Submitted for the Planning Board

Paul Dietrich (AM)

Paul Dietrich, Chairman

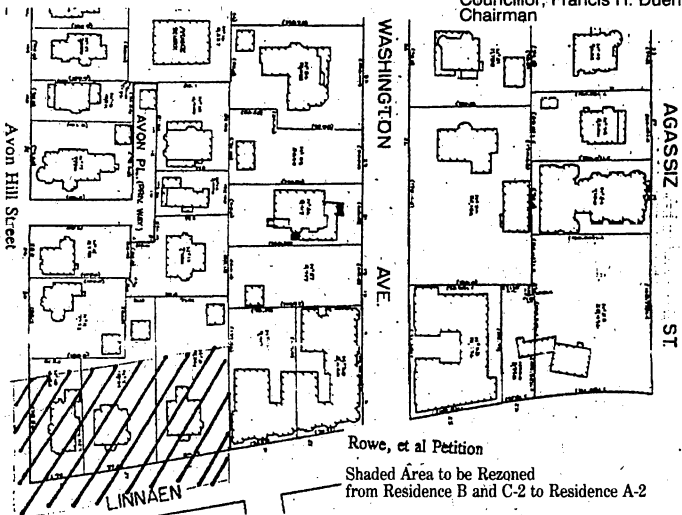
CITY OF CAMBRIDGE
MASSACHUSETTS
Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Tuesday, July 9, 1996, at 5:30 P.M., in the Sullivan Chamber, City Hall, Cambridge, Massachusetts on a Zoning Petition by Mary Rowes, et al to rezone an area of Linnaean Street from Residence C-2 and Residence B to Residence A-2 as shown on the accompanying map. The rezoning would restrict development to a Floor Area Ratio of .5 and a height limit of 35 feet. It would increase the required lot width of 65 feet and the minimum lot size to 6,000 square feet and would permit only single family residential uses in the affected area.

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,
Councillor, Francis H. Duehay,
Chairman



Rowe, et al Petition
Shaded Area to be Rezoned
from Residence B and C-2 to Residence A-2

phases of body, frame & paint repairs. Refs req. Start immed. 617-828-0400

NE SCHOOL OF LAW BOOK STORE

P/T Sales. Appy in person
75 Columbus Av Bost (Park
Plaza Hotel) No phone calls

CARPENTER

Expd. carpenter wanted,
must have own tools & reliable
transp. Full time work
in Metro west area Sal.
comm. w/exp 508-481-6095

METAL FABRICATION

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co. sks expd metal fabrica-
tor/installer for aluminated
signs Mike 1-800-696-SIGN

TRUCK DRIVERS

Exp team or solo driver to
share a Boston area to
West Coast run. Approx 2
wks per mo. Call Mon-Fri 4
pm-8 pm 805-251-6440

HEAD COOK

For Draper Labs in Cam-
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Full time, competitive salary
with benefits. Call Jeff or
Joe at (617) 258-4548

EXP. DINRM SUPERVISOR

Exc. pay w/benefits. Also,
Saute Cook, Waitstaff Pbs-
tions. Franco's Restaurant,
1381 Providence Highway,
Norwood, 617-769-7795.

EXP NAIL TECH/HAIRDRESSER

Immed opening. Salary-

LEO Hanover St. Boston
742-5522

TRAVELING AMUSEMENT PARK RIDE HELP WANTED

617-397-2997

DRIVER WANTED CLASS 2 LICENSE WITH CDL Call 617-932-3775

EXPERIENCED SHEET METAL HELPER (617) 933-3646

AUTO BODY TECHNICIAN

Full time position for quali-
fied indiv. Benefits, wages,
according to ability. Call for
interview. Centre St. Gar-
rage, 472-4922, M-F, 8-5.

STORE MANAGER

Tues thru Sat 9-5. Busy re-
demption center. Arlington
loc. Salary \$9/hr. Contact
Cheryl (508) 635-1931 be-
tween 9-5 for appt.

SECURITY ALARM TECHNICIAN

Must be experienced in ser-
vicing & installing alarms.
Benefits package. Steady
work. Start immediately.
Call 617-389-7777

COUNSELORS

NH childrens' camp. Arts &
crafts, sailing, golf, group
leader. (603) 746-3195

AKC, Giant black German
Shepherds, very rare, bred
for intelligence, tempera-
ment & beauty. Starting
\$400. (508) 887-5405.

AKC PAPILLON Puppies, 2
small males, shots,
wormed, vet checked,
\$500. Call 7-800-9957

AKC Cocker Spaniel pups.
8 wks, blk, 1/2 F Ch bldline
Vet checked. 1st shots giv-
en. 508-291-1367.

AKC German Shep. Pups,
black/tan, same/sire on
site. OFA cert'd. 1st shots,
\$500. (508) 38-7107.

AKC, Boxer puppies, tails,
dew claws & 1st shots, 2
brindle females, 8 wks. old
\$600/ea. (508) 378-2336

AKC Choc. Lab pups, par-
ents OFA vry gentle vet
checked, shots, wormed,
will del \$500 802-533-7740

AKC ENGLISH Springer
spaniels, blk & white, ex
temp., parents on prem.,
ready \$400. 603-895-6069

AKC REG. German Shep.
pups, pure German blood-
lines, top quality dogs.
Must see. (603) 483-8949.

AKC Boxer pups, fawn,
brindles & blacks. M & F,
tails, dewclaws 1st shots.
\$500. (508) 759-1201

AKC Germ Shep. pups. We
can brag about these
beauties! Pet & Show.
\$500-\$800. 508-386-2243

AKC, Collie pups, 10 wks
1st shots, eye exam,
wormed, raised w/child.
\$300-\$400. 508 794-3059

AKC, GOLDEN Retriever
Pups, shots, health certf.

THE BOSTON GLOBE
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Ordinance Henry 7/9/96



33 Linnaean Street
Cambridge, Massachusetts

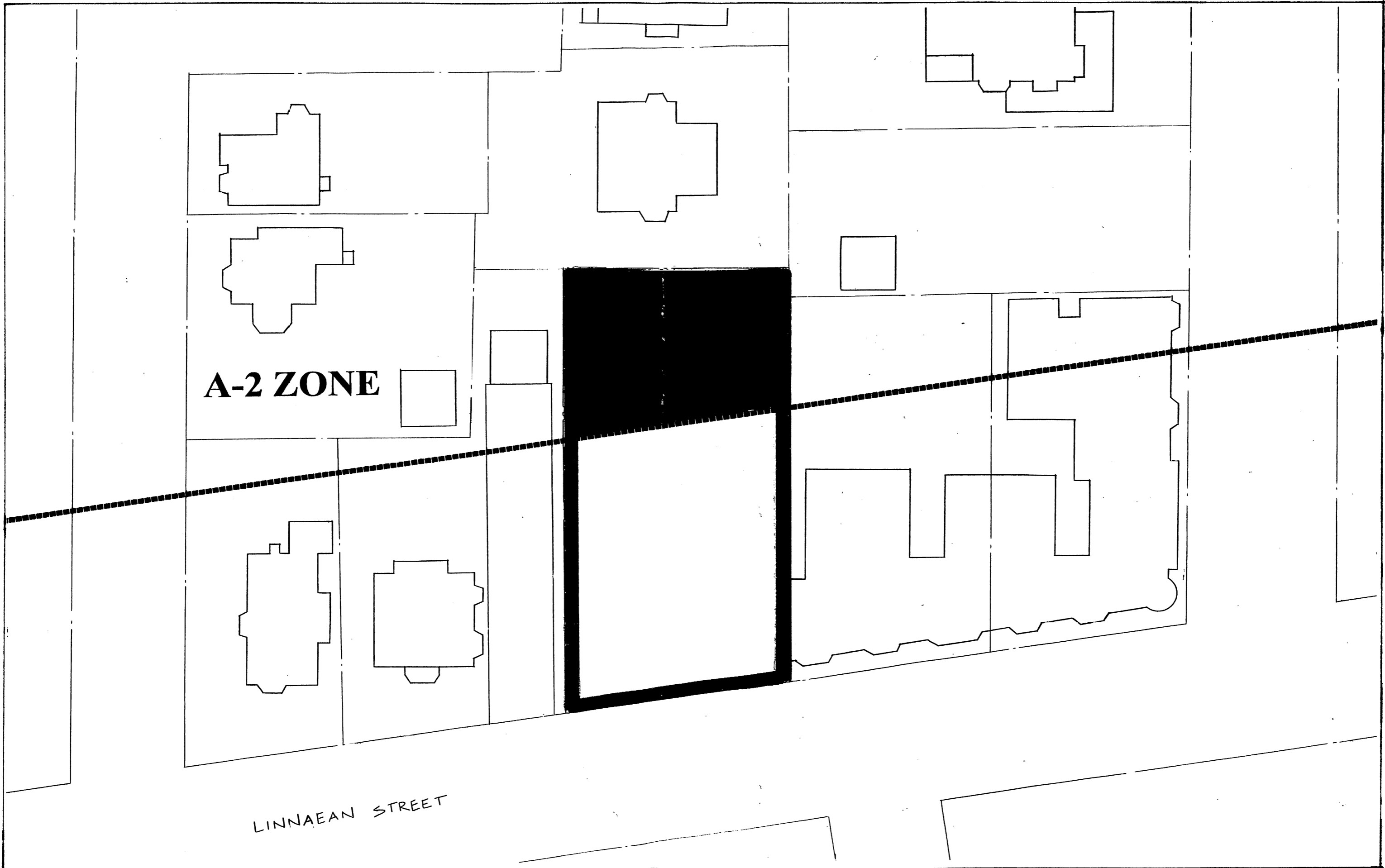
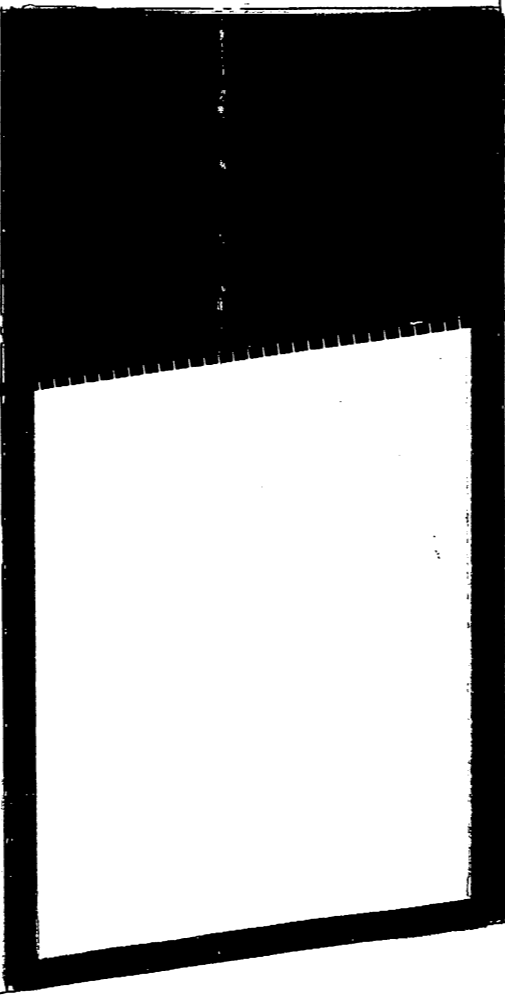
**ORDINANCE COMMITTEE
CAMBRIDGE CITY COUNCIL**

July 9, 1996

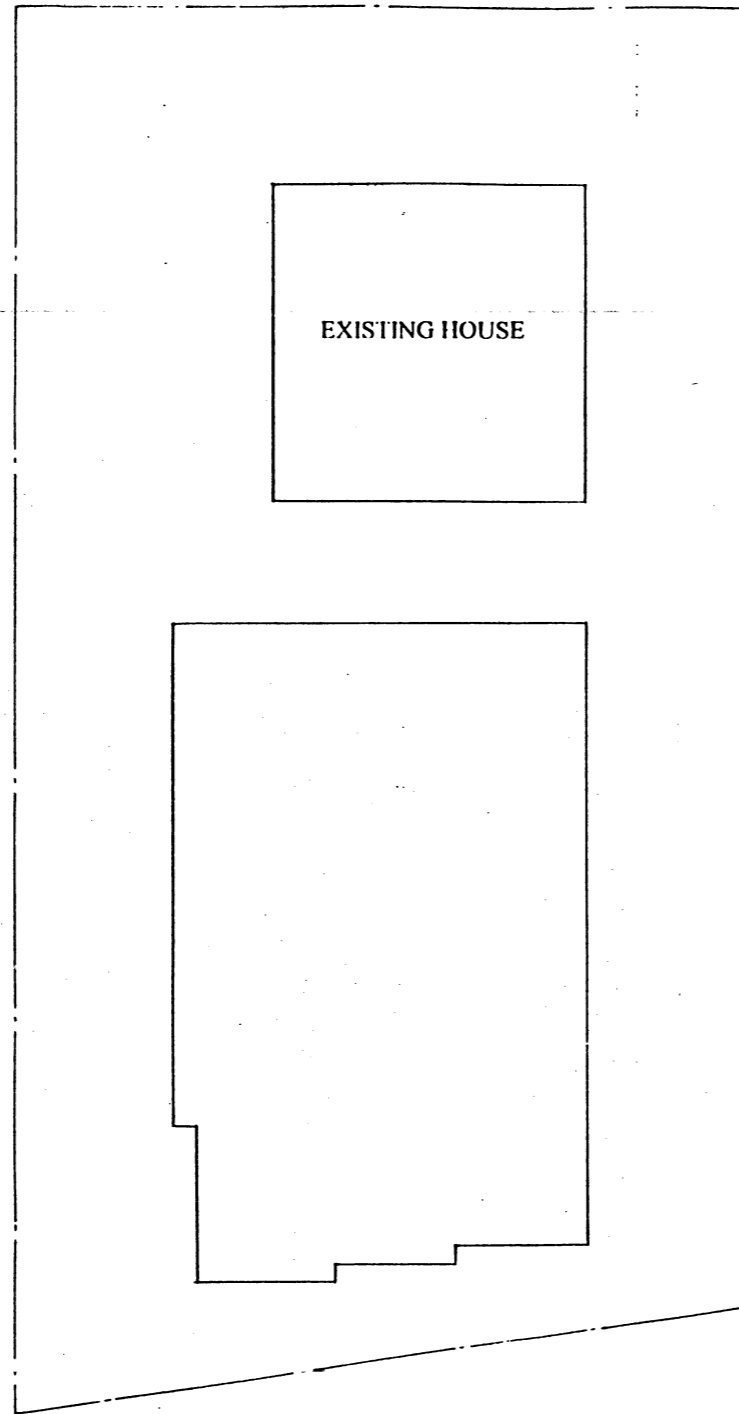
CEA GROUP INC.
1105 Massachusetts Avenue
Cambridge, Massachusetts

A-2 ZONE

LINNAEAN STREET

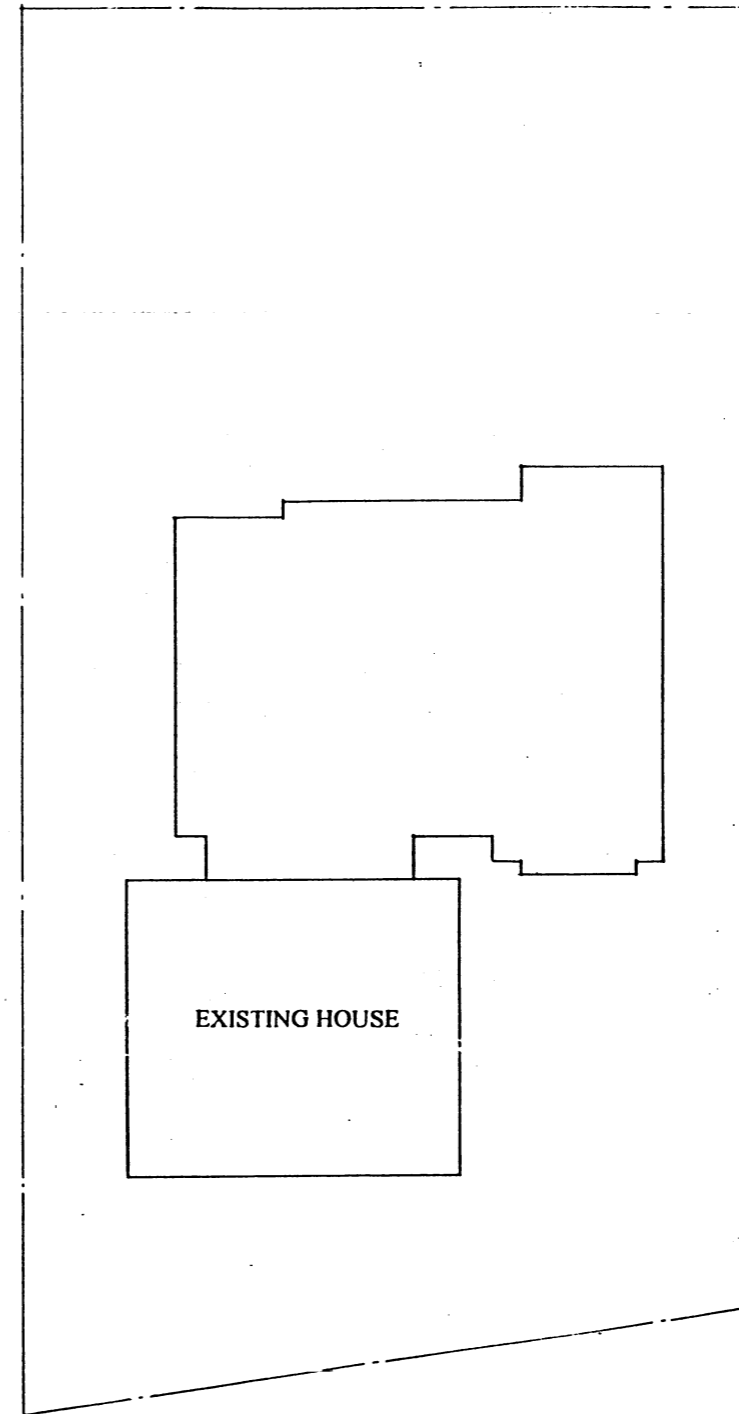


	No. of Units	Height	FAR
PERMITTED BY ZONING	14	85	1.75
INITIAL CEA PROPOSAL (March 1996)	9	40	1.29
THE COMPROMISE PLAN (June 1996)	5	40	0.84



INITIAL CEA PROPOSAL (March 1996)

9 UNITS



THE COMPROMISE PLAN (June 1996)

5 UNITS



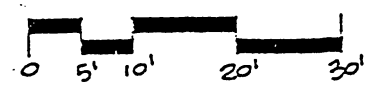
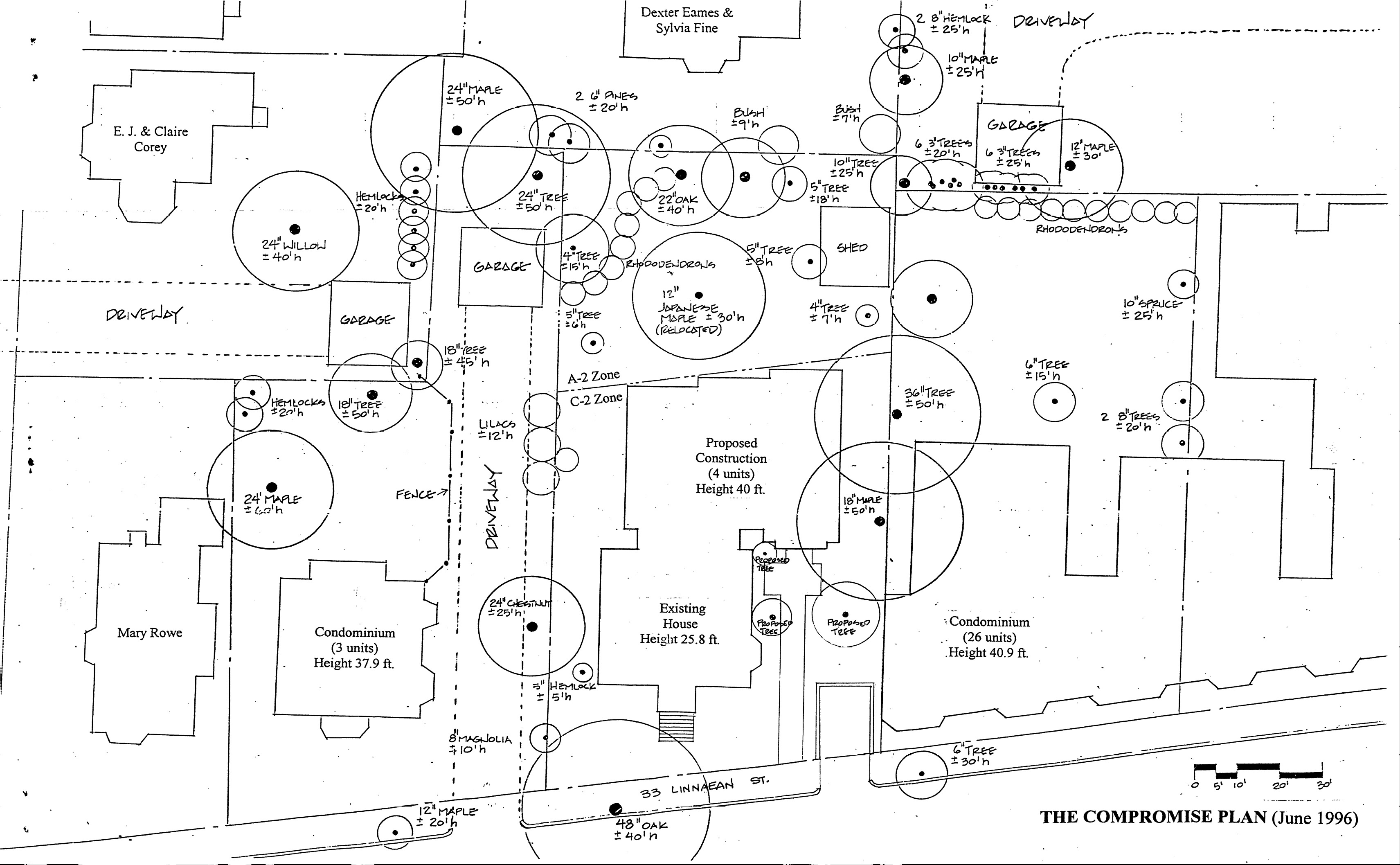
CEA GROUP INC.

1105 MASSACHUSETTS AVENUE # 2F
CAMBRIDGE, MA 02138 617-576-6500

INITIAL CEA PROPOSAL (March 1996)



THE COMPROMISE PLAN (June 1996)



THE COMPROMISE PLAN (June 1996)

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CAMBRIDGE MA.

31 Linnaean St.
Cambridge, Ma.02138-1530
June 7, 1996

Councillor Francis H. Duehay
Chairman, City Council
City Hall
Cambridge, MA 02139

Dear Councillor Duehay;

Thank you for sending me the notice of the public hearing June 27th, concerning the Zoning Petition by Mary Rowe on Linnaean St. Since I shall not be able to attend, would you please read ^{about} this letter of firm support for Ms. Rowe's petition, in order to oppose encroachments upon the architectural significance of an historic Cambridge street, the loss of views by neighbors, to say nothing of a huge increase in noise, congestion, and visitors' parking. I shall appreciate your entering this statement of support for single family residential uses only in the area concerned into the record as well.

(not for hearing)

In a symbolically related other "development," would you let me know at your convenience if any attempts are being made to track down the one or more graffiti vandals whose "encroachments" along Linnaean St., particularly the area from Massachusetts Avenue to the street (north side) opposite the Peabody School, seem to be increasing. Several mailboxes have already been painted over to cover the signature of one boastful signature, "Snipe," but the person has even written his name in black spray paint on the newly painted fence (side of post) of the oldest house in Cambridge. Names also appear on the sides of buildings; it's a disturbing sign of the times, of course, and I trust you want to know about it. Would posting announcements of fines for defacement further encourage culprits?

Thank you for taking the time to respond to my note about snow clearance.

Sincerely yours,



Lillian Bulwa

Consent Communications #4

Communication was received from Lillian Bulwa, transmitting her support for the zoning petition of Mary Rowe et al and her concern for the graffiti encroachments along Linnaean Street, particularly, in the area of Mass Ave. opposite the Peabody School.

In City Council June 24, 1996

Referred to The Petition

SARAH CULLEN
43 Linnaean Street, #35A
Cambridge, MA 02138-1569

June 9, 1996

Committee on Ordinances
Cambridge City Council
City Hall
Cambridge, MA 02139

TO WHOM IT MAY CONCERN:

RE: Public Hearing, Thursday, June 27, 1996 at 6:30 p.m.: Zoning Petition by
Mary Rowes et al. to Rezone the Lots at 33, 37, and 39 Linnaean Street to
Permit Only Single Family Residential Uses, i.e. Residence A-2

I wish to be on record as opposed to the building of any more apartment buildings in
this area and the moving of the house at 33 Linnaean Street to the back of the lot.

I am in favor of the rezoning to restrict development to Residence A-2 permitting only
single family residential uses in the affected area.

Sincerely,



Sarah Cullen

cc: Mary Rowe, 39 Linnaean St., Cambridge, MA 02138
Dexter Eames, 6 Avon Place, Cambridge, MA 02138
Wynelle Evans, 1 Osborne Rd., Arlington, MA 02174
City Councillor Anthony Gallucio, City Hall, Cambridge 02139
Chairman Frank Duehay, Committee on Ordinances, City Council, City Hall,
Cambridge 02139

Consent Communication #10

Communication was received from Sarah Cullen, transmitting their opposition to the building of anymore apartment buildings in their area and the moving of the house at 33 Linnaean Street to the back of the lot.

89

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SANTORRIDGE TIA.

In City Council June 24, 1996

Referred to the Petition



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

September 3, 1996

To the Honorable, the City Council:

SUBJECT: Planning Board recommendation on the Lohnes, et al Petition to rezone two portions of the Business B-1 district to a Residence C-1 district designation along Green Street.

Recommendation. The Planning Board recommends adoption of the petition as filed.

Findings

A review of the zoning history for the Massachusetts Avenue/Green Street corridor from the inception of zoning in 1924 indicates the tension that has existed in the periodic efforts to define the appropriate demarcation between the residential community in Riverside and the commerce on Massachusetts Avenue. For nearly forty years, from 1924 to 1961, these transition blocks were equally divided between a commercial zoning designation on the half fronting Massachusetts Avenue, and residential zoning on the half fronting Green Street (variously the equivalent of the current Residence C-1 and Residence C-2 districts).

Between 1960 and 1980, a series of rezonings shifted the policy emphasis to commercial use, designating the blocks between Massachusetts Avenue and Green Street uniformly as either high density business or office zoning districts. However, much of the development potential of the large lots extending entirely through the block from the Avenue to Green Street remained unrealized with the exception of construction at 872 Massachusetts Avenue; despite construction of large office and residential buildings, within similar zoning envelopes, on the north side of the Avenue through the 1960's and 1970's, the south side remained a mixture of early twentieth century apartment buildings and low-scale, wood-frame and masonry structures accommodating various commercial activities.

The next major reconsideration of public policy as it applies to this critical transition area took place after the filing of a petition in 1980 to rezone much of the corridor to lower density while shifting the emphasis to residential use along Green Street. The result was selective rezoning of some areas on the north side of Green Street from a high density commercial to moderate a density residential designation. In addition, much of the area was rezoned to a new Business B-1 zoning designation that, within its provisions, recognized the importance of Green Street as a residential and low-scale edge to the

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CAMBRIDGE MA.

neighborhood. At 950, 1000, and 1030 Massachusetts Avenue, modern office and residential structures were constructed after adoption of the Business B-1 District in 1980.

The current Lohnes Petition is very much a continuation of the policy discussion initiated in 1980 about the development prospects for this critical area. The petitioners contend that the Business B-1 district, as a zoning mechanism for addressing those policy issues, has failed to achieve the objective of protecting neighborhood character, as made evident by the several buildings that have been constructed and shaped by its provisions over the past decade. The Planning Board has come to concur.

The policy document *Toward a Sustainable Future - Cambridge Growth Policy Document* adopted by the Planning Board in draft form in 1994 addresses issues of neighborhood character and transition prominently among its seventy recommended policies. **Policy 1** in the Land Use Section and **Policy 26** in the Housing Section suggest the need for preserving the scale and character of existing residential neighborhoods. **Policy 1** reads: *Existing residential neighborhoods, or any portions of a neighborhood having an identifiable and consistent character, should be maintained at their prevailing pattern of development and building density and scale.* In the Land Use and Urban Design Sections, two additional policies highlight the need to provide for transitions between differing uses and densities of development in a congested city like Cambridge. **Policies 4** and **62** are similar in their recommendation but **Policy 4** is perhaps most pertinent in this context: *Adequate transitions and buffers between differing scales of development and differing uses should be provided; general provisions for screening, landscaping, and setbacks should be imposed while in especially complex circumstances special transition provisions should be developed.* None of these four policies or others in the document mandates a specific response to the Lohnes Petition or defines a specific line on the Zoning Map; they do, however, provide a larger planning context within which to evaluate the specific circumstances presented here.

The south side of Green Street in the vicinity of this Petition has a consistent character: residential in use with a pattern of small-scale, wood-frame dwellings regularly disposed along the street. The portion of the Petition centered at Hancock and Green Streets is of very similar character to the neighborhood on the south side of Green Street, developed within a similar time frame (early 19th century to the present). In fact it is built much closer to the dimensional characteristics required in a Residence C-1 district than of those permitted in the Business B-1 district. There is no compelling policy reason to desire the transformation of this cluster of buildings into more dense residential development or as part of some future commercial complex centered on Massachusetts Avenue. Therefore, given the existing character of development in this area, viewed with the context of the neighborhood preservation and transition policy objectives referenced above, the Planning Board supports the Petition's recommendation to designate this area as a Residence C-1 zoning district consistent with that designation on the south side of Green Street and elsewhere in the Riverside neighborhood.

The second area rezoned in the Petition affects the Green Street half of two lots: 1008 and 1010 Massachusetts Avenue. The lot at 1008 Massachusetts Avenue is vacant and used now for parking; 1010 Massachusetts Avenue is now developed as an apartment building facing the Avenue with accessory parking on the Green Street half of the lot. Unlike the Hancock Street portion of the Petition, the character of the Green Street frontage of these lots is yet to be determined. The likely options for development under the current Business B-1 zoning designation are observable at 1000 Massachusetts Avenue (office building and park) and 950 Massachusetts Avenue (housing and accessory parking). The option advanced by the Petitioners can be observed adjacent to 1010 Massachusetts Avenue on the north side of Green Street, where a series of eight residential structures (one of which is occupied as an office) have existed and been zoned residential since 1924 (and Residence C-1 for more than 50 years).

In crafting the provisions of the Business B-1 district, sincere efforts were made by the framers to respect the fragile nature of the two and three-story, wood-frame houses of the residential neighborhood facing the district across Green Street. And within the context of the very permissive zoning then in place at the time, the BB-1 district represented a considerable advance in protection for the neighborhood. Nevertheless, the transition provisions incorporated into the BB-1 district where it abuts Green Street are secondary to the district's fundamental high density residential and/or commercial character.

With ten years of development experience to observe, it is the Planning Board's view that the good intentions expressed in 1980 have not been adequately realized. Given the dramatic shift in scale and density of development that has been permitted between the south side of Green Street and Massachusetts Avenue, the transition between those two scales of development should occur on the north side of Green Street. And the recommendation of this petition, i.e. extending the zoning pattern that has been present on north side of Green Street (639-667 Green Street) since 1924, is appropriate and reasonable.

The lots at 1008 and 1010 Massachusetts Avenue are large (36,000 and 27,000 square feet respectively); with a Residence C-1 zoning designation for the first 100 feet from Green Street considerable commercial or high density residential development is still possible on the half of the lot fronting on the Avenue. And even at 1010 Massachusetts Avenue where an existing large apartment building is present, additional development would be permitted on the lot even after a rezoning of a portion of it to Residence C-1.

The residential neighborhood and that edge of it along the south side of Green Street are the most vulnerable of the clashing characters at this transition between high density and low density, between residential and commercial; it is appropriate that the greatest protection be granted to the most fragile and that the transition occur where it can be most easily accommodated. Commercial construction at 1050 and 1030 Massachusetts Avenue demonstrate that valuable development options exist even where Green Street is protected as a Residence C-1 district. Indeed, development on those two sites occurred in somewhat more difficult circumstances as they did not have the advantage of large lots in

single ownership running from Massachusetts Avenue to Green Street, which is the case with both 1010 and 1008 Massachusetts Avenue.

Respectfully Submitted for the Planning Board,

Paul Dietrich (M)

Paul Dietrich, Chairman



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
*Assistant City Manager for
Community Development*

July 16, 1996

To the Honorable, the City Council:

Subject: Rowe, et al Rezoning petition Affecting Lots on Linnaean Street

**Lohnes, et al Rezoning Petition Affecting the Business B-1 Zoning
District Along Green Street**

The Planning Board is not prepared to make a specific recommendation on either of the above referenced rezoning petitions at this time.

Each petition highlights an area of real concern where the existing zoning designation may not be an appropriate guide to future development in the affected area. The Board is actively exploring the implications of the zoning options recommended by the petitioners as well as alternate approaches that might secure similar benefits in a more equitable or effective manner. The Board will make its final recommendation after final deliberation at its regular August 6, 1996 meeting,

Respectfully submitted for the Planning Board,


Paul Dietrich, Chairman



33.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

July 29, 1996

To The Honorable, The City Council:

Please find attached for your consideration a communication from the Planning Board, relative to the Rowe, et al Rezoning Petition affecting lots on Linnaean Street and the Lohnes, et al Rezoning Petition affecting the business B-1 Zoning District along Green Street.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec

Consent Agenda #33

Relative to a communication from the Planning Board concerning Row, et al Rezoning petition affecting lots on Linnaean Street and the Lohnes, et al Rezoning petition affecting the business B-1 Zoning District along Green Street.

In City Council July 29, 1996

*Charter right was
exercised by
Councillor Joomey
9-9-96*

Referred to the Petition

September 8, 1996

38

To: The Cambridge City Council
From: Stanley Krane
RE: Proposed Development at 33 Linnaean St.

I would like to urge you to block the proposed development at 33 Linnaean St. I have been a resident of the Avon Hill area, at The Washingtonian Condominium, for over 15 years.

I believe the proposed development of 33 Linnaean St. will destroy much of the stability and tranquility that has characterized this area. Please downsize the property at 33 Linnaean St. to conform with the rest of the neighborhood.

Respectfully yours,



Rowe

Consent Communication #38

**Communication was received from Stanley
Krane urging the City Council to block the
proposed development not be allowed at
33 Linnaean Street.**

In City Council September 9, 1996

*Referred to the
Petition*

To Whom It May Concern.

I am writing this letter to show my support for the "down zoning" of 33 Linneaven St. Although, this Monday 9/9/96 I am unable to attend the meeting, I do not wish my absence to appear as though I am not greatly concerned!

As a resident of the Washington, at a Washington St^{#6}, I purchased the condo with some concern about parking and congestion; however, the view of the back of my condo, the sense of community, and beauty of the neighborhood confirmed my decision to invest my savings for my home.

With the proposed development all these things, in my opinion are at risk. I ask that you hear my concern and help support the preservation of this area of Cambridge. Parking in 9 out of 12 months is already a challenge and the winter a

disaster, more residents will
only add to the burden.

Please hear our concerns and
I appreciate your time on
this very important matter
to those of us in this community

Sincerely
Georgina Burke
#9 - 66 Washington Ave

Consent Communication #40

**Communication was received from
Gerolyn Burke transmitting her support for
the dow-zoning of 33 Linnaean Street.**

In City Council September 9, 1996

Referred to
the petition

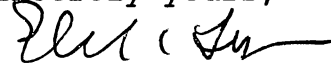
9B Washington Avenue
September 9, 1996

TO THE MEMBERS OF THE CITY COUNCIL:

I am a resident at 9B Washington Avenue. I have a ground floor condominium that overlooks the garden and backyard. The proposed new development on the lot behind the garden would considerably block light from my view and compromise the immediate environment. This would significantly affect the quality of my enjoyment of the space around my unit.

The neighborhood is already populated enough. I do hope you will not allow this proposed development.

Sincerely yours,



Elizabeth C. Tyler

Consent Communication #39

Communication was received from Elizabeth Tyler transmitting that the proposed development not be allowed at 33 Linnaean Street.

In City Council September 9, 1996

*Referred to the
Petition*



CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
Tel. (617) 349-4121
Fax. (617) 349-4134

Russell B. Higley
City Solicitor

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Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Legal Counsel

Birge Albright
Gail S. Gabriel
Arthur J. Goldberg
Linda A. Stamper
Deborah R. Cautela
Nancy E. Glowa

July 23, 1996

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

Re: Opinion On The Issue of Spot Zoning Raised During Consideration of Rows and Lohnes Rezoning Petitions

Dear Mr. Healy:

As you know, Susan Schlesinger, Assistant City Manager for Community Development has written to this office on behalf of the Cambridge Planning Board's request for the above referenced opinion. After review of the applicable court decisions, I conclude that while it is not possible to predict with certainty whether a court would conclude that either of these rezoning petitions constitutes spot zoning, we would have valid defenses to any such challenge, as the City has justifiable and legitimate planning reasons for the adoption of these rezoning petitions.

It would be prudent to assume that each of these amendments, if passed, will be the subject of a legal challenge in a court action. Thus, as it cannot be predicted with certainty whether the specific factors in each case would lead to the conclusion that there has or has not been impermissible spot zoning, the question of how each petition is handled, and what factors the City Council takes into account in considering each petition, become very important.

My analysis is set forth below.

A. BACKGROUND

1. The Zoning Powers Of A Municipality

Upon the enactment of the Massachusetts Zoning Act, Chapter 808 of the Laws of 1975, the fundamental measure of the validity of a zoning by-law or ordinance became whether it exceeded the

authority granted by the General Laws or Constitution of Massachusetts, or certain limitations contained within the Zoning Act itself. Section 2A of the Act declares that the Act is designed to provide standardized procedures for the administration and promulgation of municipal zoning laws, and further suggests objectives for which zoning might be established, which include but are not limited to the following:

[t]o lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city or town, including consideration of the recommendations of the master plan, if any, adopted by the planning board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill such objectives.

The purposes suggested in Section 2A have been held by the courts to be a guide to the legitimate exercise of the zoning power, which "is not to be narrowly interpreted". Collura v. Town of Arlington, 367 Mass. 881, 885 (1975) (citing Decoulos v. City of Peabody, 360 Mass. 428, 429 (1971); MacNeil v. Town of Avon, 386 Mass. 339, 341 (1982); Sturges v. Town of Chilmark, 380 Mass. 246, 253 (1980)).

The zoning power of a municipality had been somewhat limited prior to the adoption of the Home Rule Amendment to the Massachusetts Constitution, which provided that a municipality could "[adopt], [amend], or [repeal] any local ordinances or by-laws, exercise any power or function which the general court has the power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court . . . , and which is not denied, either expressly or by clear implication, to the city or town by its charter". Mass. Const. amend. LXXXIX.

The court, in enunciating the breadth of a municipality's zoning powers under the predecessor Zoning Enabling Act, former Mass. G. L. c. 40A, §25, had stated that the zoning regulations of a municipality must come within the scope of the municipality's police power, and could be enacted:

"For the purpose of promoting the health, safety,

convenience, morals or welfare" of the inhabitants of a city or town, and must be designed to lessen congestion in streets, to secure safety from fire, panic or other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision for transportation, water, sewerage, schools, parks and other requirements, and to increase the amenities of the municipality. Due regard is to be had to the characteristics of different parts of the municipality, similar districts are to have similar regulations, and the land is to be regulated with a view to conserving the value of buildings and encouraging the most appropriate use of the land throughout a municipality.

Caires v. Building Comm'r. of Hingham, 323 Mass. 589, 594 (1949). Thus, under the prior Zoning Enabling Act, any exercise of municipal zoning power outside the explicitly stated purposes of the Enabling Act would be inconsistent with that Act, and therefore not permitted. Id.; Former Mass. G. L. c. 40A, §§2,3.

While the suggested purposes of the Zoning Act echo the stated purposes set forth in the Zoning Enabling Act, and those articulated by the court in Caires and other cases, a municipality's authority to promulgate a zoning ordinance pursuant to the Zoning Act is much more broad than under the Zoning Enabling Act and will be presumed valid, so long as the ordinance does not conflict with either the General Laws or Constitution of the Commonwealth. Id.¹

2. Valid Purposes of a Zoning Amendment

Chief among the purposes of the Zoning Act is "the promotion of the public welfare". Lamarre v. Comm'r. of Public Works of Fall River, 324 Mass. 542, 545 (1949). Municipal planning is viewed as being compatible with the promotion of the public welfare; if it is established that an amendment is made pursuant to the municipality's review of zoning regulations, taking into account its probable future developments and planning for the welfare of its inhabitants, present and future, the desirability or necessity of using a particular locus, as compared with other sites, to accomplish this purpose is a matter to be decided by the local authorities. Id. at 547; Lanner v. Bd. of App. of Tewksbury, 348 Mass. 220, 229 (1964).

¹ Since the enactment of the Zoning Act the Courts have, however, frequently cited earlier cases decided under the Zoning Enabling Act, such as the Caires case, as valid for purposes of interpreting the Zoning Act.

In addition, the size of the area to be set aside for that purpose is a matter of local judgment. Id. "A municipality may from time to time reexamine the location of a boundary between districts and shift its location as sound zoning principles dictate." Canteen Corp. v. Pittsfield, 4. Mass. App. Ct. 289, 292 (1976), quoting Schertzer v. Somerville, 345 Mass. 747, 751 (1963). Thus, a regulation that is within the scope of the enabling statute may be valid even if it results in hardship to some landowners by depriving them of some beneficial use of their land. Id.; Caires v. Building Comm'r. of Hingham, 323 Mass. at 594.

3. The Test Of An Amendment's Validity

The test of the validity of a zoning ordinance is whether it violates the provisions of the General Laws or Constitution of the Commonwealth. Canteen Corp. v. Pittsfield, 4 Mass. App. Ct. 289, 291-292 (1976). A zoning ordinance may be amended to accomplish any of the purposes for which the ordinance was originally promulgated pursuant to the provisions of the Zoning Act, Schertzer v. Somerville, 345 Mass. 747, 751 (1963), and the test of the validity of an amendment is also whether it complies with the terms of that Act. Id.

If an amendment is within the scope of the municipality's zoning powers, it will usually be found to be valid even if it adversely affects the value of some other properties in the vicinity of a newly created zone. Id.; Caires v. Building Comm'r. of Hingham, 323 Mass. at 594. If the local legislature has determined that the classification is reasonably related to public convenience, health, safety, welfare and morals and constitutes an appropriate use of the land, or other suggested purposes of the Zoning Act, its judgment will ordinarily be upheld unless it can be shown that the amendment conflicts with the General Laws or Constitution of the Commonwealth. Crall v. Leominster, 362 Mass. at 101; Raymond v. Comm'r. of Public Works of Lowell, 333 Mass. 410, 414 (1956) (classification as the means for attaining a permissible end not to be declared invalid if any set of facts reasonably can be conceived that would sustain it).

4. What Constitutes Spot Zoning

An amendment may be determined by the court to be invalid, and the rezoning pertaining to the lot or lots at issue may be held to constitute impermissible spot zoning, if the local legislature singled that property owner out solely to economically disadvantage him, or for no legitimate zoning purpose. Spot zoning, or the singling out of a particular parcel of land for special treatment, is prohibited by Section 4 of the Zoning Act, which requires uniformity of treatment within zoning districts:

Any zoning ordinance or by-law which divides cities and towns into districts shall be uniform within the district for each

class or kind of structures or uses permitted.

G.L. c. 40A, §4; Healy, et al, Massachusetts Zoning Manual, §14-14.

In order to constitute spot zoning, it must be established that there was "a singling out of one lot for different treatment from that accorded to similar surrounding land indistinguishable from it in character, all for the economic benefit of the owner of that lot", Lanner, 348 Mass. at 229, quoting Marblehead v. Rosenthal, 316 Mass. 124, 126 (1944), or conversely, for reverse spot zoning, the singling out must be all for the economic disadvantage of the owner of the lot. That it will incidentally lead to a private advantage, (or for reverse spot zoning, a disadvantage,) is not a legitimate objection to a legislative solution of a public problem. Id. Among other considerations to be taken into account are the physical characteristics of the land, its location, size, and the nature of adjoining uses. National Amusements v. Boston, 29 Mass. App. Ct. 305, 310 (1990).

Where a locus is at a borderline between a business district and a residential district, it may properly be zoned in either district. Martin v. Rockland, 1 Mass. App. Ct. 167, 169 (1973). "It often is difficult to draw the line between neighborhoods that should be devoted to different uses, and where there is room for reasonable doubt the judgment of the local authorities should prevail." Crall v. Leominster, 362 Mass. at 101-102, n. 4, quoting Lanner v. Bd. of App. of Tewksbury, 348 Mass. at 228. The location of the lot in relation to differently treated properties will be particularly important, however, as rezoned lots on the border of another district have more often been held to be valid than cases where the lot is fully surrounded by differently treated lots. Caputo v. Board of Appeals of Somerville, 331 Mass. 547, 549 (1954; Whittemore v. Building Inspector of Falmouth, 313 Mass. 248, 249 (1943).

Where a locus has been rezoned in conjunction with the rezoning of a larger area, this has been held not to constitute impermissible spot zoning. Rosko v. Marlboro, 355 Mass. at 53. Thus, rezoning where the determination of a boundary line rather than the redistricting of a smaller parcel within similar land to a different zone is at issue may well be considered valid, and not spot zoning. Id. at 54. Similarly, where the proposed amendment is part of a general revaluation or realignment of the zoning plans for the City, and the trend in the particular district is toward the uses permitted in the proposed zoning amendment, it will not usually be said to be spot zoning. Cf., Beal v. Building Comm'r. of Springfield, 353 Mass. 640, 644 (1968). In light of that, the recommendation of the planning board will frequently carry some persuasive weight, especially if the recommendation is favorable. Whittemore v. Building Inspector of Falmouth, 313 Mass. 248, 249 (1943).

B. THE ROWE AND LOHNES PETITIONS

1. The Rowe Petition

The Rowe Petition seeks to downzone three parcels of land on Linnaean Street (Numbers 33, 37 and 39) to a Residence A-2 zone. Currently, #33 is zoned Res. C-2, and #37 and #39 are zoned Res. B. All three parcels' rear property lines abut a large area to the north zoned Res. A-2. Along Linnaean's northern side (the same side as the parcels proposed to be re-zoned), are three small areas which are zoned Res. C-2. All parcels along the southern side of the subject portion of Linnaean Street are zoned Res. B.

The Res. C-2 areas on the northern side of Linnaean Street are the only parts of Linnaean which were not downzoned from Res. C-2 to either Res. A-2 (northern side) or Res. B (southern side) in earlier downzoning amendments to the Ordinance. The subject parcel at #33 Linnaean Street is in one of these three small Res. C-2 areas. The only other areas on Linnaean's north side which will remain zoned Res. C-2, if this rezoning is adopted, are parcels which have existing apartment buildings or other non-residential uses.

Accordingly, if the amendment is approved, the subject three parcels will be zoned identically to all parcels with single family or two family residences on the northern side of Linnaean Street in the A-2 zone. Conversely, if the amendment is not approved, the parcels at #33, #37 and #39 will be the only remaining parcels on the northern side of Linnaean Street with single family or two family residences which are zoned for substantially more dense uses.

Under the above legal principles, the factors to be analyzed include whether the amendment will be for "the promotion of the public welfare", i.e. if the amendment is being made pursuant to the City's review of its zoning regulations, if the City is taking into account its probable future developments and planning for the welfare of its inhabitants, present and future, and the desirability or necessity of using these particular parcels, as compared with other sites, to accomplish this purpose. Lamarre v. Comm'r. of Public Works of Fall River, 324 Mass. 542, 545 (1949); Lanner v. Bd. of App. of Tewksbury, 348 Mass. 220, 229 (1964).

It is difficult to predict with certainty whether the amendment will be upheld as not constituting impermissible spot zoning. The small size of the parcels to be rezoned should not preclude a conclusion that the amendment is valid, as the City may properly reexamine from time to time the location of a boundary between districts, and shift its location as sound zoning principles dictate. National Amusements v. Boston, 29 Mass. App. Ct. 305, 312 (1990); Canteen Corp. v. Pittsfield, 4 Mass. App. Ct. 289, 292 (1976); Schertzer v. Somerville, 345 Mass. 747, 751

(1963). Moreover, even if the amendment results in hardship to some landowners by depriving them of some beneficial use of their land, the amendment may be considered valid if it meets these legitimate planning goals. Caires v. Building Comm'r. of Hingham, 323 Mass. at 594.

However, if the property owners of the subject property can establish to a court's satisfaction that there was a singling out of one lot for different treatment from that accorded to similar surrounding land indistinguishable from it in character, all for the economic disadvantage of the owner of that lot, Lanner v. Bd. of App. of Tewksbury, 348 Mass. at 229, quoting Marblehead v. Rosenthal, 316 Mass. 124, 126 (1944), that might be held to have been impermissible reverse spot zoning.

Among other considerations to be taken into account are the physical characteristics of the land, its location, size, and the nature of adjoining uses. National Amusements v. Boston, 29 Mass. App. Ct. 305, 310 (1990). The fact that these parcels are at a borderline between two different residential districts, that they are small parcels that otherwise fit into the larger area having the zoning designation which the amendment seeks to zone these parcels, both geographically and as to the type of residential uses involved, would support any determination by the City that these parcels may properly be zoned in either district. Martin v. Rockland, 1 Mass. App. Ct. 167, 169 (1973); Crall v. Leominster, 362 Mass. at 101-102, n. 4, quoting Lanner v. Bd. of App. of Tewksbury, 348 Mass. at 228.

One of the parcels at issue (#33) was specifically left out of an earlier downzoning at the request of the prior owners of the property, which might arguably have constituted spot zoning. Thus, rezoning here might be considered to be simply the determination of a boundary line rather than the redistricting of a smaller parcel within similar land to a different zone, and might actually undo any alleged spot zoning in the past as to these parcels. Rosko v. Marlboro, 355 Mass. at 54. If it can be shown that the proposed amendment is part of a general revaluation or realignment of the zoning plans for the City, and the trend in the particular district is toward the uses permitted in the proposed zoning amendment, the amendment will probably not be found to be spot zoning. Cf., Beal v. Building Comm'r. of Springfield, 353 Mass. 640, 644 (1968).

2. The Lohnes Petition

The Lohnes Petition seeks to downzone two areas on Green Street from a Business B-1 zone to a Residence C-1 zone. The first area consists of two lots, numbered 617 through 629 Green Street, which are on the northern side of Green Street. The rear portion of these lots front on, or abut property fronting on Massachusetts Avenue. The second area consists of eight lots, numbered 539 through 551 Green Street, and numbered 43 through 49 Hancock

Street. The Green Street parcels are also on the northern side of the street, and the Hancock Street parcels are on the western side of that street.

These parcels are all in a larger area, from the southern side of Mass. Ave. to the northern side of Green Street, which was previously rezoned to Bus. B-1, pursuant to a 1980 amendment to the Ordinance. The subject parcels either currently have residential uses or are vacant, but are parcels thought to be ripe for very dense commercial development. Thus, the proponents of the proposed amendment seek to protect these parcels from large scale, dense commercial development on the southern side of Mass. Ave., which would in turn spill over into this neighborhood to its rear, which is residential in nature on both the northern and southern sides of Green Street, but is zoned for residential uses in the Res. C-1 zone only on the southern side of Green Street, and is zoned to permit business uses in the Bus. B-1 zone on the northern side of Green Street.

As with the Rowe Petition, the factors to be analyzed include whether the amendment will be for "the promotion of the public welfare", i.e. if the amendment is being made pursuant to the City's review of its zoning regulations, if the City is taking into account its probable future developments and planning for the welfare of its inhabitants, present and future, and the desirability or necessity of using these particular parcels, as compared with other sites, to accomplish this purpose. Lamarre v. Comm'r. of Public Works of Fall River, 324 Mass. 542, 545 (1949); Lanner v. Bd. of App. of Tewksbury, 348 Mass. 220, 229 (1964).

Like the Rowe Petition, this petition could arguably be viewed as an amendment whose purpose would be to extend the intended scope of the earlier 1980 rezoning, to encourage the appropriate level of commercial development in the Mass. Ave. business district while protecting the very residential Green Street neighborhood immediately to the south. Although this proposed amendment would seem to further that goal, it may also be viewed as thwarting development plans of one property owner in particular, whose plans may have been known to the petitioners prior to filing the petition. Thus, it will be difficult to predict with certainty whether this amendment would be upheld, and not be viewed as impermissible spot zoning.

Despite the fact that these parcels were the subject of the 1980 rezoning, it is now proposed that they should be further downzoned to lessen the impact on the Green Street residential neighborhood of the more dense commercial development on Mass. Ave., after the City has had the opportunity to observe the negative effect the earlier rezoning has had on this neighborhood. The fact of the earlier downzoning would not preclude a conclusion that the proposed amendment is valid, as the City may properly reexamine from time to time the location of a boundary between

districts, and shift its location as sound zoning principles dictate. National Amusements v. Boston, 29 Mass. App. Ct. 305, 310 (1990); Canteen Corp. v. Pittsfield, 4 Mass. App. Ct. 289, 292 (1976); Schertzer v. Somerville, 345 Mass. 747, 751 (1963). Again, even if the amendment results in hardship to some landowners by depriving them of some beneficial use of their land, the amendment may be considered valid if it meets these legitimate planning goals. Caires v. Building Comm'r. of Hingham, 323 Mass. at 594.

As with the Rowe petition, however, if the property owners of the subject property can establish to a court's satisfaction that there was a singling out of one lot for different treatment from that accorded to similar surrounding land indistinguishable from it in character, all for the economic disadvantage of the owner of that lot, Lanner v. Bd. of App. of Tewksbury, 348 Mass. at 229, quoting Marblehead v. Rosenthal, 316 Mass. 124, 126 (1944), that might be held to have been impermissible reverse spot zoning. In the case of the Lohnes petition, this may be a difficult hurdle to overcome, if the petitioners were arguably aware of the property owners' development plans prior to filing the petition. However, that would not be dispositive of the issue, as "there is nothing inherently unlawful in 'reactive zoning'. Development proposals do act as incentives to reexamination of land use objectives." National Amusements v. Boston, 29 Mass. App. Ct. 305, 310 (1990)

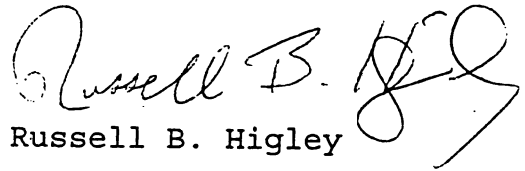
The other considerations to be taken into account, including the physical characteristics of the land, its location, size, and the nature of adjoining uses, can be viewed two different ways. National Amusements v. Boston, 29 Mass. App. Ct. 305, 310 (1990). The subject parcels are adjacent to what is indisputably a residential neighborhood on one side, and a very commercial area along Mass. Ave. on the other side. Thus, as they might also be seen as being on the borderline between the two different districts, the parcels may or may not be considered to properly fit into the larger residential zone in which the amendment seeks to include these parcels, both geographically and as to the type of residential uses involved, and the City may properly determine that these parcels may be zoned in either district. Martin v. Rockland, 1 Mass. App. Ct. 167, 169 (1973); Crall v. Leominster, 362 Mass. at 101-102, n. 4, quoting Lanner v. Bd. of App. of Tewksbury, 348 Mass. at 228.

C. CONCLUSION

As is apparent from the analysis set forth above, the validity of any zoning amendment is very dependant upon the facts involved, and specifically, is dependant upon what considerations the City Council actually takes into account in evaluating the advantages or disadvantages of an amendment. Any time there are specific, identifiable parcels which might arguably be viewed as being treated in any way differently from any of its surrounding parcels, there is the potential for a spot zoning claim. And, by the same

token, the question of whether there is impermissible spot zoning can only be conclusively determined in court proceedings. Thus, the City Council should be cognizant of the fact that while there is no way to deter the expected court challenges to these two amendments, the outcome will depend very heavily on whether the City Council is found by the court to have taken the proper considerations into account to further the legitimate planning goals and policies for the City of Cambridge.

Very truly yours,


Russell B. Higley



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August 2, 1996

TO: D. Margaret Drury, City Clerk

FROM: Nancy E. Glowa, Legal Counsel *NEG/JP*

RE: Opinion on the Issue of Spot Zoning Raised During Consideration of Rows and Lohnes Rezoning Petitions

Enclosed please find a copy of a response to the above request for opinion from the Cambridge Planning Board. The City Council has requested to be provided with a copy of this opinion for the next Ordinance Committee meeting. Would you please make sure that copies are distributed for the next meeting.

Thank you.

Enclosure

Comm. & Rpts. City Officers #1

O-6A

Document from Nancy E. Glowa, Legal Counsel, City of Cambridge, regarding an opinion on the issue of spot zoning raised during consideration of Rowes and Lohnes Rezoning Petition.

In City Council September 9, 1996

Referred to the Petition