

low-income housing will help and that is a public responsibility on which my staff is presently hard at work.

In conclusion, the special zoning consideration and new procedures advocated in this policy shall be limited to facilitating the construction of low-and moderate-income housing.

**POLICY ON ZONING AND
LOW- AND MODERATE-INCOME
HOUSING**

DECEMBER, 1969

Cambridge Planning Board

- S U M M A R Y .

POLICY ON ZONING AND LOW-AND MODERATE-INCOME HOUSING

The following policy was adopted by the Cambridge Planning Board on December 16, 1969.

1. INTRODUCTION

The Planning Board and other public and private agencies in Cambridge have recognized the emergence of a major problem--the shortage of low-and moderate-income housing. This policy deals with the role of zoning in facilitating construction of additional low-and moderate-income housing and in retaining the existing supply of such housing.

The Planning Board generally favors modification of several traditional zoning concepts and procedures to achieve the public policy objective of increasing the supply of low-and moderate-income housing. The adoption of this policy does not alter the Planning Board's position and policies that conventionally financed, market-rate housing does not need special consideration beyond the present provisions of the Zoning Ordinance.

Low-and moderate-income housing in the Planning Board policy is defined as in Chapter 774 of the Acts of 1969: ".....housing subsidized by the federal or state government under any program to assist the construction of low-and moderate-income housing, as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization." Certain housing developments, having a mixture of low-income apartments and market-rate apartments, may be considered under this policy provided at least one-third of the apartments are available to the Cambridge Housing Authority for at least 20 years for use in the Leased Housing , Rent Supplement or comparable programs of the state or federal governments.

2. THE HOUSING PROGRAM

The Planning Board finds the shortage of low-and moderate-income housing constitutes a public emergency in Cambridge. Several factors aggravating this problem are noted. First, the supply of existing low-and moderate-cost housing in Cambridge is being reduced by demolition, destruction, or conversion of housing units to non-residential or public use. Approximately 720 units have been eliminated from the housing stock since 1960; future highway construction could raise this

figure to 2260. Secondly, the demand of young people for housing has reduced the amount of low-and moderate-income housing for families, who are forced to relocate. Thirdly, high rent levels in Cambridge affect all residents, but especially those on fixed income--in particular, the elderly.

The private market has proved inadequate in producing enough new housing to meet the needs of low-and moderate-income groups. The Douglas Commission, Kaiser Committee, and Kerner Commission all have specified the inadequate production of housing and concurrent removal of low rental units from the supply of housing as a major factor in the problems of our cities. Governor Sargent has also cited a "calamitous" housing shortage and has set as a goal the creation of 230,000 new dwelling units in the next decade. The high interest rates of the lending institutions, combined with high labor, construction, and land costs all add to the difficulties of the private market in producing sufficient housing for a growing population, particularly low-and moderate-income families.

The stated policy of the City of Cambridge is to expand the supply of low-and moderate-income housing, as exemplified in the City Manager's housing message to the City Council on June 26, 1969.

3. THE ROLE OF ZONING

The Planning Board contends that, in view of the public emergency which dictates the need for a comprehensive housing construction program, Cambridge's zoning procedures and requirements can and should be used to facilitate the construction of low- and moderate-income housing.

Several factors inherent in the development and ownership of low-and moderate-income housing by public, non-profit, or limited dividend sponsors present challenges for traditional zoning practices.

To avoid competition with the private market developers, they are forced to seek sites where land acquisition costs, and the number of units permitted by zoning, are comparatively low. However, to develop housing within the cost restraints and feasibility requirements of the government programs, more than the maximum number of units generally permitted in a low-density zone must be constructed.

Other government limitations, such as a minimum number of units considered feasible for certain elderly housing programs also hinder development. Similarly, maximum size limitations and scattered loca-

tions, particularly for family-type housing, are being imposed as positive social policy. These conditions all contradict traditional zoning concepts and procedures, since they imply sites scattered throughout the city with a small number of housing units at each site.

4. APPROACHES THROUGH ZONING TO FACILITATE CONSTRUCTION

There are several alternative procedures in zoning to encourage housing construction. The customary approach, Zoning Map amendments, are not always appropriate for these housing sites that often are too small to justify a different district designation. Another shortcoming of the map change approach is the justifiable concern of residents about the "falling dominoes" effect; they fear that granting one Zoning Map change may lead to a proliferation of petitions for amendments that could change the character of an area. In general, the Planning Board will oppose amendments to the Zoning Map that would demolish existing housing, unless there is a substantial net gain in the number of low-and moderate-income units on the same site. The Board also feels that amendments to the Zoning Map should be made sparingly because the Zoning Map should provide a set of expectations about the orderly growth pattern for the City.

The Planning Board favors development of special permit procedures which can overcome several of the problems of the Zoning Map amendment approach. A special permit can include conditions applicable only to low-and moderate-income housing and only to one lot. Thus the "falling dominoes" fear can be minimized. The special permit provides guarantees that cannot be provided through an amendment to the Zoning Map. The written decision granting the special permit refers to the building plans and is recorded in the Registry of Deeds. Further limitations on height, location on a lot, and the time period for construction to begin, can be imposed by the agency granting the permit.

Under the state Zoning Enabling Act the City Council could be empowered to grant certain special permits; the vote of two-thirds of the members would be required to do so. Rather than the Board of Zoning Appeals, perhaps the City Council should have this power to grant special permits for low-and moderate-income housing developments because the location of such a development, its size and character, is frequently a substantial policy decision. The Planning Board concludes that the special permit procedure is the most promising approach to facilitate construction of this badly needed housing, and will draft new special permit procedures for the Zoning Ordinance.

5. FACTORS TO EVALUATE ZONING ACTIONS

The Planning Board adopted a set of factors by which proposals for low-and moderate-income housing may be evaluated when the Board must make a recommendation to the City Council on a petition for amendment to the Zoning Map or to the Board of Zoning Appeal for a petition for a special permit. Among the items that will be considered are the following: the direct and indirect benefits to the public from the construction of such housing, the effect of such housing on the demand for public services and facilities in the neighborhood, the present character of the area and the proposed housing's compatibility with it, the effects of the zoning change on the community and the opinion of the residents in the area, and the probability that the developer can obtain financing and carry through the proposed project.

6. EFFECT OF POLICY ON PRIVATELY-SPONSORED HOUSING

The Planning Board is concerned that amendments to the Zoning Map to promote low-and moderate-income housing may have the undesired effect of encouraging an even greater number of petitions for amendments by private investors. The Planning Board maintains its position that amendments to the Zoning Map should not occur on a too frequent or piecemeal basis, but should be a part of a periodic reevaluation and revision of zoning districts by the Planning Board and the City Council. Adoption of this policy on zoning and public purpose housing does not alter the Planning Board's previously stated position that the Zoning Ordinance is already quite liberal for conventionally financed new housing, and zoning changes for that purpose are not needed.

In conclusion, the special zoning consideration and new procedures advocated in this policy shall be limited to facilitating the construction of low-and moderate-income housing.

POLICY ON ZONING AND LOW-AND MODERATE-INCOME HOUSING

The following policy was adopted by the Cambridge Planning Board on December 16, 1969.

1. INTRODUCTION

The Planning Board and numerous other public and private agencies in Cambridge and numerous individuals, have recognized and have acted to deal with the emergence of a major problem--the shortage of a sufficient supply of low-and moderate-income housing. A number of public actions are necessary to alleviate the shortage; this policy deals with the role of zoning in facilitating the construction of additional units of low-and moderate-income housing and in retaining the existing supply of such housing.

As discussed below, the special requirements of low-and moderate-income housing, particularly the requirements of state and federal housing subsidy programs, compel a reevaluation of several of the traditional zoning concepts and procedures. The Planning Board generally favors modification of these traditional concepts and procedures as a necessary step to achieving the public policy objective which it endorses, of facilitating the construction of additional units of low-and moderate-income housing and of retaining the existing supply of such housing. The Planning Board wants to emphasize that adoption of this policy does not modify its previously stated policies and positions on conventionally-financed, market-rate housing.

1.1 Low-and Moderate-Income Housing Defined - The term, "low - and moderate-income housing", as used in this policy, is as defined in Chapter 774 of the Acts of 1969 which modifies Section 20 of Chapter 40B of the General Laws:

Low-or moderate-income housing is any housing subsidized by the federal or state government under any program to assist the construction of low-or moderate-income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited-dividend organization.

No zoning action relating to a housing development shall be considered favorably under this policy if the rental levels exceed the prevailing rental levels for Cambridge for housing constructed under the Section 221-d-3 moderate-income housing program, or its successor program. An exception to the rental levels in the preceding sentence may be made for certain housing developments, having a mixture of low-income apartments and market-rate apartments, where at least one third of the apartments are committed to the Cambridge Housing Authority for a period of at least 20 years for the Leased Housing or Rent Supplement programs of the Federal or State governments, or their comparable or successor programs. For instance housing developed under the programs of the Massachusetts Housing Finance Agency is required to have a mixture of low-income and market-rate rental apartments.

The Planning Board will generally include within the scope of this policy housing subsidized by other means, such as institutional, charitable or foundation funds, provided the rental levels are comparable to those of the state or federal housing subsidy programs. In short, a significant percentage of the occupants of the housing, however sponsored or financed, have to be of low or moderate income.

For reference purposes the maximum monthly rental levels or the maximum income limits allowed by the Boston FHA office of HUD (Department of Housing and Urban Development) for the Section 221-d-3 Program, or its successor housing program, effective at the time a petition for zoning action is filed, shall be considered to be the maximum moderate-income level for the purposes of this policy. The current (December, 1969) rental levels for Cambridge for housing constructed under the Section 221-d-3 Program are (by size of apartment):

<u>1-Bedroom</u>	<u>2-Bedroom</u>	<u>3-Bedroom</u>	<u>4-Bedroom</u>
\$135.83	\$160.00	\$184.17	\$208.33

2. AN OVERVIEW OF THE HOUSING PROBLEM AND CURRENT PUBLIC POLICY

The Planning Board has a goal of maintaining a diversified population in Cambridge--diversified as to age composition, income, race, ethnic

composition, social class, and stage in the life cycle. An example of public action to achieve this goal is the Cambridge Model Cities Program, in which the residents of the community and the City Council have endorsed a program, in turn approved by HUD, which has a major objective of retaining and enhancing the environment of the present residents, i. e. family-type low-and moderate-income occupants, in the Model Neighborhood Area.

Another example is the objective of maintaining the existing supply of family-type low-and moderate-income housing. In September 1969 the City Council adopted amendments to the Zoning Ordinance aimed at reducing conversion of multi-bedroom apartments into smaller units.

The Planning Board finds that in Cambridge the severe shortage of housing for low-and moderate-income families constitutes a public emergency. But Cambridge merely represents a more acute manifestation of a national problem which has elicited strong response at all levels of government. The following is a brief picture of the housing problem as it relates to Cambridge and the nation, and the resultant public policy positions:

1. The supply of existing low-and moderate-cost housing in Cambridge is being reduced by demolition, destruction, or conversion of housing units to nonresidential use. Between January 1960 and May 1969 approximately 712 dwelling units have been eliminated from the housing stock.¹ In that same period, although there was a net addition of 1,439 dwelling units (practically all of which was market-rate or luxury housing) to the housing supply, only 88 dwelling units, qualifying as low-or moderate-income housing, as defined in this policy, were constructed.

The 712 dwelling units include recent demolitions required by public facilities construction at the King and Kennedy School sites and the Gore Street Playground. Potential loss of units due to highway construction lies gloomily in the future. A study prepared for the Massachusetts Department of Public Works showed 1264 units would be demolished if the Inner Belt Highway, as advocated by the D. P. W., is constructed.²

¹The Cambridge Corporation, "Changes in the Cambridge Housing Stock Since 1960 Census", June, 1969.

²Massachusetts Department of Public Works, Route Inner Belt: Relocation Study, Cambridge, Mass., September 1, 1967, p. 11.

For the Northwest Expressway (Route Two Extension), as proposed to be³ built by the D.P.W., 297 housing units would be eliminated.

Thus a total of about 2260 housing units have been, or may be eliminated from the housing stock. The great majority of these units are known to be those which provide housing for low-and moderate-income families.

2. The supply of low-and moderate-cost housing is being reduced by the intense demand of young people for housing in Cambridge. In part this is due to increased enrollment and activity at local educational institutions. As indicated in the Planning Director's May 16, 1969 report to the City Manager and City Council:

.....the housing problems of Inner City areas generally are such that Cambridge would have a housing problem even if the local universities had not increased enrollment by one student. The extraordinary number of young adults now entering the housing market, reflecting the high birth-rates of the mid-forties has resulted in the late 60's in a high rate of family and household formation, and when combined with a high level of employment and economic well-being, has produced a great demand for small unit-type housing (1-2 bedrooms). Due to the shortcomings of the housing industry nationally and locally and the restrictive zoning and development policies of the suburbs, an off-setting supply of new housing units has not come on the market to absorb the increased demand.....

The response of some real estate operators to the large number of young adults seeking housing is the phenomenon described as "apartment stuffing", i. e. the occupancy of an apartment by groups of single persons whose combined income and rent-paying ability permit them to pay more than a family with only one breadwinner. Real estate operators, who use the rule of from \$50-\$75 per head, can command \$200-\$300 for an apartment rented to a family for \$75-\$150. The result is the continual forced relocation of Cambridge families.⁴

³D.P.W. "Inner Belt and Expressway Systems", 1962, p. V-33.

⁴Robert A. Bowyer, "Proposed Anti-Conversion and Anti-Apartment Stuffing Amendments to the Zoning Ordinance", May 16, 1969, p. 2.

3. Current rent levels in Cambridge are high and are accelerating. For example, the Cambridge Housing Convention found in a survey of elderly households in the summer of 1968 that over one-half of these households live on fixed annual incomes of \$1500⁵ or less, and that one-half of this income was paid for rent.

The scientifically selected random survey of 500 households, conducted as part of the Community Renewal Program in 1969, showed:

.....we find.....the astonishing figure that almost 30% of the total sample pays over 35% of their annual income on rent. Sixty-four per cent of those with incomes under \$5,000 pay over 35% of their annual income in rent.

About one-third of all the renters interviewed had increases in rent during the past year. About three-fifths of the increases reported were in excess of 10%.....

.....almost half of the rent increases reported affected families who are already paying too much of their income for housing, and one-fourth of all rent increases reported were sustained by families with incomes of under \$5,000 a year who are now paying more than 25% of their income for housing.⁶

The effect of rapidly rising rents is to make more Cambridge families and elderly of modest means dependent on publicly assisted housing.

4. Public policy requires elimination of substandard housing which comprised 1976 units in number and 5.6% of the Cambridge housing supply according to the 1960 Census. Congress in the 1969 Housing Act is inserting an "equivalent elimination" clause for urban renewal and other public programs. Such a policy would require construction of an equivalent number of new housing units to compensate for demolition of substandard housing units in urban renewal areas.

⁵ Cambridge Economic Opportunity Committee, "Cambridge: Crisis in Housing", December 14, 1968, p. 2.

⁶ Preliminary Report 1969: Cambridge Survey, September 22, 1969.

This indicates the need for considerable additional construction of low-and moderate-income units to provide housing for those displaced by the elimination of the poorest housing.

5. Production of housing on a regional and national scale has been inadequate. The Douglas Commission, Kaiser Committee, and Kerner Commission all have specified the inadequate production of housing and concurrent removal of low rental substandard units from the supply of housing as a major factor in the problems of our cities. The Douglas Commission set a goal of 2 to 2.25 million units a year including 500,000 units for low-and moderate-income families. The Kaiser Committee set a goal of 2.6 million units a year including 600,000 subsidized housing units.⁸ The 1968 Federal Housing Act set a goal of 26,000,000 housing units in ten years with 6,000,000 subsidized units.⁹ Ironically, in the first year since the declaration of these various policies, housing starts have fallen to below an annual rate of 1,000,000, the lowest rate of housing production since the Depression era.

On December 8, 1969, Massachusetts Governor Francis W. Sargent, in a major policy address, cited a "calamitous" statewide housing shortage and set as a goal the creation of 230,000 new dwelling units in the next decade--in contrast to only 25,000 the state has built in the last 20 years. A first goal would be to replace all housing destroyed by public land takings--an average of 5,000 units yearly.¹⁰

Due to the recent interest rate "crunch" on lending institutions, particularly those specializing in residential finance, and high costs of land, labor and building materials, the private market mechanism appears incapable of producing enough housing for a

⁷Building the American City: Report of the National Commission on Urban Problems, December 1968, p. 180.

⁸A Decent Home: The Report of the President's Committee on Urban Housing, December, 1968, p. 3.

⁹Housing and Urban Development Act - 1968, Public Law 90-448, Section 1601.

¹⁰The Boston Globe, December 9, 1969, p. 1.

growing population in the near future and cannot produce at low enough cost to meet the needs of low-and moderate-income families. The inability of the public and private sectors to produce a sufficient volume of housing has led to escalation of rents due to the intense demand for an inadequate supply of housing. A vigorous program of publicly-subsidized housing is needed.

6. The volume of production of new low-and moderate-income housing in Cambridge has not been sufficient to meet the need. Since 1954, the Cambridge Housing Authority has opened one new housing development--of 88 units. Out of 1100 units of new housing authorized by HUD in December 1966, the Authority has only 67 units at the Truman Apartments under construction now; there remain over 1000 units of authorized new construction yet to be developed.

Unfortunately characteristic of the agonizingly slow process of government is the Walden Square Urban Renewal Project where 300 units of moderate-income housing are proposed with about one-half the units to be leased to the Housing Authority. Originally conceived in 1966, the project was lodged in the federal urban renewal "pipeline" for nearly two years; construction might start in 1970 but occupancy is not expected until 1971-72.

7. Public policy and actions are directed toward expanding the supply of low-and moderate-income housing in Cambridge. The City Manager, in his June 26, 1969 Housing Message to the City Council on the housing crisis, stated the following positions:

We have families forced to leave Cambridge, or to tolerate poor housing conditions at continually increasing rents, because they have no other choice. I propose tonight to face the housing crisis and to pledge to do everything I can as the City Manager to solve it.....

What we must do, as a matter of public responsibility, is to insure that housing is produced that the private market will not produce under any circumstances--housing for the elderly on small, fixed incomes, for large families and families with limited incomes who cannot pay the price the market must charge.....

We must not build more institutional "projects", isolated from the rest of the community, no matter how hard that is to do under restrictive Federal cost and design regulations. We must stop talking about the need for more housing for low-income families, but objecting when a site in our own neighborhood is proposed.¹¹

3. THE ROLE OF ZONING

In view of the various declarations of public policy cited above and of the public emergency in housing, both which mandate the development of a comprehensive construction program for low-and moderate-income housing, the Planning Board recognizes the need to use Cambridge's zoning procedures and requirements positively and creatively to facilitate the construction of low-and moderate-income housing.

3.1 Unique Conditions Circumscribing Low-and Moderate-Income Housing

Several factors inherent in the development and ownership of low-and moderate-income housing by public, nonprofit, or limited dividend sponsors present both a challenge to and a dilemma for traditional zoning policies and procedures.

3.11 HIGH SITE ACQUISITION COSTS: The limited availability of vacant or underdeveloped sites in Cambridge and the inflated real estate market, makes it difficult for any developer, private or public, to purchase sites for redevelopment.. It is doubly difficult for a public purpose agency or developer to do so.

It is a practical impossibility to buy land anywhere in Cambridge for less than \$2.00 per square foot. Most land in a Residence C-1 or C-2 district, on a suitable site, will sell for at least \$5.00 per square foot; land in a Residence C-3 district will sell for at least \$10.00 per square foot. The permitted density of development in Cambridge is regulated by the Minimum Lot Area for Each Dwelling Unit requirement of the Zoning Ordinance (Article V, Section 2). Comparing the cost of land with the factor controlling density in each district shows the land cost per dwelling unit.

¹¹James L. Sullivan, "Housing Message to the Cambridge City Council" June 26, 1969, pp. 1-3.

<u>Zoning District</u>	<u>Minimum Lot Area for Each D. U. (Density Factor)</u>	<u>If Land Costs</u>	<u>Price of Land Per D. U. is:</u>
Res. B	2,500	\$2/sq. ft.	\$5,000
Res. C-1	1,200	\$5/sq. ft.	\$6,000
Res. C-2	600	\$7/sq. ft.	\$4,200
Res. C-3	300	\$10/sq. ft.	\$3,000

3.12 COST LIMITATIONS OF PROGRAMS: The cost limitations imposed by the "guidelines" of the federal and state programs, coupled with the high land acquisition costs, are another deterrent to housing development. In HUD's public housing program, the maximum land cost per dwelling unit is generally \$1500. A protracted struggle with federal officials was required before approval could be secured for the Truman Apartments in East Cambridge with its \$1850 land cost per dwelling unit.

In the Section 221-d-3 and Section 236 below-market interest rate programs, even a \$1500 per dwelling unit cost for land presents serious difficulties. With lower rental levels fixed by the programs, there is less rental income to write off or amortize high land acquisition costs.

As City officials learned in the proposed Green-Franklin housing for the elderly development, cost limitations are so severe in the state low rent housing-for-the-elderly assistance program (Chapter 121, Section 26SS-UU General Laws, authorized by Chapter 667 of the Acts of 1954) that, as a practical matter, there can be no allowance for land acquisition cost. The City was advised (in so many words) that the most feasible way to build under the program would be to arrange for the City to donate publicly-owned land at no cost and to eliminate the payment in lieu of taxes on the land by the Housing Authority.

Rapidly accelerating construction costs continually outrun the infrequent adjustments made in permitted maximum cost allowances per dwelling unit. The result is that land acquisition costs must be reduced in order to allow a larger proportion (nearly all) of total project costs to be allocated to the construction of the building.

Given the constraints of land costs per dwelling unit, public and private developers of low-and moderate-income housing are forced to seek land where the number of units permitted by zoning is lower so that they will not be in competition with private market-rate developers. However, in order to develop housing within the cost constraints and feasibility requirements of government programs, a

substantial increase in the number of dwelling units, above that permitted in the lower density zoning districts, is necessary. As noted above this situation is due, in large measure, to the lack of recognition by federal and state officials of the realistic costs of acquiring land for housing for people of moderate means in cities generally; it is particularly applicable to a city like Cambridge which is plagued by a speculative, inflationary real estate market.

- 3.13 **MINIMUM SIZE OF PROJECTS:** Another factor circumscribing low-and moderate-income housing is the size of the housing development that may be required by certain feasibility or administrative requirements of the government agencies. Some programs, particularly those for the elderly, require a minimum size, such as 100 dwelling units, to be considered feasible. There are certain fixed capital and operating costs such as elevators and recreational-common rooms which have an optimum number of units to be serviced.
- 3.14 **SCATTERATION AND MAXIMUM SIZE OF PROJECTS:** Similarly, maximum size limitations and scattered locations are being imposed as a positive social policy on a more regular basis, particularly in family-type housing. The blatant failures of the traditional monolithic public housing project have produced a welcome trend toward reduction of project size and scale and the dispersion of low-income families throughout the entire metropolitan area.

A recent federal court decision directed at the Chicago Housing Authority recognized the economic and racial discrimination inherent in policies which resulted in large concentrations of subsidized housing units; the court ordered specific guidelines to effect a more scattered distribution of the Authority's housing stock.

The state Chapter 705 program (Chapter 705 of Acts of 1966, Chapter 121 Section 26 AA) limits the number of housing units in any one location to 100 and provides that no new public housing built under the program may be located within one-eighth of a mile of another public housing development.

The rent-skewing principle of the Massachusetts Housing Finance Agency projects reflects an acknowledgement of the need for dispersion and mixing of various income levels; Section 2 of the Act creating the MHFA demonstrates the following concerns:

Moreover, experience has demonstrated that concentration of low-income persons and families even in standard structures built with public subsidy does not eliminate undesirable social conditions and does not permanently eliminate slum .

conditions and by avoiding undue concentration of low-income tenants to provide exposure to and close contact in as many areas as possible with more successful members of society.

The implication of these statutory and administrative requirements is that sites for low-and moderate-income housing are likely to be in numerous locations throughout the city, are apt to have a relatively small number of housing units (between 10 and 150) but, because of the cost guidelines and economic feasibility considerations, will probably have to be built at a density higher than that otherwise permitted in those zoning districts. These circumscribing conditions are in direct contradiction to traditional zoning concepts and procedures.

4. ALTERNATIVES AND APPROACHES THROUGH ZONING TO FACILITATE HOUSING CONSTRUCTION

The approaches through zoning to facilitate construction of low-and moderate-income housing range from specific permissive provisions in the text of the Zoning Ordinance, through special exception-permit procedures, to amendments to the Zoning Map.

4.1 Amendments to the Zoning Map - The customary approach to permitting a housing development of a different character, density, and scale from that of the surrounding area is to petition for an amendment to the Zoning Map to designate the appropriately permissive district as applicable to the housing site.

This approach has several shortcomings. Some of the proposed housing sites may be so small that a different district designation may not be justified. Designation in a new district of a larger area than that of the housing site and its immediate surroundings may affect too much other land in private ownership.

Recent experience in the Cambridgeport area shows that a number of residents are willing to endorse a change of zone for a housing for the elderly development, but they would not endorse "an ordinary apartment building" of comparable density and scale for market-rate apartments. They clearly distinguish between the promotion of the public interest and the promotion of private investment opportunities. In fact, much of the discussion in those neighborhoods has centered on what guarantees can be provided which will assure that the proposed housing for the elderly will be built. Concern has been expressed that, due to the uncertainty of federal or state financing, the proposed housing development would not occur, and the site, as rezoned, would pass to a private investor who would construct a "luxury apartment building".

Guarantees of this nature are not part of the usual process of amending the Zoning Map.

One of the programs most favored by the Federal government aggravates the problem of providing guarantees. The so-called "turnkey" program in which a private developer builds a housing development and then in effect turns the key over to the local housing authority has many advantages in flexibility and speed of construction. Nevertheless, one of the characteristics of the program is that there are several steps to be taken between the local housing authority and the developer before the project is guaranteed to be occupied as a public housing development. Thus prior to taking a zoning action for which special consideration under this policy is sought, public officials need evidence that arrangements between the developer and the Cambridge Housing Authority have progressed to the point that an irrevocable commitment has been made by both parties to construct a public housing development.

Another shortcoming of the amendment of the Zoning Map approach is the justifiable concern of residents about the "falling dominoes" effect. They contend that if one amendment to the Zoning Map is allowed, others surely will follow and soon the neighborhood will be transformed from its present character. Except in the case of "barriers", (such as a railroad line, a major highway or arterial street, a significant open space, or an abrupt change in land use pattern), which demarcate one area of the city from another, the general rule is to maintain some fluidity in the designation of zoning district boundary lines over a period of time. In other words, in an area of relatively similar character, it is difficult to fix a zoning district boundary "in perpetuity" between two zoning districts permitting a different character of development. The membership of the City Council and of the Planning Board change over time and the specific actions, assurances, and declarations of intent of one body at one time are not binding on the same body, with different membership, several years hence. Thus the potential "falling dominoes" effect is a vexing concern which is difficult to ameliorate despite the clearly stated intent of either or both the Planning Board and the City Council, at the time of amendment to the Zoning Map, not to act favorably on other subsequent petitions to the Zoning Map in the same area.

Special attention needs to be given to the redevelopment of obsolescent or noxious uses and areas which can be facilitated by changes in zoning district designation. In a city as old as Cambridge, with a legacy of incompatible uses developed in close juxtaposition to each other, there are instances of industrial or commercial properties in or adjacent to residential areas whose removal would enhance such residential areas.

Careful consideration has to be given to any proposed amendment to the Zoning Map which would involve the demolition of existing housing, particularly low-or moderate-income housing. The Planning Board has previously noted the supply of older housing has been and will continue to be the principal housing resource of low-and moderate-income families and the elderly. The Planning Board will generally oppose an amendment to the Zoning Map which would involve demolition of existing housing unless there is a substantial net gain in the number of low-or moderate-income dwelling units on the same site. Thus many of the proposed amendments to the Zoning Map to be considered favorably by the Planning Board would have to be non-residential sites, such as a change from an Industrial or Business district to a Residence district.

Another concern in the map change approach is the frequency and location of petitions for amendments to the Zoning Map. To provide for the orderly development of the city, and to provide a set of expectations to property owners about the future development of land near their property, amendments to the Zoning Map should not occur on a piecemeal or too frequent basis, but should be part of a periodic reevaluation and revision of zoning districts by the Planning Board and City Council. The Planning Board recognizes that any person has a right to petition for an amendment to the Zoning Map, but feels that the Zoning Map should not be the composite result of the initiative of individual petitioners. Thus a number of amendments to the Zoning Map to facilitate construction of low-and moderate-income housing may have the undesired effect of encouraging petitions by private parties to amend the Zoning Map.

The Planning Board concludes that changes in the Zoning Map to facilitate the construction of low-and moderate-income housing should be made sparingly and generally when other procedures are not available. An exception to this principle is rezoning of land to a residence district from an industrial district, where new housing is not permitted by the Zoning Ordinance.

4.2. Exemption From Zoning - One argument is that because public housing is a public necessity to meet the general welfare, it should be exempt from zoning requirements in the same manner as public schools, fire stations and the like. Aside from the merits of the proposal, a recent court case in Brookline establishes that public housing is subject to the requirements of the local zoning ordinance or bylaw. Thus a specific change in the Zoning Enabling Act would be necessary for public housing to be exempt from zoning requirements.

A variation on the theme of exemption is a provision in the text of the Zoning Ordinance so permissive that public housing would have a de facto "exemption" from zoning requirements. Such provision would permit public housing developments in all districts in the city without appreciable restrictions as to their density, scale and size. However, it is the density, scale and size which is often at issue; there should not be a blank check to disregard these issues.

The Planning Board is not in favor of either of these approaches; it feels that public housing, built and operated by the Cambridge Housing Authority, as well as other low-or moderate-income housing, should be subject to reasonable requirements that will produce a development compatible with its surroundings. This policy intends to clarify that the Planning Board feels that zoning regulations should not be so restrictive as to prevent the construction of new low-and moderate-income housing, given the unique conditions circumscribing such development.

4.3 Comprehensive Permit under Chapter 774 - Chapter 774 of the Acts of 1969 which modifies Section 20 of Chapter 40B, G.L., empowers the Board of Zoning Appeal to grant a new type of permit, called a comprehensive permit, which would permit the construction of low-and moderate-income housing in various locations in the city to a degree of development not now permitted. The principal objective of the legislation is to counteract the restrictive zoning practices of suburban communities (the bill is popularly referred to as the anti-snob zoning bill). Furthermore, the language of the Act is ambiguous, and it is uncertain what powers are available for use in Cambridge. The Act only became effective on November 21, 1969 and clarifying regulations have not been issued from the State Department of Community Affairs at this writing. Discussion with several potential non-profit developers indicates a lack of interest in being the "guinea pig" for a test case under this Act. They agree as to the potential usefulness of the comprehensive permit, but feel compelled to use the more traditional zoning procedures until the comprehensive permit procedure is clarified and established.

In any event amendatory legislation will probably be enacted during the 1970 session of the Legislature. The Planning Board views this as an especially useful procedure to facilitate the construction of low-and moderate-income housing and looks forward to further developments in this procedure.

4.4 Special Permit - The Planning Board favors development of nearly equivalent special permit procedures in the text of the Zoning Ordinance to complement the Chapter 774 procedure or to substitute for it if that procedure cannot be developed as a workable tool.

The usual procedures of a special permit can overcome several of the problems raised earlier in the discussion about the amendment to the Zoning Map approach. A special permit is granted for a specific building occupying only the lot of land owned by the public or non-profit developer. With a change in zoning provisions applicable only to one lot, under explicit conditions applicable only to low-and moderate-income housing, there need be less concern about the "falling dominoes" effect and changes in the character of an area. A condition can be attached that if the specific building is not erected within a certain period of time, such as three years, the special permit would lapse automatically.

The very nature of the special permit procedure provides the guarantees that cannot be provided through an amendment to the Zoning Map. The written decision granting the special permit refers to the building plans and is recorded in the Registry of Deeds. The agency granting the permit may impose further limitations, such as on the height of a structure, the location of a building on the lot, greater than the limitations written into the text of the Zoning Ordinance. Prior to granting the special permit, the site plans are available to the Planning Board which can make recommendations to the granting agency for modifications in the site and building plans. Such a procedure also could be the logical culmination of a cooperative design process between a non-profit or public developer and a neighborhood group. Thus the issues of density, height, scale and size of building can be worked out.

In part such a special permit procedure exists now. Article VI, Section 9 of the present Zoning Ordinance empowers the Board of Zoning Appeal to grant a special permit allowing an increase in density up to twice that otherwise permitted where the occupancy of a residential structure is restricted to families of not more than two persons with at least one member sixty-two years of age or over"; this provision applies to the affluent elderly in market-rate apartments although presumably that was not intended. Article VII, Section 2 (e) empowers the Board of Zoning Appeal to grant a special permit reducing the off-street parking to not less than one-fourth that otherwise required.

A comprehensive special permit could incorporate the above provisions as well as others dealing with height of structures, floor area ratio, setback requirements, usable open space, off-street parking. Perhaps a requirement of a design review board, comparable to the one convened by the Planning Board for the housing for the elderly development on the Green-Franklin municipal parking lot, could be utilized as well.

There are several procedural and policy considerations in the special permit approach. Under the present Zoning Ordinance, the Board of Zoning Appeal is the only agency empowered to grant a special permit. Under the state Zoning Enabling Act, the City Council could be empowered to grant certain special permits; the City Council or Board of Aldermen in Medford and Newton now perform that function. The Council would have to adopt special rules, send notices, make a detailed record of its proceedings, issue written decisions and generally act in the same manner as the Board of Zoning Appeal. The vote of two-thirds (six of nine) of the members would be required for the City Council to grant a special permit.

The Planning Board feels the City Council should be empowered to grant a special permit for a low-and moderate-income housing development. The location of such a housing development, its size and character, is frequently a substantial policy decision and a controversial one. The Board of Zoning Appeal is a quasi-judicial administrative board to which appeals are taken from the Zoning Ordinance under detailed requirements of state law; the Board is not intended to be a policy-making body. Clearly the City Council is a policy-making body and may have several other actions to take on the same proposal to develop low-and moderate-income housing.

In either case, the services of staff experienced in building design, zoning procedures, and housing requirements should be available to the City Council or the Board of Zoning Appeal to assist in this special permit procedure, which can be much more complicated than the usual special permit case. The Planning Board offers the assistance of its staff for this special permit procedure.

The Planning Board concludes the special permit procedure is potentially the most promising approach to facilitating the construction of low-and moderate-income housing. The Board will develop this approach further by drafting new special permit procedures for the Cambridge Zoning Ordinance and by continuing to monitor developments in the Chapter 774 comprehensive permit program.

4.5 Variance - The Board of Zoning Appeal is also empowered to grant a variance from the specific provisions of the Zoning Ordinance as applied to an individual lot. The requirements of state law and the Zoning Ordinance limiting the variance power are so limiting (and properly so), the variance approach is not a practical alternative. An appellant must make a showing: (1) the Zoning Ordinance imposes a hardship depriving him of a reasonable use of the land (2) there are

special conditions applying to the lot that do not apply to other lots in the zoning district and (3) the variance is the minimum necessary to grant relief. It is unlikely that a proposed housing development could meet all three of these tests, as is required.

5. FACTORS TO EVALUATE LOW-AND MODERATE-INCOME HOUSING RELATIVE TO ZONING ACTIONS

The Planning Board is required by the Zoning Enabling Act and by the Zoning Ordinance to make recommendations to the City Council on petitions for amendment to the Zoning Map and to the Board of Zoning Appeal or the City Council on petitions for special permits.

Chapter 40A, the Zoning Enabling Act, provides "For the purpose of promoting the health, safety, convenience, morals or welfare of its inhabitants, any city.....may by a zoning ordinance.....regulate and restrict...."the use of land and buildings. The Planning Board views the promotion of the general welfare to be key among the purposes of zoning. The various declarations of policy and the public actions aimed at the construction of low-and moderate-income housing cited earlier are, in our mind, the expression of the public interest and the promotion of the general welfare, and, as such, are paramount among zoning considerations.

In making its recommendations on amendments or special permits, the Planning Board, in a context of favoring actions to facilitate the construction of low-and moderate-income housing, will evaluate proposals for such housing construction according to the factors set forth below. While generally favoring such housing construction, the Planning Board recognizes that not every housing proposal is entirely acceptable and some will warrant modification and others may need to be rejected.

The set of factors to be considered are:

Public Benefit

1. How direct or indirect is the benefit to the public from the construction of such housing? The housing with the lowest rentals has the most direct benefit to the public; moderate-income housing, developed by limited-dividend corporations, which reduces the pressure on the existing supply of housing, has less direct benefit to the public. More favorable consideration will be given to those agencies or developers who can produce low-income housing; less favorable consideration will be given to agencies or developers who will produce moderate-income housing.

2. If existing housing is to be demolished, will there be a substantial net gain of dwelling units for low-and moderate-income families?

Demand on Public Facilities and Services

3. What will be the effect of the proposed housing construction on public facilities and services, such as schools, traffic, parks and utilities?
4. What are the capacities of these facilities at the present time? If they are not adequate to meet the needs of the proposed housing, what is necessary to make them adequate? (This examination is for the purpose of helping the Planning Board weigh the costs and benefits of the proposal. There is no "correct" answer.)
5. Is there appreciable conflict with other known public objectives, such as use of the site for a school or playground or other activity, and if so which in the Planning Board's view is the higher priority for this site?
6. What is the availability and appropriateness of community services, such as churches, stores, libraries to the proposed occupants of the development? If such services are unavailable or inappropriate, can they be provided nearby, or can some suitable arrangement be made?

Environment

7. What is the present character of the area with respect to population density, height and size of buildings, and the general scale of the area?
8. Is the proposed building design, if known, compatible with the above stated characteristics? If not, are the incompatibilities so serious as to be disruptive to the area, or is a different character appropriate? The attitudes of adjacent residents provide one measure of compatibility. If needed, can the proposed development be modified to make it more harmonious with its surroundings? (The Planning Board feels the present character of the area need not be a rigid criterion. For instance, an existing high-density area may not be able to absorb greater density, whereas an existing low-density area may be able to accommodate a higher density development comfortably.)

9. In the case of housing to be developed at a higher density than that permitted by the present zoning district; (a) can the development serve as a transition from a higher density zoning district, or a nonresidential district, to a lower density zoning district? and (b) if specific building plans are known, is the transition well-handled?
10. What assurances, if any, are there that the project will be of meritorious design so as to reflect credit on the development, the city and the adjoining properties?
11. Are other public objectives, such as the elimination of incompatible or nonresidential uses in residential areas, to be achieved? Will an area be "cleaned up" in appearance by such elimination?

Zoning Process

12. Is the zoning action taken by the appropriate procedure and is the change sought the minimum necessary to achieve construction of low-and moderate-income housing?
13. How large is the area proposed to be rezoned, and if adding to an existing district, how large is the district as expanded?
14. Are the proposed district boundary lines on "barriers" so that they can serve as viable permanent district boundaries?
15. What is the likelihood of the "falling dominoes" effect? Does the Planning Board have a position on future rezoning in the area?
16. What are the opinions of the residents of the area about the zoning map change?

The Developer

17. Has the developer received, from the appropriate governmental agency, commitments for the funding of the project? If not, why not? What are the probabilities of his getting it?
18. Has the developer coordinated his planning with interested community groups in the area and is he committed to continue to work with area residents? What is the reaction of the community to his proposals?

6. EFFECT OF THIS POLICY ON PRIVATELY-SPONSORED HOUSING

Although not previously stating its position in a formal policy statement, the Planning Board has informally maintained this policy for some time.

With respect to amendments to the Zoning Map, the Planning Board recommended favorable action on the only two zoning petitions to come before it related to the construction of new housing under the 221-d-3 program: the zoning designation of the Huron Avenue site was changed from Residence C-1 to the high density Residence C-3; the designation of the site at Rindge Avenue was changed from Industry A to Business B (a district which permits high-density housing construction).

As for special permits, the Planning Board recommended approval of the variance requested by the Cambridge Housing Authority for the Kennedy Apartments at Harvard and Essex Street. Subsequent to the experience with the Kennedy Apartments, the Planning Board recommended and the City Council adopted amendments to the Zoning Ordinance which by special permit allow a doubling of the density for housing for the elderly (Article VI, Section 9) and by special permit reduce the parking required for the elderly in a building operated by the Cambridge Housing Authority to one-fourth of that otherwise required (Article VII, Section 2, footnote e).

As indicated earlier the Planning Board is concerned that amendments to the Zoning Map to promote low-and moderate-income housing may have the undesired effect of encouraging an even greater number of petitions for amendments to the Zoning Map by private investors--the "falling dominoes" effect, both in one neighborhood and throughout the city. To provide for the orderly development of the city and to provide a set of expectations about the future development of land near their property, the Planning Board feels amendments to the Zoning Map should not occur on a piecemeal or too frequent basis, but should be part of a periodic reevaluation and revision of zoning districts by the Planning Board and the City Council.

The Planning Board wants to clarify that adoption of this policy on zoning and public purpose housing does not alter its previously stated position on new privately-owned conventionally financed housing at market rates. In its June 1969 zoning report, the Planning Board stated:

With the current costs of land acquisition, building materials, union wage rates, and high interest rates, new privately owned conventionally financed housing will rent, as a minimum, at the following monthly rentals: 1-bedroom \$200, 2-bedroom \$250, 3-bedroom \$300.

New housing at these rentals simply does not meet the needs of the low-and moderate-income families and the elderly who are the victims of the inflationary squeeze. New housing within the reach of such families and the elderly has to be built by the public or subsidized through below market interest rates, real estate tax concessions, or reduced land costs (urban renewal).

The question then becomes how much new conventionally financed housing should be encouraged as a matter of public policy. The Planning Board concludes Cambridge should not attempt to absorb great numbers of new residents, but should leave it to the other lower density cities and towns to accommodate a more proportionate share of the growth of the Boston metropolitan area.

The preceding should not be taken as an argument against new conventionally financed housing, but is an assessment of its relevancy in alleviating the housing crisis. The issue is whether, as some have advocated, special zoning measures should be enacted to encourage such construction. We conclude they should not be, at least not for the purpose of alleviating the housing crisis.

Despite its critics, the Zoning Ordinance is already quite liberal in permitted densities. A substantial volume of conventionally financed new housing has been built under the Zoning Ordinance and indications are this trend will continue.

This policy coincides with that of the City Manager who has stated in his Housing Message in June:

Builders of housing which will rent at full market levels must understand, while the City recognizes their right to produce middle-income or luxury housing and understands the desire of families with adequate incomes to live in Cambridge, that such housing must clearly have the lowest priority in terms of public funds, energy or involvement. This is not because one group of residents is less important than the other. It is simply because they need less help, and have a better chance of having their needs met in the market.

More luxury housing will not relieve the pressure on the low-income housing market in Cambridge. The "filter down" theory simply does not work here. More construction of subsidized



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James L. Sullivan
City Manager

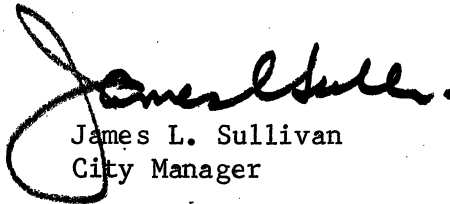
John H. Corcoran
Assistant City Manager

December 22, 1969

To the Honorable, the City Council:

I transmit herewith "Policy on Zoning and
Low- and Moderate-Income Housing", prepared by the
Cambridge Planning Board.

Very truly yours,


James L. Sullivan
City Manager

JLS/eb

Send (23)

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COMMUNICATION
from the City Manager trans-
mitting ~~see~~ from _____

the Cambridge Planning Board "Policy on
Zoning and Low-and Moderate Income
Housing"

December 22, 1969

TABLED ON MOTION
OF
L. PEKERMANN