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CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

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May 12, 2003

To the Honorable, the City Council:

In response to Awaiting Report Item No. 03-48, regarding a report on laws and regulations pertaining to the installation of wireless communication equipment, including antenna, generators, and other related equipment in residential areas or on residential buildings and address noise concerns about noise emanating from such equipment, City Solicitor Donald A. Drisdell reports the following:

The installation of wireless telecommunication equipment is broadly regulated by the Federal Telecommunications Act at 47 U.S.C. §151 et seq. The federal Act allows for local regulatory authority, with some restrictions. Cambridge regulates such equipment at §4.32(g) of the Zoning Ordinance, in the Table of Use Regulations. "Telephone exchange (including switching, relay and transmission facilities serving mobile communications systems) and any towers or antennas accessory thereto" are allowed in every zoning district (except Open Space) by special permit. Therefore, petitions for the installation of such equipment may be allowed in any residential district and on a residential building in the City. Generally, the special permit granting authority for such equipment is the Board of Zoning Appeal, although in certain circumstances it is the Planning Board.

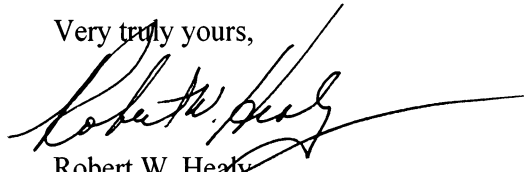
There are special protective provisions that are considered when such equipment is proposed for residential districts. Footnote 49 to §4.32(g) of the Zoning Ordinance provides (at paragraph 3) that the special permit granting authority shall consider:

Where it is proposed to erect such a facility in any residential zoning district, the extent to which there is a demonstrated public need for the facility at the proposed locations, the existence of alternative, functionally suitable sites in nonresidential locations, the character of the prevailing uses in the area, and the prevalence of other, existing mechanical systems and equipment carried on or above the roof of nearby structures. The Board of Zoning Appeal shall grant a special permit to erect such a facility in a residential zoning district only upon a finding that nonresidential uses predominate in the vicinity of the proposed facility's location and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

The special permit granting authority also applies the special permit criteria at §10.43 of the Zoning Ordinance, and may impose conditions pursuant to §10.44 of the Zoning Ordinance. The criteria and conditions in these sections do not specifically reference noise considerations, but they do authorize the special permit granting authority to withhold approval when a "nuisance or hazard would be created..." (§10.43(d)), and when adjacent uses "would be adversely affected by the nature of the proposed use" (§10.43(c)). Conditions on a special permit may be imposed as "deemed necessary to protect the surrounding neighborhood..." (§10.44). In my opinion, these provisions authorize the special permit granting authority to take noise considerations into account when considering a permit application for the installation of telecommunications equipment.

Also, the noise control provisions of Chapter 8.16 of the Cambridge City Code would apply to the operation of any such equipment. The equipment could not emit noise in violation of the limits for residential areas imposed by the ordinance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", with a long horizontal flourish extending to the right.

Robert W. Healy
City Manager

RWH/mec

S-179

Consent Agenda #8

Awaiting Report Item Number 03-48, regarding a report on laws and regulations pertaining to the installation of wireless communication equipment, including antenna, generators, and other related equipment in residential areas or on residential buildings and address noise concerns about noise emanating from such equipment.

In City Council May 12, 2003

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