

ATTACHMENT A.

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

December 15, 1995

Michael A. Sullivan
Chairman, Government Operations Committee
City Council
City of Cambridge
Cambridge, MA 02139

Re: Curb Cut Application Procedures

Dear Councillor Sullivan:

During the meeting held in September among the Government Operations Committee of the City Council, members of my staff and affected Department Heads on the City's curb cut policy, questions were raised concerning the procedures followed by the various Departments and the overall administration and timeliness of the curb cut application process. In response to those concerns, this report outlines a new monitoring procedure recently put in place to help insure that the application process not only works smoothly but also will allow for the status of an application to be determined virtually instantaneously at any point in the approval cycle.

The Data Processing Department has developed and installed on the City wide VAX a curb cut system file that will allow for the control of the flow of information relating to applications for curb cuts among the Inspectional Services Department, the Board of Zoning Appeal, the Traffic and Public Works Departments, the Historical Commission and the City Clerk's office. In addition, all interested City Departments and Offices connected to the VAX have the capability to inquire into the status of any curb cut application at any time. Departments can only enter or modify data relevant to their own Department, however. Users can gain access to an application file in a variety of ways, including entering the applicant's name or address, or by using a control number. Also, the file lends itself to the preparation of a variety of statistical reports relating to numbers of applications, approval times, etc., as may be desired.

The attached sample curb cut screen is attached for your information. In addition to the screen, my staff has developed the following guidelines to be followed by those City departments involved in processing an application. I submit these proposed guidelines to the Committee for approval, and am prepared to implement them as soon as they are approved by the City Council.

- a. The application process starts in the Inspectional Services Department where basic data (name, address, application data, and date received) is entered. A control number is set by the computer, keyed to both the date of receipt of the application and the number of applications received that month. The Inspectional Services Department reviews the application for compliance with the Zoning Ordinance.

If it is in compliance with the Zoning Ordinance, the application is approved and forwarded to the Traffic Department with an advance copy to the City Clerk to enable her to initiate, to the extent possible, the appropriate neighborhood advertising and scheduling for Council action.

If the application is not in compliance with the Zoning Ordinance, the application is denied and the process ends at this point, unless the applicant desires to pursue relief from the Board of Zoning Appeals. Appropriate dates are entered for these actions in the applicable fields in the Inspectional Services or Board of Zoning Appeal sections of the application file.

- b. The Traffic Department next reviews the application for safety concerns and compliance with traffic regulations.

The Traffic Department will consider whether the proposed curb cut will have a detrimental effect on the safety of the roadway. In addition, the following issues are reviewed to determine the effect the driveway will have on the street it is on: volume of traffic, pedestrians and bicycles, traffic speed, accident history, sight distances and the location of the proposed driveway in relation to other driveways and intersections, the impact on existing and on-street parking and sign posts.

Fields are provided for the date of receipt of the application, recommendations, and the date the application is forwarded to the Historical Commission. A comment field is provided to highlight any unusual problems or concerns.

After its review is complete, the Traffic Department will forward the application to the Historical Commission. If the application is denied by the Traffic Department, the applicant may appeal this decision to the City Council.

- c. The Historical Commission will determine if the curb cut is in an historic or neighborhood conservation district or is on the premises of a landmark. Massachusetts law requires that the Historical Commission issue a Certificate of Appropriateness before a driveway may be constructed in any historic or neighborhood conservation district.

The mission of both the Historical Commission and of the Neighborhood Conservation Commissions is generally to prevent developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

In reviewing a curb cut application, the Commission must consider the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. The Commission may also consider the appropriateness of the size and shape of the structure, both in relation to the land upon which the structure is situated and to the buildings and structures in the vicinity. In addition, the Commission may impose dimensional and setback requirements beyond those required by zoning.

The following points will always apply for those curb cuts in a Historic or Neighborhood Conservation District or on the premises of a landmark:

1. Curb cut applications must be accompanied by an overall landscape plan showing the proposed alterations for the property, including new driveways, paved paths and landscaping structures. Dimensions, materials and colors must be specified.
2. All applications are to be considered in terms of the appropriateness of the proposed curb cut and associated improvements for the immediate property and its surroundings.
3. Curb cuts that would allow front yard parking are generally discouraged.
4. The appropriate commission will consider all curb cut applications at a public hearing within 45 days of receipt of the application.

If an application is denied by a Neighborhood Conservation District Commission, the applicant may appeal to the Cambridge Historical Commission. If an application or an appeal is denied by the Historical Commission, appeal must be made to the Superior Court.

- d. The Public Works Department reviews the curb cut location for potential interferences with other city utilities and structures and determines the cost to make the curb cut. Its criteria is to assess the requested length of the proposed curb cut to insure that it will have minimal impact on existing on-street parking, to insure that utility poles, trees, hydrants, sign posts, etc. will not obstruct or be obstructed by the proposed curb cut, and to insure that the proposed curb cut will not infringe on abutters' property.

After its review is complete, entries will be made in the appropriate fields and the application will then be forwarded to the City Clerk. If the application is denied, the applicant may appeal this decision to the City Council.

- e. The City Clerk is responsible for notifying the appropriate neighborhood associations in the area of the applicant, and will place the application on the next City Council agenda within ten days of that notification. Once the City Council has acted on the application, the City Clerk will notify the applicant. Fields are available in the file to record dates of action taken related to these responsibilities.

These review procedures have been established by City Council policy. They incorporate an evaluation by appropriate City departments of whether the application meets City Council policy standards, such as those set forth in the Zoning Ordinance. Thus, it is expected that the City Council's decision will be based on whether the City's reviewing departments have determined that the applicant has complied with those policies.

If the curb cut is approved, the City Clerk will then send the application back to the Public Works Department.

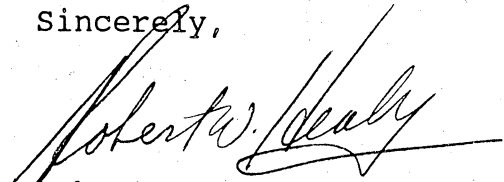
- f. The Public Works Department will determine the material, measurements and price of the proposed curb cut, put the curb cut on its work schedule and assign it a date for construction, and insure that it is installed according to proper specifications and in accordance with the American Disabilities Act for grade and/or cross slope.

The applicant must pay in full for the construction cost, as determined by the Department, within two weeks before the estimated commencement date for construction. No construction will begin until the full cost of the curb cut has been paid for in full.

- g. Existing curb cuts should be reviewed every time a building permit is obtained for a major renovation, new construction, site work, and/or landscaping work. If the new structure, facility, or landscaping serves as a barrier to access to the property, the curb cut should be abandoned. The property owner shall be responsible for the cost of the curb and sidewalk replacement by the Public Works Department.

The Data Processing Department is offering training to City Department and Office staff members in the use of this data file. If you have any questions on this procedure, I will be pleased to arrange a meeting. In addition, attached is a copy of the City Clerk's curb cut application process which gives greater clarification to this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", with a stylized flourish at the end.

Robert W. Healy
City Manager

Mr. Bersani, Commissioner of Inspectional Services, stated that if a department disapproved the curb cut, then the department should list the criteria that was used to disapprove the application.

Mr. Rossi stated that the process as proposed will eliminate many areas of concern expressed by City Councillors in previous discussions of curb cuts.

Councillor Sullivan noted that there have been many concerns with the timeliness of the process.

Councillor Duehay questioned whether there would still be delays with the applications for curb cuts.

Mr. Rossi stated that when an application comes into the Inspectional Services Department, it gets a number and the tracking system begins. He added that the new procedures will result in a better process.

Councillor Duehay asked what was the process if the application was not complete at the initial stage.

Mr. Bersani responded by stating that the usual delay is the notification of the abuttor.

Councillor Sullivan stated that the notification of the abuttors was a major problem. He gave examples of situations where petitioner and abuttors were not on speaking terms and asked whether in that situation the petitioner could use some other mechanism for the notification to the abuttor other than that done by the petitioner.

Mr. Rossi stated that if an issue of lack of cooperation existed between an abuttor and the petitioner a letter could be sent from the Inspectional Services Department to the abuttor.

Councillor Triantafillou stated that the petitioner could send the abuttor notification by certified mail with return receipt requested to prove notification was attempted.

Councillor Sullivan asked about the process for filing an appeal to the Board of Zoning Appeal and if the petitioner is informed.

Mr. Bersani, Inspectional Services Commission, responded that the applicants are informed of their right to appeal and in addition, the information is contained in the description of procedures handed out to the applicants along with the application.

Councillor Duehay stated that a lot of progress has been made on this issue.

Mr. Rossi stated that he would like to see the process be adopted by the City Council in general and if details are requested in a particular application then the City Council can request that the department provide the necessary information before the City Council decides whether to grant the petition.

Councillor Sullivan stated that the procedure would remain a "work in process" for review and comments.

Mr. Rossi responded that after a six month trial the process could be reviewed.

Councillor Duehay requested that the process be reviewed by the City Clerk as to whether there should be one document or two, how much of the new language from Mr. Rossi's memo is needed or should Mr. Rossi's memo and the initial City policy and procedures be merged. He asked who is responsible for the application being sent to the next department.

Mr. Rossi stated that it was the responsibility of the department to forward the application to the next department as has been the case in the past.

Mr. Charles Sullivan, Executive Director of the Historical Commission, noted that an application for a property which is in a historical district may require a public hearing to be held within forty-five days of the receipt of the application by the Historical Commission. He questioned whether in such a case, to prevent further delay, the application should be sent on to the next step.

Mr. Rossi responded by stating that it was premature for the application to be sent to the next department because if the Historical Commission is ultimately going to deny the petition or require notification of the plans, no other department should review the application before those changes are made.

Councillor Sullivan stated that a letter could be sent out at this point to let the applicant know that there was a problem and what the problem is.

Mr. Rossi stated that the working committee will look at merging the two documents to outline the entire procedure. In addition all departments involved will be trained to use the curb cut screen on the computer.

Councillor Duehay stated that he felt the neighborhood association notification was not working. He added that whether the neighborhood association has responded or not he has concerns about the procedure. He requested the City Clerk only send information to neighborhood groups that have requested said information. He commented that he felt that the neighborhood associations are not always doing their homework on the curb cut applications.

City Clerk D. Margaret Drury responded that neighborhood groups were surveyed, and only those that have requested that they be on the notification list receive notification.

Councillor Duehay suggested that an advertisement could be run in the local newspaper which listed that the following curb cut applications had been received by the City.

Mr. Rossi stated that once you advertise people will be under the impression that this is a legal requirement that the city must advertise all curb cut applications.

Mr. Rossi stated that he would like to continue to work on the procedure but that he hopes the City Council will adopt the policy.

Councillor Duehay requested that the suggested refinements to the procedure be made and that recommended procedure be sent to the new City Council. In addition he suggested that the procedure be evaluated in six months.

This portion of the meeting adjourned at twelve o'clock p. m.

The Committee then proceeded to the next portion of the meeting which was a consideration of the hiring process for the Deputy City Clerk position. Ms. Drury distributed a draft job description which she had prepared at the request of the Committee (**ATTACHMENT B**). She explained that the first portion of the job description was taken from the Ordinance. The list of duties attempts to detail and categorize the statutory responsibilities.

Ms. Drury noted that the Clerk's office handles an incredible amount of routine clerical duties.

Councillor Triantafillou inquired of the City Clerk what advertisement was used during the hiring process for the City Clerk's position.

D. Margaret Drury, City Clerk, stated that the standard personnel procedures were followed.

Councillor Duehay suggested that the advertisement for the position of Deputy City Clerk utilize the general description contained in the Ordinance and that the detailed description be distributed to applicants. He further suggested that the City Clerk advertise the position of Deputy City Clerk following the standard personnel procedures and include the Massachusetts Municipal Association magazine.

Councillor Sullivan questioned the process for the hiring after the advertisement.

Councillor Duehay suggested that the Committee review the resumes of all applicants and make them available to all interested members of the City Council. The Committee should interview any candidate that the City Council was interested in. If there are so many potential interviewees that the process is unreasonable, the Committee can consider whether it will limit interviews to candidates that more than one Councillor is interested in. Then the Committee will make a recommendation to the full City Council.

Councillor Triantafyllou asked if the resumes of all the candidates would be reviewed in the process.

Councillor Duehay stated that individuals that any City Councillor is interested in would be reviewed and that the position is one of the very few appointments of the City Council so that the whole City Council gets involved in the process. Councillor Duehay stated that there is not a particular process and that it is up to the Committee to recommend the process.

It was agreed, without objection that the Committee will recommend that the City Council adopt the hiring procedure set forth in this report.

Councillor Sullivan adjourned the meeting at twelve o'clock and thirty minutes p. m.

For the Committee,

Michael A. Sullivan

Councillor Michael A. Sullivan

Chair *by ac*

Add. Go Jump Query

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*-----*
|Control Number 19951101      Location 00101-00102 FAYETTE ST
|Last Name GAUS               First AUGUSTUS      Init F Suffix
|Location 00101 00102        Street FAYETTE ST    Unit
*Inspectional-----*Zoning Board-----*
|Application 110195          Status A      |Application          Status
|Received 110195            Oper KMC    |Received             Oper
|Fwd Traffic 110195        |Hearing
|Copy Clerk 110195         |Decision
|Date Denied               |Forwarded
|Comments                  |Comments
*Traffic-----*City Clerk-----*
|Received 110295            Status A      |Rcvd from IS 110195    Status A
|Forwarded                Oper AEC    |Rcvd from PW 110495    Oper CCO
|Comments                  |Notify Nghbd 110495
*Historical-----*Coun Hearing 110695
|Received 110395            Status A      |Action
|Forwarded                Oper XYZ    |Appl Notifd
*Public Works-----*Comments
|Received 110495            Status A      |
|Forwarded                Oper AMD    |
*-----*Curb Cut Application-----*
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If the Inspectional Services Department makes a determination that the curb cut is not in compliance with the Zoning Ordinance, the applicant has the following options: discontinuing the application process; modifying the application to bring it into compliance with the Zoning Ordinance; appealing the Inspectional Services determination to the Board of Zoning Appeals (BZA); or requesting from the BZA a variance from the Zoning Ordinance. If the applicant is not successful with the appeal or variance request before the BZA, recourse is through the courts.

If the Inspectional Service Department (or the Board of Zoning Appeal) approves the application, it will then be sent to the Department of Traffic, Parking and Transportation. A refusal at this juncture may be appealed to the City Council for action.

5. If the application is approved by Traffic and Parking it should then be sent to the Historical Commission. If the Commission approves, the application will then be sent to the Department of Public Works; if the Commission disapproves the application, the applicant may appeal under statutes and ordinances governing the administration of historically designated properties, information about which may be obtained from the Commission.
6. If the Department of Public Works approves the application, the application will be sent to the City Clerk's Office. The City Clerk will notify neighborhood associations in the area of the petitioner and will send a copy to the petitioner. Notification will include a copy of the plot plan or drawing submitted with the application and will request that the neighborhood association inform the City Clerk whether it approves or disapproves of the application. Petitioners are urged to contact their neighborhood association early to avoid delay.
7. Ten days after notification of the neighborhood associations, the City Clerk will place the application on the next City Council agenda. If the City Council approves the application, the City Clerk will notify the applicant and will send the application back to the Department of Public Works. The cost of the driveway construction will be calculated and the driveway will be put on the schedule and a date assigned for construction. The applicant must pay in full for the construction cost, based on the cost indicated, within two weeks before the estimated start of construction. No construction will begin unless the full cost of the driveway has been paid for in advance.

In certain cases, the Department may arrange with the applicant to have the driveway done by a private contractor; however, the contractor will have to post a bond and have his work inspected as to city standards before the bond is released. In this case the contractor will have a direct relationship with the applicant and the city will not intervene unless the contractor does not meet city requirements for driveway construction.

8. If the applicant is refused by the Department of Public Works, the applicant can appeal to the City Council.
9. **APPLICANTS ARE CAUTIONED AGAINST EXPENDING ANY MONEY ON MODIFICATIONS TO THEIR PROPERTY IN ANTICIPATION OF THEIR APPLICATION BEING APPROVED BY THE COUNCIL.**

If a curb cut is required in connection with a project for which a building permit from the Inspectional Service Department is required, the building permit will not be issued until approval for the curb cut is first obtained from the Council. In extraordinary cases, an incremental (foundation, site work, etc) building permit may be issued if the following conditions, as a minimum, are met; the application has been initiated with the Inspectional Services Department, approvals from abutters have been obtained, a hardship is demonstrated, and the applicant states that he/she is proceeding at his/her own risk.

City of Cambridge

CITY POLICY ON DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING FACILITIES

1. All authorization for driveway cuts and openings shall be issued by the Department of Public Works only after the application has first been approved by the Inspectional Services Department, the Traffic and Parking Department and, if the location is in or affects an historical district, neighborhood conservation district, or a landmark, the Historic Commission, and only after the City Council has adopted an order approving the petition. Prior to placing an application on a City Council agenda for action, the City Clerk shall notify neighborhood associations in the area of the location for which the application is made.
2. The fee for the driveway installation, once it has been approved, shall be paid in full before the Department of Public Works shall proceed with construction; in certain cases the Department of Public Works may allow work to be done by a private contractor who shall post the necessary bond and adhere to the city standards for such construction. In the latter case the Department of Public Works shall inspect and approve the final construction before the bond is released.

PROCEDURE WITH RESPECT TO DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING SPACES OR FACILITIES

1. An application for Driveway Cuts and Openings shall be obtained by the applicant at the Department of Public Works or Inspectional Services Department.
2. The applicant, in addition to the application itself, (and the sketch required on the application form) must include a plot plan to scale which illustrates the driveway cut and the layout of the proposed on grade, off-street parking space, spaces or facility.
3. The applicant must also include signed abutter's forms of those abutters in front, side, rear and across the street from the property which the curb cut will be made. If the applicant is unable to obtain these signatures, he/she must include a statement with the application that an attempt was made to secure the required signatures and that it was not possible to obtain them and indicate the reasons why it was not possible to obtain the signatures.
4. The application, together with the plot plan and the abutter's forms, shall be first submitted to the Inspectional Services Department, located at 831 Massachusetts Avenue for review for compliance with the City of Cambridge Zoning Ordinance.

Curb cut requirements are detailed in Section 6.40 of the Zoning Ordinance. Following are some of the more significant requirements that must be met to comply with zoning:

- a. A curb cut cannot be located closer than twenty five (25) feet to a street intersection or within fifteen (15) feet of a crosswalk.
- b. The driveway must be at least ten (10) feet wide.
- c. For lots having less than 100 feet of frontage, a maximum of only one curb cut is allowed.
- d. The required size of the parking space is 8 1/2 feet by 18 feet. The parking space cannot be located within the front yard setback.

Draft job description
December 15, 1995

DEPUTY CLERK

Assists the City Clerk in recording, indexing and certifying all documents and papers required by law to be filed in the office of or recorded by the City Clerk.

Serves as staff person to City Council Committees and attends all City Council meetings.

Duties include:

Assistance to the City Council

Attend all City Council meetings

Serve as staff to City Council committees and write reports of the committee proceedings.

At request of City Council, research procedures and ordinances in other jurisdictions.

Research City Council records and City Ordinances to assist public, other City departments and City Councillors.

At request of City Council, prepare draft resolutions and orders.

Oversight of Administrative Functions Relating to City Council Agenda and Records.

Supervise production and transmission of engrossed resolutions.

Supervise preparation of City Council agenda.

Supervise production of Municipal Code, Final City Council Records, and Vitals Indices.

Arrange for publication of Zoning Ordinances, Final City Council Records and Vitals Indices.

Financial Recordkeeping for Clerk's Office

Record all revenues received by office.

Check and reconcile vital records cash envelopes every day.

Record all ticket payments.

Supervise office procurement and bill paying activities.

Assist in budget preparation.

Vital Records Oversight

Supervise all aspects of vital record recordation and record issuance.

Other

Administer oaths.

City of Cambridge

The Government Operations Committee held a public meeting on Friday, December 15, 1995 at eleven o'clock and fifteen minutes p. m. in the Ackermann Room for the purpose of considering recommendations regarding curb cut procedures and policies and a job description and hiring process for the Deputy City Clerk.

Present at the meeting were: Councillor Michael Sullivan, Chair of the Committee, Councillors Francis H. Duehay and Katherine Triantafillou, Richard Rossi, Deputy City Manager, Ralph Dunphy, Commissioner of Public Works, Robert Bersani, Commissioner of Inspectional Services, Charles Sullivan, Executive Director of the Historical Commission, Nancy Glower, Legal Counsel, Robert Keating, Public Works Department, D. Margaret Drury, City Clerk and Donna P. Lopez, Interim Deputy City Clerk.

Councillor Sullivan called the meeting to order and proceeded to the discussion of the curb cut procedure.

The Committee heard from Richard Rossi, Deputy City Manager, who outlined the curb cut application process and distributed a written description (ATTACHMENT A) which included a new computer tracking procedure.

Councillor Duehay questioned whether the written description was information for the petitioner or the City Council.

Mr. Rossi responded that the procedure establishes a computer tracking mechanism for the curb cut applications. He stated that each individual would be able to understand the process and the departmental functions. Mr. Rossi also stated that he hoped that the City Council would adopt the policy as outlined in his memo.

Councillor Duehay asked if the City Council would know what criteria was used by each department to approve or disapprove the curb cut application and wanted to know what information would come to the City Council. He commented that the forms in his opinion did not contain enough room for comments to be made.

Mr. Rossi responded by stating that if the process was adopted by the City Council then each department would be responsible for ensuring that the criteria adopted are used to determine whether the curb cut is approved or disapproved.

Councillor Sullivan outlined complaints that have been received by the City Councillors regarding curb cuts and said that he felt that the complaints often become subjective. Councillor Sullivan commented that if an application is not granted there must be a good reason and these reasons must be so stated.

Mr. Rossi responded by stating that a full written explanation of the reasons for approving a curb cut are not forwarded as part of the application but if the City Council requested the details, they would be provided by each department.

Committee Report #1 S-3

The Government Operations Committee held a public meeting on Friday, December 15, 1995 for the purpose of considering recommendations regarding curb cut procedures and policies and a job description and hiring process for the Deputy City Clerk.

In City Council January 8, 1996