

FAX

DATE: May 21, 1998

TO: Cambridge City Clerk

FAX: 349-4269

FROM: Michael Brandon

(617) 864-3520

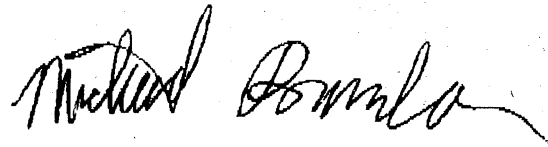
PAGES: 18 (including fax memo)

MEMO

RECEIVED
98 MAY 21 PM 4:59
OFFICE OF THE CITY CLERK

Please place the attached communication on the next City Council agenda so that I may address the council regarding my concerns.

Thanks for your assistance.



Michael Brandon - 27 Seven Pines Avenue - Cambridge, MA 02140 - (617) 864-3520

Michael Brandon
27 Seven Pines Avenue
Cambridge, MA 02140

May 21, 1998

Cambridge City Council
c/o City Clerk
795 Massachusetts Avenue
Cambridge, MA 02139

"WILD ACCUSATION" OF THE WEEK:
City Okays Destruction of Public Shade Trees without Required Notice or Hearing

Councillors:

Attached are several documents that pertain to the needless destruction of four mature street trees on Pemberton Street by a private builder and the City of Cambridge.

City administrators are presently withholding other pertinent public records, despite their obligation to release them under freedom-of-information regulations. Nevertheless, the accompanying items by themselves make it clear that the City Manager was not being forthright when he reported to you on March 23 that the City was simply removing dead tree stumps at its own expense and that "everything was in order."

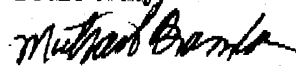
In fact, Cambridge officials have allowed the private developers of the Portland Stone Ware site to close off part of the public right-of-way for five months without appropriate compensation, and to destroy still-living trees that have graced the neighborhood for half a century.

Moreover, it appears that in this case and others, the City has been ignoring Chapter 87 of the Massachusetts General Laws, which requires advance notice and a public hearing before the removal of public shade trees.

At your next meeting, I would appreciate an opportunity to speak about this matter and how it demonstrates the need for better city management. If time permits, I would also appreciate an opportunity to respond to the disparaging remarks about my credibility that were made by certain councillors at your last meeting.

Thank you for your consideration.

Yours truly



Michael Brandon

encl.

TRANSCRIPT: City Council Meeting of March 23, 1998

Discussion of Manager's Consent Agenda Item No. 5: Report on the removal of trees and closing of sidewalk in front of Portland Stone Ware

Councillor Sheila Russell: . . . Who removed the trees—was it the City or the developer there? Are they going to replace them? And did they have proper permits to close the sidewalk?

City Manager Robert Healy: Yeah, well, the answer is, the City removed—the trees were dead—as the public arb—the arborist, or under, under the supervision of the arborist the trees were removed. The permit for the closure of the sidewalk during construction was also approved by the Public Works Department.

Councillor Russell: And the trees, were they not good trees—?

Mr. Healy: They were dead.

Councillor Russell: Oh, they were dead. I didn't hear you say that. So they had the proper permits, the trees were dead, the City is going to remove them, and the city will replace—

Mr. Healy: We would hope that the City would be also be able to replace, yes, as part of the replacement schedule. It's the City's responsibility and they were dead and we would hope to at least begin. . .

Councillor Russell: So everything was in order.

Mr. Healy: Yes.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307



5

EXECUTIVE DEPARTMENT
ROBERT W HEALY
City Manager

RICHARD C ROSSI
Deputy City Manager

March 23, 1998

To The Honorable, The City Council:

In response to Awaiting Report Item No. 17, regarding the removal of trees and the closing of the sidewalk in front of Portland Stoneware, Public Works Commissioner Ralph Dunphy reports the following:

There are currently three tree stumps that need to be removed from the sidewalk in front of Portland Stoneware. The Developer has fenced off the sidewalk while making renovations to the building. Public Works has scheduled the removal of these stumps in coordination with the removal of the fence. It is expected that this work will be completed by mid-April.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec



CITY OF CAMBRIDGE
Traffic, Parking and Transportation
57 Inman Street,
Cambridge, Massachusetts 02139

Susan E. Clippinger
Director

Administration 349-4700
Parking Violations 349-4705
Resident Parking 349-4701

Paul Dietrich, Chairman
Planning Board
57 Inman Street
Cambridge, MA

Dear Mr. Dietrich:

I have reviewed the proposed development at 177 Pemberton Street for 25 townhouses and have visited the site. The odd side of Pemberton Street is posted for resident permit parking with the other side restricted for no parking between Sherman and Middlesex Streets. Since the street is only 20' wide, two way traffic flow is maintained in one 12' travel lane which, given the small amount of on street parking and low volume, creates very little congestion. Using the average ITE Trip Generation rate for townhouse/condominium of 5.86 trips/unit the development will add 146 one way trips per day. This should not create a problem on the local streets in the area

The site plan shows a four foot wide sidewalk along Pemberton Street. Near the current driveway, there are two large (3'dia.) trees which seriously reduce the usable sidewalk area. If the trees are to remain, adjustments will be required so that the sidewalk will meet the minimum ADA standards.

Access to and from the parking spaces is adequate. The driveways should be designed to provide for a level sidewalk by ramping up from the street in the first 2-3 feet. The 20' width will allow for the safe two way movement in and out of each driveway.

If there are additional questions, please let me know.

Very truly yours,

Lauren M. Preston
Deputy Traffic Director

LMP:lb



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

RECEIVED BY
OFFICE OF CITY CLERK
97 JUN -8 AM 11:00
CAMBRIDGE MA.

CASE NO: 7415

LOCATION: 177 Pemberton Street Residence B Zone
Cambridge, MA

PETITIONER: Pemberton Place LLC For Portland Stone Ware Co. Inc.
Jeffrey Klein, Manager

PETITION: variance: To construct twenty-five unit development
violating the dimensional standards and to provide
46 parking spaces, not satisfying the landscaping
requirements and setbacks.

VIOLATIONS: Art. 5.000, Sec. 5.31 (Table of Dimensional
Requirements). Art. 5.000, Sec. 5.44.1 (Setbacks
For On Grade Open Storage Facilities). Sec. 6.48
(Landscaping). Art. 11.000, Sec. 11.15 (Dimensional
Standards For Townhome Development). Sec. 11.16.4
(Landscaping Of On-Grade Open Parking).

DATE OF PUBLIC NOTICE: February 25 & March 4, 1997

DATE OF PUBLIC HEARING: March 12, 1997

MEMBERS OF THE BOARD:

Lauren Curry - Vice-Chair
Charles Pierce
Michael Wiggins
John O'Connell

 X
 X
 X
 X

ASSOCIATE MEMBERS:

Susan Spurlock
Theodore Hartry
Arch Horst
Laura Kershner
James Daniel
David Gray Hanson

 X

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance.

The Board is familiar with the location of the petitioner's property, the subject and other characteristics as well as the surrounding district.

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Case No.: 7415
Location: 177 Pemberton Street
Petitioner: Pemberton Place LLC For Portland Stone Ware Co. Inc.
 Jeffrey Klein, Manager

On May 1, 1997, Jeff Klein, and Architect Stephen Tise, and Attorney Robert Schafei, appeared before the Board of Zoning Appeal seeking a variance to construct a twenty-five (25) unit development violating the dimensional standards and to provide 46 parking spaces, not satisfying the landscaping requirements and setbacks at 177 Pemberton Street. It was noted that this case was first heard on March 13, 1997, and continued so that the petitioners could have further discussions with the abutters and neighborhood representatives, and present their proposal to the Planning Board. The applicants submitted plans, drawings and photographs detailing the proposed project.

At the March 13th hearing, Jeff Klein, Architect Stephen Tise, and Attorney Robert Schafer, appeared before the Board of Zoning Appeal. Mr. Klein stated that the proposal is to construct a townhouse development at 177 Pemberton Street and that there have been several meetings with the North Cambridge Stabilization Committee, to discuss the Portland Stoneware site. He indicated that there had been a Planning Board meeting and another meeting has been scheduled to discuss their concerns. He further stated that there is opposition to the existing proposal, but that there is unanimous support for the project in terms of changing the usage of the land from industrial to residential and that the number of parking spaces is to be maximized due to the neighborhood's parking concerns. Mr. Schafer indicated that there are two existing curb cuts and that one curb cut is to be relocated to the other end of the site.

At the March 13 hearing, testimony was heard from the following abutters who stated their support of the proposed project at 177 Pemberton Street: Craig Kelley, of 6 St. Gerard Terrace; Munroe Engel, one of the owners of 167 Pemberton Street; Charles Giacobbe, of 7 Van Norden Street; Peter Mittell, of 3 Bellis Court; Jeff Howard, of 90 Middlesex Street; Dotty Giacobbe, of 7 Van Norden Street; Mary Russell, of 15 Van Norden Street; Barbara Stein, of 6 Van Norden Street; Megan Hanna, of 12 Haskell Street; Dennis Hanson, of 4 Verdun Street, and Nora Cameron, of 4 Verdun Street.

Testimony was also heard from the following abutters who stated their opposition to the proposal: Joseph Leary, of 9 Verdun Street; Alma Sheehan, of 25 Verdun Street; James Quinn, of 54 Haskell Street; Kelly Earle, of 46 Sargeant Street; Agnes E. Leary, of 9 Verdun Street, and Francis Hendrigan, of 23 Verdun Street.

At the May 1st hearing, Mr. Klein stated that in response to the concerns of the Planning Board, the Community Development Department, and the neighborhood, the following changes have been made: 1) five units have been eliminated from the back of the

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project and in their place are thirty (30) parking spaces, consisting of twenty (20) parking spaces in car ports and ten (10) open spaces which brings the project just slightly under the existing density in the neighborhood; 2) three of the units have been moved back; 3) five feet (5') has been added to all the rear yards; 4) the height has been dropped from 42' to 35'; and 5) two units have been designed to be two feet (2') larger.

The Chair indicated that the proposal has been altered in the following ways: 1) the development project is going from 25 units to 20 units; 2) the row of houses along the Pemberton Street is to be thirty-five feet (35') in height instead of forty feet (40'), (except that the "tower element" may be up to 42' in height); 3) there will be no houses built along the rear end of the lot near the railroad, instead there is to be two covered carports or garages for ten cars each and ten (10) additional open parking spaces all along the back area; 4) the overall project is to be smaller due to the elimination of those buildings located along the back; and 5) there is to be somewhat more landscaping than the original plan.

Testimony was heard from the following abutters who stated their concerns with the modified aspects of the proposal: Joseph Leary, of 9 Verdun Street; Alice Sheehan, of 25 Verdun Street, and Lucille Butler, of 6 Verdun Street.

The Chair read into the record a memorandum from the Planning Board, regarding the granting of a special permit for the property. The memorandum dated April 29, 1997 stated:

"On April 15, 1997 the Planning Board granted a Townhouse Development Special Permit for the above referenced property, as required in Section 11.10 of the Zoning Ordinance. In response to comments made by the Planning Board and members of the public at the public hearing, the applicant submitted revised plans that were approved by the Board. Those revised plans reduce the extent of variances required and thus bringing the proposal closer in its dimensional aspects to that prevailing in the neighborhood. As revised, the development compares favorably to other development projects in the area along the railroad right of way as well as elsewhere in the City that may have been built on similar, difficult sites or that share physical characteristics that were found, at least by the Planning Board, to be acceptable in other locations (see enclosures).

The changes accepted by the Planning Board are the following:

1. Reduction in the Floor Area Ratio from 1.21 to 1.03 (1.14 to 0.97 if the Middlesex Street lot is included);
2. Increase in the Lot Area per Dwelling Unit from 1,686 to 2,109 square feet;

3. Reduction in the height from 40/42 feet to a conforming 35 feet;
4. Increase in the area of landscaping in the parking lot from 10% to 15%;
5. Elimination of the need for a variance from the setback for a parking lot;
6. Reduction in the number of dwelling units from 25 to 20.

In approving the Special Permit, the Planning Board has required that the development continue to undergo design review through the Community Development Department. As part of the continuing refinement of the development's plans, the Board encouraged the permittee to explore other parking lot layouts that might allow for more green area on the lot.

Because of the current industrial use on the parcel, the site's location on an active railroad right of way, and the continuing industrial use of property directly across the rail line on Bolton Street, the Planning Board finds the variance relief requested to be reasonable and in the best interest of the adjacent community and the city as a whole and consistent with the Townhouse Development Special Permit issued by the Board. The current use of the site is inappropriate, and its conversion to housing use may be much delayed if some variation from the limits of the Residence B district is not permitted; the revised plan has struck a reasonable balance that will eliminate a serious nuisance and replace it with a positive addition to the neighborhood."

The Chair read into the record a communication from City Councillor Anthony Galluccio, addressed to members of the Board of Zoning Appeals:

"I am writing in reference to your deliberations regarding an application for variance in the townhouse development at 177 Pemberton Street.

While I am sensitive to the concern of the current use of the site I have also been in contact with a number of immediate neighbors who have serious concerns about the potential for 20 housing units. Also while I appreciate the developers attempt to reduce the number of units from 25 to 20 I continue to have concerns about the density of units.

As I'm sure you are aware in October 1995 the City Council passed amendments to the Residential B Zone which reduced the number of units allowed in this location from 17 units to 12. I initiated this proposal along with petitioners from various neighborhoods from North and West Cambridge because of continued concerns about the over development of townhouses in Residence B zoned neighborhoods.

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The amount of units now proposed is above the zoning allowed in the pre-amended Residence B language and goes well beyond what is allowed under current zoning. As I believe it is was the will of the council in passing these amendments to reduce these types of developments I hope that the board takes very seriously any decision that would not abide by the current zoning.

I would appreciate this letter becoming part of the public record and being read out loud as unfortunately I can not attend the hearing on the 1st. Sincerely, Anthony Galluccio, City Councillor."

The Chair also read into the record a letter from Craig A. Kelly, Chair of the North Cambridge Stabilization Committee, dated March 7, 1997, stating, "I write to clarify some issues involving my and the Stabilization Committee's support of the proposed housing project for the Portland Stoneware site. The Committee, as represented by its voting members present at the meeting, overwhelmingly elected to support this proposal. I, like most of those who voted, felt this project was better than the alternative of a continued trucking operation at this site."

After discussion, the Chair moved that the variance to construct a twenty unit development violating dimensional standards and to provide 46 parking spaces, not satisfying the landscaping requirements and setbacks at 177 Pemberton Street, be granted with the following conditions:

- 1) that the modified drawings, Site Plan and Front Elevation of Drawing #3, dated May 1, 1997, be approved and submitted;
- 2) that in the on-going design development process and design review by Community Development, every effort be made to set the building back further from the Pemberton Street lot line even though this may result in a reduction of six (6) parking spaces; and 3) that any landscapable areas along the front of the property of a dimension greater than six feet (6') be planted with large trees to provide a buffer to the street and that the large trees are to be a minimum of 2-1/2 inch caliper at the time of planting.

Four members of the Board voted to approve the variance, while one member voted in opposition. Thus, the variance was granted.

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The Board based its decision on the hardship caused the Petitioner by the literal enforcement of the Ordinance. The hardship is owing to the shape and location of the structures and the land on which they are situated, but does not affect generally the zoning district in which they are located. The Board also found that desirable relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Ordinance.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulation of other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.

Lauren Curry

Lauren Curry, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on July 6, 97 by Maia Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision

No appeal has been filed _____

Appeal has been filed and dismissed or denied _____

Date _____ City Clerk.

03:30:95 16:05 2

001 001

MEMORANDUM

DATE: March 24, 1998
TO: Ralph Dunphy, Commissioner
FROM: Larry Acosta, City Arborist
RE: Removal of trees on Pemberton Street

At the end of January of this year I received a request from David Geffen, of Geffen Construction Co. Inc., to inspect two trees in the public right of way at the location of the former Portland Stoneware site on Pemberton Street.

Mr. Geffen's original request was to prune back limbs from the two city trees located adjacent to the Geffen construction project. Upon inspection I noted that both trees were 75% dead and I advised Mr. Geffen that rather than prune, these trees should be removed. He inquired as to when this might be done. I responded that I would put his request on our priority one removal list and get to it as soon as we completed those requests which preceded his.

Mr. Geffen stated that in order for his project to proceed on schedule he would be willing to remove the trees at his own expense. In accordance with Section #3 of Massachusetts State Law, which states that no person other than the tree warden shall cut or remove public shade trees without the permission of the tree warden, I gave Mr. Geffen permission to remove.

The trees have been cut back to stubs, the stumps will be removed in time for spring planting.

The Massachusetts State Law chapter 87, section #2 refers to the powers of the tree warden including the care, control and maintenance of public shade trees. Care and maintenance includes the removal and replacement of dead, dying and diseased trees.

GENERAL LAWS OF MASSACHUSETTS

CHAPTER 87. SHADE TREES.

Chapter 87: Section 1. Public shade trees; definition.

Section 1. All trees within a public way or on the boundaries thereof shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

Chapter 87: Section 2. Powers of tree wardens.

Section 2. The tree warden of a town may appoint and remove deputy tree wardens. He and they shall receive such compensation as the town determines or, in default thereof, as the selectmen allow. He shall have the care and control of all public shade trees, shrubs and growths in the town, except those within a state highway, and those in public parks or open places under the jurisdiction of the park commissioners, and shall have care and control of the latter, if so requested in writing by the park commissioners, and shall enforce all the provisions of law for the preservation of such trees, shrubs and growths. He shall expend all money appropriated for the setting out and maintenance of such trees, shrubs and growths, and no tree shall be planted within a public way without the approval of the tree warden, and in towns until a location therefor has been obtained from the selectmen or road commissioners. He may make regulations for the care and preservation of public shade trees and establish fines and forfeitures of not more than twenty dollars in any one case for violation thereof, which, when posted in one or more public places, and, in towns, when approved by the selectmen, shall have the effect of town by-laws.

Chapter 87: Section 3. Cutting of public shade trees; public hearing; damages to fee owner.

Section 3. Except as provided by section five, public shade trees shall not be cut, trimmed or removed, in whole or in part, by any person other than the tree warden or his deputy, even if he be the owner of the fee in the land on which such tree is situated, except upon a permit in writing from said tree warden, nor shall they be cut down or removed by the tree warden or his deputy or other person without a public hearing and said tree warden or his deputy shall cause a notice of the time and place of such hearing, thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed, to be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing or if no such local newspaper exists then in accordance with the provisions of section six of chapter four; provided, however, that when a public hearing must be held under the provisions of this section and under section fifteen C of chapter forty prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the tree warden and the planning board, or if there is no planning board, the selectmen of a town or the city council of a city, and notice of such consolidated public hearing shall be given by the tree warden or his deputy as provided herein. Any person injured in his property by the action of the officers in charge of the public shade trees as to the trimming, cutting, removal or retention of any such tree, or as to the amount awarded to him for the same, may recover the damages, if any, which he has sustained, from the town under chapter seventy-nine.

~~11/11/98~~ Fa

Chapter 87: Section 4. Cutting down or removal of public shade trees, approval of selectmen or mayor.

Section 4. Tree wardens shall not cut down or remove or grant a permit for the cutting down or removal of a public shade tree if, at or before a public hearing as provided in the preceding section, objection in writing is made by one or more persons, unless such cutting or removal or permit to cut or remove is approved by the selectmen or by the mayor.

Chapter 87: Section 5. Cutting down, trimming or removing bushes and small trees.

Section 5. Tree wardens and their deputies, but no other person, may, without a hearing, trim, cut down or remove trees, less than one and one half inches in diameter one foot from the ground, and bushes, standing in public ways; and, if ordered by the mayor, selectmen, road commissioners or highway surveyor, shall trim or cut down trees and bushes, if the same shall be deemed to obstruct, endanger, hinder or incommode persons traveling thereon or to obstruct buildings being moved pursuant to the provisions of section eighteen of chapter eighty-five. Nothing contained in this chapter shall prevent the trimming, cutting or removal of any tree which endangers persons traveling on a highway, or the removal of any tree, if so ordered by the proper officers for the purpose of widening the highway and nothing herein contained shall interfere with the suppression of pests declared to be public nuisances by section eleven of chapter one hundred and thirty-two, including the Dutch elm disease.

Chapter 87: Section 6. Penalty for violation of secs. 3, 4 and 5.

Section 6. Violations of any provision of the three preceding sections shall be punished by forfeiture of not more than five hundred dollars to the use of the city or town.

Chapter 87: Section 7. Planting of shade trees.

Section 7. Towns may appropriate money to be expended by the tree warden in planting shade trees in the public ways, or, if he deems it expedient, upon adjoining land, at a distance not exceeding twenty feet from said public ways, for the purpose of improving, protecting, shading or ornamenting the same; provided, that the written consent of the owner of such adjoining land shall first be obtained.

Chapter 87: Section 8. Trees on state highways.

Section 8. The department of highways, in this chapter called the department, shall have the care and control of all trees, shrubs and growths within state highways, and may trim, cut or remove such trees, shrubs and growths, or license the trimming, cutting or removal thereof. No such tree, shrub or other growth shall be trimmed, cut or removed by any person other than an agent or employee of the department, even if he be the owner of the fee in the land on which such tree, shrub or growth is situated, except upon a permit in writing from the department. Any person injured in his property by the action of the department as to the trimming, cutting, removal or retention of any such tree, shrub or other growth, may recover the damages, if any, which he has sustained, from the commonwealth under chapter seventy-nine.



Chapter 87: Section 9. Signs or marks on shade trees.

Section 9. Whoever affixes to a tree in a public way or place a notice, sign, advertisement or other thing, whether in writing or otherwise, or cuts, paints or marks such tree, except for the purpose of protecting it or the public and under a written permit from the officer having the charge of such trees in a city or from the tree warden in a town, or from the department in the case of a state highway, shall be punished by a fine of not more than fifty dollars. Tree wardens shall enforce the provisions of this section; but if a tree warden fails to act in the case of a state highway within thirty days after the receipt by him of a complaint in writing from the department, the department may proceed to enforce this section.

Chapter 87: Section 10. Injury to trees on state highways.

Section 10. Whoever without authority trims, cuts down or removes a tree, shrub or growth, within a state highway or maliciously injures, defaces or destroys any such tree, shrub or growth shall be punished by imprisonment for not more than six months, or by a fine of not more than five hundred dollars to the use of the commonwealth.

Chapter 87: Section 11. Injury to trees of another person.

Section 11. Whoever wilfully, maliciously or wantonly cuts, destroys or injures a tree, shrub or growth which is not his own, standing for any useful purpose, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars.

Chapter 87: Section 12. Injury to shrubs, trees or fixtures.

Section 12. Whoever wantonly injures, defaces or destroys a shrub, plant or tree, or fixture of ornament or utility, in a public way or place or in any public enclosure, or negligently or wilfully suffers an animal driven by or for him or belonging to him to injure, deface or destroy such shrub, plant, tree or fixture, shall be punished by a fine of not more than five hundred dollars, and shall in addition thereto be liable to the town or any person for all damages to its or his interest in said shrub, plant, tree or fixture caused by such act. Whoever by any other means negligently or wilfully injures, defaces or destroys such a shrub, plant, tree or fixture shall likewise be liable to the town or any person for all damages to its or his interest in said shrub, plant, tree or fixture caused by such act.

Chapter 87: Section 13. Powers and duties of tree wardens in cities.

Section 13. The powers and duties conferred and imposed upon tree wardens in towns by this chapter shall be exercised and performed in cities by the officers charged with the care of shade trees within the limits of the highway.

CCM-101



City of Cambridge

22.

IN CITY COUNCIL

April 6, 1998

COUNCILLOR TRIANTAFILLOU

ORDERED: The City Manager be and hereby is requested to provide a supplemental report on the removal of the street trees on Pemberton Street; the report should include a detailed description of when and how the trees died, whether the developers and/or the City contributed in any way to the death of the trees, when did the damage to the trees first come to the City's attention, what are the replacement plans and who will pay the costs of replacement and whether the sidewalk was obstructed prior to the issuance of the permit (please provide dates).

H₁



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307



6.

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

May 11, 1998

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 14, regarding a report on the removal of street trees on Pemberton Street, received from Public Works Commissioner Ralph Dunphy.

Very truly yours,

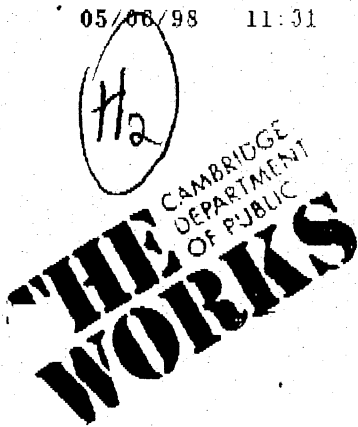
Robert W. Healy
City Manager

RWH/mec
Attachment

05/06/98 11:31

MANAGER

001/002



To: Robert W. Healy
City Manager

From: Ralph E. Dunphy
Commissioner

Date: May 6, 1998

Subject: **AWAITING REPORT**
Council Order #022, dated 4/6/98
Re: Report on the Removal of Trees on
Pemberton Street

Ralph E. Dunphy
Commissioner

147 Hampshire Street
Cambridge, MA 02139
617-349-4800
TDD 617-349-4805

The City Arborist first inspected the two mature maple trees in the City right of way at 177 Pemberton Street in mid-summer of 1997. Both trees were in an advanced state of decline with several of the major branches completely dead due to heavy pruning around the overhead power lines. In addition, the life expectancy of these trees was decreased by the negative impacts of their location in a previously industrial area immediately adjacent to the roadway.

The second inspection by the City Arborist was in January of 1998 due to a request from David Geffen, the developer of 177 Pemberton Street, to have overhanging branches pruned prior to building construction at the site. At that time, the City Arborist observed that additional branches had died and the trees were 75% dead. The condition of the trees was extremely poor so the City Arborist recommended the removal of the trees. Since City crews were not available due to scheduled hazardous tree removal, the City Arborist gave the developer written permission to hire a contractor and remove the trees at his expense. The developer also agreed to remove two other trees in poor condition on Pemberton Street located at 25 Verdun and 167 Pemberton.

In summary, neither the City nor the developer did anything to contribute to the death of the trees. These trees were in a declining state as described above and would have required removal by the City within approximately one year.

Installation of a sidewalk at 177 Pemberton Street was included in a project funded in the City's FY94 Public Investment Budget. This project was postponed due to uncertainty of future development at the site and the potential need to make utility connections across the sidewalk area.



05/06/98 10:27

--- MANAGER

002/002



Due to the width of the City right of way, it is only possible to install a 5' wide sidewalk at this location. It would be very difficult to install trees and maintain a 3' path of travel to meet ADA requirements. Instead, the developer has agreed to plant 6 trees on his property behind the sidewalk at his expense. The trees will be selected and located in coordination with the City Arborist.

The sidewalk obstruction permit was issued on November 7, 1997. Public Works does not have any record that the sidewalk was obstructed prior to this date. The obstruction permit expired on May 1, 1998. The fence will be moved this week in coordination with the start of sidewalk construction. Pedestrian detour signs will be in effect until approximately May 22, 1998 when the sidewalk installation is complete.

C. Ann Daughaday, City Engineer
Larry Acosta, City Arborist

Consent Communication #3 395-5

A communication was received from Michael Brandon, transmitting his view of the City's okaying the destruction of public shade trees without required notice or hearing.

In City Council June 1, 1998

PLACED ON FILE