

COMMONWEALTH OF MASSACHUSETTS

Executive Office of Environmental Affairs

EOEA Number 4326

RECEIVED BY
OFFICE OF CITY PLANNING
JUN 29 9 55 AM '83
ALEWIFE LOCAL ROADWAY
IMPROVEMENTS, CAMBRIDGE, MASS.
CAMBRIDGE, MASSACHUSETTS

COMMENTS ON ZONING
IN RESPONSE TO
DRAFT ENVIRONMENTAL IMPACT
REPORT AND ENVIRONMENTAL
ASSESSMENT

The draft document is deficient in its description of area zoning because it totally focuses on changes instituted by the Alewife Rezoning passed by the Cambridge City Council on June 16, 1980, while ignoring:

1. The significant relaxation of zoning regulations in the Alewife Triangle by the "Technical" Zoning Amendments passed on June 29, 1981; and
2. The apparent further relaxation of zoning regulations in the triangle by the Cambridge City Solicitor's opinion of June 29, 1983.

1. THE 1981 AMENDMENT CHANGED THE MAXIMUM BULK (F.A.R.) LIMITATIONS ON EACH LOT IN THE ALEWIFE TRIANGLE PUD-5 DISTRICT TO AVERAGE F.A.R. LIMITS OVER ANY NUMBER OF LOTS IN THE DISTRICT. THE LOTS AVERAGED ARE THOSE DESIGNATED BY THE DEVELOPER FOR COMBINATION, WHETHER THOSE LOTS ARE CONTIGUOUS OR NOT. THE 1981 CHANGE REMOVED MAXIMUM LIMITATIONS ON INDIVIDUAL LOTS, AND MADE IT MUCH MORE EASY TO ACCUMULATE SUFFICIENT AREA OF OWNERSHIP TO QUALIFY FOR EVEN LARGER AVERAGE LIMITS.

There is a major difference between maximum and average F.A.R. Very few developers build to the absolute maximum bulk permitted on each and every lot. As a result average development must be significantly below the established maximum. Alewife development under the previous zoning is an excellent example. The maximum development permitted on any given lot was an F.A.R. of 4.0. The average

development was probably less than 1.0. Another example is zoning proposed by the Cambridge Planning Board for the city's Simplex area. The most recent Planning Board proposal, filed in April of 1983, called for average development limits ranging from 1.5 to 3.0 F.A.R. with a limit per lot of 4.0, as the maximum F.A.R. The 1981 change at Alewife, by contrast, removed the maximum bulk limits on individual lots which were prominently reported in the draft document. Nowhere does the draft document state that the bulk limitations are no longer applicable.

The removal of bulk limits on individual lots drastically increased potential development in the area nearest Alewife Station, and significantly increased possible development throughout the Alewife Triangle. Under the 1981 amendment, development rights may be transferred from less valuable parts of the triangle to the most valuable part, that nearest Alewife Station. The areas nearest Alewife Station, with 70% ground cover, could see building construction at an F.A.R. of 6.0. With greater ground cover the density of construction could be higher. Prior to 1981 the maximum was 2.0 to 3.0. Areas furthest from the Station could be used to satisfy parking requirements. Similar zoning elsewhere in Cambridge has seen open space requirements satisfied on the roof of such garages.

The 1980 amendments permitted F.A.R.'s of 2.2, 2.4 and 3.0 on lots of 20 acres, 25 acres and 35 acres, respectively. The 1981 change removed the requirement that such development be on individual

lots. If a developer accumulates holdings anywhere in the triangle, whether contiguous or not, all holdings may now be counted toward the 20 acre, 25 acre and 35 acre holding requirements. Whether the developer builds on one lot or more than one lot, these maximum figures, once again, were changed into average figures over the entire holdings, with full transferability of development rights. The 1980 zoning permitted nearly 50% more development under nearly impossible conditions. The 1981 change made those conditions much less difficult to achieve.

The base zoning also has yard requirements which essentially require larger lots for buildings with the greatest F.A.R. These yard requirements are more restrictive than the F.A.R. requirements. Because of the yard requirement, for example, the smallest legal lots are restricted to development at F.A.R.'s below 1.0. No such yard requirements exist in the PUD.

As a result of yard requirements combined with F.A.R. transfer, it appears minimal that the 1981 amendments doubled possible development in the Alewife triangle. When this effect is combined with the nearly 50% increase in permitted bulk allowed the largest developers, the 1981 amendment could have tripled development permitted in the Alewife Triangle.

2. THE CITY SOLICITOR'S JUNE 29, 1983, OPINION CLAIMS TO REMOVE THE ESTABLISHED MINIMUM HOLDING REQUIREMENTS FOR PUD JURISDICTION AT THE DISCRETION OF THE PLANNING BOARD.

In his June 29, 1983, letter to the Assistant City Manager for Community Development, the Cambridge City Solicitor interpreted a

possible conflict in the zoning ordinance for the benefit of the Planning Board.

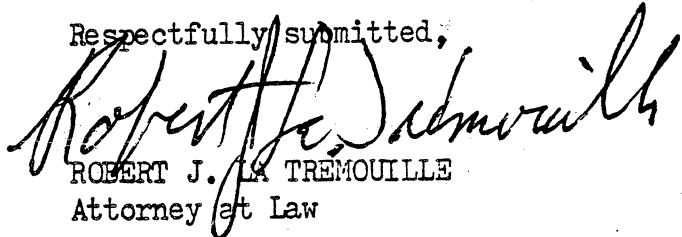
A developer in the eastern part of Cambridge wanted to use P.U.D. provisions in his part of the city. The developer, for all practical purposes, wished to provide no yard around his projected building. Under the base zoning district he needed a variance. Under the P.U.D. he needed a special permit. The jurisdictional minimum for Planning Board cognizance under the relevant P.U.D. district was two acres. The developer's holdings were approximately 1.8 acres.

The city solicitor found that this jurisdictional requirement conflicted with earlier, more general provisions of the zoning ordinance applicable to all P.U.D. districts. The City Solicitor ruled, as a matter of law, that the earlier, more general provisions, of the ordinance took precedence over the later, more specific provisions governing the P.U.D. in question. The city solicitor advised the Planning Board that it, at its discretion, could ignore the minimum holding requirement of the P.U.D. in question, as long as the applicant's holdings satisfied the earlier, more general provision.

This letter, by itself, could be interpreted as advising the Planning Board to ignore, at its discretion, the 35 acre minimum holding requirement for a developer to build at an average F.A.R. of 3.0. Prior to this city solicitor letter, one developer, Spaulding and Slye, had already asked the planning board to ignore the 22 acre jurisdictional holding requirement, for its holdings in the Alewife Triangle.

CONCLUSION. It appears quite clear that the zoning analysis in the draft document is deficient. Its failure to refer to these two changes constitutes a gross understatement of developemtn permitted under the relevant zoning and under the legal advice to the Planning Board.

Respectfully submitted,


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CAMBRIDGE, MASS
August 18, 1983

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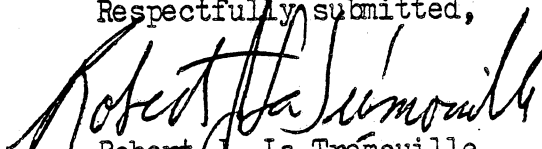
RE: EOEA Number 4326, Draft Alewife Roadway Improvements, Cambridge

Gentlemen:

Enclosed are my comments on zoning portions of the reference draft document. I hope that you will find these comments useful in your evaluation of the draft.

I have ten years experience in zoning and development in the City of Cambridge. During the past four years I have become one of the principle experts on Cambridge zoning law, and have been one of the principle participants in the evolution of that law.

Respectfully submitted,


Robert J. La Trémouille
Attorney at Law

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S-440

Comm. from Robert J. LaTremouille, Esq.,
transmitting a copy of a comm. sent to the
Exec. Office of Environmental Affairs Re:
EOEA Number 4326, Alewife Roadway Improve-
ments.

In City Council,

September 12, 1983

9/12/83

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ON
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