



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

May 25, 1984

Mr. Walter Milne
Assistant to the President
Massachusetts Institute of Technology
77 Mass. Avenue, Bldg. 5 - Room 208
Cambridge, MA 02139

Dear Mr. Milne:

Pursuant to the request of the City Council, I am forwarding to you a copy of the enclosed order as introduced by Councillor Graham on May 14th and subsequently adopted by the Council at its meeting of Monday, May 21st, 1984. Said order relative to development in the Cambridgeport Industrial District and stating that it remains the policy of the City Council to pursue balanced, community-oriented development within the Cambridgeport Industrial District.

Your very kind attention in this matter will be greatly appreciated by the City Council.

Very truly yours,

Paul E. Healy, City Clerk.

PEH/mh

Enclosure: City Council Calendar Item No. 9 of 5/21/84

cc: Melvin Roebuck, Vice-President, Forest City Rental Properties Corp.,
Drew M. Leff, D M L Development



City of Cambridge

--16--

(Calendar Item No. 9)

COUNCILLOR GRAHAM

IN CITY COUNCIL

~~May 14, 1984~~
May 21, 1984

- WHEREAS: It has been the policy of this City Council to promote an overall plan for integrated development of the Cambridgeport Industrial District; and
- WHEREAS: The City of Cambridge has supported a comprehensive study of the Cambridgeport Industrial District culminating in the publication of the Cambridgeport Revitalization Plan which has the following goals:
- promote the physical, social and economic diversity of the neighborhood
 - upgrade the physical and visual environment
 - encourage balanced development; and
- WHEREAS: This City Council finds piecemeal development of the Cambridgeport Industrial District, especially when conducted without public review and scrutiny, inconsistent with its policy and goals for the area; now therefore be it
- ORDERED: That it remains the policy of this City Council to pursue balanced, community-oriented development in the Cambridgeport Industrial District; and be it further
- ORDERED: That the City Manager be and hereby is requested to obtain, as soon as possible, but within four weeks, the current comprehensive plan under which the Massachusetts Institute of Technology and/or Forest City Rental Properties are pursuing development of the Cambridgeport Industrial District; and be it further
- ORDERED: That the City Clerk be and hereby is requested to forward a copy of this order to the Massachusetts Institute of Technology and to Forest City Rental Properties.

In City Council May 21, 1984.

Adopted by a voice vote.

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy, City Clerk.

Mr. Walter Milne, Asst. to the President
Massachusetts Institute of Technology
77 Mass. Ave., Bldg 5 - Room 208
Cambridge, MA 02139

Mr. Melvin Roebuck, Vice-President
Forest City Rental Properties Corp.
10800 Brookpark Road
Cleveland, Ohio 44130

Mr. Drew M. Leff
D M L Development
739 Boylston Street
Boston, MA 02116



City of Cambridge

-16-

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In City Council May 21, 1984.

Adopted by a voice vote.

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A true copy;

ATTEST:-

Paul E. Healy
Paul E. Healy, City Clerk.

Councillor Graham

DRAFT

May 14, 1984

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- ORDERED: That the City Clerk be and hereby is requested to forward a copy of this order to the Massachusetts Institute of Technology and to Forest City Rental Properties.

*order adopted by a
unanimous vote*
Ch. At. C. Graham



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

• (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

May 21, 1984

Mr. Robert W. Healy
City Manager
City Hall
Cambridge, Mass.

Re: Cambridgeport Industrial District

Dear Mr. Healy:

On May 14, 1984, the City Council requested that I draft a general ordinance as follows:

ORDERED: That the City Solicitor be and hereby is requested to draft a general ordinance which will cause the Department of Inspectional Services to issue demolition permits and building permits in the Cambridgeport Industrial District only after the applicant:

- (1) certifies that no residential, commercial or industrial tenants have been or will be evicted from the premises to be demolished more than sixty (60) days prior to the date when physical reuse of the site for new construction begins; and
- (2) plans for reuse of the site consistent with an overall redevelopment plan for the Cambridgeport Industrial District approved by the City Council have been filed with the Com-

munity Development Department and advertised as a public notice in local newspapers at least ninety (90) days prior to the effective date of the requested demolition permit.

In my opinion, the proposed ordinance would be beyond the power of the City Council, for the following reasons:

1. Insofar as the proposed ordinance attempts to regulate eviction of nonresidential tenants, it is not within the power of the City of Cambridge under the Home Rule Amendment because it constitutes the regulation of civil relationships not incidental to the exercise of an independent municipal power. See Marshall House, Inc. v. Rent Review & Grievance Board of Brookline, 357 Mass. 709 (1970). Eviction of residential tenants is already regulated by the City's Rent Control Ordinance, authorized by Chapter 36 of the Acts of 1976. The proposed ordinance does not indicate in what way the new ordinance would vary from existing eviction regulations.

2. Even if a redevelopment plan for the Cambridgeport Industrial District were approved by the City's legislative body, an ordinance limiting the issuance of building permits and demolition permits to projects for which plans consistent with the approved city plan had been submitted would not be authorized because the procedures called for by the proposed ordinance are not consistent with those mandated by Chapter 40A, the State Zoning Act.

3. Chapter 40A, the State Zoning Act, requires a city's legislative body to delegate approval of development plans to the Planning Board or Board of Zoning Appeals. The proposed ordinance would be invalid because it contradicts this requirement.

4. The proposed ordinance cannot be designated as a "general ordinance." It must be designated as an amendment to the Zoning Ordinance because regulation of development to require consistency with an approved plan constitutes zoning.

5. The proposed ordinance must be designated as an amendment to the zoning ordinance because it is to apply to only one district of the City and special regulation of a specified district is permissible only pursuant to Chapter 40A, the State Zoning Act.

6. The proposed ordinance would prohibit redevelopment of any sites with existing buildings until a redevelopment plan for the Cambridgeport Industrial District has been approved by the City Council. In spite of the work of the Community Development Department and the availability of the January 1983 Revitalization Plan, no such plan has been approved and future adoption of any such City plan is uncertain. If adopted prior to the approval of such a plan, the proposed ordinance would prohibit all redevelopment, and therefore constitute a "taking" of private property without just compensation in violation of the Fourteenth Amendment of the United States Constitution.

7. Insofar as the proposed ordinance would apply to demolition or building permits it should apply to all districts in the City of Cambridge. The reason is that special regulation of a specified district is permissible only pursuant to Chapter 40A.

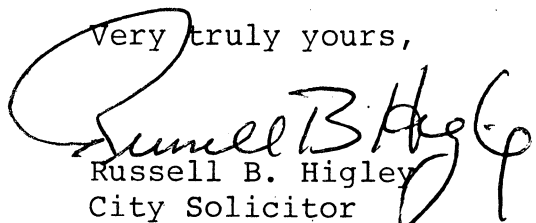
8. The proposed ordinance requires the approval by the City Council of a redevelopment plan. There is no authority for approval by a city's legislative body of redevelopment plans except in connection with urban redevelopment projects pursuant to Chapters 121A and 121B, which contemplate the taking of the land involved or the city providing financial assistance to the developer.

9. Insofar as the intent of the proposed ordinance is to assure that redevelopment meets the City's job opportunity and employment goals, the Cambridgeport Industrial District should be designated a "major economic revitalization area" pursuant to subsection 11.82 of the Cambridge Zoning Ordinance.

10. If the City Council believes it is appropriate to require review of development plans for the Cambridgeport Industrial District, it should designate the Cambridgeport Industrial District as an area of "special planning concern" under section 11.40 of the Cambridge Zoning Ordinance and require compliance with the development consultation procedures specified therein.

11. The proposed ordinance would conflict with G.L. c. 111, §127B and c. 143, §9, because those statutes place the demolition of buildings in Cambridge within the discretion of the Commissioner of Inspectional Services.

Very truly yours,


Russell B. Higley
City Solicitor

Councillor Graham

May 14, 1984

DRAFT

In City Council

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Ch. At. C. Graham



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Adopted by a voice vote.
Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy, City Clerk.

Order # 16 5-349

C. Graham order re: City Manager be requested to obtain as soon as possible the current comprehensive plan under which MIT and/or Forest City Rental Properties are pursuing development in the Cambridgeport Industrial District.

*Letter sent to Walter Milne, Asst. to M.I.J. President
transmitting copy of this order with copies to
Mayor Hebebrand, Pres. Forest City Rental
Properties Corp. & Brewster Corp. Development
Calendar # 9 5/25/84
5/21/84*

*Order Adopted
by
Voice Vote*

In City Council,

May 14, 1984

*5/14/84
Charter Right
exercised
by
Commissioner Graham*

James J. [Signature]