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Ordered: That the legal issues ~~relate~~  
in the ~~use~~ report of the  
September 12, 2001 Ordinance Committee meeting  
~~regarding~~

be referred to the City  
Solicitor for analysis and  
report back

regarding the  
request for a  
super  
majority  
vote  
to  
set  
back  
the



# City of Cambridge

O-39.

**IN CITY COUNCIL**

September 24, 2001

COUNCILLOR BORN  
VICE MAYOR MAHER  
COUNCILLOR BRAUDE  
COUNCILLOR DAVIS  
COUNCILLOR DECKER  
MAYOR GALLUCCIO  
COUNCILLOR REEVES  
COUNCILLOR SULLIVAN  
COUNCILLOR TOOMEY

WHEREAS: At the September 12, 2001 Ordinance Committee meeting on the ECAPS and Birk petition, there was public testimony that new case law exists regarding when a super majority vote will be required for a zoning amendment (see attached hearing report); now therefore be it

ORDERED: That the legal issue regarding the requirement for a super majority vote to amend zoning be referred to the City Solicitor for analysis and report back.

In City Council September 24, 2001.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

A handwritten signature in cursive script that reads "D. Margaret Drury".

ATTEST:-

D. Margaret Drury  
City Clerk

# City of Cambridge

**ORDINANCE COMMITTEE MEMBERS**

*Councillor Kathleen L. Born, Co-Chair*  
*Vice Mayor David P. Maher, Co-Chair*  
*Councillor Jim Braude*  
*Councillor Henrietta Davis*  
*Councillor Marjorie C. Decker*  
*Councillor Kenneth E. Reeves*  
*Councillor Michael A. Sullivan*  
*Councillor Timothy J. Toomey, Jr.*  
*Mayor Anthony D. Galluccio*

In City Council September 24, 2001

The Ordinance Committee held a public hearing on September 12, 2001, beginning at 4:40 P.M. in the Sullivan Chamber for the purpose of considering the Eastern Cambridge Planning Study (ECAPS) rezoning petition and the Birk et al. rezoning petition, in particular, the proposals for the petition areas other than North Point and the Volpe Center discussed at the September 5, 2001 hearing.

Present at the hearing were Vice Mayor David P. Maher and Councillor Kathleen L. Born, Co-Chairs of the Committee, Councillor Henrietta Davis, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr., and City Clerk D. Margaret Drury. Also present were Beth Rubenstein, Assistant City Manager for Community Development Department, Lester Barber, Community Development Department (CDD), Susann Rasmussen, CDD, Iram Farooq, CDD, Don Drisdell, Deputy City Solicitor, David Dickson, Goody, Clancy and Associates, consultant to the Eastern Cambridge Study Committee.

Councillor Born convened the hearing and explained the purpose. She opened the presentation of the ECAPS petition. Mr. Dash began with an overview of the topics to be covered in the presentation: transition areas, proposal for transfer of development rights in certain PUD areas, other small zoning changes and design guidelines.

Mr. Barber began the presentation with a description of the proposed Eastern Cambridge Housing Overlay (ECHO) District. The intent is to improve transitions between residential and commercial areas and to encourage the development of housing adjacent to existing residential neighborhoods. It allows commercial uses to remain as conforming uses, creates a 2:1 differential between residential and commercial FAR in two areas, one I B-1 between Binney Street and Bent Street and one along Monsignor O'Brien Highway, and applies more finely graduated height limits in the Binney transition area.

Mr. Barber then described the proposal for transfer districts to allow the relocation of commercial uses in the "donating" zone at either the current FAR or the site or what is currently built on the site. The old location must become housing or open space.

Mr. Barber next described a series of PUD's between First and Second Street and Monsignor O'Brien Highway and Linsky Way. Unlike the ECHO District, these PUD's are designed to encourage more mixed uses with ground floor commercial uses, while still providing encouragement for residential uses.

The final section of the ECAPS zoning changes was then described. Mr. Barber said that these proposals consist of a series of small changes throughout the study area that mostly carry forward the adjustments made in other parts of the city through the Citywide Rezoning Ordinance. They include proposals for a couple of exclusively housing zones and small changes in zoning designations to improve transitions.

Councillor Born asked if the possibility of transfers is more than a hypothetical possibility. Mr. Dickson said that the sites north of Binney are mostly small sites. The transfer provision is not a mechanism to engender significant development on receiving sites, except perhaps for one site on Fulkerson Street.

Councillor Born asked if Metropolitan Pipes, which has no intention to further develop its site could transfer FAR now by making an agreement for housing in the future. Mr. Barber explained that an owner can't retain the commercial site in the donating district after the transfer.

Councillor Born asked about the housing only districts. Mr. Barber said that most housing only districts proposed for East Cambridge in the City Rezoning petition were not recommended by the ECAPS study committee. The two proposed in this petition are: (1) a vacant lot along Harvard Street and (2) a Gore Street site including the neighborhood clinic. Councillor Born asked if the Cambridge Health Alliance is aware of a plan for rezoning the area of the site which the clinic occupies. Councillor Born asked CDD to make sure that the Cambridge Health Alliance is fully aware of the plan.

Councillor Toomey asked for information on the status of the vacant lot on Harvard Street.

At this time Councillor Born closed the presentation on the ECAPS petition and opened the presentation on the Birk et al. petition.

John Moot began the Birk petition presentation. He expressed concern with the fiscal aspects of the rezoning. He stated that the biggest question is what happens to Lechmere Station. The Planning Board map shows it moving across Monsignor O'Brien Highway, but there is nothing definite about this. He stated that if the Lechmere Station moves, land values will go down in East Cambridge. The gain in land value will be in North Point. There has not been a report on the financial aspects. Mr. Moot stated that there is also a fiscal impact with regard to the transfer districts. He urged that the Council receive a full analysis of the fiscal effects of the proposed petitions before making a decision.

Steve Kaiser continued the presentation. He stated that the Birk and ECAPS petition are not “all or nothing.” He submitted an analysis of the differences and similarities of the First Street PUD Districts (**Attachment B**). He emphasized the problems that will be created for pedestrians crossing if Lechmere Station is moved and First Street becomes a traffic bypass. Mr. Kaiser stated that the current zoning map is in error as to the boundary of Cambridge and Somerville. Mr. Kaiser also suggested that Cambridge invite the participation of the Volpe Center staff in light of their transportation expertise.

Stash Horowitz concluded the presentation on the Birk petition. He noted that the ECHO portion of the Birk petition is very similar to the ECAPS proposal for ECHO district. He stated that in the Birk petition, in general, there is a lower FAR, with increases to FAR as mass transit opportunities are increased. With regard to the transfer districts, the Association of Cambridge Neighborhoods (ACN) requires the transfer rights to be for housing development. He then emphasized the need to protect East Cambridge.

Councillor Sullivan asked Mr. Kaiser to expand upon the issues he raised with regard to traffic on First Street. He asked for a specific citation as to the Planning Board’s petition.

Councillor Sullivan asked the CDD whether the mixed use plan is intended to replicate Cambridge Street. Mr. Dash and Ms. Rubenstein answered in the affirmative. Ms. Rubenstein noted the importance of providing for retail amenities for the new residential district.

Councillor Sullivan pointed out that the plans call for housing on Binney Street, the truck route. Is this not a problem for the future? He asked about the setbacks on Binney Street and noted that one problem with truck traffic on the present streets is that there are not better setbacks. The houses are built right up to the public way. Councillor Sullivan asked if a police station could be built somewhere along Third Street. Mr. Barber said that he will check the specifics but generally in this type of base zoning institutional of use is allowed as of right.

Sean Curren, 2 St. Paul Street, stated that he is representing Capital Properties for their Athenaeum-related sites at 205 First Street, 195 First Street and Linsky Way. Capital Properties attended all of the ECAPS meetings. Mr. Curren submitted a written summary of his testimony and that of Mark Robitz, architect for the project (**Attachment C**).

Mr. Robitz, residential address, 154 W. Brookline Street, Boston, stated that the two additional parcels are inextricably linked to the site of the Athenaeum building through parking requirements, so development of those sites means replacing the Athenaeum parking as well as providing parking for the proposed project. The proposed ECAPS zoning is not dense enough to pay for underground parking, open space and affordable housing.

In response to a question from Councillor Born, Stuart Dash stated that if housing is included as part of the use, there must be a design review of the entire project. Councillor Born requested that CDD check this once again.

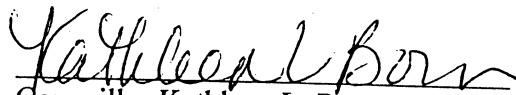
Eli Yarden, 143 Pleasant Street, questioned why the property owners are presenting their concerns after the study rather than during the study. He stated the necessity to remind the City Council of the intentions of the Citywide Rezoning Petition. Residents expect government to protect them and they expect accountability. The highest citizen goal is affordable housing. One-third of Cambridge residents don't make enough money to be able to afford the costs of housing, including affordable housing. Affordable housing is not intended to be subsidized housing. Traffic is not addressed in the ECAPS petition. There is no intent to plan for where the children graduating from CRLS will live. Stakeholders have the courts to protect their rights. Citizens do not elect councillors to balance their interests against those of business.

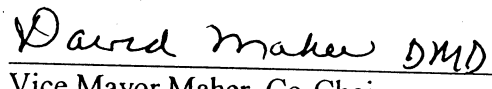
Councillor Born and Vice Mayor Maher announced that the Ordinance Committee have a 5:30 meeting on September 25 for public testimony on new issues that have not already been covered. They will also schedule a daytime working meeting for further committee member discussion.

The Co-Chairs thanked those present for their participation. The meeting was adjourned at 7:02 p.m.

The meeting was adjourned at

For the Committee,

  
Councillor Kathleen L. Born, Co-Chair

  
Vice Mayor Maher, Co-Chair



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D. Margaret Drury  
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**Order #39**

Report on the legal issue regarding the requirement for a super majority vote as contained in the report of the September 12, 2001 Ordinance Committee on the ECAPS and Birk petitions.

**Councillor Born, Vice Mayor  
Maher and entire membership**

**In City Council September 24, 2001**

**ORDER ADOPTED**