

From: Andy Zucker [andyzucker@gmail.com]
Sent: Monday, January 12, 2015 3:14 PM
To: City Council
Cc: Lopez, Donna
Subject: Legal opinion about the Planning Board's review of Special Permits

Note: Please enter this communication into the council record.

Dear Councillors,

Development in Cambridge needs to be carefully considered so that our city remains attractive and successful. In that context, please have the Law Department publish its opinion, including citations, regarding the Planning Board's discretion to deny Special Permits (as ordered by the Council on November 14 2014 and which the City Solicitor offered to write on Jan 5 2015).

A sensible approach, in accord with legal precedent, is that *a special permit "may be," instead of "will normally be," granted*. This reading is consistent with and reinforces the holding in *Humble Oil v. Board of Appeals of Amherst*, 360 Mass. 604, 605 (1971): "The mere fact that the standards set forth [in a bylaw or ordinance] are complied with does not compel the granting of a special permit. . ."

Sincerely,

Andy Zucker
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