

Existing zoning text is in normal font. Proposed deletions are in strikeout font.

Zoning petition language is underlined. Additional proposed language is in boldface.

Addition of a New Section 4.29

4.29 Conversion of Non Residential Structures to Residential Use

Where it is proposed to convert an existing principal-use structure designed and built for non residential use to residential uses or to certain non-residential uses not otherwise allowed in the applicable zoning district as set forth in the following Section 4.30 - Table of Use Regulations, such uses may be allowed after issuance of a special permit by the Planning Board consistent with the provisions of Section 5.28.2.

Changes to Existing Section 5.28.2

5.28.2 Conversion of Non Residential Structures to Residential Use

Where it is proposed to convert an existing principal use structure, designed and built for non residential use, to residential use (excluding Transient Accommodations, ~~Section 4.31 i (1) and (2)~~ **and Trailer Park or Mobile Home Park listed in Section 4.31 (i-j)**), the dimensional standards generally applicable in the district as set forth in the Tables of Dimensional Requirements in Section 5.30 and other applicable regulations in this Ordinance, including permitted uses, Section 4.30 – Table of Use Regulations, shall apply. However, where some or all of those requirements cannot be met, including any use, dimensional or procedural requirement that may apply in the base district, the following provisions shall apply to such conversion after issuance of a special permit by the Planning Board. The provisions in this Section 5.28.2 shall apply in all zoning districts with the exception of districts with an Open Space designation.

Intent of this Section:

- (a) To allow the economic reuse of buildings that may be substantially out of compliance with the dimensional requirements of the zoning district within which they are located, especially as they are converted to residential use.
- (b) To encourage the preservation of buildings of historic or cultural significance by providing opportunities for reuse of the structures.

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- (c) **To establish a framework of development standards and criteria within which existing non-residential buildings that are out of scale and character with surrounding residential uses can be converted to housing of an appropriate style and density while limiting potential negative impacts on neighbors.**

5.28.20 Allowed Uses

The Planning Board may permit uses not otherwise allowed in the base zoning district, subject to the following conditions and limitations:

- (a) The permitted uses shall be limited to the following:
- (1) All residential uses listed in Section 4.31 (a-h), but specifically excluding Transient Accommodations and Trailer Park or Mobile Home Park listed in Section 4.31 (i-j).
 - (2) The following institutional uses: Religious uses (4.33.a); Public or non-profit educational uses (4.33.b.1); Private preschool, day care, kindergarten (4.33.b.2); Local government or other government facility (4.33.f, 4.33.g); Private museum, library, non-commercial gallery (4.33.h.2).
 - (3) The following office uses: Office of an accountant, attorney, or other non-medical professional (4.34.b); Real estate, insurance or other agency office (4.34.c); General office use (4.34.d).
 - (4) Any uses allowed as accessory uses to the permitted principal uses.
- (b) All permitted non-residential uses shall be limited to the ground floor or basement of the building, and shall not occupy more than ten thousand (10,000) square feet or fifteen percent (15%) of the Gross Floor Area of the building, whichever is lesser. The Planning Board may permit non-residential uses to occupy other floors of the building only after determining that the location and design of such spaces, including access and egress, will not impact the privacy or security of residential occupants. However, the total floor area occupied by non-residential uses shall not exceed the floor area of the ground floor and basement.
- (c) The Planning Board shall determine that any proposed non-residential uses are generally compatible with residential uses in the area, including the

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dwelling units located within the same building, and will not cause harm or nuisance to surrounding uses.

- (d) The Planning Board shall determine that by permitting non-residential uses, there will be a compensating reduction in the number of dwelling units that would otherwise be permitted, and that the proposed non-residential uses will balance the potential adverse impacts of additional residential units, such as demand for nighttime parking.

5.28.21 *Gross Floor Area.*

The Gross Floor Area permitted shall be that which is the result of the application of the FAR permitted in the district in which the structure is located, or the existing Gross Floor Area of the structure itself, whichever is greater. However, the Planning Board may permit additional Gross Floor Area may to be added to the non residential structure without limit provided all construction creating additional Gross Floor Area occurs within the physical limits of the existing structure. **Where it is proposed to add Gross Floor Area above what would normally be allowed in the zoning district, the Planning Board shall determine that such additional floor area is necessary to accommodate a reasonable arrangement and layout of residential units within the existing structure.**

If Gross Floor Area is added to an existing structure such that the resulting Gross Floor Area is greater than twice what would be allowed under normal zoning district regulations (including the Inclusionary Housing provisions of Section 11.200 if applicable), then half the amount of Gross Floor Area added to the existing structure such that it exceeds twice the normal district limit shall be deducted from the total Gross Floor Area of the structure for the purpose of calculating the maximum permissible number of dwelling units under Subsection 5.28.22 below.

For projects of at least 30,000 square feet or twenty (20) dwelling units for which the total Gross Floor Area is greater than twice what would be allowed under normal zoning district regulations (including the Inclusionary Housing provisions of Section 11.200 if applicable), no more than seventy-five percent (75%) of the project's total Gross Floor Area shall be occupied by living space within private dwelling units, and the remaining Gross Floor Area shall be occupied by common areas such as hallways, stairways, lobbies, fitness/recreational spaces, common

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storage areas, above-grade parking facilities, laundry or other resident services, or approved non-residential uses.

5.28.22 *Dwelling Units.*

The number of dwelling units permitted shall be the number of dwelling units allowed under normal zoning district regulations (including the Inclusionary Housing provisions of Section 11.200 if applicable) that number which is the result of the application of the Lot Area Per Dwelling Unit requirement in the district in which the structure is located, or that number of units produced when the Gross Floor Area of the structure as permitted in Section 5.28.21 above is divided by 900 square feet, whichever is greater.

However, the Planning Board may permit a greater number of dwelling units, with the maximum permissible number of units determined by dividing the Gross Floor Area of the structure as permitted in Section 5.28.21 above, after subtracting any Gross Floor Area occupied exclusively by non-residential uses as permitted under Section 5.28.20, by 1,100 square feet for the first ten (10) units and by 1,900 square feet for any additional units. by the applicable figure in the table below, depending on the base zoning district designation and the size of the proposed development. For a given zoning district, the figure in the first column shall apply to the first ten (10) units proposed. Additional units shall be calculated using the figure in the second column. These figures shall not apply in Special District 2, for which regulations are set forth in Section 17.20.

Base Zoning Designation	First Ten (10) Units	Additional Units
Residence A-1, A-2	2,250 G.S.F./unit	3,375 G.S.F./unit
Residence B	1,250 G.S.F./unit	1,875 G.S.F./unit
Residence C, C-1 Special Districts 9, 10, 14	1,150 G.S.F./unit	1,725 G.S.F./unit
Other Districts	900 G.S.F./unit	1,350 G.S.F./unit

If a portion of the dwelling units meet the definition of Elderly Oriented Housing (notwithstanding the number of such units within the building), the Planning Board may permit the number of units to exceed the allowed maximum only for the specific purpose of accommodating such units, which may be smaller than conventional housing units.

5.28.23 *Yard Requirements*

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The required yards shall be those of the structure existing at the time of the conversion to residential use. However, any construction occurring outside the limits of the existing structure shall be subject to the yard requirements of the district in which the structure is located

5.28.24 *Maximum Height*

The maximum height shall be that height permitted in the district in which the structure is located, or the building height, whichever is greater. However, any construction that occurs outside the existing limits of the structure, other than construction exempt from the height limit as set forth in Section 5.23, shall be subject to the maximum height limit of the district in which the structure is located

5.28.25 *Private Open Space Requirements*

The Private open space requirement shall be that required in the district in which the structure is located, except as modified herein.

The dimensional and locational limitations for Private open space set forth in Section 5.22 shall not apply; any combination of at-grade private open space and decks and balconies at other levels shall be permitted as shall walks intended for non vehicular use. However, in every case where those requirements of Section 5.22 waived by this Paragraph (a) are not met, all portions of the surface of the lot shall be Green Area as defined in Article 2.000 that are (1) not covered by the building or (2) devoted to the minimum area necessary to provide at grade, conforming parking spaces and the minimum necessary circulation and driveways for no more than one parking space per dwelling unit. The amount of Private open space required may be reduced by the Planning Board should the Board find that full compliance cannot reasonably be expected given the existing development of the lot and the provision of parking necessary to serve the dwelling units.

However, where open space requirements are not met, the Applicant shall explore the use of portions of the interior of the building to provide recreational opportunities not possible on the exterior.

5.28.26 *Conforming Additions*

Conforming additions to such non-residential structures shall be permitted without reference to the limitations set forth in Section 8.22 for such additions to non-conforming structures.

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5.28.27 Required Parking

Off-street parking shall be provided as required in the Schedule of Parking and Loading Requirements, Section 6.36. In instances where 6.36 does not apply due to the proposed use not being allowed in the base zoning district, required off-street parking for approved residential uses shall be provided at a rate of one space per dwelling unit, and required off-street parking for non-residential uses shall be determined by the Planning Board after reviewing the requirements for that use within other zoning districts.

~~5.28.27~~5.28.28 Criteria for Approval of a Special Permit

In acting upon this special permit, the Planning Board shall consider ~~take into account~~ the standards and criteria set forth in Sections 10.43, 10.47 and 10.47.1 of this Ordinance, ~~in addition, the Planning Board shall consider~~ to the following review standards.

5.28.28.1 Criteria Applicable to All Projects

(a) Provision of Parking. Where it is proposed to add dwelling units above the limits established in the base zoning regulations, the Board shall evaluate the impact of increased numbers of dwelling units above that normally permitted in the district, on the demand for on-street parking by residents and visitors to the proposed building, particularly in neighborhoods where off street parking is limited.

In reaching a determination, the Board may require an analysis of on-street parking utilization on streets in the vicinity of the proposed development to consider available capacity relative to the demand generated by the proposed development. The scope and methodology of such an analysis shall be determined in consultation with City staff. that the Applicant provide elements of a Parking Analysis as set forth in Section 6.35.3 of the Zoning Ordinance. Where a project is subject to additional criteria as specified in Section 5.28.28.2 below, a Parking Analysis shall be required to be included with the Special Permit Application.

(b) Privacy Considerations. Where significant variations from the normally required dimensional standards for the district are proposed, the Board shall evaluate the impact on residential neighbors of the new housing use and any other proposed use as it may affect privacy. The location and size of windows, screening elements, decks, entries, security and other lighting, and other aspects of the design, including the distribution of functions within the

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building, shall be reviewed in order to assure the maintenance of reasonable levels of privacy for abutters, where significant variations from the normally required dimensional standards for the district are granted. In reviewing a proposed development plan, the Board shall consider, among other factors, the potential negative impacts of the new activity on abutters ~~and as a result of the location, orientation, and use of the structure(s) and its yards on adjacent properties as proposed.~~

(c) Reduction in Private Open Space. Where it is proposed to reduce the amount of on-site Private Open Space below that required in the applicable district, the Board shall evaluate the proposal in light of the following:

- (1) The extent to which screening and buffering from neighbors will be accomplished
- (2) The quality and viability of the proposed open spaces as they are designed
- (3) The tradeoff in benefits and negative impacts of the loss of green space in order to provide the required amount of parking, including consideration of the feasibility of alternate parking arrangements that might produce additional green area, such as placing some or all parking within the structure
- (4) The availability of common recreational spaces within the building to compensate for the loss of usable outdoor open space

(d) Community Outreach. The Planning Board shall consider what reasonable efforts have been made to address concerns raised by abutters and neighbors to the project site. An applicant seeking a special permit under this Section 5.28.2 shall solicit input from affected neighbors before submitting a special permit application. The application shall include a report on all outreach conducted and meetings held, shall describe the issues raised by community members, and shall describe how the proposal responds to those issues.

5.28.28.2 Additional Criteria Applicable to Larger Projects

Where the proposed project includes more than 10,000 Gross Square Feet or more than ten (10) dwelling units, and the proposed Gross Floor Area or number of dwelling units is above the maximum allowed under base zoning regulations, the Board shall evaluate the proposal in light of the following:

- (a) The implications of the size or number of additional dwelling units on the anticipated demand for parking. In order to assist the Planning Board in

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evaluating parking impacts, an applicant for a special permit shall be required to submit a Parking Analysis, as set forth in Section 6.35.3 of the Zoning Ordinance, as part of the special permit application.

- (b) The appropriateness of the proposed layout of floor space within the building for a multifamily residential use, with attention to the typical range of unit sizes and types that would be expected for housing in the neighborhood. Considerations may include the suitability of proposed unit configurations for a variety of households, the extent to which unusual unit sizes or shapes may impact parking or overall quality of life for neighbors, and the availability of customary amenities for residents such as storage, utilities, common rooms and recreational facilities.
- (c) The potential mitigating effects of the proposed occupancy of dwelling units. For instance, units designed for elderly residents or live/work spaces for professionals or artists may provide desirable housing options for Cambridge residents with fewer adverse impacts on parking or neighborhood character.

Additions to Article 6.000

6.35.3 *Parking Analysis*

6.35.31 The purpose of a Parking Analysis is to provide quantitative data to assist a special permit granting authority in considering certain projects. A Parking Analysis shall be submitted where it is specifically required by any provision of this Zoning Ordinance. A special permit granting authority may also request that elements of a Parking Analysis be provided when considering a project that proposes a deviation from parking requirements specified in the Zoning Ordinance or an increase in development density above the maximum allowed as-of-right under base zoning regulations.

6.35.32 Where a Parking Analysis is specifically required by any provision of this Zoning Ordinance, the proponent shall first consult with the Traffic, Parking and Transportation Department to determine the scope and methodology of such an analysis. The results of the Parking Analysis shall be included in any Special Permit Application for the project.

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6.35.33 For residential projects, a Parking Analysis shall include some or all of the following, with the specific type and level of analysis to be determined by the Traffic, Parking and Transportation Department based on the relevant characteristics of the proposal:

- (a) Estimates of the project's parking demand, as evidenced by vehicle ownership rates and peak parking occupancy data for comparable nearby residential projects, resident parking permit and motor vehicle registration data for the area, and/or other indicators of parking demand. These estimates should account for daytime and nighttime parking. Estimates may account for differences in parking demand given the occupancy of units, such as owner-occupied vs. rental units, market-rate vs. below-market-rate units, or elderly-oriented vs. conventional units. Estimates may also account for anticipated vacancy rates.
- (b) Maps showing the distance to alternate transportation options in the area, including MBTA rapid transit stations and bus routes, bike facilities, and car-sharing services.
- (c) Studies of on-street parking capacity and utilization in the vicinity of the project. Such studies should be conducted at night, and should account for the normal activity hours of other land uses in the area.
- (d) Where applicable, inventories and peak occupancy data for nearby off-site parking that will be available to the project's residents or visitors, either on a round-the-clock basis or by way of a shared use arrangement. Private, off-site parking shall only be applicable to the analysis if a long-term leasing arrangement is proposed to be made. Shared parking arrangements should be studied thoroughly to determine the minimum amount of parking required to satisfy the demand from all proposed land uses during any given time period.
- (e) A description of measures that will be implemented to reduce demand for private automobile use, such as the availability of car-sharing programs and/or incentives for residents or employees to walk, bicycle, or use public transportation, and estimates of the anticipated impact of those measures on parking demand.

6.35.1 Reduction of Required Parking. Any minimum required amount of parking may be reduced only upon issuance of a special permit from the Board of Zoning Appeals. A special permit shall be granted only if the Board determines and cites evidence in its decision that the lesser amount of parking will not cause

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excessive congestion, endanger public safety, substantially reduce parking availability for other uses or otherwise adversely impact the neighborhood, or that such lesser amount of parking will provide positive environmental or other benefits to the users of the lot and the neighborhood, including specifically, among other benefits, assisting in the provision of affordable housing units. In making such a determination the Board shall also consider whether or not less off street parking is reasonable in light of the following:

- (1) The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of an MBTA transit station.
- (2) The availability of public or commercial parking facilities in the vicinity of the use being served provided the requirements of Section 6.23 are satisfied.
- (3) Shared use of off street parking spaces serving other uses having peak user demands at different times, provided that no more than seventy-five (75) percent of the lesser minimum parking requirements for each use shall be satisfied with such shared spaces and that the requirements of Subsection 6.23 are satisfied.

Example: Office and Theatre uses with peak user demands at different times. Office requires a minimum of one hundred and fifty (150) spaces and the theatre requires a minimum of one hundred (100). Seventy-five (75) percent of the lesser minimum requirement is seventy-five (75) (75% of 100). Therefore seventy-five (75) spaces can be shared but twenty-five (25) (100-25) would still be required, making the total amount or required parking for both uses (150 + 25) one hundred and seventy-five (175).

- (4) Age or other occupancy restrictions which are likely to result in a lower level of auto usage; and
- (5) Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, significant negative impact on the historic resources on the lot, impairment of the urban design objectives of the city as set forth in Section 19.30 of the Zoning Ordinance, or loss of pedestrian amenities along public ways.
- (6) The provision of required parking for developments containing affordable housing units, and especially for developments employing the increased FAR and Dwelling unit density provisions of Section 11.200, will increase the cost

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of the development, will require variance relief from other zoning requirements applicable to the development because of limitations of space on the lot, or will significantly diminish the environmental quality for all residents of the development.

For a project seeking a reduction in required off-street parking for residential uses, a Parking Analysis shall be required as part of the Special Permit Application as set forth in Section 6.35.3.

Bo
(New)

DETERMINING THE NUMBER OF PERMITTED UNITS UNDER 5.28.2

Assume there is an existing non-residential building of 30,000 square feet with a 10,000 SF footprint on an 18,000 square-foot lot. The first floor of this building has approximately 24-foot ceilings, so the developer would like to add an in-between floor to create an additional story for residential uses.

Normal District Zoning (new building "from the ground up" on a vacant lot)

District	Residence A-2	Residence B	Residence C-1	
Lot Size	18,000	18,000	18,000	
GFA Allowed	9,000	7,050	17,750 *	* with inclusionary
2x GFA Allowed	18,000	14,100	35,500	
Units Allowed	4	5	16 *	* with inclusionary

5.28.2 Formula under the existing ordinance (conversion of an existing building)

Existing GFA	30,000	30,000	30,000
Infill GFA	+ 10,000	+ 10,000	+ 10,000
Total GFA	40,000	40,000	40,000
Units Allowed = Total GFA / 900	44 (max)	44 (max)	44 (max)

5.28.2 Formula under the proposed ordinance (using information above)

Infill exceeding 2x base allowed GFA	10,000 (all infill exceeds 2x)	10,000 (all infill exceeds 2x)	4,500 (only some infill exceeds 2x)
Total GFA	40,000	40,000	40,000
Deduct ½ infill exceeding 2x base	- 5,000	- 5,000	- 2,250 (Note 1)
GFA to determine # units	35,000	35,000	37,750
First 10 units @ 1,100	11,000	11,000	11,000 (Note 2)
Remaining GFA	24,000	24,000	26,750
Remaining units @ 1,900	12	12	14 (Note 2)
Total Units	10 + 12 = 22	10 + 12 = 22	10 + 14 = 24

Maximum Average Living Area Per Dwelling Unit

75% of Total GFA	30,000	30,000	30,000 (Note 3)
Divide by Max. # of Units	1,364	1,364	1,250

Note	Issue	How it is addressed
1. Infill space	Space between existing floors to fill large building volume of existing buildings such spaces as a gym or church sanctuary	Allow space to be filled in, but count only ½ infill space that exceeds twice the GFA allowed under normal zoning toward total GFA to determine # of units
2. Reducing number of units from what is allowed now	Under the current ordinance in all districts the total floor area is divided by 900 to get the allowed # of units	Under the proposed ordinance, the GFA would be divided by 1,100 for the first 10 units and 1,900 for remaining units
3. Area of private dwelling space	If the number of allowed units is reduced but the total GFA remains the same, the units might be very large	For buildings where GFA is twice what is allowed under base zoning, and where the project is at least 20 units, no more than 75% of the GFA can be occupied by private dwelling space. The rest must be common space or non-residential use.

DETERMINING THE NUMBER OF PERMITTED UNITS UNDER 5.28.2

With Non-Residential Uses Included

Assume there is an existing non-residential building of 30,000 square feet with a 10,000 SF footprint on a 15,000 square-foot lot in the Residence C-1 District. The first floor of this building has approximately 24-foot ceilings, so the developer would like to add an in-between floor to create an additional story for residential uses. *Also, there is space for a 3,000 square-foot day care use on the ground floor.*

Base C-1 zoning would allow 14,625 SF of building, based on the lot size. (15,000 x 0.75 [permitted FAR] x 1.3 for inclusionary = 14,625 SF)

Formula under the existing ordinance:

- Existing 30,000
- Infill floor area + 10,000
- Non-residential use 0 (not permitted)
- Total GFA = 40,000
- Divided by 900 = 44 units, maximum number of units allowed

Formula under the proposed ordinance:

- Existing 30,000
- Add 10,000 SF infill space = proposed GFA 40,000 (Note 1)
- Subtract ½ infill space that exceeds 2x normal district limit - 5,000 (Note 1)
- ***Subtract space for non-residential use*** - 3,000 (Note 3)
- GFA to determine number of units = 32,000
- GFA for first 10 units - 11,000 (Note 2)
- Remaining GFA 21,000
- Divide by 1,900 11 (Note 2)
- Maximum number of units allowed 10 + 11 = 21

DETERMINING THE AVERAGE AMOUNT OF FLOOR AREA PER DWELLING UNIT

For buildings where GFA that is twice what is allowed under base zoning, and where the project is at least 20 units, no more than 75% of the floor area can be occupied by private dwelling space. The rest must be common space or non-residential use.

Amount of GFA x 75% (40,000 x 0.75) = 30,000
 Divide by number of units (21) = 1,429 average SF/unit

Issue	Description	How it is addressed
1. Infill space	Space between existing floors to fill large building volume of existing buildings such spaces as a gym or church sanctuary	Allow space to be filled in, but count only ½ infill space that exceeds twice the GFA allowed under normal zoning toward total GFA to determine number of units
2. Reducing number of units from what is allowed now	Under the current ordinance in all districts the amount of floor area is divided by 900	Under the proposed ordinance, the GFA would be divided by 1,100 for first 10 units and 1,900 for the remaining units
3. Reducing amount of GFA for residential use	<i>Allow small amount of non-residential uses, ones that may be accessory to residential and are compatible with residential</i>	<i>Allow such uses as a day care center, accounting office, or real estate office.</i>

DETERMINING THE NUMBER OF PERMITTED UNITS UNDER 5.28.2

Assume there is an existing non-residential building of 30,000 square feet with a 10,000 SF footprint on a 15,000 square-foot lot in the Residence C-1 District. The first floor of this building has approximately 24-foot ceilings, so the developer would like to add an in-between floor to create an additional story for residential uses.

Base C-1 zoning would allow 14,625 SF of building, based on the lot size. (15,000 x 0.75 [permitted FAR] x 1.3 for inclusionary = 14,625 SF)

Formula under the existing ordinance:

- Existing 30,000
- Infill floor area + 10,000
- Non-residential use 0 (not permitted)
- Total GFA = 40,000
- Divided by 900 = 44 units, maximum number of units allowed

Formula under the proposed ordinance:

- Existing 30,000
- Add 10,000 SF infill space = proposed GFA 40,000 (Note 1)
- Subtract ½ infill space that exceeds 2x normal district limit - 5,000 (Note 1)
- GFA to determine number of units = 35,000
- GFA for first 10 units - 11,000 (Note 2)
- Remaining GFA 24,000
- Divide by 1,900 12 (Note 2)
- Maximum number of units allowed 10 + 12 = 22

DETERMINING THE AVERAGE AMOUNT OF FLOOR AREA PER DWELLING UNIT

For buildings where GFA that is twice what is allowed under base zoning, and where the project is at least 20 units, no more than 75% of the floor area can be occupied by private dwelling space. The rest must be common space or non-residential use.

Amount of GFA x 75% (40,000 x 0.75) = 30,000
 Divide by number of units (22) = 1,364 average SF/unit

Issue	Description	How it is addressed
1. Infill space	Space between existing floors to fill large building volume of existing buildings such spaces as a gym or church sanctuary	Allow space to be filled in, but count only ½ infill space that exceeds twice the GFA allowed under normal zoning toward total GFA to determine number of units
2. Reducing number of units from what is allowed now	Under the current ordinance in all districts the amount of floor area is divided by 900	Under the proposed ordinance, the GFA would be divided by 1,100 for first 10 units and 1,900 for the remaining units

Drury, Margaret

From: Craig Kelley [craigkelley62@Verizon.net]
Sent: Monday, July 18, 2011 2:01 AM
To: Drury, Margaret; Lopez, Donna; 'Sam Seidel'
Subject: Councillor Kelley's Comments for Monday, 18 July's Ordinance Committee meeting on 5.28 and Table of Uses proposed changes

Hi Margaret:

Turns out I can't make today's 5:15 PM meeting on 5.28, but I'd like to submit these comments in my absence.

Thanks a lot.

Craig

I am submitting this written statement for the July 18 Ordinance Committee meeting called to discuss the proposed changes to Section 5.28 of the Cambridge Zoning Ordinance.

First, this proposal is so bloated (multiple times as long as the current zoning language) that it will surely lead to even more "unintended consequences." I have absolutely no confidence that either City staff or the City Council have a clear understanding of what this zoning proposal will allow should it pass.

Second, this is certainly a Citywide "up zoning." It would explicitly allow apartment buildings in one and two family districts, and it would allow certain commercial uses, like offices, in impacted buildings in nearly every part of the City, including districts that are currently exclusively residential. Any zoning change that expands allowed uses, even if only on discrete properties, must be construed as an up zoning.

Third, it is a great disappointment that the only true outreach (as opposed to the formal and minimal legal public notices) was by an Association of Cambridge Neighborhoods flyer. That some Councillors have claimed that the flyer was very misleading rather than accurate as to up zoning was even more disappointing.

Fourth, I am even further disappointed that the entire basis for claiming that this is not an up zoning is that our City staff decided that, where our zoning ordinance explicitly and unequivocally says NO to multifamily uses, they can, on their own, turn the NO into a YES. This fundamental disregard for the rule of law- the thought that a clear NO can somehow become YES because of some vague references in our zoning code is troubling in many ways that extend far beyond zoning. When City officials and the City Council do not implement the law as clearly written, it erodes public trust in the willingness as well as the ability of the City to protect residents and business owners in all sorts of situations.

Several of my fellow Councillors claim that City staff has simply interpreted the law as it was "supposed" to be. This flies in the face of everything we expect in our country and runs counter to hundreds of years of jurisprudence. If we cannot trust the words of laws and ordinances as they were enacted, especially when they are as clear as our Table of Uses is in prohibiting multi-family uses in Residential A and B districts, how can we know what the rules really are?

72

Fifth, laws can be changed by due process. We are in that process. But I very concerned that this change is often justified by claiming that it is not an up zoning at all. Yet more absurd is the claim that this proposal actually tightens existing rules and even restricts development. If we believe, as some of us do, that certain neighborhoods are unfairly burdened by density and that there should be a more equitable distribution of, for example, affordable housing throughout the entire City, then we should discuss it openly. We need to stop our habit of adopting sweeping changes to the zoning ordinance without truly examining what the words say and being sure that's what we meant.

Sixth, when I look at the big picture for development in Cambridge, I cannot support expanding this zoning provision. It should instead be removed entirely and zoning language to convert existing buildings throughout the City developed from scratch. Conversions produce a tiny amount of residences at a tremendous cost to the immediate neighbors. This section was an incentive program for residential conversions based on the perception that there was a "housing crisis" in Cambridge.

Given the thousands of housing units that have been built recently or will be built in the foreseeable future in Cambridge, that crisis has come and gone.

This, the true major issue, is hidden by the smokescreen of endless detail in this proposed change. This proposal pushes more density into existing residential neighborhoods, neighborhoods that residents expect our zoning ordinance to protect. In fact, the City, through zoning, has approved the development of thousands of apartments (5000 is a good estimate) in the zones reserved for high density development: Kendall Square, North Point and Alewife.

We have decided that these areas have the necessary infrastructure and ability to support denser development. It is wrong to subject any neighborhood to dramatically increased density beyond the existing and accepted limits without effective notice. People see the church next door as the church next door, not 30 potential condo units. This section is a hidden trap that springs all sorts of unexpected consequences on our neighborhoods.

Seventh, I have expressed my disappointment in the process that has produced this proposed change. As everyone now knows, it started with the redevelopment of the former North Cambridge Catholic High School on Norris Street. In this case, the City staff did not protect the existing neighbors but instead creatively and almost certainly incorrectly read the zoning ordinance to favor a developer. As a result, a number of Norris Street residents have spent countless hours trying to protect their neighborhood. However, Citywide, a much larger number of residents have no idea of the consequences of this provision and have not been invited to any of the repeated private meetings with City officials.

It is inappropriate for the real negotiations on a Citywide ordinance to be conducted solely in private meetings with a small number of members of one neighborhood. Informal meetings like these generally improve the final product in any discussion about development, but they are only appropriate if all affected parties have the same access to City officials and politicians. That has not been the case with these discussions. There has been plenty of time to have a series of meetings around the City, as was frequently suggested in public hearings on this proposal, but City officials have not done so.

Zoning matters because buildings last far beyond our terms as Councillors. Zoning rules can enhance or devastate a neighborhood and our ability to follow those rules appropriately and change them through a true public process determines just how well those rules will do the former.

We need to be honest about what we're doing and engage the entire City in the discussion. Only then should we vote.

D

7/18

Proposed Intent Language:

The proposed changes to 5.28.2 include new restrictions related to dwelling unit density and size, which become more restrictive for projects that are significantly large and more dense than the surrounding neighborhood. An additional clause to the statement of intent clarifies that the purpose of these restrictions is to:

(c) To **establish** a framework of development standards and criteria within which existing non-residential buildings that are out of scale and character with surrounding residential uses can be converted to housing of an appropriate style and density while limiting potential negative impacts on neighbors.

“establish” is incorrect. We already had one “established.”

Corrected Intent Language:

The proposed changes to 5.28.2 include new restrictions related to dwelling unit density and size, which become more restrictive for projects that are significantly large and more dense than the surrounding neighborhood. An additional clause to the statement of intent clarifies that the purpose of these restrictions is to:

(c) To **clarify for developers and neighbors** a framework of development standards and criteria within which existing non-residential buildings that are out of scale and character with surrounding residential uses can be converted to housing of an appropriate style and density while limiting potential negative impacts on neighbors.

“clarification for developers and neighbors” is the only benefit identified by the planning board in their June 7, 2011 letter. This is the identified intent.

E,

Drury, Margaret

From: Young Kim [ycknorris@gmail.com]
 Sent: Monday, July 18, 2011 10:10 AM
 To: Seidel, Sam
 Cc: SamSeidel@aol.com; Craig Kelley; Drury, Margaret; Lopez, Donna; City Council; Dash, Stuart; Glazer, Susan; Roberts, Jeffrey
 Subject: Comments for Monday, 18 July's Ordinance Committee meeting on 5.28.2 Amendment
 Attachments: 5.28.2 Alt Analysis_7_15.xls

Dear Chairman Seidel,

I would like to thank Ms. Glazer and the Community Development Department (CDD) Staff for posting the Suggested Text Changes July 15, 2011 on the CDD website. Attached, please find my analysis of the changes, using 40 Norris Street as an example, which includes 2 scenarios based on the CDD recommended changes and 2 based on alternate proposal of limiting the re-use of non-residential unit to twice what is allowed in the base district (without footnote (j)). The alternate proposal is essentially what the neighbors of 40 Norris Street have been advocating based on the past 5.28.2 cases.

I would like to suggest the rule of

Maximum Living Area (as defined in the Assessor's Property Database) to be used for residential purpose = 2 * maximum allowed in the district per Table 5-1 without footnote (j) or currently existing living space which ever is larger with the remaining in-filled area to be used for residential common use (such as indoor green space in lieu of outdoor green space; community meeting/activity space; resident children's after school study area but NOT common service space such as hallways, utility rooms, boiler rooms, laundry rooms etc) or approved non-commercial use

as a simple and clear alternative to the CDD's proposed changes. This is shown in Scenario 4 of the attached and results in 23 units with average unit size 25% larger than average unit size currently on Norris Street.

The changes introduced in the July 15, 2011 states that "the remaining Gross Floor Area (25%) shall be occupied by common areas such as hallways, stairways, lobbies, fitness/recreational spaces, common storage areas, above-grade parking facilities, laundry or other resident services, or approved non-residential uses". This will have unintended consequence of very narrow hallways and lobbies etc should the developer devote a large portion of the remaining 25% of the GFA to non-residential uses to maximize his return of investment as shown in Scenario 2 of the attached.

In addition to the new changes introduced on July 15, the following shortcomings have not been addressed

1. Inconsistencies and unintended consequences within Section 5.28.2 (for ex. 5.28.2 does not exclude Lodging House as potential reuse)
2. parking requirement should be stipulated as one parking space/unit OR as determined by Parking Analysis
3. Parking Analysis provisions were added to Section 6.35.1 (reduction of required minimum parking which is a special permit from the Board of Zoning Appeals) but not to 6.35.2 (exceeding required maximum parking which is a special permit from the Planning Board)

Craig A. Kelley
6 Saint Gerard Terrace
Cambridge, MA 02140
617-354-8353

E-2

Through you, I respectfully urge the Ordinance Committee to recommend the following before the City Council votes on the amendment on August 1

1. a clearer and simpler rules for determining the maximum units allowed and limiting the density of the project
2. joining parking requirement of 1/unit to Parking Analysis
3. line by line review of the proposed amendment to
 - o correct any inconsistencies within the amendment
 - o remove excessive forward and backward references
 - o assess and mitigate impact of amendments to Sections other than 5.28 (Section 6 in particular) to overall Zoning Ordinance.

My wife and I thank you for your continued attention to this matter,

Respectfully your,
Young Kim
Chung Kim
17 Norris Street

Scenario	Description
1	CDD formulas for max unit calculation + 25% common area; no non-residential use
2	Scenario 1 with non-residential use of 1st floor right and left wings (i.e. BAS of left and right wing = 2 X 36 X 72 = 5184 square feet of GFA)
3	Maximum of twice the GFA allowed under the normal zoning without footnote (j) used in the max. unit calculations. Any excess GFA (due to new in-fill or as pre-existing excess) shall be used for common use (other than considered included in the "living Area" definition used in the Assessor's Property database) such as indoor green space; deeded storage space; community meeting room; afterschool learning center.
4	Same as 3 except use either current living space in the Property Database or 2 X Max allowed GFA whichever is larger in calculating the max number of units
Note 1	"Gross Floor Area (GFA)" used in all discussions is the "Living Area" in the Assessor's Property Database and is computed by the outside dimensions of the structure. Therefore, GFA includes common areas such as hallways, stairways, lobbies, boiler room, utility room, laundry room etc. See Living Area worksheet.
Note 2	48244 total square feet of GFA used in this analysis is based on the CDD chart dated 6/15/2011; Calculation based on revised drawings dated November 15, 2010 (Part of Special Permit Application) is shown in Living Area worksheet
Note 3	"Gross Floor Area (GFA)" used in all discussions is the "Living Area" in the Assessor's Property Database and is computed by the outside dimensions of the structure. Therefore, GFA includes common areas such as hallways, stairways, lobbies, boiler room, utility room, laundry room etc.
Note 4	For the purpose of this analysis, Inclusionary Housing provisions have not been included

Question The last paragraph of 5.28.21 in the 5.28.2 amendment posted on CDD website dated 7/15/2011 states that:

For projects of 20 units or more for which the total Gross Floor Area is greater than twice what would be allowed under normal zoning district regulations (including the Inclusionary Housing provisions of Section 11.200 if applicable), no more than seventy-five percent (75%) of the project's total Gross Floor Area shall be occupied by living space within private dwelling units, and the remaining Gross Floor Area shall be occupied by common areas such as hallways, stairways, lobbies, fitness/recreational spaces, common storage areas, above-grade parking facilities, laundry or other resident services, or approved non-residential uses.

So, if 20% of project's total Gross Floor Area is to be allocated to approved non-residential uses, does the above provision mean only 5% of total Gross Floor Area will be used for common areas such as hallways, stairways, lobbies, fitness/recreational spaces, common storage areas, above-grade parking facilities, laundry or other resident

Question 5.28.21.a services? This will lead to rather narrow hallways and stairways.

Scenario	Description
1	CDD formulas for max unit calculation + 25% common area; no non-residential use
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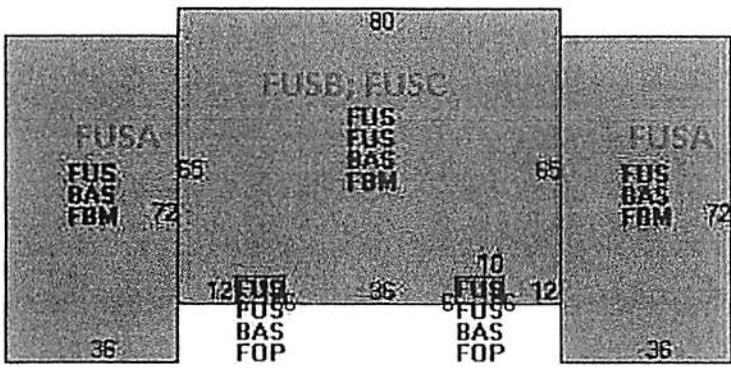
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 So, if 20% of project's total Gross Floor Area is to be allocated to approved non-residential uses, does the above provision mean only 5% of total Gross Floor Area will be used for common areas such as hallways, stairways, lobbies, fitness/recreational spaces, common storage areas, above-grade parking facilities, laundry or other resident services? This will lead to rather narrow hallways and stairways.

Question 5.28.21.a How will the mechanical rooms (including elevator shafts), utilities and below-grade parking area be accounted for? Will these area be counted at part of the 25% or the

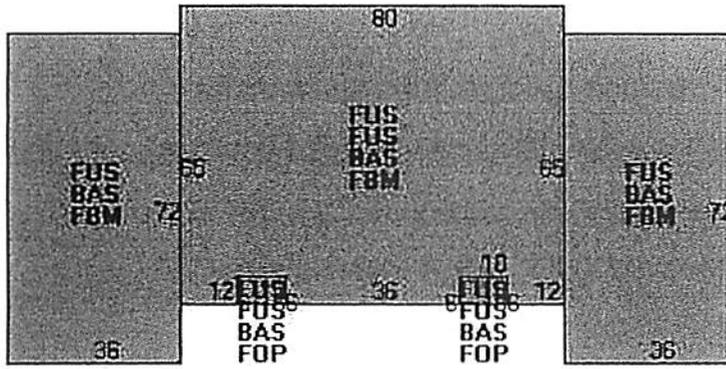
Question 5.28.21.b 75%?

E4

As Proposed by the developer



40 Norris Street As is in Cambridge Database



Living Area Analysis (Cambridge Property Database/Proposed Plan)

40 Norris Gross Area (Sq. Ft)	Length	Width	Gross Area	Living Area
Left Wing (LW)	36	72	2,592	
Right Wing (RW)	36	72	2,592	
Center (CW)	80	65	5,200	
Porch	10	6	60	
FUS (LW+CW+RW)			15,584	
BAS (LW+CW+RW)			10,384	
FBM (LW+CW+RW)			10,264	
FOP (2*Porch)			120	
Total Gross Area (including porch)			36,352	
Total Living Area (Gross - Porch)			36,232	
Additional 3rd floor LW/RW (FUSA)	36	72	2,592	
Additional Center 3rd floor Level 1 (FUSB)	80	65	5,200	
Additional Center 3rd floor Level 2 (FUSC)	43	28	1,204	
Total Additional Area (2*FUSA+FUSB+FUSC)			11,588	
Total Proposed Living Area			47,820	
% additional living space			32%	
40 Norris Lot Size			25,700	
Ratio of Proposed Living Area to Lot			1.86	

Item	Scenario 1 Description	Value
1	Lot Size, Sq. Ft.	25,700
2	Current Living Area, Sq. Ft.	36,232
3	As proposed by developer, Sq. Ft	48,244
4	Base Zoning (no inclusionary bonus) Allowed GFA per Table 5-1 Note (j)	9,745
5	No. of units under current 5.28.2 (900 sq. ft/unit truncated to integer) without in-fill	40
6	No. of units under current 5.28.2 with proposed in-fill (Item 3) - truncated to integer	53
7	2 X Allowed GFA (Item 4)	19,490
8	New GFA above 2x Allowed (Item 3 - Item 7)	28,754
9	Existing GFA above 2x allowed (Item 2 - Item 7)	16,742
10	Added GFA above 2x above allowed (Item 8 - Item 9)	12,012
11	GFA used for Unit Calculation = Total GFA proposed - 1/2 added GFA above 2x allowed = Item 3 - 0.5*Item 10	42,238
12	Less GFA for first 10 units @ 1100 Sq. Ft/unit	31,238
13	remaining GFA @ 1900 Sq. Ft./unit	16
14	Total Units under 5.28.2 Alternative	26
15	Residential common space = 25% of total GFA	12,061
16	Total unit area (i.e. area within apt walls) = Item 3 - Item 15	36,183
17	Avg apt size(Item 16/Item 14)	1,391
18	Basement boiler room + utility room width (approx from Nov 15 plan)	25
19	Basement boiler room + utility room length (approx from Nov 15 plan)	45
20	basement boiler room + utility room area	1,125
21	Total unit area (i.e. area within apt walls) excluding basement boiler room utility room & = Item 16 - Item 20	35,058
22	Avg apt size excluding boiler and utility rooms	1,348

E7

Item	Scenario 2 Description	Value
1	Lot Size, Sq. Ft.	25,700
2	Current Living Area, Sq. Ft.	36,232
3	As proposed by developer, Sq. Ft	48,244
3a	Hypothetical proposed non-residential use	5,184
3b	Net proposed residential use (Item 3 - Item 3a)	43,060
4	Base Zoning (no inclusionary bonus) Allowed GFA per Table 5-1 Note (j)	9,745
5	No. of units under current 5.28.2 (900 sq. ft/unit truncated to integer) without in-fill	40
6	No. of units under current 5.28.2 with proposed in-fill (Item 3) - truncated to integer	53
7	2 X Allowed GFA (Item 4)	19,490
8	New GFA above 2x Allowed (Item 3 - Item 7)	28,754
9	Existing GFA above 2x allowed (Item 2 - Item 7)	16,742
10	Added GFA above 2x above allowed (Item 8 - Item 9)	12,012
11	GFA used for Unit Calculation = Total GFA proposed - 1/2 added GFA above 2x allowed = Item 3 - 0.5*Item 10	42,238
12	less hypothetical non-Residential GFA (Item 3a)	37,054
13	Less GFA for first 10 units @ 1100 Sq. Ft/unit	26,054
14	remaining GFA @ 1900 Sq. Ft./unit	13
15	Total Units under 5.28.2 Alternative	23
16	Residential common space + non-residential use = 25% of Item 3	12,061
17	Total unit area (i.e. area within apt walls) = Item 3 - Item 16	36,183
18	Avg apt size (Item 17/Item 15)	1,573
19	Basement boiler room + utility room width (approx from Nov 15 plan)	25
20	Basement boiler room + utility room length (approx from Nov 15 plan)	45
21	basement boiler room + utility room area	1,125
22	Total unit area (i.e. area within apt walls) excluding basement boiler room utility room & = Item 17 - Item 21	35,058
23	Avg apt size excluding boiler and utility rooms	1,524
24	Residential common space (Item 16 - 5184 sq. ft. of hypothetical non-Residential use)	6,877
25	% of Residential common space of the total residential GFA (Item 22/Item 3b)	16%

Item	Scenario 3 Description	Value
1	Lot Size, Sq. Ft.	25,700
2	Current Living Area, Sq. Ft.	36,232
3	As proposed by developer, Sq. Ft	48,244
4	Base Zoning (no inclusionary bonus) Allowed GFA per Table 5-1 w/o Note (j) - Item 1 X 0.5	12,850
5	Maximum GFA for Residential Use = 2 X Allowed GFA (Item 4) - Preferred formula of Norris Street neighbors	25,700
6	Less GFA for first 10 units @ 1100 Sq. Ft./unit	14,700
7	remaining GFA @ 1900 Sq. Ft./unit	7
8	Total Units under 2X max residential use & CDD new unit size	17
9	Total units based on current 900 sq ft/unit and 2X max residential use	28
10	Avg unit size based on 2x max residential use & CDD new unit size based on Assessor's definition of living space	1,511
11	Avg unit size based on current 900 sq ft/unit and 2X max residential use	917
12	% increase over current average (Item 10/Item 11)	1
13	Living Space within private dwelling unit assuming 75% living space within private dwelling unit (75% of Item 10)	1,133
14	GFA to be used for approved non-residential use or other common residential units such as indoor green space; deeded storage space; community meeting room; afterschool learning center. (Item 3 - Item 5)	22,544

rio 4 Descr	Scenario 4 Description	Value
1	Lot Size, Sq. Ft.	25,700
2	Current Living Area, Sq. Ft.	36,232
3	As proposed by developer, Sq. Ft	48,244
4	Base Zoning (no inclusionary bonus) Allowed GFA per Table 5-1 w/o Note (j) - Item 1 X 0.5	12,850
4a	Maximum GFA for Residential Use = 2 X Allowed GFA (Item 4) - Preferred formula of Norris Street neighbors	25,700
5	Maximum GFA for Residential Use = 2 X Allowed GFA (Item 4a) or existing living space as defined in the Property database whichever is larger	36,232
6	Less GFA for first 10 units @ 1100 Sq. Ft./unit	25,232
7	remaining GFA @ 1900 Sq. Ft./unit	13
8	Total Units based on current existing living space and CDD unit size	23
9	Total units based on current 900 sq ft/unit and current living space	40
10	Avg unit size based on current living space & CDD new unit size based on Assessor's definition of living space	1,575
11	Avg unit size based on current 900 sq ft/unit and current living space	905
12	% increase over current average (Item 10/Item 11)	74%
13	Living Space within private dwelling unit assuming 75% living space within private dwelling unit (75% of Item 10)	1,181
14	Current Avg unit size for Norris Street based on Assessor's definition of living space	1,254
15	Allow 25% growth in avg unit size on Norris Street (Item 14*1.25)	1,567
16	Number of units using current living space with 25% growth factor and current avg unit size on Nooris Street	23
17	GFA to be used for approved non-residential use or other common residential units such as indoor green space; deeded storage space; community meeting room; afterschool learning center. (Item 3 - Item 5)	12,012

1. Limitations on floor area occupied by dwelling units vs. common space

Purpose: While the number of dwelling units is limited by 5.28.22, residents have expressed concerns about the impacts of unit size.

Approach: For projects that are particularly large (20+ units) and particularly dense (more than twice the Gross Floor Area allowed under normal zoning), require that a *maximum* of 75% of the total Gross Floor Area can be occupied by individual private residential units.

The remaining 25% (*minimum*) must be dedicated to:

- Residential common space (e.g., hallways, stairways, lobbies, fitness/recreational spaces, common storage areas, above-grade parking, laundry or other resident services)
 - Approved non-residential uses
- ⇒ *Note that mechanical rooms, utilities, and below-grade parking are not counted as Gross Floor Area*

2. Additional clarification of intent

Purpose: The proposed changes to 5.28.2 include new restrictions related to dwelling unit density and size, which become more restrictive for projects that are significantly larger and more dense than the surrounding neighborhood. An additional clause to the statement of intent clarifies that the purpose of these restrictions is to

Current Petition Language:

Intent of this Section:

- (a) To allow the economic reuse of buildings that may be substantially out of compliance with the dimensional requirements of the zoning district within which they are located, especially as they are converted to residential use.
- (b) To encourage the preservation of buildings of historic or cultural significance by providing opportunities for reuse of the structures.

Proposed New Clause:

- (c) To establish a framework of development standards and criteria within which existing non-residential buildings that are out of scale and character with surrounding residential uses can be converted to housing of an appropriate style and density while limiting potential negative impacts on neighbors.

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Proposed New Clause:

- (c) To establish a framework of development standards and criteria within which existing non-residential buildings that are out of scale and character with surrounding residential uses can be converted to housing of an appropriate style and density while limiting potential negative impacts on neighbors.