



CAMBRIDGE CITY COUNCIL

David P. Maher
City Councillor

April 9, 2012

TO: THE HONORABLE, THE CITY COUNCIL

FROM: DAVID P. MAHER, ORDINANCE COMMITTEE CHAIR DM

Please be advised that it has come to my attention that the rezoning petition filed by the Planning Board for the North Massachusetts Avenue area contains a clerical error on page 10 in **3. Minimum Linear Frontage**. The word "residential" should be stricken and replaced with the words "non-residential".

Please find attached a corrected copy of the North Massachusetts Avenue Zoning Petition for your information.

Please refer this version of the petition to the Planning Board and Ordinance Committee for a hearing and report.

Thank you for your attention in this matter.

REVISED LANGUAGE

20.100 MASSACHUSETTS AVENUE OVERLAY DISTRICT

20.101 *Establishment and Scope.* There is hereby established the Massachusetts Avenue Overlay District, which shall be governed by the regulations and procedures specified in this Section 20.100. It is the intent of this section that these regulations will apply to the area described generally as Northern Massachusetts Avenue and certain abutting portions of the neighborhoods abutting it.

20.101.1

The following text divides the Massachusetts Avenue Overlay district into 3 Subdistricts. Subdistrict 1 extends from Harvard Square to Porter Square, Subdistrict 2 is at Porter Square, and Subdistrict 3 extends from Porter Square to the Residence B / BA2 zoning district line.

20.101.1 The Massachusetts Avenue Overlay Districts shall be divided into three subdistricts as described below.

1. Overlay Subdistrict 1 at Agassiz-Neighborhood Nine shall be that portion of the Overlay District, having a base Business A-2, Residence C-2A or Residence C-3 zoning district designation, extending on the westerly side of Massachusetts Avenue from the centerline of Arlington Street on the north to Waterhouse Street on the south; and on the easterly side of the Avenue from the Residence B/Business A-2 zoning district line on the north to the centerline of Wendell Street on the south.

2. Overlay Subdistrict 2 at Porter Square shall be that portion of the Overlay District having a base Business C and abutting Residence B and Residence C-1 zoning district designations.

3. Overlay Subdistrict 3 at North Cambridge shall be that portion of the Overlay District, having a base Business A-2 zoning district designation, extending on the southwest side of Massachusetts Avenue from the centerline of Creighton Street on the east to the centerline of Cottage Park Avenue on the west; and on the northeasterly side of the Avenue from the centerline of Beech Street on the east to the Residence B/Business A-2 zoning district line on the west.

20.102 *Purpose.* It is the purpose of this Section 20.100 to augment base zoning regulations in the District in order to create a more harmonious and consistent image for ~~the~~ development along the Avenue and adjacent areas, to encourage good building design and site development ~~which that~~ enhances the pedestrian ~~amenities~~ experience of walking along the Avenue, to ensure that changes along the Avenue are compatible with the scale and character of the

abutting neighborhoods and to encourage such change where current site development is inconsistent with these purposes, to encourage the retention of existing buildings of historic value and to encourage uses, especially retail uses, which that serve the abutting neighborhoods, and to discourage new development inappropriate in both scale and design.

20.103 *Applicability.* The Massachusetts Avenue Overlay District shall be an overlay district on the zoning map established by Section 3.20. **Provisions of this Section 20.100 shall apply equally to each of the Overlay Subdistricts Districts 1-3 except as otherwise provided herein.**

20.103.1

The purpose of the following text change is to clarify that the base zoning district may be modified by the Overlay District.

20.103.1 The buildings and land uses within said district shall be controlled by the pertinent regulations ~~within of~~ the **applicable** base zoning district, except as **they may be** modified by the requirements of this Section 20.100, which shall apply in addition to regulations imposed by the base zoning ~~map designations districts. Where the base zoning regulations differ from the requirements of this Section 20.100 the stricter provisions shall apply except where a waiver from those requirements is granted by special permit from the Planning Board under any of the provisions of this Section 20.100.~~

20.104 *Dimensional Standards in the Massachusetts Avenue Overlay District.*

20.104.1 *Maximum Height.* The maximum height of any structure in the Overlay District shall be sixty (60) feet or the height applicable in the base district, whichever is less.

20.104.2

This text is not necessary as the changes it referred to are explained in the next paragraph.

~~20.104.2 — *Modifications to the Definition of Gross Floor Area.* Notwithstanding the definition of Gross Floor Area contained in Article 2.000 — Definitions, the following shall not be included as part of the gross floor area of any building in the Overlay District.~~

20.104.2

Allows the area dedicated to bay windows to be exempt from the calculation of gross floor area of a building.

20.104.21 — *Floor Area Waiver for Enclosed Bays and Projections.* Notwithstanding the definitions of Gross Floor Area (GFA) and Floor Area Ratio (FAR) contained in Article 2.000 – Definitions, the floor area contained within enclosed bays and other small projections from the principal wall plane of a building, including projections and bays carried to the ground, normally included defined as Gross Floor Area, shall be exempted from the calculation of GFA and FAR on a lot, provided all of the following standards are met:

- 1. The exempted bays and projections are must not extend more than three and a half (3.5) feet ~~or less in depth~~ from the principal exterior wall plane of the building, and ~~do not~~ no individual bay or projection may exceed ~~six (6)~~ twelve (12) feet in width, further provided that the following conditions are met:**
- 2. No more than fifty (50) percent of the area of each principal wall plane is may be covered with such projections.**
- 3. The total floor area of each exempted bay or projection may not exceed thirty two (32) square feet on any single story of the building.**

20.105

Restrictions in Required and/or Provided Setbacks. That area between the principal wall plane of a building and a public street or public park whether required or provided shall be devoted to Green Area Open Space as defined in Article 2.000 of this Ordinance, an expansion of the adjacent public sidewalk, park, or other landscaped or paved area devoted exclusively to pedestrian use and extending along the entire length of the lot facing the street or park. Areas devoted to vehicular use are prohibited from this area with the exception of access drives to parking facilities located elsewhere on the site and which shall be limited to a total of thirty (30) feet of width for each one hundred (100) feet of lot frontage.

The required Green Area Open Space, landscaping or other paved area devoted to pedestrian uses shall be located at the mean grade of the relevant public street or open space at the property line unless an exception is granted under the provisions of Section 20.108 of this Section 20.100.

Where a building fronts on more than two streets, the provisions of this Section 20.105 shall apply on only two streets. In any case, where a building fronts Massachusetts Avenue, these provisions shall apply to the Massachusetts Avenue frontage.

20.106 *Special Use Provisions*

20.106.1

Clarifying language regarding the ground floor.

20.106.1

Use Restrictions. The ground (first) floor of that portion of a building facing a public street or public park shall consist of Gross Floor Area devoted to any one or combination of the following uses: Residential (Section 4.31), Office (Section 4.34), retail business (Section 4.35), Institutional (Section 4.33), but specifically excluding Gross Floor Area in structured parking counted as Gross Floor Area, meeting the following conditions:

1. At least eighty (80) percent of the floor elevation of the ground (first) floor shall be ~~no higher than the four (4) feet above~~ at the mean grade of the adjacent public sidewalk ~~or public park, at the property line,~~ except that ~~Retail Business residential and dormitory~~ uses *in new construction shall* may be located ~~at~~ no higher than four (4) feet above mean grade;
2. The use shall have a depth of at least ~~twenty forty (20 40)~~ feet;
3. Where a lot fronts on two **or more** streets the provisions of this Section 20.106 shall apply only to the principal arterial street frontage provided the remainder of the ground floor of the building facing the public street shall be screened with a permanent wall in materials equal in quality to those of the rest of the building and having a minimum opacity of fifty (50) percent.
4. One parking space for each unit in a Townhouse **Development** shall be exempt from the limitations of this Section 20.106.
5. **These provisions shall apply to any building constructed on or after October 6, 1986 (the effective date of adoption of this Section 20.100). However, a building constructed before October 6, 1986, which in whole or in part meets the requirements of this Section 20.106.1, shall not be altered so as to increase the degree to which it does not comply with this Section 20.106.1**

20.107

Design Standards

20.107.1

Clarifying language regarding building facades.

20.107.1

Building Facades. Building facades shall be designed to enhance the visual quality of the Overlay District, create an environment pleasant and inviting for the pedestrian and compatible with the residential neighborhoods in close proximity to the district. The following standards shall apply **to any building**

constructed on or after October 6, 1986 (the effective date of adoption of this Section 20.100). A building constructed before October 6, 1986, which in whole or in part meets the requirements of this Section 20.107.1 shall not be altered so as to increase the degree to which it does not comply with this Section 20.107.1:

1. Principal building entrances shall face Massachusetts Avenue where a lot abuts the Avenue;

2. ~~Where office and/or retail~~ For any uses except residential uses, Section 4.31 (a) - (h) that are accommodated on the ground floor, each separately leased space shall have an individual public entrance onto the abutting street where any portion of the space fronts towards the street;

3. Facades facing (a) a public street, (b) a public park located on an abutting lot, or (c) designated city historic landmark building, or building in a local historic district or neighborhood conservation district, located on an abutting lot, shall consist of a minimum twenty-five (25) percent clear glass in total for the façade. ~~with~~ On the ground floor façade facing a street, clear glass shall be increased to fifty (50) percent ~~on the ground floor where retail and office uses are established~~ except where residential uses, Section 4.31 (a) - (h) are accommodated; the remainder of the façade shall continue to meet the minimum twenty-five (25) percent requirement. Where a building faces two or more streets, the minimum fifty (50) per cent glass requirement shall apply to no more than two streets.

Reflective ~~and opaque~~ glass shall be prohibited on any portion of a building.

For purposes of this Paragraph 3, where reference is made to the area of a façade of any given floor, the vertical dimension of that floor shall be measured from the finished interior floor to the underside of the structural joists of the floor above. The horizontal dimension shall be measured to the centerline of the demising wall of a separately leased space, or to the exterior wall of the building, as applicable. Where reference is made to the entire façade, the vertical dimension shall be measured from the mean grade of the façade facing the street (or other feature) to the underside of the structural rafters supporting the roof.

Where the façade of the ground floor is required to have a minimum of 50% clear glass, that glass shall be distributed on the façade such that at least seventy-five (75) per cent of the required glass is located below the midpoint between the finished floor and underside of the joists above.

20.108 Divergence from the standards specified in Sections 20.105 - 20.107 may be allowed by issuance of a special permit from the Planning Board. The Board shall grant such a permit upon its determination that the development proposed will better serve the objectives of this Section 20.100 than if the standards were followed and that the criteria specified in Section 10.43 will be satisfied.

The Board shall be guided in its determination by *Northern Massachusetts Avenue Urban Design Guidelines* and other such guidelines as may be established for this portion of Massachusetts Avenue. This Section 20.108 is intended for variations from the standards which may be appropriate in specific locations and circumstances and where careful design detail is a controlling factor.

20.109 *The Massachusetts Avenue Overlay District shall be considered an area of special planning concern.* Notwithstanding the provisions in Section 19.43.1 – Applicability of Large Project Review Procedure, in the Massachusetts Avenue Overlay District the Large Project Review Procedure shall apply to any development proposal containing more than two thousand (2,000) square feet of Gross Floor Area but less than fifty thousand (50,000) square feet, unless such development is exempt by virtue of the provisions of Section 19.45.

20.110

This text is not necessary as there is already a standard for non-conforming structures that applies across the city.

~~**20.110 Nonconforming structures. Notwithstanding the provisions of Section 8.23, that portion of a legal, nonconforming structure lying within the Massachusetts Avenue Overlay District which is destroyed or damaged by fire, explosion, or other catastrophe may be rebuilt or restored and used again, in the same way as it had been legally used immediately before the damage, without limit as to cost of such rebuilding or restoring provided the following conditions are met:**~~

~~**1. Any restoration or rebuilding shall commence within twelve (12) months after the catastrophe;**~~

~~**2. The structure shall be restored or rebuilt to the same design, including materials and design details as existed previously, or should the restoration not be feasible necessitating that the structure be rebuilt to a different design, said design shall be at least equal to the original design of the structure in quality of materials used, the quantity and quality of design details employed, and the compatibility of the site design with abutting properties;**~~

~~**3. The Community Development Department shall certify to the Superintendent of Buildings that the above conditions have been met.**~~

~~With respect to the comparability of newly designed buildings, the Community Development Department shall consult the Cambridge Historical Commission for structures greater than fifty (50) years old. Should the Community Development Department find that said conditions have not been met the restoring or rebuilding shall require a special permit from the Board of Zoning Appeal.~~

~~The restored or rebuilt structure shall in no aspect increase the nonconforming nature of the original structure; nothing in this Section 20.110, however, shall prohibit a rebuilding or restoring which reduces the nonconforming nature of the original structure.~~

20.110 *Provisions Applicable to Individual Overlay Subdistricts.* The following provisions shall only apply to development within the Overlay Subdistrict specified. Unless otherwise indicated, the general provisions of the Massachusetts Avenue Overlay District shall continue to apply as well.

20.110.1 *Provisions Applicable to the Overlay Subdistrict 1.* There are no special provisions related to Overlay Subdistrict 1.

20.110.2 *Overlay Subdistrict 2.* The Overlay Subdistrict 2 is located at Porter Square.

20.110.21 *Additional Dimensional Standards for Lots Located in both a Business C Zoning District (Overlay Subdistrict 2) and an Abutting Residence C-1 or Residence B Zoning District*

The provisions of this Section ~~20.104.310.1~~ shall apply to lots held in single ownership as of June 1, 2008 that are located entirely within the Overlay ~~District~~ **Sub-District 2** and shall be granted after the issuance of a special permit from the

Planning Board

1. *Modification of the Transitional Requirements of Section 5.40.* The Planning Board may waive the Front and Side Yard and Height requirements of Section 5.40 for Hotel or Motel Use provided the Board finds that the intended buffering provided by the provisions of Section 5.40 is reasonably provided through other means. The Board shall specifically find the following:

a. The lot contains a contiguous area that is within the adjoining residential district.

- b. The portion of the lot in the residential district is substantially dedicated to at grade Green Area, Permeable, or Publically Beneficial Open Space as defined in Article 2.000.
- c. The portion of the lot dedicated to Open Space provides an adequate transition buffer between any structure constructed in the commercially zoned portion of the lot and adjacent residential uses in the residential district. Such Open Space shall have a minimum depth of twenty (20) feet.

2. *Modification of the FAR limitations for a Hotel or Motel Use (Sections 5.30 and 5.33), for a lot located in both a Business C (**Overlay Subdistrict 2**) and a Residence B Zoning District.* The Planning Board may allow a FAR of 1.60, calculated on the area of the entire lot, in both the Business C and Residence B districts, subject to the following conditions and limitations:

a. All of the resulting Gross Floor Area will be located on the Business C portion of the lot.

b. All parking required by this ordinance will be located in a below-grade parking facility.

c. The at-grade portion of the lot within the Residence B District is substantially dedicated to Green Area, Permeable, or Publically Beneficial Open Space as defined in Article 2.000.

d. The additional FAR of 1.60 shall only apply to the first 15,000 square feet of a lot. For portions of the lot greater than 15, 000 square feet the FAR permitted in the applicable base Business C and residential districts shall continue to apply.

e. No preferably preserved significant building, as determined by the Cambridge Historical Commission, is demolished, as set forth in the City of Cambridge Demolition Ordinance #965.

20.110.22 *Accessory Parking and Vehicular Access for Hotel Use.* Notwithstanding the provisions of Table 4.30 and Section 6.22., for a lot located in both a Business C (**Overlay Subdistrict 2**) and a Residence B zoning district, the Planning Board may grant a Special Permit to allow accessory Hotel or Motel Use parking within the Residence B District, including vehicular access to the parking facility and loading facility, with the following limitations and conditions:

- 1. The portion of the lot in the Residence B district is contiguous to the portion of the lot in the **Business C** District.
- 2. The parking is located in a below-grade parking structure.

3. The at-grade portion of the lot within the Residence B district is substantially dedicated to Green Area, Permeable, or Publically Beneficial Open Space as defined in this Ordinance.

20.110.3

The following changes apply to North Massachusetts Avenue from Porter Square to the Residence B / BA2 zoning district line.

20.110.3 Provisions Applicable to the Overlay Subdistrict 3.

20.110.31

The ground floor must include at least one of the listed active non-residential uses.

20.110.31 Required Ground Floor Non-residential Uses.

On any lot located in Overlay Subdistrict 3 (as described in Section 20.106.1), the ground floor of any building that fronts directly on Massachusetts Avenue shall consist of at least one (1) active non-residential use meeting the following requirements:

1. Range of Permitted Uses. The required ground-floor active non-residential uses shall be limited to one or a combination of the following uses:

- a. Section 4.34 a (office of a physician, dentist or other medical practitioner not located in a clinic listed under subsection 4.33(d)), b (office of an accountant, attorney, or other non-medical professional person (includes properly licensed massage therapists)), c (real estate, insurance or other agency office), d (general office use), e (bank, trust company or similar financial institution (retail banking only));
- b. Section 4.35 a (Retail sales), c (barber shop, beauty shop, laundry and dry cleaning pickup agency, shoe repair, self service laundry or other similar establishment), d (hand laundry, dry cleaning or tailoring shop), e (lunchroom, restaurant, cafeteria), f (restaurant or bar), g (entertainment), h (theater or hall for public gatherings), i (commercial recreation), k (printing shop, photographer's studio), l (veterinary establishment, kennel, pet shop or

- similar establishment), o (fast order food establishment), q (art/craft studio), r (bakery, retail);
- c. Section 4.36 a (Sales place for flowers, garden supplies agricultural produce conducted partly or wholly outdoors; commercial greenhouse or garden);
 - d. Section 4.56 a (4) (Religious social or recreation center), c (4) (college theater), e (4),(5)and (6) (medical clinics), f (social service or community center), g (3) (museum), g(5) (public park, playground, or public recreation building), i (2) (museum or non commercial gallery)

The following lists the dimensional standards that the active non-residential uses on the ground floor must meet.

2. Minimum Depth. The required ground floor use shall have a minimum depth of 40 feet measured from the Massachusetts Avenue frontage of the building (or the full depth of the building if less than 40 feet).

3. Minimum Linear Frontage. The required ground floor non-residential use shall occupy a minimum of 75% of the linear frontage of the building facing Massachusetts Avenue.

4. Individual Store Size. Any separately leased required ground floor non-residential use in Overlay Subdistrict 3 shall contain no more than 5,000 square feet of gross floor area, which shall include any floor area located below grade.

5. Minimum Ground Floor Height. For any ground floor portion of a building containing a required non-residential use the minimum ground floor height shall be 15 feet measured in the manner described in Paragraph 20.107.1 (3).

20.110.32

The following text describes some of the dimensional requirements that can be modified with Planning Board approval as well as criteria for Planning Board approval for active non-residential uses not specifically listed above.

20.110.32 The Planning Board may grant a special permit to waive certain requirements of Section 20.110.31 as set forth below:

1. Modifications to the Dimensional Provisions of Section 20.110.31

The Planning Board may approve modifications to the dimensional requirements set forth in subsection 20.110.31(2) – (5) upon making a determination that (a) the proposed modified dimensions do not substantially derogate from the intent of the requirement to provide for a reasonably continuous active ground floor frontage along the public street and (b) the overall floor area of required active non-residential ground floor uses is not substantially reduced and (c) the modifications are the minimum necessary to reasonably accommodate the new construction on the lot.

2. Additional Non-residential Uses Not Otherwise Permitted in Section 20.110.31

The Planning Board may approve active non-residential ground floor uses not specifically listed in subsection 20.110.31(1) upon making a determination that the proposed ground floor uses will provide services or amenities to the general public and will promote an active, pedestrian-friendly streetfront consistent with the objectives of Section 20.110.31.

20.110.33

The following text describes when a building cannot meet the active non-residential use on the ground floor requirement. This is generally not allowed without a variance, unless all of the following apply: the existing site does not currently contain a ground floor non-residential use and has not within the past 5 years, the ground floor non-residential use would be detrimental to abutting properties or the neighborhood, and active ground floor non-residential uses would not be viable at the location; at which point the Planning Board may grant a special permit to waive the ground floor requirements described above.

20.110.33 Construction of a building not meeting the ground floor use requirements of Section 20.110.31

1. Where it is proposed to construct a building in the Overlay Subdistrict 3 that cannot meet either the requirements of Section 20.110.31 or the standards by which modifications to that section are permitted by special permit as set forth in Section 20.110.32, such construction may proceed only if the Board of Zoning Appeal

grants one or more variances for the provisions that cannot be met.

The Planning Board may grant a special permit to waive the requirements of Section 20.110.31 to allow the construction of a building substantially or completely devoted to residential or dormitory uses provided the Board determines that all of the following conditions and requirements are met:

- (a) the existing site does not currently contain active non-residential uses as listed in subsection 20.110.31(1), and has not contained such uses within the past five (5) years prior to applying for a special permit;
- (b) the provision of active non-residential ground floor uses would be detrimental to abutting properties or to the neighborhood character;
- (c) that active non-residential ground floor uses would not be commercially viable at that specific location.

20.110.34

The following text describes the FARs allowed. For residential uses with an active ground floor non-residential use the maximum FAR is 1.75. For all other uses the maximum FAR allowed is 1.0

20.110.34 *Special FAR Provisions.* Notwithstanding any provision applicable in the base zoning district or elsewhere in the Overlay District, in the Overlay Subdistrict 3 the following provisions shall apply:

1. Mixed Use Lots. The maximum FAR shall be 1.75 for any lot that consists entirely of residential or dormitory uses, as listed in Section 4.31, and paragraph 4.33(b)(7), above the ground floor and includes ground floor active non-residential uses meeting the requirements of Section 20.110.31, as may be modified by the Planning Board pursuant to Section 20.110.32.

2. Other Lots. The maximum FAR shall be 1.0 for any lot that does not meet the definition of a Mixed Use Lot as set forth in Paragraph (1) above. This shall include any lot that is predominantly non-residential in use or any lot that is predominantly residential or dormitory in use but does not meet the requirements of Section 20.110.31, and shall specifically include any lot for which a waiver has been granted pursuant to Section 20.110.33.

20.110.35

Lots with historic structures along North Massachusetts Avenue are exempt from the ground floor requirements described in this section, but are still subject to a maximum FAR of 1.0. The Planning Board may grant a special permit for additional FAR (up to a maximum of 1.75) on a lot with a historic structure provided that it will not cause detriment to the historic structure.

20.110.35 Special Exemption for Historic Structures.

Any lot containing a historic structure or a structure of potential historic significance as determined by the Cambridge Historical Commission shall be exempt from the requirements of 20.110.31. However, if such lot does not meet the requirements of Section 20.110.31 then the maximum FAR on the lot shall be 1.0. The Planning Board may grant a special permit to increase the allowed FAR, but not to exceed 1.75, upon finding that the increased FAR would not cause a detriment to the identified historic structure or potential structure of historical significance.

20.110.36 Further Dimensional and Parking Modifications.

To encourage the preservation and expansion of retail and other active commercial uses on the ground floor of existing or new buildings in the Overlay Subdistrict 3, the following modifications to the requirements of the base zoning district and the Overlay District shall be permitted:

The maximum height allowed for a mixed use residential building that includes an active non-residential use on the ground floor is increased from 45 feet to 50 feet, and the building is exempt from the bulk control plane regulations.

1. Maximum Height. Notwithstanding any provision in the applicable base zoning district, any mixed use structure that meets the requirements of Sections 20.110.31 and 20.110.34 (1) shall have a maximum height of 50 feet, and shall be exempt from the bulk control plane requirements of Footnote 5.33 (k).

Any basement space that directly serves the ground floor non-residential use is exempt from the calculation of FAR.

2. Gross Floor Area Exemption. Notwithstanding any provision of the applicable base zoning district, the gross floor area of any basement space directly serving a ground floor establishment of any mixed use structure that meets the requirements of Sections 20.110.31 and 20.110.34 (1) shall be exempt from the calculation of FAR.

Automobile parking requirements for the active non-residential use on the ground floor may be waived for up to 5,000 square feet.

3. Motor Vehicle Parking Exemption. Notwithstanding any provision of the applicable base zoning district, the motor vehicle parking requirement for any ground floor non-residential space meeting the requirements of Section 20.110.31 may be waived for up to 5,000 square feet of the gross floor area of any individual establishment.

Seasonal temporary outdoor seating for eating establishments is exempt from parking requirements up to 50 seats or 50% of the permanent seats, whichever is less.

4. Outdoor Seating. Notwithstanding any provision of the applicable base zoning district, seasonal, temporary outdoor seating available for any length of time between April 15 and October 31 shall be exempt from the parking requirements of Section 6.36.5 (e) and (f) for any retail use listed in Section 6.36.5 (e) or (f), provided that the total number of exempt seasonal seats does not exceed fifty (50) or fifty percent of the total number of permanent seats provided at the establishment, whichever is less.