



CITY OF CAMBRIDGE
Community Development Department

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To: Robert W. Healy, City Manager
From: Brian P. Murphy, ^{OPM} Assistant City Manager for Community Development
Date: March 29, 2011
Subject: Request to refile a zoning petition to amend Section 5.28.2 of the Zoning Ordinance.

Last fall when a private developer purchased the former North Cambridge Catholic High School on Norris Street for housing, the Community Development Department was asked to review the provisions of Section 5.28.2 of the Zoning Ordinance which allow by Special Permit from the Planning Board the conversion of a non-residential structure to housing. As requested by the City Council, CDD drafted an amendment. That rezoning request will expire on April 19, 2011. We are submitting the attached more comprehensive language with this petition.

Since the fall, the Mayor convened a series of conversations with the Norris Street neighbors and staff to discuss language that would address a range of neighborhood concerns about the project. While the proposal now incorporates many of the neighbors' issues, there are some citywide policy implications that should be discussed in the wider context of the Planning Board and Ordinance Committee public hearings.

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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)), 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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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.

(c) The Planning Board shall determine that any proposed non-residential uses are generally compatible with residential uses in the area, including the 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.

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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.

5.28.22 *Dwelling Units.*

The number of dwelling units permitted shall be **determined by applying the zoning regulations applicable to the number of dwelling units allowed in the base zoning district** ~~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 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	1,150 G.S.F./unit	1,725 G.S.F./unit
Special Districts 9, 10, 14		
Other Districts	900 G.S.F./unit	1,350 G.S.F./unit

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5.28.23 *Yard Requirements*

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.

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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.

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.

~~5.28.275.28.28~~ *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**

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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 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

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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 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.

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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.

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.**

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- (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 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.

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- (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 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.