



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

Date: [DRAFT REPORT – August 27, 2019]

Subject: Affordable Housing Overlay Zoning Petition

Recommendation: [DRAFT – FOR PLANNING BOARD REVIEW]

To the Honorable, the City Council,

The Planning Board held a public hearing on the Affordable Housing Overlay City Council Zoning Petition (the “Petition”) on June 25, 2019. At that hearing, the Board heard a presentation from Community Development Department (CDD) staff and testimony from the public, asked questions, and raised key points of discussion. The Board continued its hearing on July 9, 2019 to discuss the Petition further, and again heard testimony from the public.

Board members expressed varying points of view on the Petition. Some members expressed strong support for the Petition as part of a strategy to facilitate the creation of affordable housing and offset the increasing unaffordability that threatens the diversity of the City. Other members expressed concerns, mainly focused on the increased scale and density of developments compared to existing development patterns under current zoning, and the potential consequences of a permitting process that does not require special permit approval.

At the conclusion of the July 9, 2019 hearing, the Board did not vote to make a recommendation, but requested that CDD staff work with the Planning Board Chair to draft a report summarizing the comments made by Board members, to be reviewed by the Board at a future hearing prior to taking a vote.

[TO BE COMPLETED BASED ON THE ACTION THE BOARD TAKES: At the Board’s September 3, 2019 hearing, the Board voted to adopt this report and forward it to the City Council.]

Key Issues

In its initial discussion of the Petition on June 25, 2019, Board members identified a few high-level issues, which were discussed in greater depth on July 9, 2019 in order to identify areas of agreement and disagreement. These issues included whether the Petition’s proposed overlay zoning should provide an as-of-right zoning path for affordable housing developments, whether this overlay should be citywide or targeted to specific areas, and whether there should be a provision to revisit the overlay zoning at some point in the future, if it is adopted.

Board members expressed a general consensus that if the proposed overlay zoning is adopted, it should be citywide in scope. Equity and fairness were cited as major considerations for a citywide approach. Some Board members also noted that there are currently a variety of building types in all districts, and that there are sites throughout the City that could be suitable for housing development of the type envisioned by this proposal. Members were generally supportive of the idea that different height and dimensional limitations were appropriate for different types of districts, though the specifics of the proposed limitations were not discussed in detail, and some members expressed concerns about the density that could result in some areas from the limitations as currently proposed.

Board members were also generally supportive of a “sunset” or “look-back” provision to revisit the zoning at some point in the future, although a range of different ideas were suggested for what form such a revisitation could take. One suggestion was a “sunset” that would take effect after reaching a particular affordable housing goal, such as the creation of 1,000 affordable units, or reaching some neighborhood-specific goal to promote equitable distribution throughout the City. Another suggestion was to conduct, after a specified number of years, an analysis of the overall effects of the zoning, a progress update on the City’s affordable housing goals, and a revisitation of the overlay provisions themselves. Some members noted that a defined “sunset” date would need to be sufficiently far in the future as to account for the time needed to permit, finance, build and establish occupancy of tenants in a development. Rather than recommend one approach, Board members opted to convey these options so that the Council could decide which approach would be preferable from a policy viewpoint.

The issue that prompted the most debate among Board members was the as-of-right permitting approach. As presented by CDD staff, the intent of structuring the zoning to enable as-of-right permitting is to lessen the uncertainty in the current process, in which nearly all affordable housing developments need to seek some type of zoning relief in the form of special permits or variances and usually apply for such relief through the comprehensive permit process (authorized in Chapter 40B of Massachusetts General Laws).

Some Board members expressed concerns about creating an as-of-right process because the process of seeking zoning relief, usually through the comprehensive permit process, allows the City and immediate abutters to exercise greater control over design outcomes, particularly in cases where the scale and density of a development might be greater than neighboring uses. Other Board members expressed strong support for as-of-right permitting because it would provide the needed predictability to enable more affordable housing production to advance the City’s goals.

The Board discussed this particular issue in depth. Despite not reaching full consensus, Board members expressed some common sentiments:

- There was general agreement that design is an important issue. The proposed overlay would require a non-binding advisory review process involving meetings with the community and with the Planning Board. Some Board members expressed skepticism about whether such a process would be effective without some form of binding approval.

Other Board members noted that the Planning Board's role is currently advisory, because the Board of Zoning Appeal (BZA) makes a final decision on comprehensive permit applications after the Planning Board makes a non-binding recommendation. Some Board members expressed that the effectiveness of the design review process relies not just on the ability to withhold approval, but on the ability for staff and Planning Board members to influence the design in a constructive way. There was a sense that there needed to be a balancing on two axes – between as-of right and discretionary permitting, on one hand, and between flexible and specific standards on the other hand. Some Board members felt that if the dimensional and design standards were adequately specific, they could be comfortable with as-of-right permitting. Others liked the flexibility of the proposed standards, but therefore wanted projects developed using this flexibility to be subject to a special permit process.

- Several Board members expressed greater comfort with an as-of-right permitting process when the developments are of a more limited size and scale. It was noted that not all housing developments require approval by the Planning Board and generally only projects that exceed certain size thresholds do. It was suggested that there could be similar thresholds, such as overall project size or density, after which a binding review process might be required. However, some Board members noted that any provisions requiring a special permit would not make much difference compared to the current scenario, because any special permit relief would likely be sought through the same comprehensive permit process that is currently available.
- Even among Board members who expressed concerns over the specifics of the proposal, there was overall support for measures that would enable the creation of affordable housing. Members in favor of retaining a stronger approval process nonetheless noted that the approval should focus on design and/or dimensional considerations and not on whether affordable housing is appropriate in general.

Other Issues

The following is a list of other suggestions made by Planning Board members in discussing the specifics of the proposal. Board members did not reach a consensus on supporting the following suggestions, but they are offered for consideration:

- **Parking:** Board members discussed the proposed parking requirements and expressed varying views. It was suggested that if 0.4 space per unit is the appropriate minimum ratio based on observed utilization, and that there should be a waiver for proximity to transit, such a waiver should be based on walking distance and not absolute distance from transit. In addition, some members thought the proposed minimum standards were too low, while others thought that if the data supported the reduced standards, then they could be reasonably applied to all developments and not just under the proposed overlay. It was also suggested that bicycle parking standards should be met.

- **Density:** It was suggested that density controls, such as floor area ratio (FAR), could be considered as limitations or as thresholds for binding review.
- **Building stories:** It was suggested that the definition of “story above grade” parallel the definition in the building code, that there not be a minimum height per story, and that there be greater clarification about the treatment of stories below grade.
- **Step-downs:** Some Board members suggested further investigation of scenarios where taller buildings might be close to existing buildings with small existing setbacks, where an additional step-down might be appropriate.
- **Units:** Board members suggested seeking ways to encourage family-sized units and homeownership units.
- **Distribution of developments:** Board members discussed a suggestion that there might be a required spacing apart of projects permitted under the proposed overlay, to encourage greater distribution. However, some Board members noted that this idea might become complicated to apply in practice, and expressed concerns that it could defeat the purpose of the overlay by adding constraints that would make otherwise preferable sites unviable.
- **Trees:** Some Board members acknowledged concerns that were raised about tree removal and felt that development permitted through this overlay district should not be exempted from complying with the City’s tree ordinance. Although existing tree protection is regulated separately from the Zoning Ordinance, it was an issue that some Board members thought should be considered.
- **Demolition of existing structures:** Some Board members raised as a consideration the impacts on historic resources and existing housing.
- **Clarity of Text:** Board members had suggestions for ways the language of the zoning text could be improved, which were communicated to CDD staff.

Finally, Board members expressed appreciation for the interest that this proposal has generated in the community and noted that the discussion has raised other, non-zoning approaches that should be considered, and the zoning proposed in this Petition should not be viewed as an alternative that would preclude consideration of other affordable housing solutions. It was also suggested that there should be ways to raise awareness and promote communication with members of the community who are not well represented among people who have been able to attend meetings on this topic.

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