



CITY OF CAMBRIDGE, MASSACHUSETTS

P L A N N I N G B O A R D

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

Date: July 30, 2025

Subject: Marasao, et al., Zoning Petition (Religious Uses)

Recommendation: The Planning Board submits this report with comments and no positive or negative recommendation.

To the Honorable, the City Council,

On May 20, 2025, the Planning Board (the “Board”) held a public hearing to discuss a Zoning Petition by Mushla Marasao, et al., a group of at least ten registered voters represented by Lubavitch of Cambridge, Inc. (the “Petitioner”) to amend the Cambridge Zoning Ordinance in Sections 5.28.21, 8.22.1, 8.22.2, and Table 5.1. The overall effect of the changes would be to remove gross floor area (GFA) and floor area ratio (FAR) limitations for religious uses, permit conforming additions to nonconforming structures without limitation for religious uses, and permit religious uses with the same dimensional limitations as residential uses. In addition, in a Residence C-1 district, certain open space requirements otherwise applicable to residential uses would not be applicable to religious uses, religious use buildings would be permitted up to 6 stories and 74 feet above grade without meeting inclusionary housing requirements, and religious use buildings taller than 35 feet and 3 stories above grade would not be required to notify neighbors and hold a meeting.

The Board heard a presentation from representatives of the Petitioner and comments from many members of the public. The Board also received written materials in advance from staff in the City’s Community Development Department (CDD) and from members of the public. After hearing testimony and briefly discussing the Petition, the Board voted to request a legal opinion from the City Solicitor to answer questions about state and federal laws pertaining to religious uses, then continued the hearing to a future date.

On July 8, 2025, the Board resumed the hearing after having received a letter from City Solicitor Megan E. Bayer dated June 16, 2025 (which was also provided to the City Council). After discussing this additional material with the City Solicitor and CDD staff, hearing additional comments from the Petitioner and members of the public, and deliberating on the Petition, the Planning Board voted to forward a report to the City Council with no positive or negative recommendation. This report summarizes the points raised during the Board’s deliberations.

Board members acknowledged that the Petition poses difficult questions and that the City Council will need to consider many issues beyond those within the purview of the Planning Board. The Council should carefully consider the legal factors described in the City Solicitor’s letter regarding state and federal laws and the City’s potential legal liability in the event of a

challenge to permitting decisions. The Board voted to transmit comments only related to planning issues, with the understanding that the City Council (with the advice of the City Solicitor) will need to weigh the full range of considerations and come to a decision that considers the interest of the City as a whole even if it does not fully align with the Board's views on planning issues.

Board members noted that this Petition proposes a substantial change to how religious uses are regulated but was not part of a planning study or significant community engagement process. The proposed changes mostly follow the recently adopted changes to support multifamily housing, which were based on longstanding planning goals to promote housing growth and affordability and were subject to extensive discussion by the City Council and the community before adoption. Through the course of community engagement and public hearings on the multifamily zoning amendments, many concerns were raised around issues such as height impacts, open space, and neighborhood input. In shaping the final zoning, the Council needed to weigh these concerns against the larger goal of promoting housing. The current proposal is not grounded in similar planning efforts. Some Board members suggested that the proposal may have benefitted from more time spent on community discussion and planning.

Board members expressed specific concerns about the parts of the Petitions that waived requirements for religious uses that would otherwise be applicable to residential uses, including open space and neighborhood notification requirements in Residence C-1. Several Board members expressed support for the Ordinance Committee's request to consider removing those provisions to make the requirements at least equivalent to those for residential uses.

Another specific area of concern was height. When considering whether to allow residential buildings of up to 6 stories in Residence C-1 districts, the Council spent considerable time weighing the impacts of additional height against the broader public interest in promoting housing affordability, ultimately requiring that developments above 4 stories need to meet inclusionary housing requirements. Under the current proposal, the allowed height for religious uses would be 6 stories without specified benefits that would counterbalance the impact of height above 4 stories. That issue could benefit from further consideration, while acknowledging the constraints under RLUIPA that a requirement must serve a compelling government interest and apply the least restrictive means of doing so. A special permit process for additional height was suggested as one option to consider how impacts could be mitigated on a site-specific basis, although a special permit might raise concerns about the risks of discretionary approval as discussed in the City Solicitor's letter. It would also be different than the approach to housing, which is based on an as-of-right affordability requirement.

Board members also discussed the issue of intensity of use, which describes the different types of impacts (such as transportation demand) that different uses might have based on the type of activity taking place. Limitations on residential uses were set with an expectation of the type of activity taking place in and around a residence. Non-residential uses tend to have more varied types of activity and therefore different intensities of use. Religious uses could incorporate many different types of activities including assembly, classrooms, offices, and living quarters, which can all have different impacts at different times. Board members did not make any specific

suggestions, but expressed concern that regulating the full range of potential religious uses in the same uniform way as residential uses could lead to unanticipated outcomes.

Finally, Board members acknowledged the concerns around legal liability when discretionary permits are needed, but also noted (as described in the City Solicitor's letter) that a case-by-case analysis is required to determine the appropriate application of regulations under RLUIPA. Whatever the zoning regulations are, there will be some cases where zoning relief or other special approvals are needed to accommodate the needs of a specific religious use. In those cases, the City's boards will need to use their discretion to make decisions consistent with RLUIPA. Board members expressed faith in the City's boards and administration to take their responsibilities seriously and treat such applications fairly.

The Planning Board voted 6-0 in favor of transmitting the above report, with one member absent.

Respectfully submitted for the Planning Board,

Mary Flynn, Chair.