

CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

NOTICE OF DECISION

Permit No: #234

Address: 345-355 Fresh Pond Parkway

Applicant Owner: Fresh Pond Real Estate Development, LLC
1443 Beacon Street, Brookline, Mass. 02446

Zoning District: Business A, Residence B

Application Date: November 30, 2007

Public Hearing: January 8, 2008

Planning Board Decision: January 22, 2008

Date of Filing Decision: April 7, 2008

Application: Special Permit for a waiver of the Parkway Overlay District development standards (Section 20.63.7), and Special Permit for a waiver of setback requirements (Article 6.000), to demolish existing underutilized 6,325 square foot retail building and construct a 19,400 square foot two-floor retail and office building.

Decision: GRANTED with conditions

2008 APR - 7 AM 11:14
CITY OF CAMBRIDGE, MASSACHUSETTS
COMMUNITY DEVELOPMENT DEPARTMENT

Appeals if any, shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the filing of the above referenced decision with the City Clerk. Copies of the complete decision and final plans, if applicable, are on file with the Community Development Department and the City Clerk.

Authorized Representative of the Planning Board

For more information concerning this decision, please call *Liza Paden* at 617-349-4647, TTY: 617-349-4621, or lpaden@cambridgema.gov

Application Documents:

Special Permit Application dated November 30, 2007, certified complete on December 4, 2007, containing the project narrative, site photographs, planning context diagrams, dimensional form, site plan, building details, Planning Board relief items, site engineering drawings, and drainage calculations.

Other Documents

1. Memo to the Cambridge Planning Board from Sue Clippinger, Director of the Traffic, Parking and Transportation Department dated January 8, 2008.
2. Modified Site Plan from Roberta Sydney, Manager of Fresh Pond Real Estate LLC dated January 14, 2008.
3. Letter from the Courtyard at Concord Avenue Condo Association dated January 3, 2008.
4. Email from David Loutzenheiser of 38 Rice Street #3, dated January 7, 2008.
5. Email from Alice Heller of 22 Corporal Burns Road, dated January 7, 2008.

Project Application and Review Process

On January 8, 2008 Fresh Real Estate Development LLC submitted to the Planning Board an application for a Special Permit to authorize divergence from the Parkway Overlay District pursuant to Section 20.63.7 and a Special Permit for waivers from setback requirements pursuant to Article 6.000 and Section 20.60, to tear down an existing retail strip mall building and construct a new two-story retail and office building with 45 on-site parking spaces.

The application and supporting materials submitted to the Board describe the project, which consists of 19,400 square feet of new development in a new two-story building with the second floor set back, and includes landscaping, fencing, and other site improvements. Forty-five parking spaces will be included in the project.

On January 22, 2008 at the request of the Board, Fresh Pond Real Estate Development LLC, submitted a Modified Site Plan for the project. The Modified Site Plan showed a wider proposed sidewalk along the building, relocated dumpster location away from Concord Avenue, additional landscaping on Fresh Pond Parkway and the parking spaces further set back, additional bike racks at Concord Avenue, and a 6' wood fence buffering Fresh Pond Gas.

Findings

Based on its review of the Application Documents, Supplemental Documents, and Other Documents submitted to the Board and referenced above, testimony taken at public hearing and submitted in written form to the Board, and the review and consideration of the relevant special permit criteria, the Planning Board makes the following findings:

1. Conformance to the standards for issuance of a waiver of Parkway Overlay District standards, Section 20.63.7 – Divergence from the Parkway Overlay District Development Standards (including the requirements of Article 6.000 as adopted in Section 20.66 as standards for the Overlay District)

In general, the Board finds that the waiver of the Parkway site development and parking layout standards requested are reasonable in that they do not compromise the basic objectives of the Overlay District or the functioning of the parking lot but allow a difficult site to be redeveloped in a very positive way to the benefit of the larger community.

a) Section 20.64.1 – Required Front Yard

This portion of the Parkway Overlay District along Fresh Pond Parkway between Concord Avenue and Lexington Avenue consists mostly of narrow lots that are only 100 feet deep, coterminous with the depth of the Business A zoning district designation. Circumstances elsewhere in the Overlay District typically consist of much larger and deeper lots that provide great flexibility with regard to siting new buildings on them. Meeting the full 25-foot front yard setback required in the Overlay District regulations at this and adjacent sites, however, imposes a heavy burden on new development and makes it difficult to accommodate viable new commercial development while meeting other of the Overlay District's site development standards.

The proposed building is set back five (5) feet from the property line (and fronting on a very wide landscaped area within the right-of-way of the Parkway), thus enabling the inclusion of retail entrances at both the front (Fresh Pond Parkway) side of the building and at the rear of the building where most of the parking is located. Due to the tight configuration of the site, the proposed building and drive lanes for vehicular access are thus within the twenty-five (25) foot front yard setback. However, the Board finds that the building is still set back some distance from the street line and because of the building's design, the sight lines to the cornice of the building are consistent with what they would be if it were a building respecting the full setback. The parkway character along Fresh Pond Parkway is maintained through additional green space, the retention of all existing street trees, and the consolidating of two existing curb cuts into one along the right of way. The landscape plan considers hardy plant materials suited for the climate and able to withstand snow and salt conditions.

The waiver of the required front yard setback allows greater flexibility in siting and landscaping the parking lot that serves the new building and allows the building to have a very positive urban relationship to the main public street (Fresh Pond Parkway) as is the intent of the Overlay District.

b) Section 20.66.2 – Siting of Parking Areas

At the request of the Board, two proposed parking spaces, abutting the Parkway, were eliminated from the 25-foot yard setback and replaced with green space. The majority of the proposed parking area is located behind the building and has been arranged to minimize visibility from the public way through landscaping. A small portion of the

parking is not in the rear of the building but will be screened from view by new and existing landscaping.

c) Section 20.66.3 – Landscaping of Open Parking Areas

Dense landscaping including existing and new plant materials will screen the entire parking area. The proposed design also includes a continuous sidewalk in the rear of the building to allow pedestrians to safely access and walk through the site from Concord Avenue to the stores at the site and beyond to the Parkway. In order to maintain that pedestrian continuity, while maintaining an adequate number of parking spaces to serve the retail uses on the site, there will be a contiguous 29-space parking bay which will have landscaped areas at each end. There will also be a landscaped area on the opposite side of the Concord Avenue driveway at the property line adjacent to the National Guard Armory.

d) Section 6.22.2(a) – Parking in a More Restrictive Zoning District

The proposed parking lot use in the residential district is a continuation, in much improved form, of a long-standing pre-existing use on the property, and is consistent with the commercial uses that are found on this side of Concord Avenue in this location. The orientation of the parking on the site will also allow the parkway character of Fresh Pond Parkway to be enhanced by placing it at the rear of the building. At the Concord Avenue end, the parking will be adequately screened by landscaping from residential uses across the street.

e) Section 6.42 – Dimensions of Off-Street Parking Spaces

The sidewalk along the east façade (rear) of the building was increased to nine (9) feet six (6) inches, by making the parking spaces shorter [sixteen (16) feet]. This change was at the request of the Planning Board and it is the Board's view that the compromise in dimensions is to the benefit of pedestrians coming to the site and not a detriment to the operation of the accessory parking facility.

f) Section 6.44.1(c) – Parking in the Required Front Yard

The parking in the required front yards is not a significant detriment because the amount of parking in such locations is minimal, replaces parking that had already been at these locations and because of the landscape buffering that will be provided; therefore this parking will not be a detriment to the district. The plan shows adequate landscaping and trees throughout the project resulting in buffering among the cars and along the boundaries of the site.

g) Section 6.47 and 6.48 – Screening and Landscaping

A dense green fence of landscape is proposed, which will incorporate existing and new plant material to screen the parking lot areas.

h) Section 6.93 – Enclosing of a Loading Bay

At the suggestion of the Board the proposed loading bay was relocated to the rear of the parking lot in the southeast corner of the property away from street activity. While the bay is within 50 feet of a Residence B district, the adjacent use is a National Guard installation, which will not be adversely affected. The bay will also be heavily screened. It is not expected that the bay will be heavily used by large commercial vehicles.

i) Section 6.44.1 (a) and (b) – Setback from building and side yard

Most of the parking is located in the rear of the building. There are no operable windows facing the open parking areas. In order to facilitate walking to and through the site there are also a sidewalk and entrances along the east façade (rear) of building. The sidewalk at the rear of the building was increased to nine (9) feet six (6) inches, by making the parking spaces shorter [sixteen (16) feet], and removing parking bumpers, originally proposed, at the request of the Board.

2. Conformance with General Special Permit Criteria in Section 10.43:

A special Permit will normally be granted where specific provisions of this Ordinance are met, except when the particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

a) It appears that the requirements of the ordinance cannot or will not be met

With the granting of the requested yard, landscaping, setback, and parking relief herein granted the requirements of the Zoning Ordinance will be met.

b) The traffic generated or patterns of access or egress will cause congestion hazard, or substantial change in established neighborhood character

The curb cuts on Fresh Pond Parkway are consolidated into one location and reduced in size to the minimum acceptable to the Department of Conservation and Recreation, which has jurisdiction over the roadway. The vehicle entrance and exit on Fresh Pond Parkway is designed to minimize interference with vehicles traveling north on the Parkway while also providing a safer pedestrian crossing of the curb cut. There will be no left turn from the site onto Fresh Pond Parkway. There will also be a vehicle entrance and exit to the site at an existing curb cut on Concord Avenue. Signage at the Concord Avenue exit will be installed to allow a right turn only vehicle exit, to protect pedestrians in the nearby crosswalk and to prevent backups at the rotary. This curb cut will be also be enhanced with new pedestrian access to the site, landscaping, buffering, and a small plaza area with bicycle racks and benches.

c) The continued operation of, or development of, adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use

The site is adjacent to two (2) service stations and a parking lot associated with a National Guard Armory. The building on the site is currently vacant and in the past included a variety of small-scale retail uses, most notably a seafood market.

- d) *Nuisance or hazard would be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City*

No nuisance or hazard will be created. The project will be built and operated in accordance with all applicable building, health, and safety requirements. The now unkempt site will be considerably enhanced by the proposed new development.

- e) *For other reasons the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance*

The site is currently underutilized and the building on the property is dilapidated. The previous use included retail, and the proposed project meets the intent of the zoning district. The future development will substantially meet the urban design and site development objectives of the Parkway Overlay District.

- f) *The new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30*

1. *Section 19.31: New projects should be responsive to the existing or anticipated pattern of development.*

The proposed building conforms to the dimensional requirements of the Zoning Ordinance. The building is two stories and approximately 20,000 square feet in size. The abutting uses to the site are two active service stations and a National Guard armory. Future retail uses in the structure are intended to serve the nearby residential neighborhood.

2. *Section 19.32: Development should be pedestrian and bicycle friendly, with positive relationship to its surroundings.*

Pedestrian circulation both to and through the site is highly prioritized in the design and layout. New pedestrian connections will allow access between Concord Avenue and Fresh Pond Parkway to be enhanced, and pedestrian entries are designed for both the front and the rear of the building. The new building will be brought closer to the street with most of the parking located in the rear in order to provide a better pedestrian experience along the Parkway. The project exceeds the required number of bicycle racks and includes covered bicycle parking at the Concord Avenue entrance.

3. *Section 19.33: The building and site design should mitigate adverse environmental impacts of a development upon its neighbors.*

The proposed building is approximately 20,000 square feet and will feature two stories along Fresh Pond Parkway. The second story will be set back from the edge of the first floor of the building to minimize its visual impact and to enhance views of the site from the Parkway while also enhancing views of Fresh Pond for second story tenants. The proposed retail uses for the first floor and office or retail use for the second floor are consistent with

neighborhood buildings. Rooftop mechanical units serving the building will be screened and set back from the street to minimize visibility.

4. Section 19.34: Projects should not overburden the City infrastructure services, including neighborhood roads, city water supply system, and sewer system.

Infrastructure services to the site will not be overburdened. The project features relocated and consolidated curb cuts for vehicle entry and exit onto Fresh Pond Parkway in order to improve safety. Left turns by vehicles onto Fresh Pond Parkway will be restricted as well as left turns onto Concord Avenue.

5. Section 19.35: New construction should reinforce and enhance the complex urban aspects of Cambridge as it has developed historically.

The scale of the project is appropriate given its location on the parkway and adjacent uses. The proposed project is pedestrian friendly and located in an area where there is likely to also be a significant amount of travel by means other than automobile particularly in during warmer weather. The proposed retail uses and nearby residential neighborhood will benefit from the design and the use program.

6. Section 19.36: Expansion of the inventory of housing in the city is encouraged

Housing is not included in this project

7. Section 19.37: Enhancement and expansion of open space amenities in the city should be incorporated into new development in the city.

The plan maintains all existing street trees on the Fresh Pond Parkway side of the site, and incorporates green areas into the parking lot to break up the space. There is also a small plaza area on the Concord Avenue side of the site, which includes additional plantings, landscaping and benches. Retail activity has the potential to provide commercial amenities for persons using the recreational resources of the Fresh Pond Reservation.

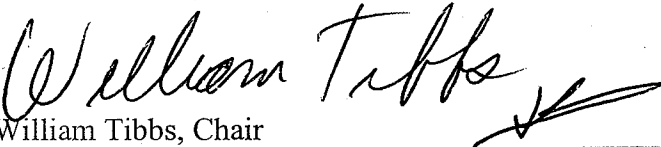
Decision

Based on a review of the application documents, comments made at the public hearing, and based on the above findings, the Planning Board GRANTS the requested special permit to through Section 20.63.7 to permit divergence from the Parkway Overlay District development standards, including the Article 6.000 standards incorporated into the Overlay District Development Standards by reference, subject to the following conditions and limitations.

1. All use, building construction, and site plan development shall be in substantial conformance with the revised plans and application documents submitted to the Planning Board dated January 14, 2008 and referenced above. The authorized dimensional standards for the project are summarized in Appendix I.
2. The project shall be subject to continuing design review by the Community Development Department (CDD). Before issuance of the Building Permit for the project, the CDD shall certify to the Superintendent of Buildings that the final plans submitted to secure the Building Permit are consistent with and meet all conditions of this permit.
3. Any retail or office use permitted in the Business A district shall be permitted.
4. The Permittee shall work with the DCR to operate and maintain the DCR green space along Fresh Pond Parkway.
5. The Permittee shall rebuild the wheelchair ramps on the nearby Concord Avenue pedestrian crossings, and have the final driveway design reviewed and approved by the Traffic, Parking and Transportation Department before issuance of the Building permit for the building.
6. The final landscape plan for the project shall be reviewed and approved by the Community Development Department before the issuance of building permit.
7. All authorized development shall conform to the requirements of the City of Cambridge "Noise Control Ordinance", Chapter 8.16 of the Cambridge Municipal Code.
8. The conditions and requirements of the PTDM Ordinance - Final Decision #F-41 shall be made a condition of this special permit.

Voting in the affirmative to GRANT the Special Permit were: W. Tibbs, P. Winters, H. Russell, S. Winter, T. Anninger, H.T. Cohen, and L. Pierce, constituting at least two thirds of the membership of the Board.

For the Planning Board,

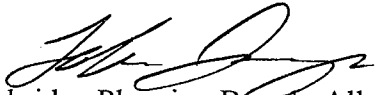

William Tibbs, Chair

Appendix I – Dimensional Form

Special Permit #	Address:			
	Allowed/Required	Existing	Proposed	Granted
Total FAR				
Residential	Not Applicable			
Non-Residential	1 (Bus A zone)		.68	.68
Inclusionary Bonus				
Total GFA in Sq. Ft.				
Residential	5,382		None	
Non-Residential	28,619		19,400	
Inclusionary Bonus				
Max. Height	35'		33'-6"	33'-6"
Range of heights			20'-6' – 33'-6"	20'-6' – 33'-6"
Lot Size		41,854	41,854	41,854
Lot area/du	Not applicable			
Total Dwelling Units				
Base units				
Inclusionary units				
Min. Lot Width	None			
Min. Yard Setbacks				
Front	*: 25' / RB: 15'	*Parkway Overlay	BA: 5' / RB: 12'	BA: 5' / RB: 12'
Side, Left	BA: 0' / RB: 7'-6"		BA: 7' / RB 59'	BA: 7' / RB 59'
Side, Right	BA: 0' / RB: 7'-6"		BA: 106' / RB 7'6"	BA: 106' / RB 7'6"
Rear	BA: 48' / RB: 20"		BA: 53.5' / RB 52'	BA: 53.5' / RB 52'
Total % Open Space	Not applicable			
Usable				
Other				
Off Street Parking				
Min #	39	28	45	45
Max #	78			
Handicapped	(2)		(2)	(2)
Bicycle Spaces	5		8	8
Loading Bays	1		1(deliv.), 1(trash)	1(deliv.), 1(trash)

A copy of this decision #230 shall be filed with the office of the City Clerk. Appeals if any, shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the filing of the above referenced decision with the City Clerk.

ATTEST: A true and correct copy of the above decision filed with the Office of the City

Clerk on April 7, 2008, , authorized representative of the Cambridge Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

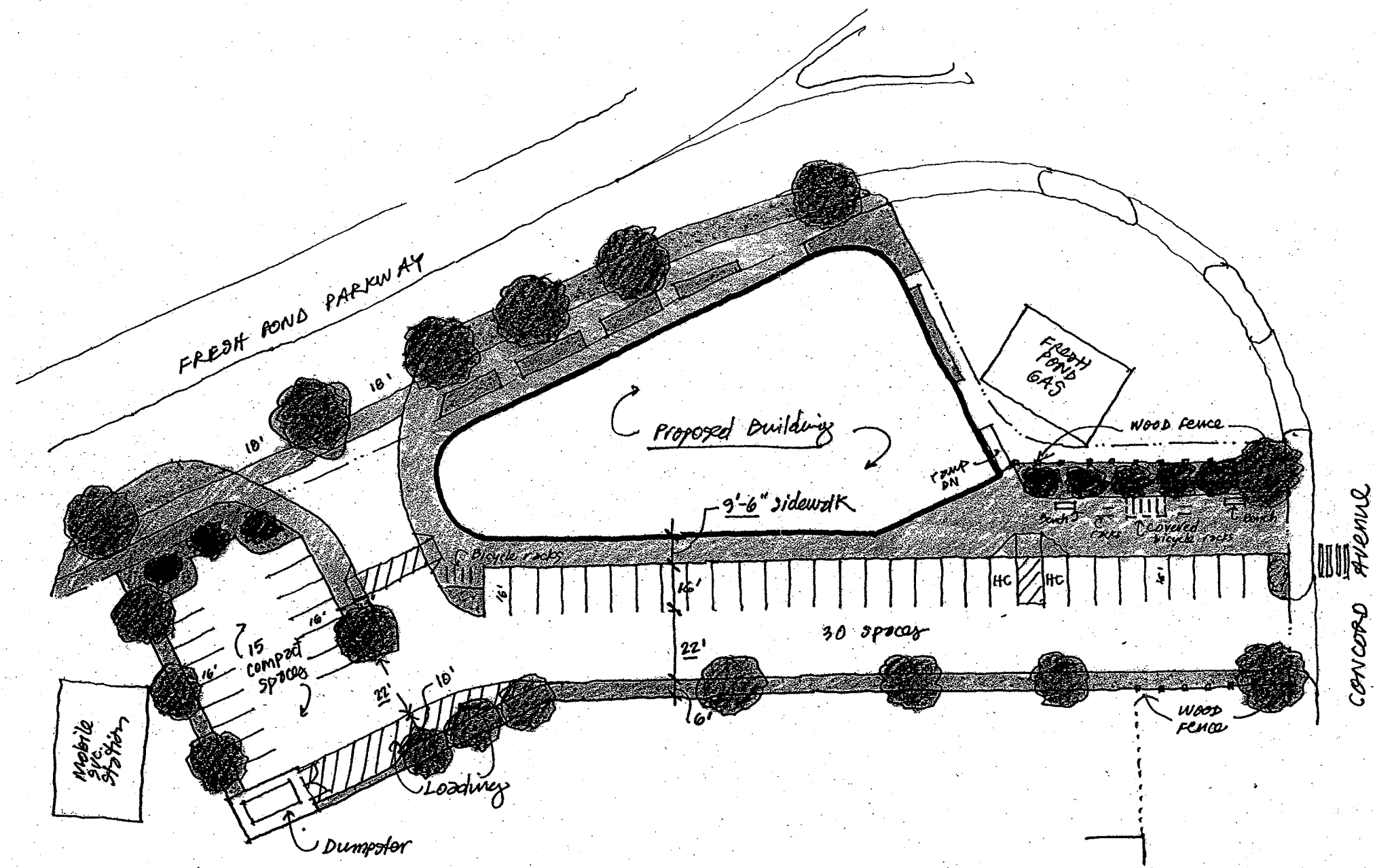
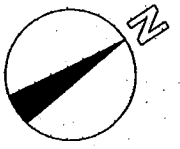
Twenty (20) days have elapsed since the filing of the decision. No appeal has been filed.

DATE:

City Clerk of Cambridge

Fresh Pond Real Estate
Development, LLC.

c/o Sydney Associates
1443 Beacon Street
Brookline, MA 02446



MODIFIED SITE PLAN

MODIFICATIONS:

1. WIDER SIDEWALK ALONG BUILDING
2. SHORTER PARKING SPACES IN FRONT OF SIDEWALK (16' DEPTH)
3. RELOCATED DUMPSTER TO SOUTHEAST CORNER OF PROPERTY
4. COMPACT CAR PARKING SET BACK FURTHER FROM FRESH POND PARKWAY
5. ADDITIONAL BICYCLE RACKS AT CONCORD AVE ENTRANCE
6. 6' WOOD FENCE BUFFERING FRESH POND GAS

Project:
**355 FRESH POND
PARKWAY RETAIL**

355 FRESH POND PARKWAY
CAMBRIDGE, MA

Date:	January 11, 2008
Scale:	NTS
Project Number:	
Drawn By:	OTK
Checked By:	HDS

Drawing Title:

**MODIFIED
SITE
PLAN**

Sheet No.: