



CITY OF CAMBRIDGE, MASSACHUSETTS  
**PLANNING BOARD**

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

NOTICE OF DECISION

Case No.: #87  
Premises: 12-18 Eliot Street  
Zoning District: Business B/Harvard Square Overlay District

Petitioner: Robert Banker, as Trustee of Eliot Street Real Estate Trust under declaration of trust dated March 12, 1974, recorded in Middlesex South district Registry of Deeds, (the "Registry") on June 12, 1974 in Book 12646, Page 579, the record owner of 16-18 Eliot Street, and as Trustee of The David Wallace Realty Trust under declaration of trust dated August 27, 1987, recorded in the Registry on August 28, 1987 in Book 18497, Page 509, the record owner of 12-14 and 14A Eliot Street

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Application Date: April 3, 1989

Date of Public Hearing: April 18, 1989

Petition: Special Permit to construct 16,452 sq ft of office and retail at 12-14 Eliot Street, and 27,856 sq ft of office and retail at 16-18 Eliot Street requesting relief from parking requirement and loading requirements.

Date of Planning Board Decision: August 1, 1989

Date of filing the Decision: August 28, 1989

Decision (summary): GRANTED with conditions attached.

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 date of 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 office of Community Development and the City Clerk.

*Elizabeth J. Malenfant*  
Authorized Representative to the Planning Board

*August 28, 1989*  
Date

2. Cambridge Historical Commission study report on Landmark Designation status of 106 Winthrop Street/8 Eliot Street, dated October 21, 1988.
3. Letter to Paul Dietrich, from the Harvard Square Defense Fund, dated April 15, 1989, stating the opinion of the group.
4. Memorandum to the Planning Board from Goodwin, Proctor & Hoar, attorneys for the applicant, dated April 18, 1989, outlining the applicant's Special Permit request.
5. Letter to the Planning Board from Charles Sullivan, Executive Director of the Cambridge Historical Commission, dated April 18, 1989, discussing the significance of the proposal.
6. Letter to the Planning Board from Paul G. Counihan, Attorney at Law for Genieve McMillian, dated May 17, 1989 addressing issues in the application.
7. Memorandum to the Planning Board from Paul G. Counihan, undated, outlining the interpretation and applicability of Section 11.544 of the Zoning Ordinance.
8. Letter to the Planning Board from Lawrence Kaplan, of Goodwin, Proctor & Hoar, attorney for the applicant, dated July 18, 1989, describing the zoning relief sought.
9. Letter to the Planning Board from the applicant, dated July 7, 1989, granting an extension of time for the special permit process.
10. Letter to the Planning Board from Phoebe Mason Bruck, Chair of the Harvard Square Advisory Committee ("HSAC"), dated April 18, 1989, noting the support of the HSAC for the project.
11. Letter to William B. King, Chairman of the Cambridge Historical Commission ("CHC") from Phoebe Mason Bruck, Chair of the HSAC, dated February 2, 1989, discussing the CHC's determination of the buildings' status and the petitioner's demolition request.
12. Summary of Criteria for Issuance of Special Permit Waiver of Parking and Loading Requirements in the Harvard Square Overlay District and summary of dimensional statistics of the buildings, prepared by the Cambridge Planning Board staff, undated.
13. Letter to the Planning Board from Paul G. Counihan, (dated July 19) protesting the petitioner's application.

14. Memorandum to the Planning Board and staff from Hugh Russell, dated July 30, 1989, responding to July 19 letter from Paul Counihan.

#### PUBLIC HEARING

A public hearing was held on the proposal on April 18, 1989; pursuant to notice duly given in the manner provided by M.G.L. c.40A, Section 11.

Architects for the applicant presented the two building scheme emphasizing the pedestrian access that would be provided throughout the site and the potential for making further pedestrian connections throughout the block in the future. It is proposed to provide no parking on the site, all buildings will be less than 60 feet in height; and the maximum gross floor area will be close to the maximum 4.0 FAR permitted.

Speaking in favor of the granting of the special permit were: Phoebe Bruck, chair, for the Harvard Square Advisory Committee; Gladys Gifford, president for the Harvard Square Defense Fund, and Sally Alcorn, Executive Director for the Harvard Square Business Association. G. Gifford indicated some concerns: the development without completion of the pedestrian network through the "Charlie's Kitchen" lot is less desirable; the design of the Parkard Hotel facade design should be continued on the new addition to the building; and parking should be provided on the roof of 16-18 Eliot Street if at all possible.

Speaking in opposition were: Paul Counihan, attorney for Genevieve McMillian, owner of abutting property on Winthrop Street, who indicated that the buildings are too large and will block out the sunlight to his clients property; Robert LaTremouille, Franklin Street; and Steven Kaiser, 91 Hamilton Street, indicating that the narrowness of the pedestrian passageways made them of little benefit.

#### FINDINGS

1. As the applicant wishes to waive all required parking and provide only reduced loading facilities a Special Permit under the provisions of Section 11.544 of the Harvard Square Overlay District is required. Section 6.35 of Article 2.000 is not applicable. It is our belief that no relief is necessary under Section 6.315, Section 6.91 or Section 6.93. However, to the extent necessary, we grant the petitioner relief from the requirements of those sections.
2. The development is in conformance with the requirements of Section 11.544.

- a. Each constituent lot is less than 10,000 square feet: 12-14 Eliot Street is 4,113 square feet; 16-18 Eliot Street 6,964 square feet. Combined the two lots total 11,077 square feet which in itself is in reasonable conformance with the intent of the regulations to encourage a small scale pattern of development. To the extent this application is deemed a single project, we find that the two lots, taken together, are sufficiently small to contribute to a development pattern of diverse, small scale new structures and the retention of old structures. While two buildings will be demolished and replaced by a single building at 12-14 Eliot Street, the two buildings to be constructed at 12-14 and 16-18 Eliot Street, will be very modest in scale when compared to recently authorized new construction in the vicinity (CWT at ca. 95,000 square feet and Harvard Motor House redevelopment at ca. 100,000 square feet) and smaller than the Coolidge Bank Building, the Galleria Building, or the adjacent Eliot Street garage which have recently been constructed in this Winthrop Street precinct. The proposed buildings are clearly larger than the small wood framed structures on Winthrop Street but new construction cannot be expected to replicate that scale in an area zoned for high density commercial development.
- b. As the total development on the lot will be at or near the maximum permitted on the lots, a contribution to the Harvard Square Improvement fund will be made for the parking spaces not provided in accordance with the requirements of Section 11.544.
- c. The development presents a superior design and provides historic preservation benefits which advance many historic and urban design objectives, as detailed in the report of the Harvard Square Advisory Committee. Provision of the required parking on the site could potentially compromise the urban design and historic preservation benefits provided in the development (for example, by necessitating the extension of all floors of the buildings further to the north, thereby increasing the bulk and shadow impacts on the properties along Winthrop Street behind the petitioner's properties, and decreasing the open space at the rear of the petitioner's properties); the additional entries (in the form of additional curb cuts and a vehicular access point) which would be required for such parking and loading facilities would clearly disrupt the public edge of the project along Eliot Street. In addition the serious city-wide concern for the additional traffic generated by new office construction suggests that this small scale development in Harvard Square best serves the public interest by

not providing its full complement of required parking where alternate access is most readily available. For these reasons, we find that the requested parking and loading facility exemption will result in a building design that is more appropriate to its location and the fabric of its neighborhood than would be likely to result if the exemption were denied. We further find that the design proposed for the buildings is in conformance with the objectives and criteria of the Harvard Square Development Guidelines.

- d. At its February 2, 1989 meeting the Cambridge Historical Commission declared the buildings on the sites significant but not preferably preserved significant buildings. Therefore, for purposes of the Harvard Square Overlay District (Section 11.533), no contributing or national register building is to be demolished. (Prior to Historical Commission action the buildings were all listed as contributing in the Harvard Square Overlay District).
3. The new buildings will be larger in scale and mass than those presently on the site and much larger than the remaining frame structures on Winthrop Street. The designs of the proposed buildings have been fashioned however to reduce their impact on the adjacent smaller historic structures. In addition, improvements to the rear of the sites, including guaranteed public access to the wall and introduction of active ground floor uses on that side of the buildings, will vastly improve the quality of the environment abutting the Winthrop Street structures.
4. While the development consists of two lots held in separate ownership and therefore must technically be issued two separate permits, the developments are indivisibly joined as regards the public amenities to be provided and the historical preservation requirements secured by the Historical Commission. Therefore the Planning Board shall treat the two sites as a single linked development for purposes of the requirements and conditions of this Decision.
5. In reviewing recent construction the Board finds that the cost of construction of parking facilities in various locations and under various configurations is generally in the range of \$15,000 - \$20,000 per parking space. Recognizing the inefficient nature of any parking facility likely to be constructed on small Harvard Square lots the Board is establishing a cost of parking spaces as required under Section 11.544, of \$15,000. While not reflecting the most costly potential parking it is a reasonable compromise between actual costs of the many alternative parking facilities possible.

6. We further find that the grant of a special permit under Section 11.544 complies with the requirements of Section 10.40. The petitioner has attempted, in the design and proposed uses of the buildings, to encourage pedestrian, rather than vehicular traffic; because public parking facilities, an MBTA station and stops of several bus routes are in the near vicinity, and since no additional curb cuts will be required for the project, we find that neither the anticipated traffic generated by the project nor the expected access/egress patterns are likely to cause congestion, hazard or substantial change in the established neighborhood character. In addition, the mix of uses in the new buildings will be substantially similar to that in the existing buildings and will not have an adverse affect on permitted adjacent uses, nor will the proposed uses impair the integrity of the zoning district in which it is located (or any adjoining districts). We further find that the project will comply with the requirements of the Zoning Ordinance and will not create a nuisance or hazard to the detriment of the health, safety or welfare of the occupants or the public. Having found that the specific criteria of the Zoning Ordinance have been met, we find (as more specifically noted above) that no particulars of the location or use would cause the grant of the requested special permit to be to the detriment of the public interest.
7. The uses of the petitioner's project are allowed as of right in the zoning district in which the project is located. The grant of a special permit under Section 11.544, then, complies with the requirements of Massachusetts General Laws c.40A, Section 9, that special permits be issued only for uses which are in harmony with the general purpose and intent of the Zoning Ordinance.

#### **DECISION**

After review of the application documents, comments made at the public hearing and subsequent meetings, discussions with the Community Development staff, and based on the findings above the Planning Board GRANTS a special permit under Section 11.544 of the Zoning Ordinance for a waiver of all required parking and a reduction in the loading requirements as detailed in the application documents for development at 12-14 Eliot Street, and GRANTS under the same authorization a special permit for development at 16-18 Eliot Street, both permits subject to the following conditions.

1. The final development plans submitted to the Inspectional Services Department for building permits shall be in general conformance with the application documents dated March, 1989 and referenced above except as they may be modified by any conditions of these permits. The final plans shall be

subject to the dimensional limitations of Appendix I. The Community Development Department shall certify to the Superintendent of Buildings that the final plans submitted to the Inspectional Services Department for building permits are in conformance with the requirements of this Decision. Before an occupancy permit for any portion of the development may be issued a set of as-built drawings of the site development and architectural elements of the project shall be submitted to the Community Development Department for review and certification to the Superintendent of Buildings that the as-built project is authorized by this permit.

2. A payment of \$120,000 for 12-14 Eliot Street and a payment of \$210,000 for 16-18 Eliot Street, representing a cost of \$15,000 x 28 x 50% for 16-18 Eliot Street and \$15,000 x 16 x 50% for 12-14 Eliot Street, shall be made to the City of Cambridge as required in paragraph 11.544(b) (1) of the Ordinance prior to issuance of a certificate of occupancy for each respective building. If at the time of first occupancy for each building the uses for which an occupancy permit is being sought generate a parking requirement greater than indicated in Appendix one the required payment shall be determined based upon that larger number.
3. The project shall continue to undergo design review through the Community Development Department. The Department shall present the final plans to the Board prior to making any certification required in Condition 1 above.
4. The public sidewalk abutting the development shall be reconstructed and paved in brick to the specifications of the City of Cambridge prior to the issuance of the occupancy permit for the last of the two authorized buildings to be constructed.
5. As the public benefits derived from this development require the execution of construction under both permits, no occupancy permit shall be issued for a building under either special permit unless substantial construction has been initiated for authorized construction under the other permit.
6. The conditions established by the Cambridge Historical Commission in its determination under the Demolition Ordinance shall be made a condition of these permits.
7. The permittees shall implement a subsidized "T" pass program which shall be made mandatory for all tenants of the buildings through the lease agreements executed and shall consider and encourage other methods to encourage transit use and discourage the use of automobiles by tenants and customers of the tenants of the building. The details for

such a transit use plan, including the "T" pass program, shall be submitted to the Planning Board for review prior to issuance of an occupancy permit for the first building and shall be made a condition of these special permits.

8. The members currently sitting on the Planning Board note that the grant of the special permits for 12-14 and 14A and for 16-18 Eliot Street is not to be construed as an endorsement by the current Board members of any proposed development on the property located at 8 Eliot Street/106 Winthrop Street, of which the petitioner is currently the owner of record. The current Planning Board feels that any further developments at 8 Eliot Street/106 Winthrop Street should be minimized.

Voting to GRANT the Special Permits were Paul Dietrich, Chair; Alfred Cohn; Clarence Cooper; David Kennedy and Hugh Russell, constituting two thirds of the membership of the Planning Board; Voting to deny the permit was Carolyn Meith.

For the Planning Board,

A handwritten signature in cursive script, appearing to read "Paul Dietrich", written in dark ink.

Paul Dietrich, Chairman



Dimensional Form

	<u>Allowed/Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Granted</u>
Floor Area Ratio (Floor Area)	<u>4.0</u> (16,452 )sq.ft.	<u>2.8</u> (11,542 )sq. ft.	<u>4.0</u> ( 6,452 ) Sq. Ft.	<u>4.0</u> (6,452 ) Sq.ft.
Max. Height	<u>60/80</u>	<u>34'</u>	<u>59'</u>	<u>60'</u>
Max. Angle Above Cornice Line	<u>45°</u>	<u>NA</u>	<u>NA</u>	
Min. Lot Size	<u>0</u>	<u>4113 sq. ft.</u>	<u>4113 Sq. Ft.</u>	<u>4113 Sq. Ft.</u>
Min. Lot Area per d. u.	<u>NA</u>			
Max. No. d. u.	<u>NA</u>			
Min. lot width				
Min. yard setbacks	<u>-0-</u>			
Front	<u>-0-</u>			<u>As provided on</u>
Side L	<u>-0-</u>			<u>approved plans</u>
R	<u>-0-</u>			
Rear	<u>-0-</u>			
Ratio Usable Open Space (Area)	<u>NA</u> ( )	<u>( )</u>	<u>( )</u>	<u>( )</u>
Off-Street Parking Minimum No. Spaces	<u>16</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Maximum No. Spaces				
No. Handicapped Spaces				<u>2</u>
Bicycle Spaces	<u>2</u>			
No. Loading Bays	<u>1+</u>			<u>-0-*</u>

\* a facility is to be shared with 16-18 Eliot Street

Dimensional Form

	<u>Allowed/Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Granted</u>
Floor Area Ratio (Floor Area)	<u>4.0</u> <u>(27,850 )</u> Sq. Ft.	<u>2.4</u> <u>(16,800 )</u> Sq. Ft.	<u>4.0</u> <u>(27,850 )</u> Sq. Ft.	<u>4.0</u> <u>(27,850 )</u> Sq. Ft.
Max. Height	<u>60/80'</u>	<u>34'</u>	<u>57.5</u>	<u>58'</u>
Max. Angle Above Cornice Line	<u>45°</u>	<u>NA</u>	<u>NA</u>	
Min. Lot Size	<u>-0-</u>	<u>6,964</u> Sq. Ft.	<u>6,964</u> Sq. Ft.	<u>6,964</u> Sq. Ft.
Min. Lot Area per d. u.	<u>NA</u>			
Max. No. d. u.	<u>NA</u>			
Min. lot width	<u>NA</u>			
Min. yard setbacks	<u>-0-</u>			
Front	<u>-0-</u>			<u>As provided on</u>
Side L	<u>-0-</u>			<u>approved plans</u>
R	<u>-0-</u>			
Rear	<u>-0-</u>			
Ratio Usable Open Space (Area)	<u>NA</u> <u>( )</u>	<u>( )</u>	<u>( )</u>	<u>( )</u>
Off-Street Parking Minimum No. Spaces	<u>28</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Maximum No. Spaces				
No. Handicapped Spaces				
Bicycle Spaces	<u>3</u>			<u>3</u>
No. Loading Bays	<u>1+</u>			<u>1*</u>

\* The Facility shall be dimensioned as shown on the approved plans and shall serve uses at 12-14 Eliot Street as well

A copy of this decision shall be filed with the Office of the City Clerk. Appeals if any shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws and shall be filed within twenty (20) days of such filing in the Office of the City Clerk.

ATTEST: A true and correct copy of the decision filed with the Office of the City Clerk on August 28, 1989, by Elizabeth J. Malenfant, authorized representative of the Cambridge Planning Board. All plans referenced in the decision have likewise been filed with the City Clerk on such date.

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

City Clerk, City of Cambridge

Date