

CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

NOTICE OF DECISION

Case Number: 221
Address: 1587, 1581-83, 1595 Massachusetts Ave;
6-8 Everett Street
Zoning: Residence C-3
Applicant: President and Fellows of Harvard College
c/o Mark Johnson, Director, Harvard Law School
Major Capital Projects
23 Everett Street, Cambridge, MA 02138
Owner: President and Fellows of Harvard College
Application Date: October 18, 2006
Date of Planning Board Public Hearing: November 28, 2006
Date of Planning Board Decision: November 28, 2006
Date of Filing Planning Board Decision: February 2, 2007

2007 FEB -2 A 10: 35
CITY OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Application: Section 19.20 Project Review Special Permit for an institutional use building over 50,000 square feet and located within 100' of a public way; Section 6.43.3 Curb Cut Width Special Permit for a proposed curb cut exceeding the 20-foot maximum width permitted in a residential district.

Decision: GRANTED, with conditions.

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 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: Jeffrey C. Roberts

For further information concerning this decision, please contact Liza Paden at 617 349 4647, or lpaden@cambridgema.gov.

DOCUMENTS SUBMITTED

1. Special Permit Application submitted by the Applicant and certified complete on October 18, 2006, including: Cover Letter (p.1); Table of Contents (p.2); Cover Sheet (p.3); Summary of Application (pp.4-5); Planning Board Fee Schedule (p.6); Project Narrative (pp.7-20); Dimensional Form (p.21); Zoning Violations and Other Relief Required (p.22); Ownership Certificate (pp.23-24); Certification of Receipt of Plans by Cambridge Department of Traffic, Parking, and Transportation, dated 10/16/06 (p.25); Certification of Receipt of Plans by Cambridge Department of Public Works, dated 10/16/06 (p.26); Certification of Receipt of Plans by Cambridge Water Department, dated 10/16/06 (p.27); Tree Protection Plan (appendix, 10 pages total); Plans and elevations entitled *Northwest Corner Building, Harvard Law School, Cambridge, Massachusetts*, Robert A. M. Stern, architects, dated October 18, 2006, various scales (48 pages total), including: Institutional Lot; Site Location Plan; Site Survey; Landscape Plans; Floor Plans; Context Photographs; Context Elevations; Building Elevations; Building Sections; Mechanical Equipment Sight-Lines; Shadow Studies; Existing and Proposed Views; Model Photographs.
2. Illustration (1 page) submitted by the Applicant dated November 28, 2006 entitled *Renderings: View from Massachusetts Avenue Looking Northeast at the Main Entrance*, with cover letter dated November 21, 2006.
3. Revised Plan Drawing (1 page) submitted by the Applicant dated November 28, 2006, entitled *Proposed Project, Northwest Corner Building, Harvard Law School*, Robert A.M. Stern Associates, Architects, Halverson Design Partnership, Landscape Architects, Scale 1" = 20'.
4. Memorandum to the Planning Board from the Cambridge Bicycle and Pedestrian Committees dated November 17, 2006.
5. Memorandum to the Planning Board from Susan Clippinger, Director of Traffic, Parking and Transportation for the City of Cambridge, dated November 21, 2006.
6. Letter to the Planning Board from City Councilor Craig Kelley dated November 27, 2006.
7. Letter to the Planning Board from City Councilor Anthony D. Galluccio dated November 28, 2006.
8. Letter to the Planning Board from Joshua Posner, 32 Arlington Street, dated November 28, 2006.
9. Memorandum to the Planning Board from Kelly Writer, City Arborist for the City of Cambridge, dated November 28, 2006, regarding Tree Plan.
10. Copies of documents submitted by Stephen Diamond, 61 Frost Street, at Planning Board Public Hearing held on November 28, 2006, including: Cover letter from Harvard University Office of Government, Community, and Public Affairs (2 pages) originally dated April 2,

2004; Memorandum of Understanding (MOU) between Harvard University and the Agassiz Neighborhood (7 pages, plus map of Harvard North Yard Development Area) originally dated March 1, 2004; Implementation Agreement #1 (4 pages) originally dated November 10, 2003.

11. Copy of Implementation Agreement #2 on Proposed Harvard Law School Development addressed to Harvard University, Agassiz, and Neighborhood Nine, from Willie Bloomstein, dated November 28, 2006.
12. Map of Porter Square and Lower Massachusetts Avenue area with hand-shaded parcels, submitted by Stephen Diamond, 61 Frost Street, at Planning Board Public Hearing held on November 28, 2006.

FINDINGS

Based on a review of the application documents, other documents submitted to the Board for its consideration and testimony presented at the public hearing, the Planning Board concurs with the findings set forth in the application documents, summarized below.

1. Findings Required in Section 19.25

a. Section 19.25.1 – Traffic Impact Findings. As the threshold in Section 19.23 – Table 1 for college and university uses was not reached for this project, no Traffic Study was required to be prepared. Therefore, the findings set forth in this Section 19.25.1 are not required to be made.

b. Section 19.25.2 - Urban Design Findings. The Planning Board finds that the project is consistent with the urban design objectives of the city as set forth in Section 19.30.

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

The approved building will be oriented and the massing of it distributed so that the building is compatible with the scale of adjacent development and existing streetscapes. The Massachusetts Avenue frontage will have a four-story façade stepping back to five stories, the Everett Street frontage will be three stories stepping back to five stories, and the building will be three stories where it adjoins the existing Harkness Commons building. Building setbacks will be greater than existing setbacks at the street level. Entrances will be at the building corners along Massachusetts Avenue, and a campus bookstore that will be open to the public is proposed near the corner of Massachusetts Avenue and Everett Street. The new building has been designed to attach to the Harkness Commons in a careful and compatible manner, respecting its architectural integrity.

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

The ground floor of the building will be occupied by active uses, mostly visible from the street, including large classrooms, lobbies, lounge areas, and a campus bookstore. Entrances will be located facing the abutting public sidewalks and the principal pedestrian pathways from the public street into the Law School campus. The main entrances will be located at the two corners of the building adjacent to Massachusetts Avenue. The ground floor facades will contain about 25% clear windows looking into active interior spaces on the sides of the building abutting sidewalks or pedestrian pathways. All auto parking will be provided in an underground garage, with access by way of a single driveway off of Everett Street.

Bicycle parking, totaling more than 100 spaces, will be provided at various surface locations on the Harvard Law School campus.

The building and surrounding area is and in the future will be served by conveniently located campus shuttle stops and MBTA bus stops.

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

Mechanical equipment for the approved building will be located in the basement where possible. Those mechanical elements that must be located on the rooftop will be enclosed and set back from the street so as to be mostly invisible from the ground level. The exterior of the rooftop mechanical equipment enclosure will use materials compatible with the exterior of the rest of the building, and louvers will be concealed wherever possible.

Trash and loading operations will occur at a location in the interior of the site accessible by way of the parking garage access driveway off of Everett Street and covered by a deck, above which there will be an outdoor terrace.

The project will meet Stormwater Best Management Practices and Massachusetts DEP Best Management Standards for water quality, and will incorporate multiple underground stormwater detention tanks, a green roof on part of the building, Stormceptor Water Quality Inlets, and Deep Sump catch basins. The runoff rate will be reduced from the 25-year post-development rate to the 2-year pre-development rate.

As demonstrated in the shadow studies submitted with the application, the building will have minimal shadow impacts on surrounding buildings and open spaces. No additional negative impact to residential uses will be caused by the building's scale, wall treatment, or placement of windows. Outdoor pedestrian-scale lighting will be provided along sidewalks and pedestrian pathways, and will be designed to provide adequate security while minimizing light pollution.

The Tree Protection Plan, reviewed by the City Arborist, identified and evaluated the significant existing trees on the site. The approved plan includes the planting of new trees along sidewalks and in landscaped areas in the interior of the site. Approximately 62 significant existing trees will be maintained and protected during construction and approximately 11 existing trees will be removed during the development process. Because new trees to be planted are smaller than existing trees to be removed, there will be an estimated net loss in the total aggregate tree diameter at breast height (DBH) of 106 inches. This loss will be compensated with a contribution to a Tree Replacement Fund as specified by the City Arborist.

An unsightly parking garage will be demolished and surface parking on the site will be relocated to below-grade facilities in the building, freeing up surface areas of the site for landscaping, pedestrian circulation and other enhancements, including a well designed new building.

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

The project will meet Stormwater Best Management Practices and Massachusetts DEP Best Management Standards for water quality. The building will incorporate water-conserving plumbing features and an energy-efficient heat recovery mechanical system. The relocation of activity from older facilities to a newer facility will improve the overall efficiency of infrastructure service to the campus.

The building's wastewater service will connect to an existing City sewer manhole on Massachusetts Avenue according to a plan to be reviewed by the City Engineer. Several existing connections to City water mains on Massachusetts Avenue and Everett Street will be cut and capped when the existing buildings they service are removed. Water service for the new building will connect to the existing City water main along Massachusetts Avenue according to a plan to be reviewed by the Cambridge Water Department.

The Applicant will seek LEED certification for the approved project. Anticipated energy-saving features of the proposed building include natural lighting, automatic light dimmers and occupancy sensors, heat/enthalpy recovery systems, displacement ventilation and chilled beam cooling systems, operable windows in offices, extra insulation, low-emissivity exterior glazing, carbon dioxide occupancy sensors, recycled grey-water irrigation, and car-sharing parking spaces.

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

The project is consistent with the policies enumerated in the City's publication *Toward a Sustainable Future, Cambridge Growth Policy Document*, by creating new space for Harvard Law School programs within the existing limits of the Harvard Law School campus. The north side of the building will include a campus bookstore at the ground

floor that will be open to the public. The lower floors will contain classrooms, dining, and student activities space that will generate pedestrian activity during the daytime and evening.

The project will involve the relocation and preservation of two historic wood-frame buildings presently on the site. The wood-frame buildings will be relocated to a nearby site on Massachusetts Avenue where they will complement the existing streetscape. Also, the approved new building will be designed to complement the existing adjacent Harkness Commons building and Graduate Student Housing Complex, also of historic significance.

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

The project is an institutional use and will not include housing. Existing student graduate housing that is removed as a result of the project, about 87 dormitory beds, will be more than offset by the development of new graduate student housing under construction by Harvard in the Riverside neighborhood.

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

The project will provide open space amenities in the form of wider landscaped setbacks along the Massachusetts Avenue and Everett Street sidewalks, new landscaped courtyard areas on the south side of the building, including at the main southwest entrance, and a second-story courtyard area above the new loading dock.

2. Consistency with Standards for Modification of the Allowed Width of a Curb Cut - Section 6.43.5 (a Board of Zoning Appeal special permit that may be issued by the Planning Board as set forth in Section 10.45).

The Planning Board finds that the request for an increased width for the curb cut on Everett Street, from the permitted 20 feet to ca 37 feet, will facilitate management of traffic and safety for vehicles and pedestrians entering or passing by the site. The final dimension, however, will be determined after a careful review of site conditions and programmatic needs by the Traffic, Parking and Transportation Department staff.

The additional width of curb cut will allow for the consolidation of vehicular access to the site into one location for both private passenger cars and service vehicles, reducing the number of conflicts that will occur between pedestrians on the public sidewalks and vehicles entering the site and allowing a concentration of mitigation measures at a single location that will ensure the safety of pedestrians. The Jarvis Street curb cut will be eliminated, and that street will no longer be used for access to the site.

3. Conformance with the General Special Permit Criteria in Section 10.43

Special permits will normally be granted where specific provisions of this Ordinance are met, except when 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.

The Planning Board finds that the requested special permits should be granted, as the project authorized will not be a detriment to the public interest because:

a. The requirements of the Zoning Ordinance can be met.

With the granting of the requested special permits, all requirements of the Zoning Ordinance will be met.

b. Traffic and patterns of access and egress will not cause hazard or congestion or change in neighborhood character.

Based on the traffic analysis provided by the Applicant and reviewed by the Cambridge Traffic, Parking and Transportation Department, the project will not cause a significant adverse impact on neighborhood traffic patterns. The addition of two-way traffic in the portion of Everett Street between Massachusetts Avenue and the vehicular access drive to the garage will allow exiting traffic to use Massachusetts Avenue and avoid the residential portions of the neighborhood. Required changes to the traffic signal at Massachusetts Avenue and Everett Street will improve the performance of that intersection for all users.

c. The operation or development of adjacent uses will not be adversely affected.

Adjacent residential, institutional, and retail uses will not be adversely impacted by the institutional building or the underground parking garage, uses which currently exist on the site. The proposed accommodation of two-way traffic on a section of Everett Street will result in the loss of approximately 10 on-street parking spaces, which will be offset by commensurate increases in public metered parking or resident permit parking nearby on Massachusetts Avenue and Mellen Street. The existing bicycle lane on Everett Street will be retained.

The new building will be constructed within the core campus of the University where City policy encourages the University to meet its need for additional academic space. Institutional buildings or large multifamily apartment buildings predominate in the vicinity of the new building's site, which lies within the Residence C-3 and Residence C-2A zoning districts, which allow institutional uses and high-density housing.

d. No nuisance or hazard will be created to the detriment of the health, safety and welfare of future residents or citizens of Cambridge.

The approved project will comply with all applicable health, safety, and noise standards.

Trash and loading operations will take place in an enclosed area at the interior of the site and away from neighboring uses.

e. The use will not impair the integrity of the District or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

The project is fully consistent with existing uses on the site and adjacent sites and with the intent and purpose of applicable zoning regulations for that district, which is the high-density residential district Residence C-3 that serves as the principal zoning district designation governing the core areas of university campuses in the city.

f. The new use or building construction is consistent with the Urban Design Objectives set forth in Section 19.30.

The project is consistent with those objectives, as previously described in the findings above.

DECISION

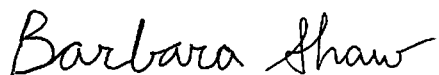
Based on a review of the application documents, comments made at the public hearing, and the above findings, the Planning Board **GRANTS** the requested Special Permits subject to the following conditions and limitations:

1. All use, building construction and site plan development shall be in substantial conformance with the plans and application documents submitted to the Planning Board as referenced above, dated October 18, 2006 and revised November 28, 2006. Appendix I summarizes the dimensional features of the Project as approved.
2. The project shall be subject to continuing design review by the Community Development Department (CDD). Before issuance of a Building Permit for construction authorized by this Special Permit, 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 Decision.
3. The Permittee shall implement the transportation mitigation measures detailed in the Memorandum from Sue Clippinger, Director of Traffic, Parking and Transportation, dated November 21, 2006. All required construction shall be completed before issuance of the Final Occupancy Permit for the building, unless otherwise stated in the Memorandum.
4. Before issuance of a Building Permit for construction authorized by this Special Permit, the Permittee shall provide to the Community Development and Traffic, Parking and Transportation Departments the quantity and locations of all parking spaces to be relocated to the site from elsewhere on the campus and shall certify which spaces have been relocated 1,000 feet or more from the entry of the project's garage, per the threshold provisions of Section 19.23 – Table 1.

5. The design of the expanded curb cut for the proposed driveway off of Everett Street shall be subject to review and approval by the Traffic, Parking, and Transportation Department, but in no case shall the curb cut exceed forty (40) feet in width.
6. Before issuance of a Building Permit for construction authorized by this Special Permit, the Permittee shall prepare a Construction Management Plan consistent with the requirements of Section 18.20 of the Zoning Ordinance, which Plan shall be submitted to the Community Development Department for review and approval.
7. All authorized development shall conform to the requirements of the City of Cambridge *Noise Control Ordinance*, Chapter 8.16 of the City Municipal Code.
8. Before issuance of a Certificate of Occupancy for the building authorized by this Special Permit, the Permittee shall meet the obligations under the City's Tree Ordinance as specified in the submitted Tree Protection Plan and the associated November 28, 2006 memorandum to the Board from Kelly Writer, City Arborist, and shall provide replacement trees or make payments to a Tree Replacement Fund consistent with the formulas set forth in the application documents and the aforementioned memorandum from the City Arborist.

Voting in the Affirmative to **GRANT** the Special Permit were Planning Board Members B. Shaw, H. Russell, T. Anninger, T. Carpenter, W. Tibbs, S. Winter and P. Winters, constituting at least two thirds of the members of the Planning Board, necessary to grant a Special Permit.

For the Planning Board,

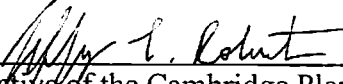
 (JCR)

Barbara Shaw, Chair

A copy of this decision #221 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 after the date of such filing in the Office of the City Clerk.

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

on 02/02/2007 (date),

by  (Signature, CDD staff person) 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

Appendix I: Dimensional Chart

	Existing	Allowed or Required	Proposed	Permitted
Lot Area (sq ft)	1,343,528	5,000	1,343,528	No Change
Total GFA (sq ft)	2,117,563	4,030,584	Approx 238,000 in new bldg.	Consistent with applicable base zoning requirements and application documents
Residential	-	-	-	
Non-Residential	2,117,563	4,030,584	Approx 238,000 In new bldg.	
Total FAR	1.58	3.00	1.71	Consistent with applicable base zoning requirements and application documents
Residential	-	-	-	
Non-Residential	1.58	3.00	1.71	
Inclusionary	-	-	-	
Lot Width (ft)	> 1000	50 minimum	> 1000	No Change
Height (ft)	37-57 (range)	120 maximum	51-94 (range)	Consistent with application documents
Front Setback – Mass Ave (ft)	0 to ca 30	5 or formula (ca. 5)	ca. 12	Consistent with application documents
Front Setback – Everett St (ft)	10	5 or formula (ca. 20)	ca. 22	
Rear Setback (ft)	NA	NA	NA	NA
Total Open Space Area (sq ft)	NA	NA	NA	Consistent with open space and landscaping features shown on application documents
Useable	NA	NA	NA	
Other				
Off-Street Parking Spaces	374 garage 132 surface (on-site or within 1000 feet of site)	143 minimum for new building (To be met on site or from University parking supply inventory located elsewhere on campus)	700 (per application documents)	700 maximum without further Planning Board review. (No net new parking spaces created above existing University parking supply inventory)
Handicapped		6 minimum	7	7
Bicycle Spaces	Approx 50	14 minimum for new building	94 covered 10 uncovered	Consistent with application documents
Loading Bays	12 on lot	12 on lot	13 on lot (1 new)	Consistent with application documents