

CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02109

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

NOTICE OF MINOR AMENDMENT TO PLANNED UNIT DEVELOPMENT

Case Number:	31 Amendment #4 (Minor)
Address:	245 First Street (Components: 239 First Street, One Athenaeum)
Zoning:	Office 3A / PUD-3
Owner/Applicant:	MA-Riverview/245 First Street, L.L.C. 125 Summer Street, Boston, MA
Application Date:	September 4, 2013
Date of Planning Board Special Permit:	July 5, 1983
Dates of Prior Amendments:	January 7, 1986 (titled "Minor Amendment") March 20, 1990 (titled "Minor Amendment #3") April 15, 2003 (titled "Major Amendment #1")
Date of Amendment #4 (Minor) Decision:	September 17, 2013
Date of Filing Planning Board Decision:	October 2, 2013

Application: Minor Amendment to the Final Development Plan (pursuant to Section 12.37 of the Zoning Ordinance) identifying two component parcels and clarifying requirements applicable to each in order to facilitate the subdivision of the Development Parcel.

Decision: The Planning Board determined that the request constitutes a Minor Amendment and APPROVED the Minor Amendment, 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 Minor Amendment with the City Clerk. Copies of the complete Minor Amendment 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 JCR 10/2/13

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

DOCUMENTS SUBMITTED

Application Documents and Supporting Material

1. Letter from Kevin J. Renna, attorney for the Applicant, dated September 4, 2013, with attached Subdivision Plan and Ownership Certificate.

Other Documents

2. Memorandum from Community Development Department staff dated September 10, 2013.

SUMMARY OF APPLICATION

In 1983, the Planning Board issued a Special Permit authorizing a Planned Unit Development (PUD) at 245 First Street pursuant to the PUD-3 zoning regulations. There were three subsequent amendments to the Special Permit, the latest being a Major Amendment to authorize technical office for research and development as a permitted use in 2003. To date, all development authorized by the Special Permit and subsequent Amendments has been completed and all conditions have been met.

The Final Development Plan includes two principal buildings. One is at 239 First Street, the former “Carter Ink Building” (referred to in some prior decisions as “Riverview I”), which was converted from industrial to office use. The other building, at One Athenaeum Street (referred to in some prior decisions as “Riverview II”), was constructed subsequent to the granting of the special permit and includes a parking garage in its lower floors with commercial space above. The two buildings are connected by a four-story-height atrium at the ground floor. The special permit requires that this atrium space be open to public use and available to local arts groups for gallery and theatre space.

The requested amendment would not authorize any change in the development authorized by the special permit, as previously amended, but would instead identify the two component parcels (i.e., 239 First Street and One Athenaeum) that comprise the Development Parcel and would clarify the requirements and conditions applicable to each component parcel in order to facilitate the subdivision of the property. Further detail and a subdivision plan are included in the Letter from the Applicant attached to this Minor Amendment Decision.

FINDINGS

After review of the Application Documents and other documents submitted to the Planning Board, information presented at the meeting of the Planning Board on September 17, 2013, and review and consideration of the applicable requirements and criteria set forth in the Zoning Ordinance with regard to the relief being sought, the Planning Board makes the following Findings:

1. Determination of Minor Amendment

The Zoning Ordinance, in Section 12.37.1, states, “The Planning Board shall decide whether proposed amendments are major or minor.” Section 12.37.2 provides the following guidance:

Minor amendments are changes which do not alter the concept of the PUD in terms of density, floor area ratio, land usage, height, provision of open space, or the physical relationship of elements of the development. Minor amendments shall include, but not be limited to, small changes in the location of buildings, open space, or parking; or change in the circulation system.

Because the request does not propose any change to the density, floor area ratio, land usage, height, provision of open space, or any other physical aspect of development within the PUD, the Board finds that the amendment is minor.

2. Approval of Minor Amendment

Approving the requested Minor Amendment will not authorize any change to the PUD as it has been permitted and built, and will not change any of the conditions of the original Special Permit as it has been amended over the years. However, approving the request will clarify the requirements applicable to each building within the Planned Unit Development. In that sense, the requested Minor Amendment is consistent with the general purpose of the Planned Unit Development provisions set forth in Article 12.000 of the Zoning Ordinance, which aim to provide flexibility in the regulation of large-scale development areas over time.

DECISION

Based on a review of the Application Documents, presentations made to the Planning Board, and the above Findings, the Planning Board hereby determines that the request constitutes a Minor Amendment and APPROVES the requested Minor Amendment subject to the following conditions and limitations. Hereinafter, for purposes of this Decision, the Permittee shall mean the Applicant for the requested Minor Amendment and any successor or successors in interest.

1. All requirements and conditions of Planning Board Special Permit #31, as previously amended, shall continue to apply except where they are specifically modified by this Minor Amendment.
2. **Component Parcels.** From and after the recording with the Registry of Deeds of a subdivision plan substantially in accordance with the Subdivision Plan received by the Planning Board and dated September 4, 2013, the Development Parcel shall be defined to include two lots, known as 239 First Street and One Athenaeum, as illustrated on the aforementioned Subdivision Plan, which shall be referred to in this Decision as Component

Parcels. The term Component Permittee shall refer to the owner or controlling interest of either specified Component Parcel.

3. **Amendments.** A Component Permittee may request and obtain further major and minor amendments to the Special Permit, or other zoning relief for its Component Parcel, as set forth in this Decision. Except where otherwise set forth in this Decision, such relief may be requested independently (i.e., without the consent of any other Component Permittee), provided that such requested zoning relief does not affect another Component Permittee's compliance with the Special Permit, as amended, or with any applicable terms of the Zoning Ordinance. In no case shall the non-requesting Component Permittee be deemed to waive any rights it has as an abutter in connection with such requested zoning relief.
4. **Use Limitations.** The permitted uses for each Component Parcel shall be General Office and Technical Office, as previously approved. In addition, retail uses shall be permitted on the ground floor of either Component Parcel. Any Component Permittee may independently convert Gross Floor Area from General Office to Technical Office use, or vice versa, within either Component Parcel without requiring approval by the Planning Board. A Component Permittee may independently seek a major or minor amendment to convert Gross Floor Area to a use not already approved, subject to any applicable zoning requirements and the limitations of Condition #3 above.
5. **Development Limitations.** The permitted Gross Floor Area and maximum building height for each Component Parcel shall be the Gross Floor Area and building height of the existing development at the time of approving this Amendment. No additional construction or demolition and reconstruction shall be permitted by this Amendment. Any increase in Gross Floor Area on either Component Parcel shall require additional zoning relief, which either Component Permittee may seek independently, subject to the limitations of Condition #3 above.
6. **Design Limitations.** A Component Permittee may independently seek Planning Board approval for any design changes that do not increase the Gross Floor Area or building height on either Component Parcel, subject to the limitations of Condition #3 above.
7. **Open Space.** No reduction in open space on either Component Parcel shall be permitted by this Minor Amendment.
8. **Parking.** As the owner and/or controlling interest in the shared parking garage on the Development Parcel, the One Athenaeum Component Permittee shall be obligated to provide a minimum of sixty-two (62) parking spaces within the garage, and access to such spaces, to be used by the occupants of the 239 First Street Component Parcel. The Component Permittee of One Athenaeum may independently apply for a reduction or relocation of required parking, subject to any applicable zoning requirements and the limitations of Condition #3 above, so long as it does not impact the provision of the required sixty-two (62) spaces to 239 First Street. Any reduction or relocation of those required sixty-two (62) spaces shall be applied for jointly by the Component Permittees for One Athenaeum and 239 First

Street. Upon recording with the Registry of Deeds of a subdivision plan substantially in accordance with the Subdivision Plan received by the Planning Board and dated September 4, 2013, each Component Permittee shall register the accessory parking spaces they control with the Traffic, Parking and Transportation Department.

9. **Loading.** As the owner and/or controlling interest in the shared loading bays on the Development Parcel, the One Athenaeum Component Permittee shall be obligated to allow the customary use of such loading bays by the occupants of the 239 First Street Component Parcel by way of mutual easements provided to the Superintendent of Buildings upon recording with the Registry of Deeds.
10. **Atrium/Courtyard Space.** The One Athenaeum Component Permittee shall be responsible for the ground floor enclosed atrium space between the two buildings on the Development Parcel and shall maintain such space as open to public use and available to local arts groups for gallery and theatre space, and shall maintain a retail presence within that space. Furthermore, the One Athenaeum Component Permittee shall guarantee access to occupants of the 239 First Street building by way of mutual easements provided to the Superintendent of Buildings upon recording with the Registry of Deeds.

Voting in the affirmative to APPROVE the requested Minor Amendment were Planning Board Members H Theodore Cohen, Steve Cohen, Hugh Russell, William Tibbs, Steven Winter, Pamela Winters, and Associate Members Catherine Preston Connolly and Ahmed Nur, appointed by the Chair to act on the case, constituting at least two thirds of the members of the Board, necessary to approve a Minor Amendment.

For the Planning Board,



Hugh Russell, Chair.

A copy of this Minor Amendment 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.

September 4, 2012

Hugh Russell, Chairman
Cambridge Planning Board
344 Broadway
Cambridge, MA 02139

Re: Request for Minor Amendment #4 to PB #31, 245 First Street
(the "Property")

Dear Chairman Russell and Members of the Planning Board,

On behalf of MA-Riverview/245 First Street, L.L.C., a Delaware limited liability company (the "Owner") and the current owner of the Property, I write to request an amendment to the Property's existing Special Permit, pursuant to Section 12.37 of the City of Cambridge Zoning Ordinance (the "Zoning Ordinance"), in connection with a proposed subdivision of the Property substantially as shown on the subdivision plan attached to this letter as Exhibit A (the "Subdivision Plan").

The current improvements on the Property (the "Improvements") were constructed pursuant to the City of Cambridge Planning Board's decision PB #31, filed with the City Clerk on July 13, 1983, and recorded with the Middlesex (South) Registry of Deeds (the "Registry") at Book 15468, Page 10, as amended by that certain Major Amendment #1, filed with the City Clerk on May 9, 2003, and recorded with the Registry at Book 39612, Page 323, and as further amended by that certain Minor Amendment #1, dated January 7, 1986, that certain Minor Amendment #2, dated March 20, 1990, and that certain Minor Amendment #3, dated March 20, 1990 (as so amended, the "Special Permit"). An Ownership Certificate executed by the Owner in connection with this amendment request is attached to this letter as Exhibit B.

The Property is located within the Office-3A District and Planned Unit Development-3 District, and totals approximately 70,429 square feet of lot area. The existing Improvements consist of two separate buildings on a single Development Parcel connected by a four-story atrium at the ground floor: (i) "239 First Street," a six-story building formerly known as the Carter Ink Building, containing office, including research and development, use and reaching a height of approximately 65 feet, shown as Lot B-1 on the Subdivision Plan; and (ii) "One Athenaeum," a 17-story building containing approximately nine levels of above grade parking (containing approximately 340 parking spaces), with the remainder of the building occupied with office, including research and development, use and reaching a height of approximately 178 feet, shown as Lot B-2 on the Subdivision Plan.

The Owner now requests a further amendment to the Special Permit and seeks the Planning Board's approval of such amendment as a Minor Amendment pursuant to Section 12.37.1 of the Zoning Ordinance. The requested amendment would not authorize any change in the development permitted by the Special Permit, but would instead identify the two component parcels (*i.e.*, 239 First Street and One Athenaeum) that comprise the Development Parcel and would clarify the requirements and conditions applicable to each component parcel in order to facilitate the subdivision of the Property substantially as shown on the Subdivision Plan.

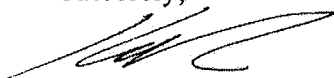
The Special Permit required that: (i) the Improvements be constructed in accordance with the submitted plans; (ii) certain off site public open space improvements be provided; and (iii) at least 62 parking spaces for 239 First Street be provided within the One Athenaeum parking structure. The Special Permit also noted that the four-story atrium would be open to public use and available to local arts groups for gallery and theatre space. The Improvements were completed in or around 1985, the offsite public open space requirement was satisfied in or around 1986 and at least 62 parking spaces for 239 First Street will continue to be provided (on a shared basis) within the One Athenaeum parking structure. Moreover, as indicated by the Subdivision Plan, the four-story atrium and certain shared loading facilities will be included entirely within the One Athenaeum component parcel. No additional development potential exists under the Special Permit, and no expansion of the Improvements is proposed at this time. Accordingly, the Special Permit would be amended to authorize the following:

1. From and after the recording with the Registry of a subdivision plan substantially in accordance with the Subdivision Plan, either of 239 First Street and One Athenaeum may request and obtain further major and minor amendments to the Special Permit (or other zoning relief for its applicable portion of the Property) without the other's consent, provided that such requested zoning relief does not affect the other's compliance with the Special Permit or otherwise with any applicable terms of the Zoning Ordinance, and provided further that the non-requesting party shall not be deemed to waive any rights it has as an abutter in connection with such requested zoning relief.
2. Prior to, or contemporaneously with, the recording with the Registry of a subdivision plan substantially in accordance with the Subdivision Plan, the Owner shall also cause to be recorded with the Registry an easement agreement between 239 First Street and One Athenaeum that, at a minimum: (i) requires compliance by each of 239 First Street and One Athenaeum with the terms of the Special Permit applicable to it (*e.g.*, One Athenaeum will be solely responsible for the four-story atrium's compliance with the terms of the Special Permit), but acknowledges that either of 239 First Street and One Athenaeum may seek and obtain further zoning relief in connection with the Property pursuant to the terms of paragraph 1 above; and (ii) establishes mutual easements in and obligations to maintain the Property's shared facilities, including the atrium, the shared loading facilities and the right of 239 First Street to at least 62 parking spaces (on a shared basis) in the One Athenaeum parking structure. Evidence of the recording of such easement agreement shall be provided to the Cambridge Community Development Department.

3. From and after the recording with the Registry of a subdivision plan substantially in accordance with the Subdivision Plan, each of 239 First Street and One Athenaeum shall be independently responsible for the compliance of its portion of the Property with the Special Permit, and: (i) neither 239 First Street nor One Athenaeum shall make any alterations to the Improvements or change in use of the Property in violation of the Special Permit, without first obtaining any necessary zoning relief pursuant to the terms of paragraph 1 above; (ii) One Athenaeum shall not be deemed to be in violation of the Special Permit solely due to a failure by 239 First Street to comply with the terms and conditions of the Special Permit; and (iii) 239 First Street shall not be deemed to be in violation of the Special Permit solely due to a failure by One Athenaeum to comply with the terms and conditions of the Special Permit.

We look forward to discussing these matters with the Board.

Sincerely,



Kevin J. Renna,
Attorney for the Owner

cc: John Conley, MA-Riverview/245 First Street, L.L.C.
Paul Filtzer, MA-Riverview/245 First Street, L.L.C.
Richard M. McKinnon, The McKinnon Company
Deborah S. Horwitz, Esq., Goulston & Storrs PC

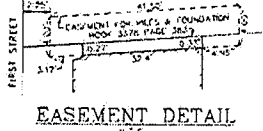
Exhibit A

Subdivision Plan

[see attached]

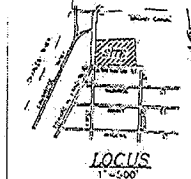
LEGEND

- CATCH BASIN
- FOUND
- ▭ SEWAGE PILE
- ▭ BITUMINOUS CONCRETE
- ▭ CALCULATED
- ▭ BACK
- ▭ TACK
- ▭ STAMP
- ▭ STEEL FIN
- ▭ CHAIN LINK FENCE
- ▭ LIGHT POLE
- ▭ HAND HOLE
- ▭ SIGN

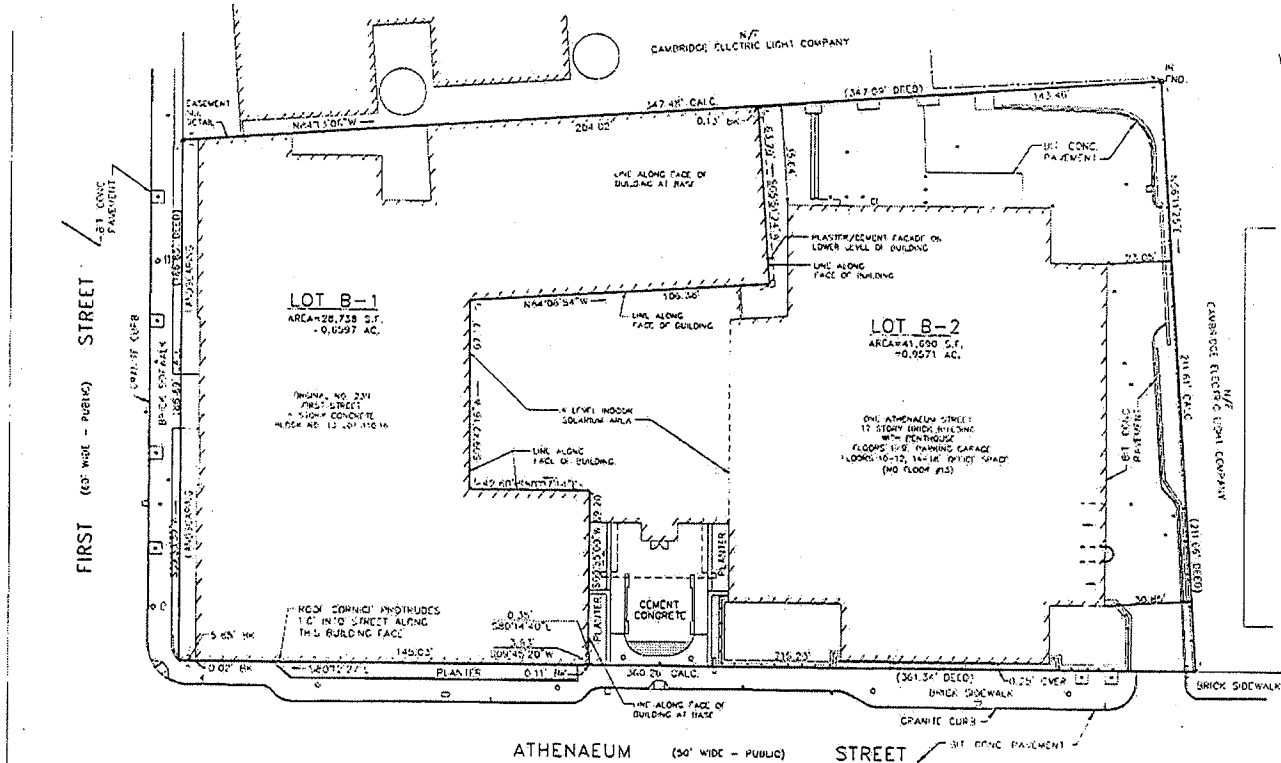


NOTES

1. ZONING DISTRICT: O-3A/PUD-3 (BUSINESS AND PROFESSIONAL OFFICES/ PLANNED UNIT OF DEVELOPMENT-3)
2. OWNER IS RECORD AT THE TIME OF SUBMISSION OF THIS PLAN IS: BP-RIVERVIEW/245 FIRST ST., L.L.C., C/O EQUITY OFFICE PROPERTIES UTILITY DEED BOOK 27978 PAGE 418 M.C.D.R.D. SIT ASSIGNMENT MAP #13 BLOCK #16 FOR THIS SITE.



FSP REGISTRY USE



THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

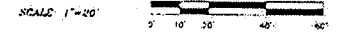
STEPHEN C. STAPINSKI, P.L.S. DATE

PLAN OF LAND
IN
CAMBRIDGE, MASSACHUSETTS

PREPARED FOR
BP-RIVERVIEW/245 FIRST ST., L.L.C.
C/O EQUITY OFFICE PROPERTIES UTILITY

P.O. BOX A-3879
CHICAGO, ILLINOIS 60680-3879

DATE: AUGUST 26, 2013



MERRIMACK ENGINEERING SERVICES
66 HANK STREET
ANDOVER, MASSACHUSETTS 01810
PHONE (978) 475-3555 FAX: (978) 475-1448
EMAIL: MERRENG@AOL.COM

MERRIMACK ENGINEERING SERVICES, 7/27/13

Exhibit B

Ownership Certificate

[see attached]

OWNERSHIP CERTIFICATE

Project Address: 245 First Street

Application Date: 9/4/2013

This form is to be completed by the property owner, signed, and submitted with the Special Permit Application:

I hereby authorize the following Applicant: MA-Riverview/245 First Street, L.L.C.

at the following address: 125 Summer Street, Boston, MA

to apply for a special permit for: Amendment to PB #31

on premises located at: 245 First Street

for which the record title stands in the name of: MA-Riverview/245 First Street, L.L.C.*

whose address is: 125 Summer Street, Boston, MA

by a deed duly recorded in the:

Registry of Deeds of County:

Book: 27978

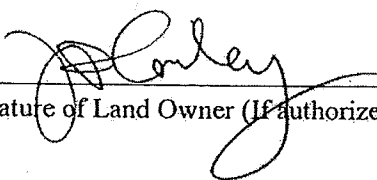
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OR Registry District of the Land Court,

Certificate No.:

Book:

Page:


Signature of Land Owner (If authorized Trustee, Officer or Agent, so identify)

To be completed by Notary Public:

Commonwealth of Massachusetts, County of

Suffolk

The above named John Conley personally appeared before me,

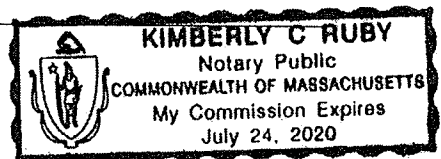
on the month, day and year September 3, 2013 and made oath that the above statement is true.

Notary:

Kimberly C Ruby

My Commission expires:

July 24, 2020



*f/k/a EOP-Riverview/245 First Street, L.L.C.

CITY OF CAMBRIDGE, MA • PLANNING BOARD • SPECIAL PERMIT APPLICATION