



CITY OF CAMBRIDGE, MASSACHUSETTS

# PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

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## NOTICE OF DECISION

CASE NO.: PB 78

PREMISES: 12-14 Mifflin Place, 40 Brattle Street

ZONING DISTRICT: Business B and Harvard Square Overlay District

PETITIONER: Brattle Square Associates

APPLICATION DATE: November 17, 1987

DATE OF HEARING: January 5, 1988

PETITION: Special Permit under Section 11.542 to allow height in excess of 60 feet, and relief on Mifflin Place from setback and sky exposure plane for a 30,674 square foot office and retail building and to permit the sharing of the access drive to parking facilities with the development of 38-40A Brattle Street as permitted in Section 6.346 and Section 10.45.

DATE OF PLANNING BOARD DECISION: March 1, 1988

DATE OF FILING PLANNING BOARD DECISION: March 24, 1988

DECISION (summary): GRANTED with the 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 the date of filing of the above referenced decision with the City Clerk.

Copies of this decision and final plans, if applicable, are on file with the office of Community Development and the City Clerk.

DATE *March 24, 1988*

*[Signature]*  
Authorized Representative to the  
Planning Board

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APPLICATION

The following material was submitted in support of the application:

1. The Special Permit application certified as complete on November 11, 1987.
2. Photographs showing the existing conditions on the Development Parcel and Structures on abutting lots as of November 1987, by Brattle Square Associates.
3. Architectural plans dated November 16, 1987, of various scales, consisting of seven pages.

OTHER DOCUMENTS

1. Letter to the Planning Board from Sylvia Berger, undated opposing the proposals.
2. Letter to Secretary of Environment Affairs from Sally Alcorn, executive director of the Harvard Square Business Association, dated July 28, 1987, on the MEPA hearings.
3. Letter to whom it may concern from Elizabeth Pianes, dated November 30, 1987 opposing all parking waivers and special permits.

4. Letter to whom it may concern from Hillel Stavis, dated November 30, 1987 opposing parking waivers and special permits in the Harvard Square area.
5. Letter to whom it may concern from Catherine Miller of Custom Design woodworking, dated November 30, 1987 opposing all parking waivers and special permits in the Harvard Square Area.
6. Letter to the Planning Board from Janet Garfield, dated December 1, 1987 opposing all parking waivers and special permits in the Harvard Square area.
7. Note from Petra Beer undated opposing all parking waivers and special permits in the Harvard Square Area.
8. Letter to the Planning Board from Jean & Edwin Green, dated December 1, 1988 opposed to the changes in the height and the parking.
9. Letter to the Planning Board from Robert Edbrooke, Secretary of the Mid-Cambridge Association dated December 1, 1987, about the objection to any parking relief being granted.
10. Letter to the Planning Board from Mary kay Lowe, dated December 1, 1987 opposing parking waivers and special permits in Harvard Square.
11. Letter to the Planning Board from M & M Theodore Hartry, dated December 1, 1987.
12. Letter to the Planning Board from Rena Abelmann, dated December 1, 1987 opposing all parking waivers or special permits or variances in the Harvard Square Area.
13. Letter from Sinchinta Mehla of the Taj Boutique undated opposing any parking waivers.
14. Letter to the Planning Board from Curtis Pollari, dated December 1, 1987 objecting to granting variances before EIR review.
15. Letter dated December 1, 1987 opposing variances from parking and special permits.
16. Letter from Cynthia Ellis, et al undated opposing waiving parking and height requirements.
17. Letter from Evelyn McMaster, et al dated December 1, 1987, opposing waivers from parking and height requirements.
18. Letter to the Planning Board from Thomas Bracken, of Bracken and Baram, representing the Harvard Square Defense Fund, dated December 2, 1987, outlining the Fund's objections to the proposals.

19. City Council Order of Councillor Wolf and Councillor Duehay dated December 21, 1987 requesting the cooperation of the MBTA.
20. Copy of the letter to Secretary Hoyte, Office of Environmental Affairs, from Thomas Braken, dated December 28, 1987, outlining the HSDF's objections to the DEIR #6666.
21. Letter to the Planning Board from Sally Alcorn dated December 31, 1987 in support of the development proposal.
22. Letter to the Planning Board from Lorraine Flynn dated January 1, 1988 objecting to the development proposal.
23. Certificate of the Secretary of Environmental Affairs on the DEIR #6666, dated January 4, 1988.
24. Letter to the Planning Board from Deborah Pratt Langermann, dated January 5, 1988.
25. Letter to the Planning Board from Sharon Smith, et al, dated January 5, 1988, opposing the variances and special permits.
26. Letter to the Planning Board from Olive Holmes, President, Harvard Square Defense Fund, dated January 5, 1988 expressing the concerns of the Fund.
27. Letter to the Planning Board from Edward & Jean Mason, dated January 5, 1988 opposing the waiver request.
28. Letter to whom it may concern from Shirely Carter, dated January 5, 1988, objecting to the applications.
29. Letter to the Planning Board from Thomas Bracken, dated January 11, 1988 outlining the HSDF's objections to the development proposal.
30. Letter to the Planning Board from Renata von Tscharner of the Townhouse Institute, dated January 12, 1988
31. Letter to the Planning Board from Robert Edbrooke, dated January 14, 1988 in opposition to the proposals.
32. Letter to the Planning Board from James R. Weir, dated January 18, 1988 in support of the proposal.
33. Letter to the Planning Board from Daralyn Khan, dated January 18, 1988 objecting to all the development in Harvard Square.
34. Letter to the Planning Board from Lauren Preston, Department of Traffic and Parking dated January 21, 1988, with comments on the proposal.
35. Letter to the Planning Board from Jeffrey Millman, dated January 21, 1988 in support of the proposals.

36. Letter to the Planning Board from Lionel Spiro, Charrette, dated January 26, 1988 in support of the proposals.
37. Letter to whom it may concern from Robert B. Parker, undated
38. Letter to the City Manager from the Harvard Square Defense Fund, dated February 15, 1988, objecting to the participation and vote of those directly interested in projects under consideration.
39. Letter to the Planning Board from Oliver Holmes, dated February 21, 1988, expressing concern over the legal issues to be determined.
40. Letter to the Planning Board from Daralyn Kahn, dated February 24, 1988, revising her previous letter of January 18, 1988.

#### PUBLIC HEARING

A public hearing was held on Tuesday, January 5, 1988. At the hearing and at subsequent Planning Board regular meetings, the cooperative arrangement between this development and One Brattle Square was much applauded. Nevertheless some persons were concerned that as a result of such heavy vehicular use Mifflin Place would become undesirably congested and unattractive to pedestrians. Otherwise, objections centered on the height of the building above the sixty foot as-of-right limit. Concern was expressed that the differential between the new building and the Brattle Theater building, which is to be retained, was too great and would be visually objectionable. Some discussion of the building materials, its relationship to the adjacent Waverly Hall, and the plaza and walkways to be created ensued. In response to questions the applicant indicated an intention to restore the exterior of the Theater Building after leases expire in 1990.

#### FINDINGS

1. All procedural requirements of the Zoning Ordinance have been met with review of the proposal by the Harvard Square Advisory Committee, submittal of a complete application to the Planning Board, and the holding of a public hearing as detailed above.
2. The development meets all dimensional requirements of the Harvard Square Overlay District and the Business B district either as-of-right or with the issuance of Special Permits from the Planning Board.
3. The proposed building height of 71.5 feet exceeds the as-of-right height of 60 feet in the Harvard Square Overlay District and rises above the 45 degree sky exposure plane along Mifflin Place. The Planning Board finds that the proposed height is appropriate in this location and is consistent with the objectives of the Harvard Square Overlay District:

(a) The Brattle Theater Building, a contributing building in the National Register Historic District and the subject of a local landmark designation study, will be retained and subsequently restored. The additional height permits shifting of some of the development potential remaining on that portion of the lot occupied by the theater building onto the rear of the lot, thus increasing the feasibility of retaining the theater building both physically and financially.

(b) Pedestrian spaces are created at the ground plane which connect and improve upon a pedestrian system of walkways already present in the vicinity or which will be developed on the adjacent site at 38-40A Brattle Street. Those spaces are made possible by permitting the building to rise higher and lessen the building coverage on the lot.

(c) The height matches the already established height of the adjacent Waverly Hall at a location on the development parcel which is most removed from the principal public way in the area, Brattle Street.

(d) The increase above the 60 feet permitted as-of-right (i.e. 11.5 feet) does not materially increase the negative impact of additional height (as for example shadows and visual prominence) on Mifflin Place and abutting properties.

(e) The additional height makes it easier to accommodate the parking and service for this project (which could perhaps be entitled to a complete waiver of parking and loading requirements under the provisions of Section 11.544) and the parking access and service facilities for the adjacent development at 38-40A Brattle Street. The cooperative arrangements with 38-40A Brattle Street result in substantially increased public benefits that are derived from both developments.

(f) The requested relief will not cause detriment to the public interest and will not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

4. The redevelopment of this lot, and the companion redevelopment of the adjacent lot will result in an extension of the pedestrian network threading this block between Brattle Street and Mt. Auburn Street and will result in a significant improvement in the pedestrian environment along Mifflin Place, which although private, is heavily used by the public.

5. Granting of a special permit for establishment of a common driveway with the adjacent One Brattle Square project, as authorized under Section 6.436, is appropriate provided that a mutual easement allowing the use of the subject property for

access to the adjacent property is executed and duly recorded. The Mifflin Place access was endorsed by the Advisory Committee as a preferable means of access to the adjacent property due to its minimization of adverse traffic impacts in the Brattle Square area. The Board concurs.

6. The proposal is consistent with the objectives and the criteria contained in the publication Harvard Square Development Guidelines, Community Development Department, July 1, 1986.

- a. The project retains over half of the site in its current condition, in particular the historic Brattle Theatre building.
- b. The project creates a diversity of building form and scale, including courtyards, walkways, the existing Brattle Theatre and a new structure.
- c. The project adds to the high quality public environment by creating walkways which link existing circulation patterns, bringing pedestrians to the core of the block, and eliminates the need for a Brattle Street curb cut for the adjacent One Brattle Square project.
- d. No residential space will be eliminated by the Project, as none currently exists on the site.
- e. The project's sharing of an underground parking and loading area with the adjacent One Brattle Square project provides a creative solution to parking and access problems.
- f. The Harvard Square Advisory Committee gave the project its endorsement with one exception in September of 1987. The Board gave the due consideration that report is entitled to under Section 11.541 (c)(5).

7. Based on the record as a whole and additional information supplied by the applicant, The Board finds that granting of the requested relief will not be to the detriment of the public interest and therefore is permitted under the criteria of Section 10.43 generally applicable to special permits. The specific provisions applicable to the grant of the requested relief by special permit have been satisfied and none of the factors specified in Section 10.43 militate against the grant of these special permits.

- a. Except as provided herein, the project complies with the requirements of the zoning ordinance.
- b. The access and egress from the property will not cause congestion, hazard, or substantial change in the established neighborhood character.

- c. The continued operation and development of adjacent uses will not be adversely affected, and, in the case of One Brattle Square, will be enhanced by the project.
- d. No nuisance or hazard will be created by the project.
- e. The proposed use of the property will not impair the integrity of the district or adjoining district, nor otherwise derogate from the intent and purpose of the zoning ordinance

### Decision

After review of the application, comments heard at the public hearing, review of documents submitted to the Board, and discussions with the staff of the Community Development Department, the Planning Board GRANTS a Special Permit for additional height and to waive the sky exposure plane requirements, as authorized in Section 11.542 of the Zoning Ordinance, and GRANTS a Special Permit to permit the sharing of the access drive to parking facilities with the development at 38-40A Brattle Street as permitted in Section 6.436 and Section 10.45 of the Zoning Ordinance subject to the following conditions and limitations.

1. The final development plans for the new construction shall conform to the dimensional limitations detailed in Appendix I of this Decision. Additional gross floor area on the lot, above that approved in Appendix I, may be permitted by the Planning Board as a minor amendment to the Special Permit provided it is located within the walls of the existing Brattle Theater Building and it is related to the renovation and restoration of the building in a manner consistent with the intent of the Harvard Square Overlay District. Any other increase in gross floor area on the lot may be authorized only as a major amendment to the Special Permit.
2. The design of the new building and the improvements to the lot shall continue to undergo design review by the Community Development Department. The Department shall certify to the Superintendent of Buildings that the final plans submitted for a building permit conform to the requirements of this Decision.
3. Improvements to Mifflin Place abutting this development, as shown on the application documents, shall be required and shall be installed prior to issuance of a certificate of occupancy for the new building. In the event that seasonal conditions prevent the installation of the required improvements posting of surety in manner satisfactory to the City may be permitted. The design of those improvements shall be approved by the Community Development Department.

4. The Brattle Theater Building shall be continuously maintained in its present or better condition such that it shall continue to remain a contributing building in the Harvard Square National Register District. The building shall not be demolished and no exterior change, modification, or addition shall be made to the building which has not been reviewed and approved by the Cambridge Historical Commission. The permittee, or any successors in interest, shall undertake reasonable efforts to substantially renovate and/or restore the exterior of the Building no later than January 1, 1992, but failure to do so shall not invalidate any of the relief granted by this Decision. The Planning Board strongly encourages the permittee to retain the existing theater use of a portion of the building.

5. Easement documents shall be filed with the Registry of Deeds permitting access to 38-40A Brattle Street and the use of the loading facilities by owners and tenants of 38-40A Brattle Street prior to issuance of a certificate of occupancy for the building.

6. During design development of the new building reasonable efforts shall be made to reduce the height and bulk of mechanical equipment which is located above the nominal zoning height of the building as authorized in this Decision.

7. The permittee shall cooperate in any study undertaken by the City to review improvements which may be necessary in the vicinity of the intersection of Mifflin Place and Mount Auburn Street. The permittee is strongly encouraged to participate in a subsidized "T" pass program or other programs designed to encourage transit use into the Square.

Voting to GRANT the Special Permit were Paul Dietrich, Acheson Callaghan, Clarence Cooper, Alfred Cohn, and Carolyn Mieth being more than two thirds of the members of the Board.

For the Planning Board,



Paul Dietrich, Chairman

Dimensional Form

	<u>Allowed/Required</u>	<u>Existing</u>	<u>New Proposed</u>	<u>Retained Proposed</u>	<u>Total</u>	<u>GRANTED</u>
Floor Area Ratio (Floor Area)	4 53,344	1.9 25,500	N/A 30,674	N/A 10,305	3.1 40,979	3.1 40,979
Max. Height	60' (1)	±25-45'	71'6"	36'	71'6"	71.5'
Max. Angle Above Cornice Line	45% over 55'	0	N/A		16% over 36' at Brattle Street 0 at Hifflin Place	Waived as per plans.
Min. Lot Size	N/A	13,336 SF	N/A	N/A	13,336	13,336
Min. Lot Area per d. u.	N/A	N/A	N/A	N/A	N/A	NA
Max. No. d. u.	N/A	N/A	N/A	N/A	N/A	NA
Min. lot width	N/A	N/A	N/A	N/A	N/A	NA
Min. yard setbacks	None	None	None	None	None	
Front	None	None	None	None	None	
Side L	None	None	None	None	None	
R	None	None	None	None	None	as per plans
Rear	None	None	None	None	None	
Ratio Usable Open Space (Area)	N/A N/A	N/A N/A	N/A N/A	N/A N/A	21% 2800 s.f.	21% 2800 s.f.
Off-Street Parking						
Minimum No. Spaces	31	0	31	0	31	31
Maximum No. Spaces	31	0	31	0	As required for uses proposed	
No. Handicapped Spaces	N/A	0	As required	0	As required	As required
Bicycle Spaces	N/A	0	4	0	4	4
No. Loading Bays	1	0	2 (2)	0	2 (2)	2

(1) 60' as of right, 80' with special permit

(2) One required, one to be shared with the Cherry Webb project adjacent.

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 after the date of such filing.

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ATTEST: A true and correct copy of the decision filed with the Office of the City Clerk on March 24, 1985 by *Robert B. [Signature]* authorized representative of the Cambridge Planning Board. All plans referred to 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.

date

\_\_\_\_\_  
City Clerk, City of Cambridge