



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

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NOTICE OF DECISION

CASE NO: PB 79

PREMISES: One Brattle Square (formerly 38-40A Brattle Street)

ZONING DISTRICT: Business B, Harvard Square Overlay District

PETITIONER: Daniel Calano, as Trustee of Brattle Square
Associates Trust

APPLICATION DATE: November 17, 1987

DATE OF HEARING: January 5, 1988

PETITION: Special Permit to exceed the 60 foot height under
11.542, reduce parking and loading requirements, and
establish a common driveway with the premises at 12-14
Mifflin Place for the construction of a 99,920 square
foot office and retail building.

DATE OF PLANNING BOARD DECISION: March 15, 1988

DATE OF FILING THE DECISION: March 24, 1988

Decision (summary): 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 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.

Authorized Representative to
the Planning Board

CASE NO. PB #79

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ZONING DISTRICT: Business B and Harvard Square Overlay District

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Associates Trust

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APPLICATION

The application is to build a 99,920 office and retail building with a common driveway with 12-14 Mifflin Place from Mifflin Place. The applicant also requests permission to build over 60 feet but under 80 feet and to reduce the required parking from 104 to 52 spaces.

In support of the petition, the applicant submitted the following documents:

1. Special Permit application certified completed on November 17, 1987.
2. Plans, elevations, perspectives, various dates and scales, cover sheet dated November 19, 1987, 19 sheets, titled "CWT/ One Brattle Square'" prepared by Donham & Sweeney.
3. Statement of Zoning Relief Requested.
4. Project Description and Compliance with Harvard Square Development Guidelines.
5. Grounds for Special Permit for Reduction of Required Parking under Section 6.35.
6. Harvard Square Advisory Report adopted at the May, 1987 meeting.
7. Harvard Square Advisory Committee Final Report to the Planning Board dated September 17, 1987.

8. Abutter's list
9. Deeds to the property
10. Photographs of the project site.

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 MidCambridge Association dated December 1, 1987, with an 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 variance from parking and special permits.
16. Letter from Cynthia Ellis, et al undated opposing waiving parking 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 Haig H. Agababian, Assistant General Manager of the Coop, dated December 1, 1987 in support of the proposal.
19. 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.
20. City Council Order of Councillor Wolf and Councillor Duehay dated December 21, 1987 requesting the cooperation of the MBTA.
21. Copy of the letter to Secretary Hoyt from David Soule, Executive Director of Metropolitan Area Planning Council, dated December 22, 1987, in response to the DEIR.
22. 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.
23. Copy of the letter to Secretary Hoyt, from Roger Boothe, of Community Development, dated December 28, 1987, in regard to the DEIR.
24. Copy of the Minority Report to Secretary Hoyt, from the Harvard Square Advisory Committee dated December 28, 1987.
25. Letter to the Planning Board from Sally Alcorn dated December 31, 1987 in support of the development proposal.
26. Letter to the Planning Board from Lorraine Flynn dated January 1, 1988 objecting to the development proposal.
27. Certificate of the Secretary of Environmental Affairs on the DEIR #6666, dated January 4, 1988.
28. Copy of the letter to Nancy Baker, MEPA Unit, from Donald Connors and Eric Wodlinger dated January 4, 1988, in response to the Harvard Square Advisory Committee Minority Report of December 28, 1987.
29. Copy of letter to Secretary Hoyt from Eric Wodlinger, dated January 4, 1988 disagreeing with the Harvard Square Advisory Committee Minority Report dated December 28, 1987.

30. Copy of letter to Secretary Hoyt from Daniel Calano dated January 4, 1988 in response to the Harvard Square Advisory Committee Minority Report dated December 28, 1987.
31. Letter to the Planning Board from Deborah Pratt Langermann, dated January 5, 1988.
32. Letter to the Planning Board from Sharon Smith, et al, dated January 5, 1988, opposing the variances and special permits.
33. Letter to the Planning Board from Olive Holmes, President, Harvard Square Defense Fund, dated January 5, 1988 expressing the concerns of the Fund.
34. Letter to the Planning Board from Edward & Jean Mason, dated January 5, 1988 opposing the waiver request.
35. Letter to whom it may concern from Shirely Carter, dated January 5, 1988, objecting to the applications.
36. Letter to the Planning Board from Thomas Bracken, dated January 11, 1988 outlining the HSDF's objections to the development proposal.
37. Letter to the Planning Board from Renata von Tscharner of the Townhouse Institute, dated January 12, 1988
38. Letter to the Planning Board from Robert Edbrooke, dated January 14, 1988 in opposition to the proposals.
39. Letter to the Planning Board from James R. Weir, dated January 18, 1988 in support of the proposal.
40. Letter to the Planning Board from Daralyn Khan, dated January 18, 1988 objecting to all the development in Harvard Square.
41. Letter to the Planning Board from Lauren Preston, Department of Traffic and Parking dated January 21, 1988, with comments on the proposal.
42. Letter to the Planning Board from Jeffrey Millman, dated January 21, 1988 in support of the proposals.
43. Letter to the Planning Board from Lionel Spiro of Charrette, dated January 26, 1988 in support of the proposals.
44. Letter to whom it may concern from Robert B. Parker, undated
45. Letter to the Planning Board from Howard Ris, Executive Director of the Union of Concerned Scientists, dated February 10, 1988, encouraging the use of the public transit system by the development's tenants.

46. 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.
47. Letter to the Planning Board from George Papuliminleros, Custom Barber Shop, dated February 16, 1988 in support of the proposal.
48. Letter to the Planning Board from Oliver Holmes, dated February 21, 1988, expressing concern over the legal issues to be determined.
49. Letter to the Planning Board from Daralyn Kahn, dated February 24, 1988, revising her previous letter of January 18, 1988.
50. Letter to the Planning Board from Russell Higly, City Solicitor, dated March 14, 1988, determining the applicability of Section 6.35 to this proposal.

PUBLIC HEARING

A public hearing was held on Tuesday, January 5, 1988. At the hearing and at subsequent regular Planning Board meetings, while many issues were discussed and many comments made, the discussion centered on three principal concerns: the desirability of the height of the building exceeding 60 feet, the desirability of granting any relief from the required rate of parking, and finally the disagreement as to which parking provision (Section 6.35 or 11.544 is applicable to the present proposal. The details of the arguments on those issues and many others are comprehensively set forth in the material listed under Other Documents above.

FINDINGS

Upon consideration of the exhibits, documents, plans, etc. submitted to us at the public hearing and thereafter, and the testimony given at the public hearing and our discussions at subsequent public meetings, we find as follows:

1. The proposal conforms to the requirements of Section 11.542(b) for a Special Permit for Additional Height in the Harvard Square Overlay District.
 - a. No part of the building will exceed 80 feet in height.
 - b. Those portions in excess of 60 feet in height (approximately 17% of the building) are set back from the street line at least 10 feet and from the sky exposure planes as defined in Section 11.542.

The proposal's design is substantially superior to the maximum zoning envelope that would be permitted as of right. In particular, the design reduces the building height at Brattle Street to three stories and steps back the upper stories from the Brattle Street facade and the Brattle Theatre to preserve the existing visual scale in the street. The lessened massing of the building along Brattle street is a substantial public benefit. Coupled with the creation of Brattle Walk and the Courtyard, the lower height along Brattle Street is a major benefit which clearly supports a shift of the building's bulk and height toward Mount Auburn Street. The permitted height is below the 80 foot maximum in Section 11.542, meets the design specification of the that section, and closely approximates the 6 story height of the adjacent Waverly.

Similarly, the four story facade and upper story setbacks along Brattle Square are desirable design elements to match the scale of existing Brattle Square buildings, to differentiate this facade from the Brattle and Mount Auburn Street facades, and to reduce the mass of the building. The reduction in height and mass of the building along the street line is desirable and supports a trade-off permitting the requested six story height (75 feet) at the interior portion of the Lot.

The Board is nevertheless concerned that in transferring much of the bulk on the site to the Mount Auburn Street end of the building that facade has become excessively imposing. To diminish somewhat this strong visual impact, the setback technique employed elsewhere on the building should be utilized more fully at Mount Auburn Street. The Board therefore finds it appropriate to require that the fifth floor be stepped back where it is not now in the application documents and that the sixth floor be further set back to reflect the changes required on the fifth floor. It is anticipated that such modifications would result in a loss of about 3,000 square feet of gross floor area (which would reduce the FAR on the site to 3.27).

In addition the applicant has indicated a willingness to reduce the gross floor of the building further, to 80% of that which is allowed on the lot, to be responsive both to community concerns and to provide greater flexibility in accommodating the Board's design change requests. Therefore a floor area ratio of 3.2 and a gross floor area of 94,826 square feet appears to respond to all issues raised regarding this application in a manner acceptable to the Board and the applicant.

2. The reduction of required parking for the building from the 104 spaces required by Section 6.36 to 52 spaces meets the requirements for a special permit for reduction of required parking under Section 6.35. The application for a special permit under Section 6.36 is proper for properties in the Harvard Square Overlay District where, as here, a reduction rather than a waiver for required parking is requested and the criteria of Section 6.36 are met.

- a. The lesser amount of parking will not cause excessive congestion nor endanger public safety. The proposed parking plan, involving shared access with the owners of the adjacent 12-14 Mifflin Street property, is responsive to traffic concerns expressed by the Harvard Square Advisory Committee upon review of the applicant's original proposal. The current parking plan eliminates the need to obtain access directly off of Brattle Street and the traffic, vehicular-pedestrian conflicts and congestion which such access would cause. The reduction in the number of parking spaces will tend to reduce the number of building occupants who would drive to the Square and encourage use of mass transit. More parking spaces could increase overall traffic volume in the Square. The use of assigned parking in the underground garage will permit direct access to those building occupants driving to work, without need for "cruising" for parking spaces.
- b. The lesser amount of parking will not substantially reduce parking availability for other uses in the area. The applicant has shown (by way of the traffic studies

included in the EIR and the additional Parking Management Plan and MBTA Ridership Services Summary prepared by LEA Group and dated February 16, 1988) that use of public transportation by employees of the building will significantly reduce office parking demand on the site. The project site is immediately across the street from an entrance to the Harvard Square bus and rapid transit station. It is reasonable to expect that office users in this building can achieve at least the level of transit useage among their employees as has been reached by other Harvard Square office users located at a greater distance from the station. The applicant proposed to further encourage use of public transit by instituting a subsidized "T" pass program for employees. This effort is consistent with public policy to increase use of mass transit.

The applicant also proposes to provide parking for visitors to the Square and retail customers by opening the underground parking area to the public during the evening and weekend hours. Therefore the parking demand generated by the project is not expect to cause a significant reduction of existing parking availability in the Square . To the extent that there is overflow from this site to other facilities, the applicants have demonstrated that an average of 300 to 400 spaces remain available in the University Place Garage, Charles Square Garage, and Harvard Square Garage. Use of the garage by the public is of course subject to approval from the Traffic Commission of a commercial garage license.

- c. The appropriate amount of parking is always a matter of judgement; however, it is clear that while some reasonable amount of parking may be desireable for large projects to minimize parking overflow on neighboring streets, any additional parking in the Square serves to attract more cars to the area and thereby increase the volume of traffic. The Board believes the proposed parking for 52 cars on the site, combined with the subsidized "T" pass, represents the best compromise between the competing goals of reducing parking overflow and minimizing traffic congestion and maximizing transit use.
- d. The reduction in parking granted is consistent with similar reductions authorized at 1280 Massachusetts Avenue and 102-106 Mount Auburn Street by the Planning Board and the Board of Zoning Appeal respectively.

3. Granting of a special permit for establishment of a common driveway with the adjacent 12-14 Mifflin Place project under Section 6.436 is appropriate, provided that a mutual easement allowing the use of the adjacent property for access to the subject property is executed and duly recorded. The Mifflin Place access was endorsed by the Advisory Committee as preferable to access to this site via Brattle Street. The Board concurs.

4. Joint use of the three loading docks by the two developments and reduction of the required number of loading spaces on the property from three spaces, as required under Section 6.83, to one space is appropriate.

- a. The requested relief will not cause detriment to the public interest and will not nullify or substantially derogate from the intent and purpose of the zoning ordinance. The building tenants will actually have use of three loading spaces; two of those spaces will be shared with the new building proposed on the adjacent 12-14 Mifflin Place parcel. The shared use of loading spaces is a necessary element of the plan for shared driveway access, parking, and loading for these projects, which plan was devised in response to public concerns about traffic impacts. Allowing the project to proceed under this plan will eliminate any need for loading access directly from Brattle Street, as currently exists.

Moreover, if the proposed buildings at One Brattle Square and 12-14 Mifflin Place are considered together, the three loading spaces are sufficient under Section 6.83 of the ordinance.

- b. Due to the MBTA tunnel running underneath the middle of the property, as well the three streets that bound the property, a literal enforcement of the loading space requirement in this case would involve undesirable, possibly hazardous, traffic patterns and vehicular-pedestrian conflicts. The agreement of the two developers to provide enclosed, off-street loading docks will be an improvement on the current truck delivery status of both buildings.

5. The proposal is consistent with the objectives and criteria contained in the publication Harvard Square Development Guidelines, Community Development Department, July 1, 1986, as reviewed in the May, 1987 and September 17, 1987 Harvard Square Advisory Committee Reports. We incorporate that discussion of this proposal (as modified in September, 1987) by reference as representative of our own analysis and make the following additional findings:

- a. As identified by the Advisory Committee, the project will complete Brattle Square with a strong design and strengthen the Brattle Square edge by building close to the property line. The scale and massing of the building, in particular the three story height along Brattle Street and the graduated increase in height up to six stories next to Waverly Hall, and the materials and detail of the building are consistent with the scale

and design of neighboring buildings. It is clearly preferable for this building to match the three-story height of the Brattle Theatre on Brattle Street and the six-story height of Waverly Hall on Mount Auburn Street rather than to conform to the 60 foot height permitted as of right on both streets. Over 80% of the building is within the building envelope allowed as of right.

- b. Due to the reduced height and the upper story setbacks along Brattle Street, Brattle Square and Brattle Walk, the overall FAR of the building (3.20) is substantially less than the FAR of 4.0 allowed as of right. The project will create retail opportunities on the ground level and provide additional pedestrian precincts in Brattle Square.
- c. The changes in the applicant's proposal in response to the Advisory Committee's comments on the original plan greatly improve the public benefits derived from the project. The relocation of access from Brattle Street to Mifflin Place improves traffic circulation in Brattle Street and Brattle Square and allows loading to occur well off of streets and away from the MBTA bus terminal. The setback at all floor levels from the adjacent Brattle Theatre opens up a new pedestrian walkway and courtyard area and additional ground floor storefront area for small retail businesses as well as enhancing the preservation of the historic Brattle Theatre. The proposed Brattle Walk will allow the retail establishments on the lower floor of the Brattle Theatre direct access to the street. Brattle Square Associates will then be able to restore the historic front of the building as it will no longer be needed to provide access to the lower floor shops.

The integration of this proposal's Brattle Walk and courtyard with the pedestrian passage to be created by the neighboring development will provide a missing link in the network of internal walkways which will serve the block between Brattle Square and Story Street. This public benefit arises from the cooperation of the two developers at the Harvard Square Advisory Committee.

- d. In its Final Report to the Planning Board dated September 17, 1987, the Advisory Committee "strongly encourage[d] development of the abutting projects as proposed, as the quality of the developments and the public benefits derived therefrom are vastly improved." We give this final report the "due consideration" it is entitled to under Section 11.541(c)(5).

6. Based on the record as a whole and additional information supplied by the applicant, we find 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.

We also find that the applicant's revisions of his plans in response to Advisory Committee's May, 1987 Report, in conjunction with the Final, September 17, 1987 Report comply with Section 11.541(c) and reflect the intended role of the Advisory Committee under the Harvard Square Overly District Amendment.

- a. Except as provided herein, the project complies with the requirements of the zoning ordinance.
- b. The traffic studies submitted by the applicant show that the traffic generated by the project and 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 the Brattle Theatre and 12-14 Mifflin Place, 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 districts, nor otherwise derogate from the intent and purpose of the zoning ordinance.

DECISION

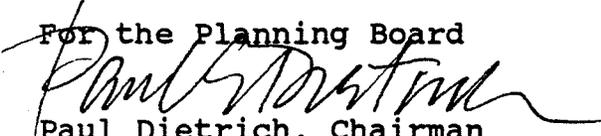
After review of the application, comments made at the public hearing, discussions at subsequent Board meetings, based on the findings above, and in accordance with the authority vested in the Board by Sections 11.541(c)(5), 11.532, 6.35, 6.436, 10.43, and 10.45 of the Zoning Ordinance, the Planning Board GRANTS a Special Permit for reduction in required parking, GRANTS a Special Permit for additional height, GRANTS a Special Permit for establishment of a common driveway, and GRANTS relief through the Special Permit for the provision of one loading bay on-site, thus allowing the project to be constructed in accordance with the application submitted to the Board, with the following conditions:

1. The final plans shall conform to the dimensional limitations detailed in Appendix I of this decision.

2. The final plans shall be modified from those shown in the application documents at the building's Mount Auburn Street facade consistent with the conclusions contained in paragraph 1 of the Findings. The design of the building and abutting site development on the lot and adjacent public sidewalks shall continue to undergo design review by the Community Development Department. The Planning Board 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 the sidewalks abutting the site on Brattle, Eliot, and Mount Auburn Streets shall be made by the permittee at a level of quality consistent with that found in Brattle Square and subject to the approval of the City of Cambridge Planting Committee and Department of Public Works.
4. The permittee shall implement a subsidized "T" pass program which shall be made mandatory for all tenants of the building 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 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 building and shall be made a condition of this Special Permit.
5. Nothing in this decision shall prohibit the permittee from making the parking to be provided on the site available to the general public for a fee in the evening and on weekends as a commercial garage subject to any necessary permits and approvals from the Cambridge Traffic Commission.
6. All necessary easements shall be recorded with the Registry of Deeds to ensure access through the abutting lot at 12-14 Mifflin Place to the parking garage and to ensure full use of the loading docks provided at 12-14 Mifflin Place by tenants and owners of this development, prior to issuance of any building permit for the site.
7. The permittee shall participate in any study undertaken by the City to review the future traffic control needs of Mount Auburn Street between University Road and Mifflin Place.

Voting to GRANT the Special Permit were Board Members: Paul Dietrich, Carolyn Mieth, Alfred Cohn, Acheson Callaghan, and Clarence Cooper being at least two thirds of the membership of the Board.

For the Planning Board


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> (118,532)	<u>.84</u> (24,917)	<u>3.37</u> (99,920)	<u>3.20</u> (94,826)
Max. Height	<u>60 ft., 80 ft. w/special permit</u>	<u>35'-6"</u>	<u>75 ft.</u>	<u>75'</u>
Max. Angle Above Cornice Line	<u>45°</u>	<u>NA</u>	<u>45°</u>	<u>45</u>
Min. Lot Size	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Min. Lot Area per d. u.	<u>N/A</u>	<u>---</u>	<u>---</u>	<u>---</u>
Max. No. d. u.	<u>N/A</u>	<u>---</u>	<u>---</u>	<u>---</u>
Min. lot width	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Min. yard setbacks	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Front	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Side L	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
R	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Rear	<u>None</u>	<u>---</u>	<u>---</u>	<u>---</u>
Ratio Usable Open Space (Area)	<u>None</u> (---)	<u>---</u> (---)	<u>---</u> (---)	<u>---</u> (---)
Off-Street Parking				
Minimum No. Spaces	<u>104</u>	<u>12</u>	<u>52</u>	<u>52</u>
Maximum No. Spaces	<u>156</u>	<u>N/A</u>	<u>52</u>	<u>52</u>
No. Handicapped Spaces	<u>4</u>	<u>0</u>	<u>4</u>	<u>4</u>
Bicycle Spaces	<u>11</u>	<u>0</u>	<u>11</u>	<u>11</u>
No. Loading Bays	<u>3</u>	<u>1</u>	<u>3</u>	<u>3*</u>

* Sharing two bays located at 12-14 Mifflin Place (Permit #78)

A copy of this decision shall be filed with the Office of the City Clerk. Appeals is 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 decision filed with the Office of the City Clerk on March 24, 1988 by Linda Barber, 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