

ORDINANCE NO. 1143

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING THE CITY'S UNIFIED DEVELOPMENT CODE ("UDC") TO PROVIDE FOR A NEIGHBORHOOD CONSERVATION 3 OVERLAY DISTRICT; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO OVERLAY DISTRICTS IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204 and § 2.2.3 of the Unified Development Code (the "UDC"), the Commissioners of Cambridge are authorized and empowered to amend, supplement, change, modify, and repeal the City of Cambridge's (the "City") zoning regulations and boundaries and change the City's zoning classifications; and

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-201, the Commissioners of Cambridge are authorized and empowered to divide the City into districts and zones of any number, shape, and area that it considers best suited to carry out the purposes of Division I (Single-Jurisdiction Planning and Zoning) of the Land Use Article; and

WHEREAS, pursuant to § 3-27(1) of the Charter of the City of Cambridge (the "Charter") and Md. Code Ann., Local Gov't § 5-202(5), the Commissioners of Cambridge are authorized and empowered to pass ordinances for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein; and

WHEREAS, following a public hearing held on April 2, 2019, the City of Cambridge Planning Commission (the "Planning Commission") unanimously recommended that the Commissioners of Cambridge approve a text amendment amending the UDC to provide for a Neighborhood Conservation 3 (NC-3) Overlay District; and

WHEREAS, on May 13, 2019, the Commissioners of Cambridge held a public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on April 28, 2019 and May 5, 2019 in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, following the May 13, 2019 public hearing, the Commissioners of Cambridge unanimously voted to refer the matter of the historical significance of the school building located at 201 Mill Street, to which the proposed NC-3 Overlay would apply, to the Cambridge Historic Preservation Commission (the "HPC") for evaluation and a determination thereupon and to refer the foregoing text amendment back to the Planning Commission to consider comments raised by the public during the public hearing; and

WHEREAS, on June 18, 2019, the HPC held a duly-advertised public meeting to evaluate the historical significance of the School and, after receiving comments from City staff, HPC Commissioners, and the public, unanimously voted in favor of a determination that the School is historically significant, as is the 201 Mill Street property; and

WHEREAS, on August 6, 2019, the Planning Commission held a public hearing at which it received public comments in addition to those presented to the Commissioners of Cambridge on May 13, 2019 and, after considering all such public comments, unanimously recommended that the Commissioners of Cambridge approve the foregoing text amendment as it was presented to the Commissioners of Cambridge on May 13, 2019 for a second reading, public hearing, and vote; and

WHEREAS, on August 26, 2019, the Commissioners of Cambridge held a second public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on August 11, 2019 and August 18, 2019 in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, having considered the recommendations of the Planning Commission and the Department of Planning and Zoning Staff, as well as the comments made during the May 13, 2019 and August 26, 2019 public hearings, the Commissioners of Cambridge find that it is in the best interest of the City to amend the UDC to provide for a Neighborhood Conservation 3 Overlay District; and

WHEREAS, the Commissioners of Cambridge find that the text amendment set forth herein is necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that the City's Unified Development Code is hereby amended as follows:

SECTION 1. Section 4.3 (Mixed-Use Waterfront Overlay District) is amended as follows:

§ 4.3 ~~Mixed-Use Waterfront~~ Overlay Districts

§ 4.3.1 ~~Mixed-Use Waterfront~~ Overlay District - Purpose

§ 4.3.8 Neighborhood Conservation 3 (NC-3) Overlay – Purpose

A. The NC-3 Overlay District is established to:

- 1. Allow the development and improvement of 201 Mill Street, within the City's NC – 3 District;**
- 2. Require the existing historic school building as part of any development proposal;**

3. Encourage flexibility in the land uses permitted and require that any proposed development has a residential nature as its principal element;
 4. Assure effective control over the phasing, location, type, and arrangement of uses appropriate to the NC-3 Overlay District such that development and improvement of public usable open space(s) is part of the first phase of development;
 5. Cultivate a clear and consistent image for new development within the NC-3 Overlay District;
 6. Bring about a general physical improvement of lands in the NC-3 Overlay District through coordinated and comprehensive development;
 7. Promote the integration of new streets, circulation patterns, and recreational spaces into the City's existing settlement pattern; and
 8. Promote the public welfare and otherwise achieve the intent of this Ordinance.
- B. The NC-3 Overlay designation shall be valid for a period of two (2) years from the effective date of City Ordinance No. 1143, upon which the designation shall expire if no development proposal has been approved by the Planning Commission. The Planning Commission may, in its sole discretion, extend this deadline for a development proposal that has been submitted but not approved by such date, upon good cause shown by the owner/applicant.**

§ 4.3.9 District Boundaries

The boundaries of the NC-3 Overlay District are indicated on the Official Zoning Map.

§ 4.3.10 Application and Administration

- A. Permits for development shall not be issued until all final approvals have been obtained by the owner/applicant from all the Boards and Commissions, relevant City departments/agencies, and the Final Site Plan has been reviewed and approved by staff. Reviewing agencies include, but are not necessarily limited to, the Planning Commission, the Board of Appeals, the Historic Preservation Commission, the Fire Department, and the Municipal Utilities Commission.**
- B. Upon approval of the Development Plan by the Planning Commission and the Historic Preservation Commission, the owner/applicant shall follow the procedures set forth in Article 3 of this Ordinance for the review and approval of a subdivision plat and/or a Category 1 Site Plan.**

§ 4.3.11 Development Plan

A. The application shall include an overall Development Plan, drawn to an acceptable scale, which shall show:

- 1. Existing topography and existing significant natural features.**
- 2. Proposed street, sidewalk, and overall circulation system and parking facilities, including approximate location of points of ingress and egress to existing public streets and highways.**
- 3. All existing easements of any kind. If easements are to be granted, a separate and preliminary easement plat shall be provided.**
- 4. The number of construction phases proposed, if any, with the plan showing the approximate boundaries of each phase, and the proposed completion date of each phase.**
 - a. Phasing of the project shall include the rehabilitation of the school building and construction of the other portions of the development, whether consisting of a single-family development, a multi-family, or senior living facility. Such improvement and construction shall proceed concurrently, subject to the following:**
 - i. No more than fifty percent (50%) of the single-family building permits shall be issued until the school building's rehabilitation is at least fifty percent (50%) complete, as determined by the Building Official; and**
 - ii. No more than fifty percent (50%) of any multi-family or senior living facility shall be occupied until the school building's rehabilitation is fully completed, as determined by the Building Official.**
- 5. Additional Construction Requirements;**
 - a. The owner/applicant shall apply for and receive building permits from the City within one (1) year after receiving all required City approvals. The City's final approving body shall either the Planning Commission, the Board of Appeals, or the Historic Preservation Commission, depending on which agency is the last to issue its approval.**
 - b. Notwithstanding subsection (a), if the owner/applicant is applying for historic tax credits, then the owner/applicant shall apply for and receive building permits from the City within one (1) year of the State's approval and release of funds.**

- c. Construction of the building(s) shall commence within six (6) months after securing all required City permits. "Construction" includes, but is not limited to, the installation of water and sewer infrastructure, building foundations, or substantive renovation to the school building, such as enclosing the structure, running of utilities, and interior framing. If the Building Official determines that construction has not commenced within the six (6)-month time frame, the owner/applicant shall appear before the Planning Commission and provide justification for the construction schedule/delay for the Planning Commission's review and approval. If the Planning Commission determines that the delay is justified, then the Planning Commission can issue a one (1)-time extension for an agreed-upon time frame, after which all approvals will become null and void if the Building Official determines that construction has not commenced. If the Planning Commission determines that the delays are not justified, then the Planning Commission shall void all previous approvals.**
- d. The owner/applicant shall provide a detailed cost estimate regarding the renovation of the school building as a precondition to obtaining a building permit.**
- e. The cost estimate for the school building shall be verified by an independent third party, at the owner/applicant's sole cost and expense. The independent third party is subject to approval ~~approved~~ by the City, which approval shall not be unreasonably withheld.**
- f. The owner/applicant shall provide a detailed construction time table for the school building with specific time lines and deadlines. This time table may be updated from time to time to keep current with the project's progress.**
- 6. A tabulation of the total number of acres in the project and the percentage thereof proposed to be devoted to the residential development, off-street parking, streets, parks, and other reservations.**
- 7. Proposed and existing buildings and structures with dimensions, setbacks, and heights.**
- 8. Approximate location and size of recreational areas and other *usable* open spaces.**
- 9. Existing vegetation, proposed removal of vegetation, proposed replacement of vegetation, and monuments.**
- 10. Proposed lot layout.**
- 11. Architectural elevations in color including at least one (1) presentation board of no smaller than twenty-four (24) inches by thirty-six (36) inches.**
- 12. Residential densities and use types for each residential area and overall tract density.**

13. A statement describing the proposed stormwater management, water supply, and sewerage disposal facilities and systems.

14. A statement of the method intended to be used to assure that a consistent and compatible image for new development will be developed within the NC-3 Overlay District, including architectural design, and signage.

15. Any other requirements set forth in this Ordinance.

§ 4.3.12 Permitted Uses, Special Exception Uses

A. The use of the NC-3 Overlay Zoning District shall require a Special Exception, the conditions of which shall be binding upon the owner/applicant and its successors and assigns.

B. As part of the Special Exception process, the owner/applicant shall provide a detailed development pro forma to the Planning Commission and a full financial disclosure to the City Finance Director, the City Attorney, and the City Manager for their review in conjunction with the development application. The financial disclosure will be considered a confidential document and not available to the general public or any other City official.

C. If the owner/applicant has requested State historic tax credits for the renovation of the school building, a copy of such request shall be included in the Special Exception application, and the owner/applicant shall promptly notify the Planning Commission of any updates. The owner/applicant shall include the conversion plan from rental units to for sale units within the timeframe that the property becomes eligible for State historic tax credits.

D. All uses permitted by right or by special exception in the underlying NC-3 District shall be permitted by special exception in a NC-3 Overlay District project.

E. There shall be no minimum usable open space requirements for single-family development.

F. Any multi-family development shall:

1. Have a residential density no greater than thirteen (13) units to the acre;

2. Have a maximum building height of thirty-five (35) feet;

3. Have thirty percent (30%) of usable open space.

4. Have all required parking on site.

G. No building or use shall occupy a location other than as indicated on the approved Development Plan.

H. All substantive changes, including, but not limited to, changes in land use and use locations or building materials, shall require amendments to the Development Plan and are subject to review and approval by the Planning Commission as set forth in § 4.3.7(D).

I. All development is subject to Historic Preservation Commission architectural review.

§ 4.3.13 Dimensional Requirements

The dimensional, density, yard, and bulk requirements applicable to the Residential District shall govern development in an NC-3 Overlay District multi-family project except as otherwise set forth herein and where deviations are authorized or required by the Planning Commission.

§ 4.3.14 Procedures for Approval of Development Plan

A. In reviewing the application, the Planning Commission shall consider the purposes of the NC-3 Overlay District with a view toward achieving the maximum public benefit of development. To this end, the Planning Commission shall consider the location of buildings, parking areas, and other features with respect to the topography and the adequacy and location of the usable open areas space provided; the location and screening of parking lots, dumpsters, above grade utilities, and loading areas; the consistency in building patterns and architectural styles; the compatibility of the project with the neighborhood; and such other matters as the Planning Commission may find have a material bearing upon the stated purposes of the NC-3 Overlay District.

B. If the Planning Commission finds that a proposed Development Plan meets the purposes and standards of the NC-3 Overlay District set forth herein, it shall approve the Development Plan. If the Planning Commission finds the Plan fails to meet such purposes and standards, it shall deny the Development Plan.

C. Any departure from the proposed Development Plan without approval by the Planning Commission shall be cause for revocation of the approved NC-3 Overlay District development application and any permits approved. Any material change proposed to an approved Development Plan shall be submitted for approval in accordance with this section. If the change is minor, as determined by the Zoning Official, the change may be approved administratively.

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the UDC is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Ordinance set forth in Section 1, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Patrick C. Comiskey, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the 22nd day of April, 2019
Passed the 26th day of August, 2019
Effective the 5th day of September, 2019