

## Council Agenda Report

**Date:** June 14, 2021

**Prepared by:** Pat Escher, A.I.C.P., Division Manager

**SUBJECT:** 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.

**Recommendation:** That Council

- A. Introduce Ordinance No. 1179 by reading of title only; and
- B. Schedule July 12, 2021 for second reading, public hearing and adoption of Ordinance No. 1179.

**Discussion:**

This item has been discussed with the current Planning Commission in various forms since the early 2000's. This is the most current reiteration was for an application to create an overlay zone to allow for the existing historic school located on Mill Street to create 9 residential units – 2 two bedroom and 7 one-bedroom. After discussion with the community, the applicant will eliminate the one basement unit, for a total of 8 units, 2-two bedroom and 6-one-bedroom units.

Please see the enclosed reports and documentation for a more detailed view of the application. The language set forth in this Ordinance shall be incorporated in the City's UDC. This item was heard at the Planning Commission's April 6<sup>th</sup>, May 4<sup>th</sup> and June 1<sup>st</sup> hearings. The Planning Commission unanimously recommends to the Council to approve this map amendment, creating an NC-3 Overlay Zone.

**Fiscal Impact:** NA

**Approved by:** *Patrick C. Comiskey, City Manager*

**ORDINANCE NO. 1179**

**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 public hearings held on May 4, 2021 and June 1, 2021, 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 July 12, 2021, the Commissioners of Cambridge held a public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on June 18, 2021 and June 25, 2021 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 July 12, 2021 public hearing, 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, containing 40,000 square feet, more or less, as depicted on the plan set reviewed and approved by Maryland Historical Trust, dated August 28, 2020, hereinafter referenced as the “Plan”;**
- 2. Allow the development of the existing historic school building and surrounding land to allow for eight (8) residential units, on-site parking and amenity space;**
- 3. 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 usable open space(s) is part of the development;**
- 4. Cultivate a clear and consistent image for new development within the NC-3 Overlay District;**
- 5. Bring about a general physical improvement of lands in the NC-3 Overlay District through coordinated and comprehensive development; and**
- 6. 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 Ordinance No. 1180, 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 required City Boards and Commissions and 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 Historic Preservation Commission, the Fire Department, and the Municipal Utilities Commission.

- B. Upon approval of the Preliminary Plan by the Planning 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 a Category 1 Site Plan.**

**§ 4.3.11 Preliminary Plan**

**A. Additional Construction Requirements:**

- 1. 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 be the Planning Commission or the Historic Preservation Commission, depending on which agency is the last to issue its approval.**
- 2. Construction of the schoolhouse building shall commence within six (6) months after securing all required City permits. "Construction" includes 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. If the Planning Commission determines that the delay is justified, then the Planning Commission can issue a one (1)-time extension for such time as it deems appropriate, not to exceed one (1) year, 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.**
- 3. The owner/applicant shall provide a detailed construction timetable for the schoolhouse building with specific timelines and deadlines. This timetable shall be updated from time to time to keep current with the project's progress.**

**B. Any other requirements set forth in this Ordinance.**

**§ 4.3.12 Procedures for Approval of Preliminary 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 the building, parking areas, and other features with respect to the topography and the adequacy and location of the usable open space provided; the location and screening of parking lots, dumpsters, above grade utilities, and loading areas; 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. The Planning Commission shall only approve a proposed Preliminary Plan if it finds that such Plan meets the purposes and standards of the NC-3 Overlay District set forth herein.**
- C. Any departure from the proposed Preliminary 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 Preliminary 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.**

#### **§ 4.3.13 Permitted Uses**

- A. The use of the NC-3 Overlay Zoning District shall be a Permitted Use with Conditions, the conditions of which shall be binding upon the owner/applicant and the owner/applicant's successors and assigns.**
- B. As part of the Permitted Use with Conditions process, and for the purposes of assessing the owner/applicant's ability to successfully initiate and complete the project, the owner/applicant shall provide a detailed development pro forma to the Planning Commission and documentation of the owner/applicant's financial ability to complete the project to the City Finance Director, the City Attorney, and the City Manager for their review and approval in conjunction with the development application. Such documentation of the owner/applicant's financial ability to complete the project shall be considered a confidential document and not available to the general public or any other City official; provided, however, that the City Finance Director, the City Attorney, or the City Manager may submit written approval of the same to the Planning Commission, which shall be available to the general public.**
- C. If the owner/applicant has requested or received State historic tax credits for the renovation of the school building, a copy of such request or proof of such receipt, including any provision requiring rental units as a condition of the tax credits, shall be included in the Preliminary Plan application, and the owner/applicant shall promptly notify the Planning Commission of any updates. The owner/applicant shall also include in the Preliminary Plan application a conversion plan from rental units to owner-occupied units or a condominium regime upon the expiration of the tax credits.**
- D. The proposed multi-family development shall:**
- 1. Have a residential density no greater than eight (8) units located in the historic schoolhouse building;**
  - 2. Have a maximum building height of the existing schoolhouse building;**
  - 3. Have a minimum of thirty percent (30%) of usable open space; and**
  - 4. Have all required parking on site.**

**E. Except as otherwise set forth in § 4.3.13(C), all units in the proposed multi-family development shall be owner occupied or part of a condominium regime for such development. A condominium regime for the proposed multi-family development may be established prior to the initial occupancy of the units but in no event later than six (6) months after the expiration, rejection, or withdrawal of any historic tax credits.**

**F. No building or use shall occupy the location other than as indicated on the approved Preliminary Plan.**

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

**H. All development is subject to Historic Preservation Commission architectural review.**

**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 (10<sup>th</sup>) day following the date of passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

\_\_\_\_\_  
Patrick C. Comiskey, City Manager

By: \_\_\_\_\_  
Andrew Bradshaw, Mayor

**Introduced the 14<sup>th</sup> day of June, 2021**  
**Passed the 12<sup>th</sup> day of July, 2021**  
**Effective the 22<sup>nd</sup> day of July, 2021**