



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

Date:	March 5, 2013
Subject:	MIT-Kendall Square Zoning Petition
Recommendation:	The Planning Board recommends ADOPTION of the proposed zoning, with modifications.

To the Honorable, the City Council,

Based on information presented by the petitioner and testimony heard at public hearings on January 15 and February 19, 2013, the Planning Board recommends that the City Council adopt the rezoning petition proposed by the Massachusetts Institute of Technology, subject to modifications as proposed herein. The proposed zoning would establish a new Planned Unit Development (PUD) district allowing for increased mixed-use development within Kendall Square over time while imposing certain requirements intending to mitigate the impacts of future development and improve Kendall Square as a whole.

Background of MIT Proposal and K2C2 Planning Study

This proposal was first made to the City in April, 2011. At the time, the proposal raised many questions and concerns about the City's planning for future development in Kendall Square. Considerations included the role of Kendall Square as an economic generator for Cambridge and the region, its importance as a worldwide center of innovation in both commercial and non-commercial activities, the transformation of the area from largely a single-use office district into a mixed-use environment with retail and residential components, the appropriate height and scale of new development, potential traffic and transportation impacts, the need for housing serving a range of different incomes, and the public benefits that may be generated from future private investment in the area.

To investigate these issues in Kendall Square and a similar set of issues in Central Square, the Kendall Square Central Square (K2C2) Planning Study was initiated in 2011 and completed in 2012. The process involved Community Development Department staff working with Goody Clancy (the City's planning consultant), community advisory committees and the general public. The process resulted in planning recommendations for Kendall Square and Central Square that were discussed with the Planning Board in late 2012. The East Cambridge Planning Team, which participated on the K2 Committee and also hired CBT Architects as their consultant, provided its own perspective to the Board. Board members had their own views and reactions. All parties shared the same broad principles and vision for the area: Increased commercial growth to support economic development with a substantial component of housing (including affordable and

middle-income housing), sustainable building design, limited automobile use, space for start-ups and other innovative small businesses, a more active public realm at the ground level, and investments in open space, transit and workforce development.

While the K2 recommendations provide a set of overarching goals, they also divide the Kendall Square area into different sectors and apply specific zoning strategies to each sector based on its land ownership patterns, existing development, and other unique characteristics. MIT is prepared to move forward with a development proposal for its sector, while other property owners have not yet formulated their plans. The Board feels that it is most efficient and effective to focus on the MIT sector first. It will help to advance the implementation of this important piece of the Kendall Square planning effort, and insights gained from this rezoning will inform future zoning changes for the other sectors in a second phase.

The Board has met several times with MIT representatives to ensure that zoning for the MIT sector would be an expression of jointly agreed goals before they submitted the revised zoning language. For the last several months, CDD staff, MIT, and the Board have fine-tuned the proposal, integrating it with the Kendall Square Design Guidelines, which the Board will apply to evaluate future design proposals, and the recommendations of the K2 study. Public comment was heard throughout the process. As a result of this process, it is the Board's view that the MIT proposal, as it has evolved, is in clear accordance with the K2 recommendations. It has earned significant support from the East Cambridge Planning Team and other interested parties. The Board strongly recommends that the Council take favorable action on this petition.

Overview of Proposal

Zone Change: The structure of the proposed change is to retain the existing base zoning in the district and to create a new Planned Unit Development (PUD) Overlay District. The purpose of the PUD District is to allow the site to be redeveloped in a comprehensive, master-planned way that provides greater development capacity and flexibility in exchange for public review and public benefits (such as Incentive Zoning payments to the Affordable Housing Trust). The K2 recommendations identify this area as an appropriate location for a PUD District.

New Development: Under current zoning, the district has the capacity for about 800,000 square feet of new academic buildings. The proposed zoning would retain approximately 800,000 square feet for academic expansion while also allowing a maximum of 980,000 square feet of additional commercial development and requiring an additional 240,000 square feet of new residential development. Smaller-scale ground-floor retail uses would be exempt from these floor area limitations. In terms of the overall increase in density and the desired mix of uses, these figures are consistent with the amounts included in the K2 recommendations for this area.

Building Height and Massing: Under current zoning, the maximum height is 120 feet in most of the district. The proposed zoning would allow the Planning Board, through review and approval of a PUD, to approve heights of up to 150, 200 or 250 feet, depending on the Subdistrict, with taller heights allowed closer to Main Street and the MBTA station and lower heights allowed near the Charles River (see attached map). The Board would apply the *Kendall Square Design*

Guidelines, developed as part of the K2C2 Planning Study, along with any other applicable guidelines to evaluate the appropriate location and configuration of building height and massing. Heights for residential uses may exceed 250 feet to a maximum of 300 feet, in which case a component of middle-income housing would be required (see below).

Open Space: Under base zoning, the only open space required would be private open space to serve residential uses. The proposed zoning regulations would require 15% publicly beneficial open space throughout the district, with the design to be reviewed and approved by the Planning Board as part of a PUD proposal. The K2 recommendations emphasize the importance of not just the quantity of open space but the interconnections among various open spaces and other uses throughout the district. These issues would be carefully considered during the design review process when specific development plans are being evaluated.

Parking and Loading: The proposed zoning adopts the recommended approach in the K2C2 study of setting maximum parking ratios for new development and allowing a waiver of minimum parking ratios to allow for shared parking arrangements. The goal is to mitigate traffic impacts by discouraging the construction of excess parking, thereby encouraging reliance on other modes of transportation. The Planning Board may also approve waivers in loading requirements to allow for shared loading facilities. Bicycle parking would be required according to the requirements of Article 6.000 (including the proposed citywide changes, if adopted).

Middle Income Housing: In addition to the affordable housing units required under Inclusionary Zoning, new residential development exceeding 250 feet in height would be required to provide middle income housing units available to households earning between 80% and 120% of the areawide median income. The amount of such housing would be equivalent to 25% of the residential floor area occupying space above 250 feet, but the units would be located throughout the building, subject to review and approval by the Planning Board.

Innovation Space: As Kendall Square becomes more attractive to large technology companies, the K2 recommendations emphasize the importance of retaining space for smaller businesses such as tech start-ups as a critical component of the overall innovation economy. In accordance with the K2 recommendations, the proposed zoning defines “Innovation Office Space” as a category of office that provides shared resources to small entities that can rent space on flexible short-term leases. The proposed zoning requires Innovation Space in an amount equal to at least 5% of new office space (office uses, according to zoning, include commercial laboratories). This would result in up to 49,000 square feet of Innovation Space in the District.

Sustainability: The proposed zoning adopts the sustainability requirements for new development that are recommended in the K2C2 Study, which are stricter than the standards currently applicable in the district or citywide. New buildings would be required to meet LEED criteria at the Gold level and to submit a statement of energy design intent. In this case, some flexibility is allowed in future academic research facilities where the LEED standards may be impractical because of the specialized nature of the facility. New development would also be required to monitor and report on building energy use, utilize stormwater mitigation strategies, employ cool roofs, and report on the feasibility of using the district steam system. The proposed

zoning also allows the Planning Board to grant zoning relief to accommodate co-generation or other efficient energy systems.

Active Ground Floors: The proposed zoning follows the K2 recommendation of requiring active uses, which include retail and other publicly accessible uses, along 75% of new building frontages along Main Street, Broadway, Third Street and the Broad Canal, which were identified as priority active streets in the K2C2 study.

Community Investments: The K2 recommendations note that Kendall Square as a whole would benefit from certain public investments that are shared among multiple developers and landowners. These include the coordinated programming and operation of publicly accessible open spaces, enhancements to transit service, and the provision of workforce development programs for Cambridge residents. The proposed zoning requires payments to a Kendall Square Fund that would collect and distribute funds to serve these purposes.

Overview of Recommended Modifications

Between the Planning Board hearing on January 15 and the continuation on February 19, the Board directed the petitioners to work with CDD staff to resolve a set of outstanding issues identified in the initial proposed text. The text changes included on subsequent pages address a range of issues, including closer alignment between the proposed zoning regulations and the K2 recommendations, technical issues raised by CDD staff, and concerns of abutting property owners.

The following list summarizes the changes that have been made in this version:

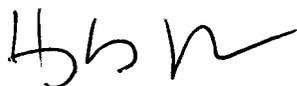
- 13.83.2(a) – The exemption of retail space from GFA requirements is revised to specify that it would apply only to ground floor or basement spaces occupied by small establishments.
- 13.83.2(c) – A paragraph is added excluding future residential or dormitory development south of Main Street from FAR and GFA limitations. The Planning Board suggests this change as an incentive to accommodate the future provision of student or other housing in addition to the proposed minimum 240,000 square feet of residential use.
- 13.83.2(d) – A paragraph is added exempting half of the provided Innovation Space from GFA and FAR limitations, consistent with the K2 recommendations.
- 13.83.3(b) – A paragraph is added requiring that a Conceptual Development Plan for the entire district must be presented as part of any Development Proposal, including potential building sites that are not seeking Planning Board approval at that time. It will be important for the Board to be able to review a proposed development within the context of the overall potential development in the district.
- 13.83.3(d) – The requirements for floor plate size are removed because comparable language exists in the *Kendall Square Design Guidelines*. It is the Board's view that the configuration

and massing of buildings should be evaluated qualitatively as part of design review and that there should be opportunities to allow variations from specific standards where it results in a superior design overall.

- 13.85.2 – A new paragraph is added to provide specific protection to the historic building at 139 Main Street (owned by the American Red Cross of Eastern Massachusetts) by requiring a twenty-foot setback for new buildings.
- 13.86.1.2 – The criteria for evaluating building heights above 250 feet are removed because comparable criteria are included in the *Kendall Square Design Guidelines* for buildings that are 200 feet tall or taller.
- 13.87 – A requirement is added to include a Conceptual Open Space Plan for the entire district, similar to the requirement for a Conceptual Development Plan described above.
- 13.88 – Relatively minor changes are made to the parking and loading provisions to make clear what variations the Planning Board is allowed to approve and to provide appropriate criteria for the Planning Board to grant such variations.
- 13.89.3 – The specific requirements for Innovation Space are revised to be consistent with the K2 zoning recommendations.
- 13.89.4 – The specific requirements for sustainability are revised to be more consistent with the K2 zoning recommendations, as described further above. Some flexibility is provided for future academic buildings which, because of their specialized nature, may not practically meet the LEED Gold standard. Further discussion between the petitioner and City staff may help to clarify what additional measures could be applied to improve energy use for future academic buildings where the LEED Gold standard might not apply.
- 13.810.4 – A new paragraph is added to affirmatively state that the Planning Board will consider all relevant City planning studies and guidelines when reviewing development plans for the area. These would include the *Kendall Square Design Guidelines* created through the K2C2 study process.

It is the Board's view that these changes result in a proposal that is in accordance with Cambridge's basic planning principles as well as the specific planning goals and recommendations developed through the K2C2 study.

Respectfully submitted for the Planning Board,



Hugh Russell, Chair.

13.80 PUD-5 DISTRICT

13.81 Purpose. The PUD-5 District is intended to provide for Kendall Square's continued prominence as a world-renowned center of innovation and a vibrant neighborhood through the creation of a mixed-use district of high quality general and technical office and laboratory uses with significant retail activity proximate to the MBTA station. The PUD-5 District helps organize placement of commercial and institutional buildings and establishes an additional mixed-use development containing a significant residential component to support the burgeoning residential corridor along Third Street and the strong links to existing neighborhoods and the riverfront. The PUD-5 District allows for continued support of the academic mission at MIT and encourages connective links, physical and otherwise, between the Institute and adjacent neighborhoods.

The PUD-5 District responds to the Kendall Square planning process and is intended to be a smart-growth, transit-oriented district and therefore allows for replacing surface parking lots with larger scale development in Kendall Square and the major public transit services located there. The PUD-5 District encourages low parking ratios, shared parking strategies, the use of public transportation and improved pedestrian and bicycle environments. The PUD-5 District furthers the City's goals for sustainable development through buildings and sites that are planned, designed and constructed in a sustainable way so as to minimize adverse environmental impacts as they are initially constructed and as they are occupied and operated over the course of their useful lives.

The PUD-5 District promotes the creation of a strong retail corridor along Main Street and the enhancement of Broad Canal Way. Combined, this new public crossroads will have broad appeal as a desirable destination during and beyond the traditional workday by providing a critical mass of diverse restaurants, shops, entertainment and programming. The ground floor space will engage pedestrians and provide a variety of indoor and outdoor gathering spaces, including retail that can address the needs and reflect the creativity of the local community.

13.81.1 *Establishment and Scope of Subdistricts within the PUD-5 District.*

The PUD-5 District shall be divided into a series of Subdistricts as described below for the purpose of defining requirements that may not apply to the District as a whole. All provisions of the PUD-5 shall apply equally to each Subdistrict, except as provided for elsewhere in Section 13.80.

13.81.2 *Description of the Subdistricts within the PUD-5 District.*

13.81.2.1 The Third Street Transition Subdistrict is the area bounded by the northern sideline of Lot # 31 on Assessor's Map 14 running to the centerline of Third Street, then the centerline of Third Street running southerly to the centerline of Broadway, then the centerline of

Broadway and Main Street running from Third Street to a point in the centerline of Main Street that is consistent with the point of intersection that the eastern sideline of the above-referenced Parcel would have with the centerline of Main Street if such sideline continued in a straight line to the centerline of Main Street, then the eastern sideline of the above-reference Parcel northerly from the centerline of Main Street to the northern sideline of the above-referenced Parcel.

13.81.2.2 The Main Street Subdistrict is the area bounded by the point in the centerline of Main Street that is consistent with the point of intersection that the eastern sideline of Lot #15 on Assessor's Map 46 would have with said centerline if said eastern sideline were continued in a straight line to said centerline, then southerly by the eastern boundary of said Parcel to a line 150 feet north of and parallel to the property lines of lots abutting the northern sideline of Memorial Drive, then westerly by said to the centerline of Wadsworth Street, then the centerline of Wadsworth Street running north from Memorial Drive, then the centerline of Amherst Street running west from Wadsworth Street, then the centerline of Hayward Street running north from Amherst Street to its intersection with a line 400 feet to the south of and parallel to the Main Street front property lines of lots abutting Main Street and located between Ames and Hayward Streets, then centerline of Ames Street from the parallel line to Main Street, then the centerline of Main Street, but excluding Lot #14 on Assessor's Map 48 (and the portion of Main Street immediately abutting the northern sideline of Lot #14 on Assessor's Map 48).

13.81.2.3 The Transitional Height Subdistrict is the area bounded by the centerline of Ames Street running northerly from the intersection with Amherst Street to a line 400 feet to the south and parallel to the Main Street front lot lines of properties abutting Main Street and located between Ames and Hayward Streets, then the centerline of Hayward Street running south toward Amherst Street and then the centerline of Amherst Street running west to Ames Street.

13.81.2.4 The Memorial Drive Height Subdistrict is the area bounded by the centerline of Ames Street running northerly from the northern sideline of Memorial Drive, then the centerline of Amherst Street running east toward Wadsworth Street, then the centerline of Wadsworth Street running south to its intersection with a line 150 feet north of and parallel to the lot lines of the parcels abutting the northerly boundary of Memorial Drive, then easterly along said line to the easterly boundary of Lot #15 on Assessor's Map 46, then southerly along said easterly boundary to the northern edge of the DCR right of way along

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Memorial Drive, then westerly by the northern sideline of Memorial Drive.

13.82 *Uses Allowed in the PUD-5 District.* The uses listed in this Section 13.82, alone or in combination with each other, shall be allowed upon permission of the Planning Board.

13.82.1 Residential Uses. All uses listed in Section 4.31(d-g) and (i)(2).

13.82.2 Transportation, Communication and Utility Uses. All uses listed in Sections 4.32, except for railroad freight terminal, railroad yard and shops (4.32c), truck or bus terminal yard or building for storage or servicing of trucks, trailers or buses, or parking lot for trucks (4.32d), and helipad or airport (4.32h).

13.82.3 Institutional Uses. All uses listed in Section 4.33.

13.82.4 Office and Laboratory Uses. All uses listed in Section 4.34.

13.82.5 Retail Business and Consumer Service Establishments. All uses listed in Section 4.35.

13.82.6 Open Air or Drive in Retail & Service. All uses listed in Sections 4.36a. (Sales place for flowers, garden supplies agricultural produce conducted partly or wholly outdoors, commercial greenhouse or garden) and 4.36e. (Open air theatre or other open air place of entertainment), but not including drive in theatres.

13.82.7 Light Industry, Wholesale Business and Storage. All uses listed in Sections 4.37(a), (b), (c) and (f).

13.82.8 Other Uses. Any use not listed in subsections 13.82.1 - 13.82.7 shall be allowed only upon written determination by the Planning Board that such use is consistent with the objectives of the PUD-5 District and is consistent with the predominant uses in the PUD-5 District.

13.83 *Floor Area Ratio; Gross Floor Area.*

13.83.1 Maximum Floor Area Ratio. The maximum total Floor Area Ratio (FAR) of the PUD-5 District shall be 3.9 for all permitted uses. The FAR of any given Development Parcel may exceed the limitation set forth above as long as the overall FAR in the PUD-5 District for such uses does not at any time exceed the limitation set forth above.

13.83.2 Floor Area Ratio and Gross Floor Area Exemptions. Notwithstanding anything appearing in this Section 13.83 or otherwise contained in the Zoning Ordinance to the contrary, the following shall not be counted as Gross Floor

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Area for the purposes of calculating the allowable FAR for the PUD-5 District or the Gross Floor Area limitations set forth further below:

- a. The Gross Floor Area of any first floor or areas situated no more than one (1) floor below grade of a building devoted to the retail uses identified in Sections 13.82.5 and 13.82.6, constructed or, if located in an existing building, substantially renovated, after the adoption of Section ~~13.80~~13.80, provided, however, that in the event that the average size of individual retail uses located in the PUD-5 District exceed 5,000 square of Gross Floor Area, the portion of any individual retail use exceeding 5,000 square feet (or 10,000 square feet for a grocery, market or pharmacy retail use) shall be counted as Gross Floor Area for the purposes of calculating allowable FAR. The floor area of any grocery, market or pharmacy uses shall not be included in calculating the average size of individual retail uses for the purposes of this Section 13.82.3.a.
- b. The area of any public transportation facility directly providing public transportation services that is owned or controlled by a public transportation agency.
- c. The Gross Floor Area of any residential and institutional dormitory uses constructed in any of the Main Street, Transitional Height and Memorial Drive Height Subdistricts after January 1, 2013, but only to the extent that such Gross Floor Area, when taken together with the aggregate Gross Floor Area of all other residential and institutional dormitory uses then-situated within said Subdistricts, exceeds the total amount of Gross Floor Area devoted to such uses within said Subdistricts as of January 1, 2013.
- d. Fifty percent (50%) of the Gross Floor Area devoted to Innovation Office Space (as defined in Section 13.89.3), up to an amount equal to ten percent (10%) of the total office space remaining in the PUD-5 District.

13.83.3 Gross Floor Area Limitations.

- a. Definition of New Gross Floor Area. For purposes of this Section 13.80, “New Gross Floor Area” shall mean an amount of square feet of Gross Floor Area in excess of the amount of Gross Floor Area in existence in the PUD-5 District as of January 1, ~~2012~~2013. For example, if an existing building in the PUD-5 District containing 50,000 square feet of Gross Floor Area is demolished and a building containing 55,000 square feet of Gross Floor Area is constructed in its place, 5,000 square feet of Gross Floor Area would be considered New Gross Floor Area.

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b. Plan ~~Requirement~~Requirements.

i. Existing Uses. As part of the first application for a PUD special permit under the provisions of this Section 13.80, such existing Gross Floor Area for the entire PUD-5 District shall be identified as to quantity, type of use and location and such enumeration shall thereafter serve as the basis from which to administer this Section 13.83.3.

ii. Conceptual Development Plan. A Development Proposal shall include, in addition to the required site plans for development within that particular Development Parcel, a conceptual plan depicting the range of potential building sites elsewhere in the PUD-5 District and indicating the potential size and use (or alternate uses) of future development on those sites. The purpose of this plan is to place the Development Proposal in context with existing and potential future development and to illustrate how the remaining allowed development within the District may be distributed in the future. The conceptual development plan shall be expected to evolve over time. With each subsequent Development Proposal within the PUD-5 District, a revised conceptual plan shall be submitted. Revisions to a conceptual plan shall not require amending any previously approved PUD Special Permit, but shall not be effective to waive or modify any of the specific conditions contained in a previously approved PUD Special Permit. The Conceptual Development Plan may also incorporate the Conceptual Open Space Plan required in Section 13.87.2.

c. Commercial Limitation. No more than an aggregate of 980,000 square feet of New Gross Floor Area of the types of uses listed in Sections 13.82.4-13.82.7 shall be permitted in the PUD-5 District.

Notwithstanding anything in this Ordinance to the contrary, a building shall not be considered to be a “commercial building” if institutional uses occupy in excess of seventy-five percent (75%) of the Gross Floor Area of the building, excluding the Gross Floor Area of any ~~first floor~~ retail contained therein. for the purposes of Sections 13.88 and 13.89.4.

~~d. Floor Plate Limitations. For the purposes of this Section, a “Floor Plate” shall be considered to be the cross-sectional area of a building, taken across a level horizontal plane at a specified height above the mean grade of the ground adjoining said building, measured to the interior planes of the exterior walls of the building. Spaces that are exempt from Gross Floor Area shall not be considered to be part of the Floor Plate. In addition, the Gross Floor~~

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~~Area of Pedestrian Bridges approved by the Planning Board pursuant to Section 13.85.2, connecting Floor Plates shall not be considered to be part of the Floor Plate.~~

- ~~i. Within a new commercial building, the following restrictions shall apply to Floor Plates containing the types of uses listed in Sections 13.82.4-13.82.7:~~
 - ~~a. There shall be no limitation on the size of a Floor Plate from the ground level to a height of 85 feet.~~
 - ~~b. Between 85 feet and 125 feet in height, a Floor Plate shall not exceed 42,000 square feet of Gross Floor Area; and~~
 - ~~c. Between 125 feet and 250 feet in height, a Floor Plate shall not exceed 30,600 square feet.~~
- ~~ii. Within a new institutional structure:~~
 - ~~a. There shall be no limitation on the size of a Floor Plate from the ground level to a height of 125 feet; and~~
 - ~~b. Between 125 feet and 250 feet in height, a Floor Plate shall not exceed 30,600 square feet.~~
- ~~iii. Within any new building, any Floor Plate above 250 feet in height shall not exceed 10,400 square feet and shall be limited to residential and institutional dormitory uses, excluding hotel and motel uses.~~

13.84 *Parcel and Lot Requirements*

13.84.1 *Parcel and Lot Size.* The minimum size for a Development Parcel for a PUD in the PUD-5 District shall be 25,000 square feet. There shall be no minimum lot size for lots within a Development Parcel in the PUD-5 District.

13.84.2 *Lot Width.* There shall be no minimum width for a Development Parcel and no minimum width for lots located within a Development Parcel.

13.84.3 *Minimum Lot Area Per Dwelling Unit.* There shall be no required minimum Lot Area per dwelling unit in the PUD-5.

13.85 *Setbacks.* Except as provided below, there shall be no minimum required front, rear and side yard requirements for a Development Parcel or for lots located within a Development Parcel.

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13.85.1 New commercial buildings along Main Street, Third Street and Broadway containing uses set forth in Sections 13.82.4 -13.82.7 above in the PUD-5 District must be set back sixteen (16) feet from the Street Line of Main Street, Third Street and Broadway at and above a point eighty-five (85) feet above mean grade. Up to one-third of the façade length on such a street, on a cumulative basis, may be exempt from this requirement.

~~**13.85.2** The Planning Board may approve the construction of Pedestrian Bridges, which shall mean open or enclosed above-grade pedestrian passageways connecting buildings located within the PUD-5 District to each other, provided that such pedestrian bridge provides a minimum clearance height of fourteen (14) feet above any pedestrian or vehicular rights of way over which the same passes. Pedestrian Bridges shall not be exempt from Gross Floor Area where they would otherwise meet the definition contained in Article 2.000 of this Zoning Ordinance.~~

13.85.2 New buildings constructed in the Third Street Transition Sub-District must be set back from the portion the easterly boundary of the Sub-District situated within 120 feet of the northerly Street Line of Main Street (the “Limited Setback Boundary”) (a) a distance of at least twenty (20) feet, running parallel from the Limited Setback Boundary, and (b) thirty-six (36) feet for any portions of the building that exceed a height of eighty-five (85) feet above mean grade, running parallel from the Limited Setback Boundary.

13.86 *Height.*

13.86.1 In the Third Street Transition and the Main Street Subdistricts, the maximum height of any building shall be 250 feet, except as permitted by ~~Sections 13.86.1.1 and 13.86.1.2.~~Section 13.86.1.1.

13.86.1.1 The Planning Board may approve Final Development Plans that result in no more than one new building exceeding 250 feet up to 300 feet in height in the Third Street Transition Subdistrict and one additional building up to 300 feet in height in the Main Street Subdistrict; provided that:

(a) the use of any occupiable space situated above 250 feet in height shall be limited to residential and/or institutional dormitory uses, and

(b) within a residential building, Middle Income Units (as defined below) shall ~~be~~ occupy an aggregate Gross Floor Area equal to at least twenty-five percent (25%) of the total residential Gross Floor Area (excluding any Gross Floor Area occupied by institutional dormitory uses) in the portions of the building that exceed 250 feet in height. Such Middle Income Units shall be evenly distributed

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throughout the ~~portion of the~~ residential building ~~situated below 250 feet in height~~ in a manner approved by the Planning Board, in consultation with City staff, in the Final Development Plan for a Development Parcel, in order to ensure that the Middle Income Units are of an appropriate location, size, configuration and quality for households intended to occupy such units. ~~The residential units situated above 250 feet shall not be subject to the provisions of Sections 11.203.2 or 11.204(b).~~

For the purposes of this Section 13.86.1.1, Middle Income Units shall be defined as residential dwelling units for which:

- (i) the occupancy is restricted to households whose total income exceeds 80% but does not exceed 120% of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for family size, or such other equivalent income standard as may be determined by the Board of Trustees of the Affordable Housing Trust Fund; and
- (ii) the rent (including utilities) does not exceed thirty percent (30%) of the income of the renting household or, in the instance of home ownership units, the monthly mortgage payment (including insurance, utilities and real estate taxes) does not exceed thirty percent (30%) of the income of the purchasing household, or such other equivalent standard as may be determined by the Board of Trustees of the Affordable Housing Trust Fund.

~~**13.86.1.2** In evaluating a proposed building that has a height in excess of two hundred fifty (250) feet, the Planning Board shall give consideration to evidence presented on the following:~~

~~(a) that the building has been designed in such a way as to minimize the casting of shadows and the alteration of air currents in, on and around adjacent buildings or outdoor open spaces, plazas or sidewalks meant to serve as active gathering spaces;~~

~~(b) that increased height would mitigate detrimental environmental impacts such as excessive ground coverage, diminution of open space, and monotonous development, or would facilitate the preservation of historic structures;~~

~~(c) that increased height would not adversely affect, and would result in increased sensitivity to, the visual and physical characteristic of the particular location through more harmonious relationships to the~~

~~terrain and to the proposed and existing buildings in the vicinity that have functional or visual relationships to the proposed building; and~~

~~(d) that the orientation and location of the proposed structure would not otherwise diminish the health and safety of the area around the Development Parcel.~~

13.86.2 In the Transitional Height Subdistrict, the maximum height of any building shall be 200 feet. Notwithstanding the above, if at least 50% of the area of the ground floor footprint of a building is located within the Main Street Subdistrict, a portion of the building at the higher height may extend into the Transition Height Subdistrict, but by no more than 50 feet.

13.86.3 In the Memorial Drive Height Subdistrict, the maximum height of any building shall be 150 feet.

13.87 Open Space.

13.87.1 Minimum Open Space. The minimum overall percentage of Publicly Beneficial Open Space of the total area of the PUD-5 District shall be fifteen percent (15%). The percentage of Publicly Beneficial Open Space provided in any given Final Development Plan for a Development Parcel may be less than 15% as long as the overall ratio in the PUD-5 District is not less than 15%. In the event that a Development Parcel provides less than 15% open space, the Final Development Plan for the Development Parcel shall identify the Publicly Beneficial Open Space in the PUD-5 District that shall equal or exceed 15% of the total area of the PUD-5 District.

13.87.2 Conceptual Open Space Plan. A Development Proposal shall include a conceptual plan depicting the size, layout and configuration of Publicly Beneficial Open Space within the PUD-5 District upon completion of the proposed building(s) in the Development Parcel. This conceptual plan shall indicate the Publicly Beneficial Open Space that exists in the PUD-5 District as of the time of the submission of the Development Proposal, that will be constructed as part of the Development Proposal, and that are planned for elsewhere in the PUD-5 District. The conceptual open space plan shall be expected to evolve over time as some portions of Publicly Beneficial Open Space may be relocated or reconfigured as part of future Development Proposals. With each subsequent Development Proposal within the PUD-5 District, a revised conceptual open space plan shall be submitted. Revisions to a conceptual open space plan shall not require amending any previously approved PUD Special Permit, but shall not be effective to waive or modify any of the specific conditions contained in a previously approved PUD Special Permit. The Conceptual Open Space Plan may be presented jointly with the Conceptual Development Plan required in Section 13.83(b)(ii).

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13.88 *Parking and Loading Requirements.* Development in the PUD-5 district shall conform to the off street Parking and Loading Requirements set forth in Article 6.000, except as modified by this Section 13.88.

13.88.1 With regard to uses contained within new commercial buildings, provided that the requirements of Section 6.23 of the Ordinance are met, the parking requirements of this Section 13.88 may be satisfied (a) anywhere in the PUD-5 District or, if located outside of the PUD-5 District, within 2,000 feet of the use being served, notwithstanding anything to the contrary contained in Article 6.000 and (b) in total or in part by a lease agreement between the developer and the City, other public entity or private owner or consortium for use of parking spaces in the public or pooled private parking facilities within said area.

13.88.2 All parking provided within an approved PUD shall be considered collectively accessory to all approved uses within the PUD, including any uses outside of the Development Parcel that may be approved by the Planning Board. Notwithstanding anything to the contrary in Article 6.000, this Ordinance shall not restrict the management and assignment of parking spaces in a way that will most efficiently utilize the existing and proposed parking spaces to serve all approved uses. As an exception to this rule, all parking spaces (whether existing or proposed) to be included within an institutional parking pool shall be distinctly identified, and shall not be used for any other uses except in ways that are explicitly approved by the Planning Board in issuing a PUD Special Permit Decision.

13.88.3 *Minimum Parking.* In approving a Final Development Plan for a Development Parcel, the Planning Board may waive any minimum parking requirements applicable in the zoning district, with the exception that parking for residential uses shall not be less than 0.5 parking spaces per dwelling unit. The Planning Board may approve arrangements for shared parking of such residential parking spaces with commercial spaces. The Planning Board shall specify a minimum parking requirement for a PUD based on review and analysis of Transportation Impact Studies and other relevant information on parking demand provided in application documents, including the Shared Parking Study as required further below, and with the guidance of City agencies.

13.88.4 *Maximum Parking.* Maximum allowed parking for a PUD shall be limited by applying the rates set forth below to each use within the PUD and taking the summation of the result for all uses. Exceeding the maximum allowed parking shall require a waiver of maximum parking is requested under the general provisions of Article 6.000.

- a. Maximum of 0.9 spaces per 1,000 square feet of Gross Floor Area for office uses, excluding technical office (Section 4.34(a-e)).
- b. Maximum of 0.8 spaces per 1,000 square feet of Gross Floor Area for laboratory use and technical office uses (Section 4.34(f)).
- c. Maximum of 0.75 spaces per residential dwelling unit (Section 4.31(d-g)).
- d. Maximum of 0.5 spaces per 1,000 square feet of retail (Sections 4.35 and 4.36).
- e. Maximum of 1 space per 4 sleeping rooms for hotel use (Section 4.31(i)(2)).

13.88.5 *Shared Parking Study.* A Development Proposal for development in the PUD-5 District shall include an analysis of anticipated parking demand for all uses in the development throughout the course of a typical day and week. This analysis may identify opportunities for reducing the total amount of parking required to serve all uses through the sharing of parking spaces by multiple uses. Based on this analysis, the Planning Board may approve a reduced minimum or maximum parking requirement upon finding that the approved amount of parking will be sufficient to serve all permitted uses.

13.88.6 *Design, Dimensional, and Other Requirements of Provided Parking and Loading Facilities*

a. Except as provided herein, all parking for new non-residential and non-institutional uses shall be underground structured parking. Notwithstanding this underground parking requirement, parking for all uses in the Third Street Transition Subdistrict may be in above-ground structured parking provided such structured parking is consistent with the existing structured parking in the Subdistrict.

b. ~~A Development Parcel may contain on-grade parking equal in number to 5% of the parking otherwise required for the uses in the Final Development Plan for that Development Parcel.~~ ~~c.~~ In its approval of a Final Development Plan, the Planning Board, in consultation with City staff (including the Traffic Parking and Transportation Department), may approve (i) the location, layout and design of parking spaces that deviate from the requirements of Article ~~6.000.~~ ~~d.~~ ~~In its approval of a Final Development Plan, the Planning Board, in consultation with City staff, may approve~~6.000; (ii) the location, width and layout of curb cuts serving the Development Parcel that deviate from the requirements of Section ~~6.43-6.43;~~ and (iii) a small number of on-grade parking and loading spaces to be used

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for, among other things, handicap parking, short-term loading, use by food trucks and other short-term or special purposes.

13.88.7 *Temporary On-Grade Open Parking for Commercial Uses*

On an interim basis in anticipation of later construction of underground or other structured parking sufficient to meet all parking requirements of a new commercial use constructed on a Development Parcel, on-grade open parking shall be allowed on within the PUD-5 District to serve such a use subject to the following conditions:

- a. The future underground parking structure will be constructed within the PUD-5 District, but it may be located either on or off of the lot which it will serve;
- b. Construction of the replacement subsurface parking structure is anticipated to commence within four (4) years of the date of certificate of occupancy for the building initially served by on grade parking;
- c. The future subsurface parking structure will contain sufficient spaces for users of the building initially served by on grade open parking so as to meet the parking requirements for such building; and
- d. Binding commitments shall exist to establish, to the reasonable satisfaction of the Planning Board, that requirements (a) through (c) above shall be satisfied. Such commitments shall be made by negotiated lease agreement, deed restriction, covenant, or comparable legal instrument.

13.88.8 *Pre-Existing Parking Spaces*

a. The Planning Board, after consultation with City staff, may approve in a Final Development Plan, underground or structured parking spaces as replacements for pre-existing ~~commercial~~accessory parking spaces that will be displaced by improvements contemplated by such Final Development Plan. ~~Notwithstanding the above, the Planning Board shall not be permitted to deny or otherwise prohibit the inclusion of such displaced commercial spaces in the underground parking structure in the Final Development Plan, if the Developer is required to provide such commercial spaces, provided that~~ such spaces are serving pre-existing commercial uses that are not proposed to be substantially altered. The Planning Board shall approve such replacement spaces upon determining that they were legally permitted under the applicable zoning regulations when the pre-existing use was established and that the traffic generated by the pre-existing use shall not be increased as a result. If such pre-existing spaces have been guaranteed to a third party by virtue of the terms of a duly executed lease, license or other legally binding

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written agreement: that exists as of January 1, 2013, the Planning Board may include conditions to its approval that would take effect upon the expiration of the third party's pre-existing use and occupancy of building, pursuant to the existing agreement (as such agreement may be extended and/or renewed from time to time).

b. Where any pre-existing accessory off-street parking spaces located in a Development Parcel that are serving a pre-existing use located outside the Development Parcel (whether within or outside the PUD-5 District) are proposed to be eliminated or displaced in accordance with the Final Development Plan for that Development Parcel, such pre-existing off-street parking may be relocated to a Parcel other than the Development Parcel by Special Permit granted by the Planning Board to the owner of the off-site use after consultation with City staff, provided, however, that such use is permitted on such other Parcel either as-of-right or by virtue of zoning relief granted for such Parcel by the Planning Board or the Board of Zoning Appeals, as the case may be. In granting such Special Permit, the Planning Board may grant deviations from the requirements of Article 6.000 of this Ordinance for the number, location, layout and design of the relocated parking spaces.

c. Such replacement or relocated accessory parking spaces for pre-existing uses shall not count toward the maximum parking permitted under this Section 13.88.

13.88.9 The Planning Board, in its approval of a Final Development Plan for a Development Parcel, may waive any requirements for the amount, location and design of loading facilities within a Development Parcel, and may permit loading facilities to be shared across various uses and lots within the PUD-5 District.

13.88.10 The quantity, design and location of bicycle parking shall comply with the provisions set forth in Article 6.000 of this Ordinance.

13.89 *Special Requirements, Conditions and Standards Applicable to Certain Development Authorized by the Planning Board in the PUD-5 District.* The Planning Board shall approve a Final Development Plan only after finding that in addition to all other applicable requirements the following requirements have been met. The Planning Board shall, in addition, include conditions in the approval of a Final Development Plan that will ensure ongoing compliance with these requirements.

13.89.1 Rooftop Mechanical Equipment Noise Mitigation. Sound emanating from rooftop mechanical equipment on all new structures in an approved Final Development Plan shall be minimized by the adoption of best available and feasible practices regarding the location and sizing of equipment, the

selection of equipment and sound attenuation measures. Any noise or vibration emanating from new commercial buildings shall comply with the provisions of the City of Cambridge Noise Ordinance applicable to Commercial Areas (as such term is defined in the Noise Ordinance).

13.89.2 Required Housing.

At least 240,000 square feet of New Gross Floor Area in the aggregate must be devoted to residential uses in the PUD-5 District. Prior to the issuance of a building permit allowing construction of New Gross Floor Area for commercial uses in excess of 600,000 square feet in the aggregate, the Developer must demonstrate that construction of a minimum of 240,000 square feet of New Gross Floor Area of residential use has commenced, a full building permit has been issued for the construction of such residential use and that the construction of such square footage is being continuously and diligently pursued. The required residential Gross Floor Area shall be subject to the provisions of Section 11.200 of the Zoning Ordinance. Except as otherwise set forth herein, a Final Development Plan shall be subject to the requirements of Section 11.203.1 (Requirements for Incentive Zoning Contributions) and 11.203.2 of the Zoning Ordinance (Requirements for Inclusionary Housing).

13.89.3 Innovation Space. A Development Proposal containing at least 200,000 square feet of new Office Uses shall include a plan for Innovation Office Space meeting the requirements of this Section 13.89.3.

13.89.3.1 *Required Space.* ~~Buildings~~For a Development Proposal containing new Office Uses, Innovation Office Space within the PUD-5 District ~~shall include Innovation Space that occupies~~must occupy Gross Floor Area equal to, or in excess of, the amount of Gross Floor Area that is five percent (5%) of the New Gross Floor Area approved in the Final Development ~~Plans for commercial uses other than residential and Active~~Plan for Office Uses. Existing Gross Floor Area within the PUD-5 District may be used to meet this requirement. Where at least 40,000 square feet of Innovation Office Space is required, Innovation Office Space may be distributed in separate buildings, provided, however, that each separate “unit” of Innovation Office Space, contains at least 20,000 square feet. If less than 40,000 square feet of Innovation Office Space is required to be contained in the PUD-5 District, the Innovation Office Space must be contained in a single building.

Developers of properties within the PUD-5 District may collaborate with other developers in adjacent zoning districts in the Kendall Square area to develop a joint Innovation Office Space Plan. In such a case, the total square footage of joint Innovation Office Space must be large enough to satisfy the

sum of the requirements, if any, for such participating developers and zoning districts.

13.89.3.2 Characteristics. For the purposes of this Section 13.89.3, Innovation Office Space shall have the following characteristics:

(a)Durations of lease agreements (or other similar occupancy agreements) with individual business entities shall be for periods of approximately one (1) month.

(b)No single business entity may occupy more than 2,000 square feet or 10% of the entire Innovation Office Space required to be provided in the PUD-5 District, whichever is greater.

(c)The average size of separately contracted private suites may not exceed 200 square feet of GFA.

(d) Innovation Office Space shall include shared resources (i.e., co-working areas, conference space, office equipment, supplies and kitchens) available to all tenants and must occupy at least 50% of the Innovation Office Space.

(e) Individual entities occupying Innovation Office Space may include small business incubators, small research laboratories, office space for investors and entrepreneurs, facilities for teaching and for theoretical, basic and applied research, product development and testing and prototype fabrication or production of experimental products~~;~~.

~~(b)Innovation Space shall be available on short term flexible leases (or other similar agreement) of small Gross Floor Areas; and~~13.89.3.3 Variations. In approving a Final Development Plan or a Minor Amendment to a Final Development Plan, the Planning Board may allow variations in the specific standards and characteristics set forth Sections 13.89.3.1 and 13.89.3.2 above, if the Planning Board finds that the Innovation Office Space, as proposed, will be consistent with the purposes of these standards and characteristics.

~~(c)Innovation Space shall provide resources (i.e., conference space, office equipment and supplies) that are shared among the various companies and entities occupying the Innovation Space.~~

~~Commencing on the date that is five (5) years from the approval of the first Final Development Plan for a Development Parcel and periodically thereafter, the Developer may request a review by the Planning Board to~~

~~determine the progress of the use of Innovation Space within the PUD-5 District and whether a requirement for a minimum amount of Innovation Space remains appropriate given then-prevailing market forces and the mix of uses in and around Kendall Square. Subsequently, the Planning Board, in consultation with City staff, shall have the right to (a) amend existing Special Permits issued for PUD's containing commercial uses other than residential and Active Uses that waives or otherwise reduces the minimum requirements of this Section 13.89.3 applicable to the PUD-5 District and (b) waive or otherwise reduce prospectively the applicability of the minimum requirements of this Section 13.89.3 applicable to the PUD-5 District for future Development Proposals.~~

13.89.4 *Sustainability.*

New buildings constructed within the PUD-5 District shall comply with the provisions of Section 22.20 of the Ordinance. Notwithstanding the above, new commercial ~~laboratory and office~~ buildings containing uses identified in Sections 13.82.4 and 13.82.7 and new residential buildings identified in Section 13.82.1, shall comply with LEED Gold level criteria. In connection with the submission requirements of Section 22.24.2.a., the developer of such buildings shall submit a Statement of Energy Design Intent produced through the EnergyStar Target Finder tool, or comparable method. New institutional buildings shall meet LEED Gold level criteria, unless the technological specifications of a proposed specialized academic research facility are such that the developer can demonstrate the impracticability of achieving the LEED Gold level criteria or the inordinate impact achieving the LEED Gold level would have on such specialized academic research facility. In such a case, the building shall continue to meet the applicable requirement in Section 22.20, and the required submission shall enumerate additional measures that will be taken to reduce energy use or employ renewable energy systems to the greatest extent feasible. New buildings in the PUD-5 District must incorporate an integrated design approach and incorporate the best practices for meeting sustainability in the following five (5) areas:

a. Energy and Emissions; Steam. Each new building must conserve building energy and, to the extent applicable, reduce carbon/GHG emissions. The Developer, with each Development within the PUD-5 District, must evaluate the potential for on-site energy generation or the construction of co-generation facilities within the PUD-5 District that will serve the new building and other buildings located within the PUD-5 District. A Development Proposal for a commercial building shall include a study, prepared by the Developer, considering the feasibility of connecting the building identified in the Development Proposal to the existing district steam system.

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b. Urban Site and Landscaping; Water Management. The Developer, for each new building, must explore opportunities for (i) potable water use reductions, (ii) storm water management using open spaces, (iii) the incorporation of indigenous vegetation and (iv) storm water for irrigation purposes. At a minimum, all new ~~commercial~~ buildings within the PUD-5 District must meet the Department of Public Works' standards for water quality management and the retention/detention of the difference between the 2-year 24-hour pre-construction runoff hydrograph and the post-construction 25-year 24-hour runoff hydrograph.

c. Healthy Living & Working. Each new building must provide people with access to daylight and enhance the visual and thermal comfort of people living and working within the PUD-5 District.

d. Transportation. The Final Development Plan for the PUD-5 District must encourage multimodal transportation, provide facilities for cyclists and provide an infrastructure to support alternative energy vehicles.

e. Promotion of Sustainability Awareness. New buildings within the PUD-5 must be designed to incorporate features that demonstrate other sustainability strategies.

f. Cool Roofs. All new buildings approved in the District after January 1, 2013, must employ Functional Green Roofs (as such term is defined in Article 22.000 of this Zoning Ordinance), high-albedo "white" roofs or a functionally equivalent roofing system.

g. Monitoring. All new buildings approved in the PUD-5 District after January 1, 2013, shall track and report energy use to the City using EnergyStar, Labs21, LEED-EBOM or a substantially similar mechanism. Such reporting shall occur at the end of the first year of occupancy of the building, then once annually during the first five (5) years of occupancy, and once every five (5) years thereafter. Failure to provide such reports to the City shall not constitute a failure of condition of any PUD-5 Special Permit.

In connection with the approval of a Final Development Plan or in connection with the granting of a Special Permit pursuant to Article 19 of the Ordinance, the Planning Board may grant dimensional and other zoning relief in order to permit the construction of a co-generation facility or other energy systems that allow developments to develop shared solutions to minimize energy usage.

13.810 *Other Provisions.*

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13.810.1 Signs. The ~~sign~~ regulations of Article 7.000 applicable to Business, Office and Industrial Districts shall be applicable to ~~new~~-buildings in the PUD-5 District.

13.810.2 Active Uses and Pedestrian Activity.

Final Development Plans for commercial uses shall enhance the public pedestrian usage of the sidewalks and create a sense of neighborhood continuity by providing an interesting, lively and active presence at street level. Accordingly, portions of the first floors of commercial buildings in locations enumerated below shall generally be planned, designed, constructed and used for Active Uses (defined below). At a minimum, a total of at least seventy-five percent (75%) of the aggregate New Gross Floor Area of the Activation Space situated within a commercial building in the PUD-5 District shall be devoted to Active Uses. For the purposes of this Section 13.810.2, the term “Activation Space” shall mean the portions of the first floors of commercial buildings immediately abutting Main Street, Broadway and the Broad Canal, situated between the Principal Front Wall Plane of such building along said Main Street and Broadway and along the northerly and easterly boundaries of the Third Street Transition Subdistrict along Broad Canal Way and the line that is situated twenty (20) feet from said Principal Front Wall Plane. Notwithstanding the above, the Planning Board, in approving a Final Development Plan for a new building, may, in consultation with City staff, grant a reduction of the required minimum total area of Active Uses within the Activation Space of the new building, where such reduction is necessitated by site conditions or other complications.

Definition of Active Uses. For purposes of this Section 13.810.2, “Active Uses” means:

- (1) Retail business and consumer service establishments listed in Section 4.35;
- (2) Institutional uses that are generally open to the public, such as museums and exhibition spaces;
- (3) Uses listed in Section 13.82.6; and
- (4) Other uses which the Planning Board determines meet the goals of this Section 13.810.2.

The definition of “Active Uses” shall specifically exclude lobbies or other spaces that serve an accessory function to upper-story office or laboratory uses.

Building and Site Design Requirements for Active Uses and Open Spaces.

- (1) Active Uses shall have one or more entrance(s) from the sidewalk or plaza separate from the principal entrance of the building for non-retail uses.
- (2) Outdoor courtyards, delineated gathering space, or sitting areas are encouraged throughout each Development Parcel in any approved Final Development Plan.

Prior to submitting any application for a special permit in the PUD-5 District, the applicant shall engage the services of a consultant or other party with retail expertise to advise the applicant in connection with retail and other Active Uses to be included in the applicable Development Parcel. The recommendations of that consultant shall be included in the applicable special permit application.

13.810.3 Contribution to Community Fund.

Upon the Planning Board's approval of the first Final Development Plan for a Development Parcel within the PUD-5, the City Manager shall establish a Community Fund, which Fund shall be administered by a committee appointed by the City Manager and approved by the City Council, which committee (the "Community Fund Committee") shall contain no more than seven (7) members, with at least one (1) member from each of the following: East Cambridge Planning Team, the Kendall Square Association, Area IV Neighborhood Coalition, Wellington-Harrington Neighborhood Association and the Massachusetts Institute of Technology. Said members shall be selected by their respective organizations.

Subject to the provisions of this Section 13.810.3, upon the issuance of a Final Certificate of Occupancy for a new commercial building in the PUD-5 District, the Developer shall be required to make a payment to the Community Fund in an amount equal to \$10.00 multiplied by the number of square feet of New Gross Floor Area for the commercial uses identified in Section 13.82.4 and 13.82.7 that are the subject of such Final Certificate of Occupancy (such amount, a "Fund Contribution Payment"). The City shall use the funds contributed by the Developer pursuant to this Section 13.810.3 for

- (a) the establishment and betterment of Publicly Beneficial Open Spaces located in the PUD-5 District and within 500 feet of the boundaries of the District and shall include, without limitation, improvements to Broad Canal, Broad Canal Way, Point Park and

other Publicly Beneficial Open Space abutting streets within the PUD-5 District;

(b) transportation improvements and services to benefit the Kendall Square Neighborhood and adjacent neighborhoods; and

(c) workforce development and training.

The Developer shall have the right to obtain credits for actual, out-of-pocket costs incurred by the Developer in creating or implementing, or contributing to a third party's creation or implementation of, any of (a), (b) or (c) above (each such cost or contribution, a "Qualified Contribution"). Ninety (90) days prior to commencing any of the above or making any such contribution, the Developer shall notify the Community Fund Committee, in writing, of its intention to credit the Qualified Contribution against future Fund Contribution Payments (the "Credit Notice"). The Credit Notice shall provide a reasonably detailed description of Qualified Contribution and the estimated amount and/or value of the same.

Within thirty (30) days of its receipt of such notice, the Community Fund Committee shall either approve or deny the requested credit in writing to the Developer, provided, however, the Community Fund Committee's approval of such a credit request shall not be unreasonably withheld or conditioned. In the event that the Community Fund Committee fails to provide a written approval or denial of a credit request within said thirty (30) days period, the credit shall be deemed approved. With regard to an approved (or deemed approved) Qualified Contribution, the Developer shall provide a certification to the Community Fund Committee detailing the actual amount of the Qualified Contribution within thirty (30) days of Developer's completion of or contribution to the associated work or conveyance. Provided that the amount of the Qualified Contribution contained in the certification is materially consistent with the estimated amount of the same contained in the Credit Notice, the Developer shall thereafter have the right to apply the actual amount of the Qualified Contribution against any future Fund Contribution Payment(s) that it desires.

The Developer and the Community Fund Committee shall maintain a written record of all approved (and deemed approved) Qualified Contributions and the Developer's application of such credits to Fund Contribution Payments.

[13.810.4 Planning and Zoning Studies; Design Guidelines. In its review and approval of a Final Development Plan for a Development Parcel, the Planning Board shall consider all future planning and zoning studies and design guidelines adopted by the Planning Board for a geographic area containing the Development Parcel.](#)

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