



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

IRAM FAROOQ
Assistant City Manager for
Community Development

SANDRA CLARKE
Deputy Director
Chief of Administration

To: Planning Board
From: Jeff Roberts, Senior Manager for Zoning and Development
Date: November 8, 2017
Re: **Kroon, et al., Zoning Petition for Harvard Square**

This petition proposes amendments to some of the provisions in the Harvard Square Overlay District addressing different topics. The proposed changes fall into three overall topic areas:

Changes related to development review procedures:

- Create additional criteria for review projects requiring a special permit, variance, or development consultation from the Harvard Square Advisory Committee. (Section 20.53.2)
- Revise the purpose statement and provisions for membership and terms of the Harvard Square Advisory Committee. (Section 20.54.1)
- Amend provisions regarding the review of contributions in lieu of parking to the Harvard Square Improvement Fund. (Section 20.54.4)

Changes related to height and density:

- Restrict GFA above 60 feet in height to residential dwelling units, and allow a residential FAR bonus of 1.0. (Section 20.54.2)

Changes related to retail and other ground-floor commercial establishments:

- Require a special permit for Formula Businesses. (Section 20.56)
- Require some ground-floor frontage to be occupied by "Small Stores" of less than 1,250 rentable square feet in developments requiring a special permit. (Section 20.57)
- Restrict pedestrian-level frontage of bank, trust company, real estate or other agency, and administrative offices. (Section 20.58)
- Exempt below-grade spaces from GFA calculations where they support publicly-accessible ground-floor uses. (Section 20.59)

This memo provides background information relevant to these proposals and discusses some issues to be considered in the Board's deliberations.

Harvard Square Overlay District – Overview

The Harvard Square Overlay District (HSOD) was created in 1986 following a planning study that established development goals and guidelines for the area. As shown in the attached map, the HSOD encompasses several different base districts, which include higher-density business, office and residential districts within the core of Harvard Square as well as some moderate-density districts along the edges. As with all overlay zoning, the HSOD modifies the base zoning in specific ways to enable desired outcomes, providing more flexibility in some ways, and imposing additional limitations in others. Another key purpose of the HSOD is to designate Harvard Square as an “Area of Special Planning Concern,” where development is subject to additional scrutiny.

In 2000, another study of Harvard Square was completed with the ultimate outcome of establishing a Neighborhood Conservation District (NCD), within which building permits for new buildings or alterations to existing buildings are subject to review by the Cambridge Historical Commission (CHC). While the NCD is jurisdictionally separate from the Zoning Ordinance, the 2000 study considered some zoning issues and resulted in amendments to the HSOD provisions, as well as a new set of Development Guidelines that are referred to in both the HSOD zoning and the NCD bylaws. The boundaries of the NCD and HSOD are nearly the same, with some variations. A study of the Harvard Square Development Guidelines has recently been initiated.

The HSOD includes the following specific provisions and modifications to the base zoning. Most of the following provisions were included in the original zoning; provisions that were created in the 2000 zoning amendment are noted.

- Development consultation by a Harvard Square Advisory Committee consisting of community members with a specified range of backgrounds and expertise. (Section 20.54.1)
- Building heights limited to 60 feet as-of-right or 80 feet by special permit, except where the base zoning has a lower height limit. (Section 20.54.2)
- Allowances for limited retail, business, and consumer service uses in office or residential base zoning districts. (Section 20.54.3)
- Allowed waiver of parking and loading requirements for uses in existing buildings, or otherwise by special permit from the Planning Board, in some cases requiring a payment in lieu of parking to a Harvard Square Improvement Fund. (Section 20.54.4)
- Allowed waiver of required yard setbacks for existing buildings, or for new buildings by special permit from the Planning Board. (Section 20.54.5)
- Modifications to the FAR limits in various base districts. (Section 20.54.6, created in the 2000 amendment and summarized further in this memo)
- Some permitted variations from the signage requirements of Article 7.000. (Section 20.55.1, created in the 2000 amendment with the understanding that signage would be subject to NCD procedures)

A full text of the HSOD zoning is attached, with inline edits showing the amendments currently proposed and discussed further in this report.

Harvard Square Advisory Committee

Background

When the HSOD was adopted, few development projects were subject to a review procedure. Only Planned Unit Development (PUD) projects in designated PUD districts were required to receive a special permit from the Planning Board. Even under the HSOD requirements, Planning Board approval would only be needed to modify specific requirements such as height, setbacks, or parking.

In the 1980s and 1990s, planning studies and special zoning resulted in the establishment of “Areas of Special Planning Concern” in which all projects above a certain size threshold would be subject to non-binding “Development Consultation” procedures. The most significant of such procedures is “Large Project Review,” which in most districts takes the form of a public meeting conducted by CDD where interested community members are invited to ask questions and make advisory comments. However, in the zoning for Harvard Square and Central Square, standing advisory committees were established for the purpose of conducting Large Project Review consultations. An additional role of these advisory committees is to receive, review, and comment on applications for special permits and variances to be heard by the Planning Board or Board of Zoning Appeal (BZA).

In recent years, the role of the Harvard Square Advisory Committee (HSAC) has focused much more on its review of Planning Board and BZA applications than on conducting Large Project Review consultations. This is partly due to the Project Review Special Permit procedures adopted in 2001, requiring Planning Board approval of any development of at least 50,000 square feet. In addition, of the handful of major development projects reviewed in Harvard Square over the past decade or so, most have needed some form of zoning relief from either the Planning Board or BZA. The HSAC has also reviewed many applications for conditional use special permits or use variances for retail establishments (a major topic addressed by this petition and discussed further in this report).

Another task assigned to the HSAC is to comment on the use of funding contributions made where parking requirements are reduced or waived by special permit. These contributions are relatively rare, as they are required only when new construction is proposed (existing buildings are exempt from parking as-of-right) that utilizes over 80% of the allowed development on a lot. A review of special permit records found only a few required contributions over the past 20 years and all past contributions have been utilized; however, two projects have been approved by the Planning Board in recent years that will be required to make contributions if the projects proceed.

Proposed Amendments

The first change proposed by the petition, which articulates the rationale for some of the other proposed changes, is to include “enhancing the retail ecosystem” among the stated criteria in review of projects by the HSAC, Planning Board, and BZA. The specific reference to this topic reflects many of the community objectives and concerns raised in recent years related to real estate activity in Harvard Square, and has been the subject of discussion by the Planning Board on several prior occasions.

Other proposed changes largely focus on the HSAC membership; however, the petition would also modify the HSAC’s purpose to include “hearing and representing community input on development

actions.” It is reasonable to say that the purpose of the group is to represent community viewpoints, as reflected in its membership, and HSAC meetings are open to the public. The use of the word “hearing” may be confusing because the role of the committee is to make advisory opinions and not to hold formal public hearings or grant approvals for development, which would be under the purview of the Planning Board, BZA, and/or CHC, depending on the application.

The proposed changes to the HSAC membership are not extensive, and seem intended to broaden the membership to be more inclusive of specific groups like retailers (the HSAC membership currently has some retail business owners) and Harvard University staff (also currently represented). The most significant changes would be to require full membership at all times – in the past, committee members have sometimes fulfilled more than one required set of qualifications – and to impose term limits, which may be logistically challenging to maintain over time since the HSAC is an appointed committee whose members serve on a volunteer basis. Clarification is needed regarding the proposed designation of a CHC representative as an “ex-officio” member appointed by their “employer,” because the CHC is typically represented by a member of the commission (who is also an appointed volunteer) and not by a CHC staff member.

Regarding the HSAC’s role in reviewing the use of parking funds, the proposed language changes are also not extensive, adding “in public session” (as noted, all HSAC meetings are public), changing “comment” to “recommendation,” and requiring an annual fund report from CDD. The petition omits current language stating that “the provision of public parking facilities shall be the first priority of any expenditure” and that “the funds shall not be used for ordinary maintenance activities normally undertaken by the City of Cambridge.” These deletions would allow the City to allocate funds in accordance with public priorities, which can change over time.

Modifications to Development Controls

The chart below summarizes the current limitations on floor area ratio (FAR) and building height within each base zoning district of the HSOD, as modified by the special provisions of the HSOD.

Base District	Max. FAR (residential)	Max. FAR (non-residential)	Max. Height (as-of-right)	Max. Height (special Permit)
Business B (BB)	3.00	4.00	60 feet	80 feet
Office 3 (O-3)	3.00	3.00	60 feet	80 feet
Office 2 (O-2)	2.00	2.00	60 feet	70/80 feet
Residence C-3 (C-3)	3.00	3.00	60 feet	80 feet
Residence C-2B (C-2B)	1.75	1.75	45 feet	N/A
Residence C-1 (C-1)	0.75	0.75	35 feet	N/A
Business A (BA)	1.75	1.00	35/45 feet	N/A

The petition would add the following sentence pertaining to height and GFA: “All newly constructed GFA above 60’ in height, or an equivalent percentage of the building, shall be residential dwelling units, and to make this feasible, a residential FAR bonus of an additional 1.0 shall be granted for such space.” Some aspects of this proposal may require clarification, but it indicates a preference for residential uses within new development in the district. This change would be significant because the HSOD is currently one of the few mixed-use areas in the city where non-residential uses can be allowed at an equal or greater density than residential uses. Requiring residential uses above a certain height, and providing a floor area “bonus” for residential use, are strategies that are also employed in other mixed-use areas of the city to promote additional housing. In some respects, this proposal brings Harvard Square into closer alignment with broader citywide housing goals.

Clarifying language might be helpful to better explain some aspects of this proposal. For example, it should be made clear whether the phrase “an equivalent percentage of the building” is intended to mean the amount of GFA that is located within portions of the building above 60 feet. It would also be useful to clarify whether the “FAR bonus of an additional 1.0” would apply to every district within the HSOD, or only those districts where heights are proposed to exceed 60 feet by special permit, or some subset of those districts.

Provisions for Commercial Establishments

General Comments

Many changes in the petition reflect the aforementioned goal of “preserving and enhancing the retail ecosystem.” Most of these changes would create new requirements that ground-floor establishments must meet, with only one proposed relaxation of requirements (allowing basement GFA to be exempted). It is important to weigh the particulars of each proposed change, but it is also important to be mindful of how additional zoning restrictions in general can be burdensome to retail businesses themselves, and how independent retailers might be disproportionately impacted. For instance, when retail businesses are required to seek conditional permits or other zoning relief, they must devote additional time and resources to undergo a review and approval process. If all other factors are equal (such as business type and size), independent retailers might be at a greater disadvantage because larger chain businesses or national retailers might have more resources at their disposal.

It is also important to consider new requirements in the context of requirements that currently exist. The table on page 9 of this report summarizes current use regulations within the HSOD. While the core “Business B” (BB) district is fairly permissive with regard to retail uses, some key business types that could be well-suited to Harvard Square (specifically, fast order food establishments, commercial recreation centers, and veterinary clinics) require special permits. In other base districts, retail uses are even more limited. For those business types that already require a special permit or variance (highlighted in yellow and red within the table), imposing additional requirements like those in the petition will not have much practical impact, because they will need to seek discretionary approvals in any case. The retail uses that are otherwise allowed as-of-right are the uses that would be more greatly impacted.

Formula Business

In the Cambridge Zoning Ordinance, the definition and regulation of formula businesses was first established earlier this year through amendments to the Central Square Overlay District. In that district, formula businesses would require a special permit from the Planning Board. The proposed requirements in the HSOD use the same “formula business” definition, copied below, and would also require a Planning Board special permit.

Formula Business. An individual Retail or Consumer Service establishment that is required by virtue of a contract, franchise agreement, ownership or other similar legal obligation to conform or substantially conform to a set of common design and operating features that served to identify the establishment as one of a group of establishments for business, marketing and public relations purposes. Specifically, an establishment shall be considered a Formula Business if it shares at least two (2) of the following three (3) characteristics with ten (10) or more other establishments in Massachusetts or within twenty (20) or more other establishments.

- 1. Trademark, service mark or logo, defined as a work, phrase, symbol, or design or combination thereof that identifies and distinguishes the source of the goods or services from others;*
- 2. Standardized building architecture including but not limited to façade design and signage;*
- 3. Standardized color scheme used throughout the exterior of the establishment, including color associated with signs and logos.*

Other communities have used formula business regulations as a way to protect downtown districts from becoming “generic” in their retail character. Because zoning can only regulate businesses as a matter of land use, and not based on the owner or operator of a particular establishment, formula business regulations seek to control exterior design to minimize the type of formula “branding” that can detract from a retail center’s unique character. While such regulations exist in communities throughout Massachusetts, it should be noted that in 2015, a state Appeals Court invalidated a formula business requirement in the zoning bylaw of Wellfleet, MA.

<http://masscases.com/cases/land/2015/2015-12-459503-DECISION.html>

While formula business regulations are meant to support the character of a retail district as a whole, they can also have unintentional adverse consequences. For instance, they can inhibit “home-grown” retailers that become popular enough to expand into multiple locations within the region, of which there are some examples in Harvard Square. Formula business regulations can also discourage unique retailers that have a larger national or global presence but few locations regionally, which could otherwise serve as an “anchor” to support other retailers in the district.

Compared to the criteria for formula business approval in Central Square, there are some elements of the proposed approval criteria in Harvard Square that may need further consideration:

- The proposed zoning requires review of “the exterior signage and the interior decor that is visible from the street.” While signage and exterior design are appropriate to regulate in the

context of zoning, controlling interior décor could be unreasonably restrictive to a business owner and difficult to enforce, given that interior décor can change frequently.

- The Planning Board would need to find that a proposal supports the “established historical character of existing buildings and storefronts.” Preservation of historic architecture is an important consideration in Harvard Square, and is typically under the purview of the CHC. However, the character of retail signage and storefront design has constantly evolved over decades and even centuries. Unless the proposal is suggesting that the present character of signage and façade design should be unchanged – which may not be desirable in many cases – it is not clear what era is intended to define the “historical character” that is desired for new retail establishments.

Small Stores

The proposed “small store” requirements would be unique to the HSOD, but the general notion of using zoning to prefer smaller retail establishment sizes has been discussed and employed in other contexts, such as larger redevelopment areas in Kendall Square. In this case, the proposal is unique in that it would require a minimum amount of “small store” space, rather than providing incentives, and that it would limit establishments to 1,250 square feet each, which is small compared to similar provisions in other areas that provide for establishment sizes up to 2,500 or 5,000 square feet.

A rationale for favoring smaller store sizes is that independent businesses tend to prefer spaces that are smaller than those that might otherwise be created within new development projects. Policies that help promote a mix of establishment sizes, including smaller spaces, are important to ensure that there is space for smaller retailers; however, the nature of retail is constantly evolving, and it is not a given that smaller store sizes will always favor independent businesses. For instance, as larger dry-goods retailers have lost ground to online sales, national businesses have started to employ concepts that require smaller storefronts. Conversely, independent restaurants and cafés, which are becoming an increasingly vital alternative to dry-goods stores, are often larger than 1,250 square feet.

The proposal also does not make entirely clear when the requirement for “small store” frontage would be triggered. The petition specifies “any building or development project that requires a special permit and that has a frontage of sixty (60) linear feet or more.” Because 60 feet is not a particularly long frontage for a commercial or mixed-use building, and many types of proposals might require a special permit (e.g., fast order food, waiver of parking), this requirement could potentially impact many existing buildings. If the intent is to apply this requirement only to large developments involving new construction or substantial rehabilitation, then perhaps a minimum size threshold could be considered.

Bank/Office Frontage

The proposed limitations on bank frontage are similar to those currently applied in other areas, such as Central Square and North Massachusetts Avenue. Where there has been concern about the tendency for banks (which are classified as office, not retail, in the Cambridge Zoning Ordinance) to occupy large amounts of commercial frontage, the approach of limiting storefront size has been recommended as a

way to mitigate the visual impact of excessive bank frontage without prohibiting bank uses themselves, which can provide necessary services to other area businesses and the community at large.

Unlike similar requirements in other areas, this proposed zoning would limit other ground-floor office uses in addition to banks. While it may be undesirable in some cases for offices to take up too much ground-floor frontage, expanding the limitation in this way might have unintended consequences that would impact local businesses. Another difference is that, in order to approve a special permit to modify the 25-foot requirement, the Planning Board must find that the business will make some “permanent and commensurate contribution to street and community vitality.” The exact language may need greater clarity, but the idea of requiring banks or offices with more than the prescribed amount of frontage to provide some other community benefit, such as rotating community window displays, is worth considering.

Basement Space

In current zoning (pursuant to a 2016 amendment), basement space can be exempted from GFA calculations by special permit if it is found that “the uses occupying such exempted GFA support the character of the neighborhood or district in which the applicable lot is located.” The petition seems to propose changing this standard in the HSOD such that basement GFA can be exempted as-of-right if it meets the more objective standards that “it is (a) designed to be part of a publicly accessible leasehold or (b) it will serve as retail support (e.g. kitchen or storage spaces) to active street-level uses.” This approach could be viewed as a natural application of the principle in the current zoning, describing in more detail how basement space helps to support the desired character of Harvard Square. However, it is important to ensure that these standards can be applied administratively in a way that will be enforceable over time – for example, ensuring that an exempted basement space initially used for retail storage could not be easily converted to some other non-conforming use over time.

Key to Use Table on Following Page:

“Yes” = allowed as-of-right

“SP” = requires special permit from BZA

“PB” = requires special permit from Planning Board

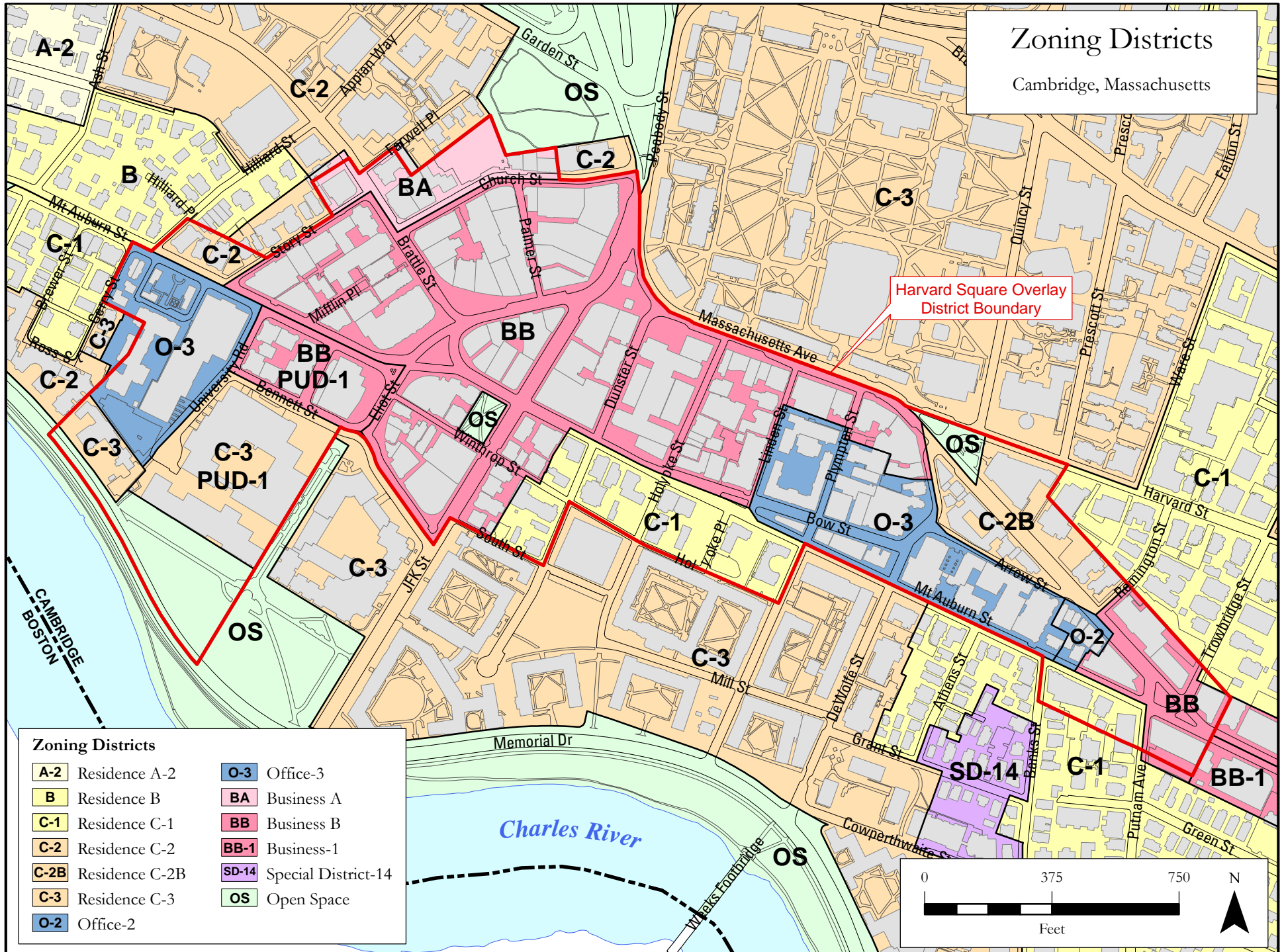
“No” = not allowed (may seek a variance from BZA)

Current HSOD Retail Use Table (see key on previous page)	Base Districts in HSOD						
Uses in Section 4.35	BB	BA	O-3	O-2	C-3	C-2B	C-1
Establishment providing convenience goods such as drug stores, food stores, tobacco, newspaper and magazine stores, variety stores, and liquor stores, provided that the establishment is located in a structure also containing retail uses, and that no establishment shall exceed two thousand five hundred (2,500) square feet gross floor area. (a.1)	Yes	Yes	PB	No	PB	No	PB
Store for retail sale of merchandise where all display and sales are conducted within a building or where a permit has been issued by City Council for an outdoor sale, and where no manufacturing assembly, or packaging occur on the premises, except in Industrial districts. (a.2)	Yes	Yes	PB	No	PB	No	PB
Place for the manufacturing, assembly or packaging of consumer goods, provided that at least fifty (50) percent of such merchandise is sold at retail on the premises and that all display and sales are conducted within a building. (b)	Yes	SP	PB	No	PB	No	PB
Barber shop, beauty shop, laundry and dry cleaning pickup agency, shoe repair, self-service laundry or other similar establishment. (c)	Yes	Yes	PB	No	PB	No	PB
Hand laundry, dry cleaning or tailoring shop, provided that only nonflammable solvents are used for cleaning and not more than nine (9) persons are employed. (d)	Yes	Yes	PB	No	PB	No	PB
Lunchroom, restaurant, cafeteria, provided that no alcoholic beverages are sold or consumed on the premises. (e)	Yes	Yes	No	No	No	No	No
Lunchroom, restaurant, cafeteria where alcoholic beverages are sold and consumed and where no dancing or entertainment is provided. (f.1)	Yes	Yes	No	No	No	No	No
Bar, saloon, or other establishment serving alcoholic beverages but which is not licensed to prepare or serve food and where no dancing or entertainment is provided. (f.2)	Yes	Yes	No	No	No	No	No
Bar or other establishment where alcoholic beverages are sold and consumed and where dancing and entertainment is provided. Dance hall or similar place of entertainment. (g)	Yes	No	No	No	No	No	No
Theatre or hall for public gatherings. (h)	Yes	SP	SP	SP	PB	PB	PB
Commercial recreation. <i>Defined in Article 2.000.</i> (i)	SP	SP	PB	No	PB	No	PB
Mortuary, undertaking or funeral establishment. (j)	Yes	Yes	SP	SP	No	No	No
Printing shop, photographer's studio. (k)	Yes	Yes	SP	SP	PB	No	PB
Veterinary establishment, kennel, pet shop or similar establishment, provided that all animals are kept indoors and that no noise or odors are perceptible from adjoining lots. (l)	SP	SP	No	No	No	No	No
Sales place for new and used car, rental agency for autos, trailers and motorcycles, conducted entirely within a building and provided no major repairs are made. (m)	Yes	Yes	Yes	Yes	No	No	No
Office including display or sales space of a wholesale, jobbing or similar establishment, where not more than twenty-five (25) percent of the floor area is used for assembling, packaging, or storage of merchandise. (n)	Yes	SP	No	No	No	No	No
Fast Order Food Establishment. <i>Defined in Article 2.000.</i> (o)	SP	SP	No	No	No	No	No
Art/Craft Studio. <i>Defined in Article 2.000.</i> (q)	Yes	Yes	SP	SP	SP	SP	SP
Bakery, Retail. <i>Defined in Article 2.000.</i> (r)	Yes	Yes	PB	No	PB	No	PB
Registered Marijuana Dispensary. <i>Defined in Article 2.000.</i> (s)	PB	PB	No	No	No	No	No

Zoning Districts

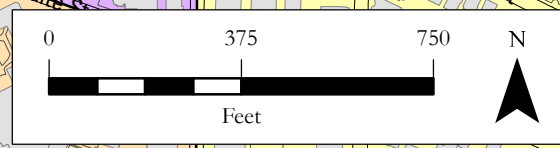
Cambridge, Massachusetts

Harvard Square Overlay District Boundary



Zoning Districts

A-2	Residence A-2	O-3	Office-3
B	Residence B	BA	Business A
C-1	Residence C-1	BB	Business B
C-2	Residence C-2	BB-1	Business-1
C-2B	Residence C-2B	SD-14	Special District-14
C-3	Residence C-3	OS	Open Space
O-2	Office-2		



20.50 HARVARD SQUARE OVERLAY DISTRICT AND HARVARD SQUARE HISTORIC OVERLAY DISTRICT

20.51 *Establishment and Scope.* There is hereby established the Harvard Square Overlay District and the Harvard Square Historic Overlay District which shall be governed by the regulations and procedures specified in this Section 20.50. It is the intent of this section that these regulations will apply to an area described generally as the Harvard Square business district and certain abutting portions of the neighborhoods around it.

20.51.1 The Harvard Square Overlay District shall be that overlay district established on the Zoning Map of the City of Cambridge by Section 3.20. The Harvard Square Historic Overlay District shall be that portion of the Harvard Square Overlay district that is encompassed by any historic district duly established by the City Council under the authority granted by the City of Cambridge by Chapter 40C of the General Laws of the Commonwealth of Massachusetts or any Neighborhood Conservation District established by the City Council under the provisions of chapter 2.78 of the Cambridge Municipal Code. All provisions of the Harvard Square Overlay District and all references to it in this Ordinance shall apply equally to the Harvard Square Historic Overlay District except as set forth below.

20.52 *General Purpose.* It is the purpose of this Section 20.50 to augment existing zoning regulations to respond to the unique problems and pressures for change particular to the Harvard Square area. The regulations contained in said section provide for more careful public scrutiny of development proposals that may alter the established urban form of the Harvard Square area. These regulations are intended to channel the extreme development pressures in ways which will preserve and enhance the unique functional environment and visual character of Harvard Square; to mitigate the functional impacts of new development on adjacent residential neighborhoods; to maintain the present diversity of development and open space patterns and building scales and ages; and to provide sufficient regulatory flexibility to advance the general purposes of this Section 20.52. The additional flexibility granted to development within the Harvard Square Historic Overlay District is intended to facilitate the protection and enhancement of the historic resources and character of Harvard Square while not unreasonably limiting the opportunities for appropriate contemporary changes to the built environment in the Harvard Square area.

20.53 *General Provisions*

20.53.1 The Harvard Square Overlay District shall be considered an area of special planning concern.

Development proposals listed in Subsection 19.42 and 19.43, Development Consultation Procedures, shall be subject to the Development Consultation Procedure specified in Article 19.40 except that any Large Project Review (new buildings of 2,000 square feet or more) shall be conducted by the Harvard Square Advisory Committee using procedures specified in Subsection 20.54.1 of this Section 20.50.

20.53.2 Criteria for Development Consultation Review and Review of Applications for Special Permits and Variances.

In reviewing applications for variances, special permits or development consultation reviews the permit or special permit granting authority or the Harvard Square Advisory Committee shall be guided by the objectives and criteria contained in the publication *Harvard Square Development Guidelines* [Document compiled from the *Guidelines for Development and Historic Preservation as contained in the Final Report of the Harvard Square Neighborhood Conservation District Study Committee*, dated November 29, 2000 and the *Harvard Square Development Guidelines*, 1986], in addition to the requirements of Sections 10.30 (Variances) and 10.40 (Special Permits) and this Section 20.50. These guidelines are also intended to assist in shaping any contemplated physical change within the Harvard Square Overlay District

2. The additional policy goal of preserving and enhancing the retail ecosystem, including the pedestrian retail window-shopping experience, the extent and density of contiguous storefront openings, and the pedestrian streetscape vitality generally.

20.53.3 *National Register and Contributing Buildings*

For the purposes of this Section 20.50 the following definitions shall apply:

1. National Register Building shall be a building individually listed or determined eligible for the National Register of Historic Places as determined by the Secretary of the Department of the Interior.
2. A contributing building shall be:
 - a. Identified as a contributing building in a listed or eligible National Register District as determined by the Secretary of the Department of Interior; or
 - b. A building located outside a National Register District but identified as a contributing building in the *Harvard Square Development Guidelines*, Community Development Department, July 1, 1986.

However, a building shall no longer be considered a contributing building as defined in this Subsection 20.53.3(b) for the purposes of this Section 20.50 if, upon application for a demolition permit, the Cambridge Historical Commission shall determine the building not to be a preferably preserved significant building as defined in the City of Cambridge Demolition Ordinance #965.

20.54 *Detailed Provisions*

20.54.1 Harvard Square Advisory Committee

There shall be established a Harvard Square Advisory Committee, with members appointed by the City Manager, which shall have the following duties, responsibilities, and membership.

1. *Purpose.* It is the intent of this Subsection 20.54.1 that the Committee shall in its official actions fulfill the following purposes.

a. To establish a formal, ongoing body that will review all major development actions in the Harvard Square Overlay District.

b. To provide a forum ~~within which a wide range of perspectives for the purpose of hearing and representing community input~~ on development actions ~~can be heard~~.

c. To establish a citizen/professional body which can advise both public agencies and private interests as to the development and urban design issues raised by a development or planning proposal and suggest avenues of research which might be pursued to resolve identified conflicts or make the project better fulfill both public and private objectives for the Harvard Square Overlay District.

2. *Responsibilities.* The Committee shall undertake all Large Project Reviews and shall receive all applications for variances and special permits for activities within the Harvard Square Overlay District for review and comment. In addition, the Committee may comment on any preliminary proposal for which any public agency or private interest may wish to receive advice and recommendations.

3. *Procedures.*

a. Within six (6) months preceding any application for (1) a building permit for any project subject to Large Project Development Consultation Review or (2) a special permit or variance for any project within the Harvard Square Overlay District, the graphic and other material required in Section 19.43.2 – Application for a Large Project Review shall be submitted to the Harvard Square Advisory Committee for their review and comment.

b. Within thirty (30) days of that submittal, [or within up to sixty (60) days with the written consent of the applicant] the Committee shall prepare a written report of findings and recommendations with respect to the applicant's proposed project.

c. The Committee's written report shall outline the urban design and development issues raised by the proposal. It shall suggest those areas within which additional exploration of alternatives might be sought or factual information gathered which might help to resolve potential conflicts between the public and private objectives or which help to shape the project to better serve these objectives.

d. The report shall be forwarded to the applicant and shall be included in any application for a building permit, special permit or variance.

e. It is expected that, in making decisions regarding special permits and variances within the Overlay District, the Planning Board and/or Zoning Board of Appeal will give due consideration to the report and recommendations of the Advisory Committee. Where the Committee makes recommendations with respect to the granting of special permits and/or variances, and the Planning Board and/or Zoning Board of Appeal does not follow said recommendations, then the Board(s) shall make written reply to the Committee, detailing why the Board(s)'s decisions were different from the Committee recommendations.

f. The Community Development staff shall serve as staff to the Committee.

4. *Membership and Terms*

a. *Membership.* **Membership shall be as follows:**

~~(1) At least one member having recognized qualification as an architect or landscape architect.~~

~~(2) One member having recognized qualifications as real estate or development or financial expert.~~

~~(3) One member who operates a business within the Harvard Square Overlay District.~~

~~(4) Two members owning commercial property within the Harvard Square Overlay District.~~

~~(5) Five members representing residents of the five abutting Cambridge residential neighborhoods.~~

~~(6) One additional resident to be appointed with should serve at large.~~

~~(7) One member representing an institution owning institutional property in the Harvard Square Overlay District.~~

~~(8) One member representing the Cambridge Historical Commission.~~

(1) Five residents of the five abutting Cambridge residential neighborhoods.

(2) One additional Cambridge resident that shall serve at large.

(3) Two members that own or manage retail or service businesses within the Harvard Square Overlay District.

(4) One member who is a practicing or retired architect or urban planner with pertinent experience in historical areas like Harvard Square.

(5) One owner, or representative of a corporate owner, of commercial real estate within the Harvard Square Overlay District.

(6) One member representing the Cambridge Historical Commission.

(7) One member representing Harvard University.

~~b. *Terms.* Committee members shall be appointed for terms of three years each. Initial appointment shall, however, be staggered such that four members shall have terms of one year, five members shall have terms of two years, and four members shall have terms of three years each.~~

b. Maximum representation. Each seat shall be filled separately, such that the committee shall be comprised of twelve members fully representing the surrounding neighborhoods and other important constituencies.

c. Ex-Officio Members. The members representing the Cambridge Historical Commission and Harvard University shall be ex-officio members, shall serve

at the discretion of their respective employers, and shall be entitled to send a delegate in their stead to any given meeting.

d. Rotating Members. The other members shall be appointed for terms of three years each, and they may be re-appointed for a second consecutive three-year term. They shall thereafter be required to step down as committee members but shall be eligible to re-apply after a one-year gap.

e. Board Chair. The members shall elect a chairperson at the first meeting of each calendar year. The Chairperson shall serve until replaced, not to exceed one year, shall thereafter be required to step down as Chair, and shall be eligible for re-election after a one-year gap.

20.54.2 Building Height Limitations. The maximum height of buildings in the Harvard Square Overlay District shall be governed by the requirements of this Section 20.54.2; however, at locations where the base zoning district establishes a more restrictive height limitation, the more restrictive shall apply.

1. *As of Right Height Limitations.* The maximum height of any building shall be sixty (60) feet.
2. *Special Permit for Additional Height.* The maximum allowable height in the Harvard Square Overlay District may be increased up to eighty (80) feet upon issuance of a Special Permit by the Planning Board. If a Special Permit is issued portions of the building may extend to eighty (80) feet in height provided that those portions in excess of sixty (60) feet are set back from the street line at least ten (10) feet, and that those portions are also set back from one or more forty-five (45) degree sky exposure planes, unless otherwise permitted by the Planning Board. A forty-five (45) degree sky exposure plane shall be an imaginary inclined plane beginning fifty-five (55) feet above any streetline in the districts and rising over one or more lots at a forty-five (45) degree angle.

a. All newly constructed GFA above 60' in height, or an equivalent percentage of the building, shall be residential dwelling units, and to make this feasible, a residential FAR bonus of an additional 1.0 shall be granted for such space.

3. deleted.

20.54.3 Retail, Business, and Consumer Service Establishments (Section 4.35) in Office and Residential Districts.

1. The Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met or findings made:

- a. The general purposes of this Section 20.50 are met.
 - b. The use will be located in a structure in existence as of June 1, 1985 and will not involve significant new construction.
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- c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features.
 - d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect.
 - e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space.
 - f. In its operation the use will not, in impact, be significantly different from the uses permitted in the base district.
 - g. The use is completely contained within the structure.
 - h. The use will be patronized substantially by pedestrians and will, if required by the Planning Board, function adequately without additional off street parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses.
 - i. The applicant can demonstrate a need for the use(s) as a service to adjacent residential communities or to the academic community and can demonstrate that for economic or other reasons the use cannot easily be located in existing business or office districts where the use is permitted. In addition the applicant must demonstrate that either the use has been displaced as result of redevelopment elsewhere in the Harvard Square Overlay District, or that the use is important in its contribution to the variety, continuity, or uniqueness of the Harvard Square Overlay District.
 - j. The retail use does not take the place of a residential or dormitory use.
 - k. The following uses listed in Section 4.35 are however specifically prohibited:
 - 4.35e (Lunchroom, restaurant, cafeteria);
 - 4.35f (Establishments where alcoholic beverages are sold and consumed and where no dancing or entertainment is provided);
 - 4.35g (Bar or other establishment where alcoholic beverages are sold and where dancing is provided);
 - 4.35j (Mortuary, undertaking or funeral establishment);
 - 4.35l (Veterinary establishment, kennel, pet shop);
 - 4.35m (sales place for new and used cars);
 - 4.35o (Fast Order Food Establishment);
 - 4.35p (Massage establishment).
 - l. The proposed use is not located in a base Residence C-2B or Office 2 District.
2. In the Office 2 base district the provisions of Section 4.40 - Footnotes to the Table of Use Regulations, footnote 12, shall not apply in the Harvard Square Overlay District.
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3. The conditions and required findings mentioned in this Section 20.54.3 are not severable, and if a court declares any such condition or required finding invalid, then this Section 20.54.3 shall cease to operate in its entirety, and no additional special permits shall be issued under its authority.

20.54.4 Parking and Loading Requirements. Uses in the Harvard Square Overlay District which meet the following requirements shall be exempt from the parking and loading requirements as specified in Section 6.36 - Schedule of Parking and Loading Requirements.

1. The use is contained within a structure or portion of a structure in existence on or before June 1, 1940 or if constructed later is identified as a National Register or contributing building; or

2. The use is contained in a new structure or new addition to a structure identified in (1.) above, after the issuance of a special permit by the Planning Board provided:

a. The total development authorized on the site is reduced to eighty (80) percent of the maximum permitted on the lot; or a cash contribution is made to the Harvard Square Improvement Fund to be established by the City of Cambridge in an amount equal to fifty (50) percent of the cost of construction of the spaces not provided, said contribution to be used by the City of Cambridge for one or more of the following capital improvements in the Harvard Square Overlay District:

(1) Provision of public parking, preferably for short term users;

(2) Improvements to public parks, or restoration of historic structures, monuments and other features owned by the City of Cambridge or other public agency or a nonprofit organization;

(3) Extension throughout the Harvard Square Overlay District of the surface improvements installed by the MBTA as part of the Red Line subway extension (brick sidewalks, light post, street furniture, etc.)

The Harvard Square Advisory Committee in public session shall ~~receive~~ hear and make ~~comments~~ recommendations on ~~any proposal~~ all proposals for the expenditure of such cash contributions. ~~To the extent practicable the provision of public parking facilities shall be the first priority of any expenditure. The funds shall not be used for ordinary maintenance activities normally undertaken by the City of Cambridge.~~ The City of Cambridge shall publish annually a report stating the sources and uses of funds for the year then ended together with the ending balance in the account.

The value of the cash contribution shall be determined by the Community Development Department assuming equivalent structured parking spaces and using generally accepted cost estimation methods customarily used by architects and engineers or using actual construction costs for comparable contemporary parking construction in Cambridge.

b. The subject lot is sufficiently small in size as to contribute to a development pattern of diverse, small scale, new structures and the retention of existing

structures (for lots exceeding 10,000 square feet a specific finding shall be made that this objective has been met).

c. The Planning Board shall specifically find that an exemption from parking and loading requirements will result in a building design that is more appropriate to its location and the fabric of its neighborhood and that it is in conformance with the objectives and criteria contained in *Harvard Square Development Guidelines*.

d. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and

e. No National Register or contributing building has been demolished or altered so as to terminate or preclude its designation within the five (5) years preceding the application.

20.54.5 Building Setbacks. Maintenance of the Harvard Square Overlay District's positive diversity of building form and scale and its variety of open spaces, yards and courtyards is encouraged throughout the District. It is therefore desirable to permit design flexibility to allow any physical change in the District to reflect the character of the area within which it is located. To this end any building in the Harvard Square Overlay District shall be exempt from the yard requirements as specified in Section 5.30, (except where such yard abuts a lot, but not a public way, outside the Overlay District) if the following conditions are met:

1. The building existed as of December 15, 1985 or a building permit had been issued by that date, or

2. For any new building in any Business, Office or Residence C-3 base-zoning district, for which a building permit is issued after December 15, 1985, the Planning Board issues a Special Permit exempting the building from yard requirements provided:

a. The design of the new structure shall be in conformance with the objectives and criteria contained in *Harvard Square Development Guidelines*.

b. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and

c. No National Register or contributing building previously existed on the site in the preceding five (5) years and which has been so altered as to terminate or preclude its designation or demolished prior to the application.

20.54.6 Maximum Ratio of Floor Area to Lot Area (FAR) in the Harvard Square Historic Overlay District.

Notwithstanding the FAR limits set forth in Article 5.000 or elsewhere in this Ordinance, the maximum FAR applicable in the Harvard Square Historic Overlay District shall be as follows: Business B district: 4.0 for all uses except dwellings, 3.0 for dwellings; Office 3 district: 3.0 for all uses; Office 2 district: 2.0 for all uses; Residence

C-3 district: 3.0 for all uses; Residence C-2B district: 1.75 for all uses; Residence C-1 district: 0.75 for all uses; Business A district: 1.0 for all uses except dwellings, 1.75 for dwellings.

20.55 *Sign Regulations in the Harvard Square Historic Overlay District*

20.55.1 All provisions of Article 7.000 shall apply in the Harvard Square Historic District, except as modified below. It is the intent of these modifications to allow greater flexibility in the size, location and illumination of signs in order to encourage more thoughtful design of individual signs, to encourage greater respect for the building and visual context within which new signs are erected, and thereby add interest and character to the shopping environment in Harvard Square.

1. In Section 7.16.22 – Signs in all Business, Office and Industrial Districts, Paragraphs A, B, and C shall not apply in office and business base districts. However, no sign on the outside of a building may extend higher than 20 feet above grade.
2. In Section 7.16.3 – Application of the Sign Frontage Formula shall not apply.
3. In the Residence C-2B base district the provisions of Section 7.16.22 shall apply to permitted or legally established nonconforming office and retail uses.

20.56 *Formula Business regulations*

A Formula Business as defined in this Ordinance may be established in the Harvard Square Overlay District, or move to new premises, only after the issuance of a special permit from the Planning Board. In reviewing an application, the Planning Board shall find as follows:

- a. **The proposed storefront design (including specifically the exterior signage and the interior decor that is visible from the street) reflects, amplifies and strengthens the established historical character of existing buildings and storefronts in the proposed location.**
- b. **The proposed storefront design is sufficiently varied from the Formula Business's standard designs so as to make the Harvard Square location unique and distinct from all other locations of the Formula Business.**

20.57 *Small Store regulations*

To promote the policy goal of preserving and enhancing the retail ecosystem, any building or development project that requires a special permit and that has a frontage of sixty (60) linear feet or more shall be required to designate half (50%) of its frontage (excluding building entrances) as Small Store space, defined as less than 1,250 rentable square feet, excluding spaces below grade or on upper floors, that may be included in the leasehold.

Notwithstanding the foregoing, if a tenant in a Small Store space wants to expand into an adjacent Small Store space, they may do so provided the total building frontage of Small Store space remains above the 50% requirement following such expansion.

20.58 **Frontage Limitations.**

To promote the policy goal of preserving and enhancing the retail ecosystem by enhancing the pedestrian window shopping experience, no bank, trust company, real estate or other agency, or administrative office may occupy a pedestrian-level frontage of more than twenty-five (25) feet.

Special permits may be granted to relax this maximum frontage limitation but only provided the Planning Board finds (a) that the building architecture prevents strict adherence to the twenty-five foot limit and (b) that the landlord or tenant in question will make a permanent and commensurate contribution to street and community vitality, such as free rotating community window displays or dedicated community meeting room without the requirement of having an account.

20.59 **Creative use of Below-Grade Spaces.**

To promote the policy goal of encouraging density of retail and service businesses serving the public, GFA that is entirely below-grade shall be exempt from the FAR calculation provided it is (a) designed to be part of a publicly accessible leasehold or (b) it will serve as retail support (e.g. kitchen or storage spaces) to active street-level uses.