

ORDINANCE NUMBER 1355

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City of Cambridge

In the Year Two Thousand and Thirteen

AN ORDINANCE

In amendment to the Ordinance entitled “Zoning Ordinances of the City of Cambridge”

Be it ordained by the City Council of the City of Cambridge that the Zoning Ordinances of the City of Cambridge be amended as follows:

Amend the Zoning Ordinance and Map by creating a new Section 13.80 – Planned Unit Development 5 (PUD-5) District, which would include parcels totaling approximately 26-acres in the area north of Memorial Drive, east of Ames Street and south of Main Street and Broadway, and would also include a parcel at One Broadway. The new Section 13.80 PUD-5 is intended to allow mixed use developments with increased development densities and heights which reads as follows:

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 line 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 westerly by said line to the centerline of Hayward Street, 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 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 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, 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 twenty percent (20%) 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, 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.
- b. Plan 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 retail contained therein, for the purposes of Sections 13.88 and 13.89.4.

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 District.

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.

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 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 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 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 throughout the residential building 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.

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.

13.86.2 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).

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 required 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. 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; (ii) the location, width and layout of curb cuts serving the Development Parcel that deviate from the requirements of Section 6.43; and (iii) a small number of on-grade parking and loading spaces to be used 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 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 accessory parking spaces that will be displaced by improvements contemplated by such Final Development Plan, 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 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 or substantially altered

structures (i.e., alterations to an existing structure or building the cost of which exceeds fifty percent (50%) of the assessed value of such building or structure) 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.

At a minimum, any noise or vibration emanating from new commercial or substantially altered (as defined in this Section 13.89.1) commercial buildings shall not be normally perceptible at ground level without instruments at a distance of one hundred (100) feet from the source lot line and 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).

In order to enforce these requirements, the applicant shall provide, in addition to Noise Mitigation narrative required as part of Article 19.000 review, acoustical reports prepared by a professional acoustical engineer as described below:

- a. Prior to and as a condition of the issuance of the first certificate of occupancy for a new or substantially altered commercial building, an acoustical report, including field measurements, demonstrating compliance of such building with all applicable noise requirements; and
- b. Prior to obtaining any building permit to add any equipment having a capacity greater than five (5) horsepower to the rooftop, a narrative report demonstrating that there will be continued compliance with all applicable noise requirements after such addition, and upon completion of such addition and as a condition to operation thereof, an acoustical report, including field measurements, demonstrating such compliance.

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), provided, however, in the Third Street Transition Subdistrict, subject to the provisions of Section 11.203, the percentage shall be increased to eighteen percent (18%).

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.* For a Development Proposal containing new Office Uses, Innovation Office Space within the PUD-5 District 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 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 property owners in adjacent zoning districts in the Kendall Square area to develop 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, the required 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.

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.

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 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 will meet LEED Gold level criteria, unless the technological specifications of a proposed specialized 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 research facility. 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.
- 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 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.

13.810.1 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 13.810.1, 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 13.810.1, "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 13.810.1.

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.

13.810.2 *Contribution to Community Fund.*

Upon the Planning Board's approval of the first Final Development Plan for a Development Parcel within the PUD-5 District, the permittee shall contribute to a Community Fund, established by the City Manager, 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 (an amount, a "Fund Contribution Payment"). The City shall use the funds contributed by the developer pursuant to this Section 13.810.2.

Notwithstanding the above, the permittee shall, within ninety (90) days of the adoption of this Section 13.80, make a payment of \$2,500,000 to the City as a deposit against future Fund Contribution Payments. On the earlier to occur of the issuance of the first Final Certificate of Occupancy for a new commercial building within the PUD-5 District or three (3) years from the date of the adoption of Article 13.80, the permittee shall make a payment of \$2,500,000 to the City as an additional deposit against future Fund Contribution Payments. Following the payment of the second deposit the permittee shall not be required to make any further Fund Contribution Payments until such time as the City has issued Final Certificates of Occupancy for new

commercial buildings containing 500,000 square feet of Gross Floor Area, in the aggregate.

13.810.3 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.

13.810.4 Letter of Commitment. The Letter of Commitment dated April 8, 2013, by the Massachusetts Institute of Technology shall be binding upon the Massachusetts Institute of Technology and its successors and assigns. The issuance of any building permit or certificate of occupancy authorized by a Planned Unit Development Special Permit issued pursuant to this Section 13.80 shall be conditioned upon certification by the Community Development Department and all other relevant City departments to the Inspectional Services Department that all portions of the aforementioned Letter of Commitment are continuing to be met.

In City Council April 8, 2013.

Passed to be ordained as amended by a yeas and nays vote:-

Yeas 7; Nays 1; Absent 0; Present 1.

Attest:- Donna P. Lopez, Interim City Clerk.

A true copy;

ATTEST:-

Donna P. Lopez
Interim City Clerk