



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

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To: Louis A. DePasquale, City Manager
From: Iram Farooq, Assistant City Manager for Community Development
Date: February 8, 2017
Re: **Central Square Restoration Zoning Petition**

Please find attached a revised and annotated version of the Central Square Restoration Zoning Petition, showing edits to the text of the original petition, prepared by CDD staff.

This document was prepared in response to the Ordinance Committee vote to recommend the petition to the full City Council incorporating amendments included in the following submissions:

- CDD communication dated January 25, 2017, incorporating text changes recommended by the Planning Board along with other information.
- Communication to the City Council from Patrick Barrett, III, a representative of the petitioners, dated February 1, 2017.
- Document titled *Ordinance Committee Recommended Language*, dated February 2, 2017.

In this document, staff have attempted to consolidate the amendments presented in the aforementioned documents and to prepare zoning language that most clearly reflects our understanding of their intent.

Staff have also included commentary explaining the suggested revisions and addressing other questions that were raised at the Ordinance Committee hearing held February 2, 2017.

Some discussion referred to the Legal Opinion from the City Solicitor dated January 30, 2017 regarding "formula business" provisions.

Commentary – not to be included in Zoning Ordinance.

Suggested New Language for Article 2.000 Definitions

Create the following definition:

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 serve 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 with twenty (20) or more other establishments:

1. Trademark, service mark or logo, defined as a word, 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.

See Legal Opinion from City Solicitor dated January 30, 2017 regarding legal analysis of Formula Business provisions. There was discussion at the Ordinance Committee meeting of February 2, 2017 about whether to remove from current petition in order to investigate these issues further.

Suggested New Language for Article 20.300 Central Square Overlay District

In Section 20.304.3, amend Paragraph 1 and create Paragraphs 4 through 7 (retaining current Paragraphs 2 and 3) to read as follows:

20.304.3 Floor Area Ratio Limitation. The maximum floor area ratio Floor Area Ratio (FAR) limitations established in the applicable base zoning district shall continue to apply to any lot in the Central Square Overlay District unless specifically modified by the following provisions:

Commentary – not to be included in Zoning Ordinance.

1. As Of Right Limitation.

The maximum as of right FAR shall be 3.0 in the Office 3 base zoning district for Residential Uses, Section 4.31 a-h, and 2.0 for all other uses; 4.0 for all Residential uses in the Business B base zoning district; and 2.0 in the Residence C-3 and Residence C-2A base zoning districts.

[current Paragraphs 2 and 3 not included in Petition Text]

4. *Additional FAR for Residential Uses*

Upon issuance of a special permit, the Planning Board may increase the allowed FAR on any lot or portion of a lot located within the Business B (BB) District and Central Square Overlay District to a total FAR of 4.00 for all non-residential and residential uses combined, notwithstanding the Rules for Calculation of Permitted Gross Floor Area on a Lot as set forth in Section 5.30.12. ~~However, provided that~~ the maximum FAR permitted for non-residential uses on a lot shall not exceed the limitation on non-residential FAR applicable in the base zoning district and that the proposed FAR of all non-residential uses on the lot shall not exceed the proposed FAR of all residential uses on the lot.

Suggested changes in response to petitioner’s communication dated February 1, 2017 and Ordinance Committee Recommended Amendments dated February 2, 2017.

5. *FAR Exemption for Residential Balconies*

Notwithstanding any other provision of this Zoning Ordinance, the Gross Floor Area of balconies, ~~terraces~~, porches, stoops, or mezzanines on any floor of a structure that are accessory to residential uses and not exceeding ~~five (5)~~ six (6) feet in depth measured back from the ~~principal front~~ adjacent wall plane of a building shall be exempted from the calculation of Gross Floor Area permitted on the applicable lot. Also, terraces that are created by stepping back the upper floors of a building, provided that they are open to the sky and a minimum of eight (8) feet in depth measured from the façade of the story beneath, shall be exempted from the calculation of Gross Floor Area permitted on the lot.

Suggested changes in response to Ordinance Committee Recommended Amendments dated February 2, 2017. Proposed balcony provisions would diverge somewhat from the proposed petition by exempting only “inset” rather than projecting balconies. Wording of the proposed terrace amendment is edited for clarity. Provision regarding architectural integration is difficult to apply as an as-of-right standard but may be appropriate in special permit criteria.

6. *FAR Exemption for Rooftop Spaces*

Commentary – not to be included in Zoning Ordinance.

Notwithstanding any other provisions of this Zoning Ordinance, the Gross Floor Area of open-air spaces on the roofs of buildings, such as roof gardens, terraces, walk ways, including open or enclosed egresses, covered Staircase head-houses, or observation spaces shall be exempted from Gross Floor Area and FAR limitations upon the granting of a special permit by the Planning Board. In granting the special permit, the Planning Board must find that the proposed rooftop spaces have been located and designed to minimize impacts on neighboring uses, including but not limited to light trespass, noise or other nuisance, and may place further requirements conditions on the design or operational aspects of spaces exempted pursuant to this Paragraph, including but not limited to hours of operation, range of activities permitted, signage and lighting fixtures, visual screening devices, sound mitigation, or other measures to ensure that the use of the space is consistent with the intent of this Section ongoing compliance with the Board's finding.

Suggested changes in response to Planning Board Recommendation and Ordinance Committee Recommended Amendments dated February 2, 2017. It is often helpful to express standards for special permit provisions as findings that must be made by the permit granting authority, with the power to impose conditions.

7. *FAR Exemption for Ground Floor Retail*

Retail spaces of 1,500 square feet or less shall be excluded from the calculation of floor area ratio.

Amend Section 20.304.4 by adding a Paragraph 2 (with current text becoming Paragraph 1) to read as follows:

20.304.4 (a) Waiver of Setback and Open Space Requirements.

1. Yard Setbacks. Upon issuance of a special permit from the Planning Board the yard requirements of a base zoning district may be waived except where such yard abuts a lot, but not a public way, outside the Overlay District. However, in waiving or reducing a front yard setback, the Planning Board shall take into account the width of the adjacent public sidewalk and may limit the reduction of the setback in order to provide additional sidewalk width within the front yard setback where appropriate, taking into account applicable City standards and expected pedestrian traffic on the street.

Suggested changes in response to Ordinance Committee Recommended Amendments dated February 2, 2017.

Commentary – not to be included in Zoning Ordinance.

~~20.304.4 (b) Waiver of Open Space Requirements.~~ 2. Private Open Space. Open Space shall be provided as required in the Base Zoning District, however the Planning Board may allow, by Special Permit, the reduction of required Open Space, and permit such Open Space to be located at levels other than at grade if the applicant can demonstrate that the urban design objectives as set forth in the Central Square Overlay District can be met.

In Section 20.304.5, amend Paragraph 3 by deleting current Subparagraph (a), renumbering current Subparagraph (b) to (a) and amending the text, and creating new Subparagraph (b); and create Paragraph 4 (retaining current Paragraphs 1 and 2) to read as follows:

20.304.5. Use Limitations and Restrictions. In addition to the use regulations applicable in each base zoning district the following use restrictions and limitations shall apply in the Central Square Overlay District:

[current Paragraphs 1 and 2 not included in Petition Text]

3. Restricted Uses.

- a. In the Central Square Overlay District, an establishment where alcoholic beverages are consumed and where dancing and entertainment is provided, dance hall or similar place of entertainment (Section 4.35g) shall be permitted by right if the principal public entrance or entrances ~~that~~ are directly from Massachusetts Avenue, Prospect Street between Massachusetts Avenue and Bishop Allen Drive, or Main Street, or by Special Permit ~~where the base zoning allows such use~~ from the Planning Board in the Business B (BB) district where the principal public entrance or entrances are on another side street that intersects with Massachusetts Avenue if the Board finds that such location will not adversely impact adjacent residential uses, with consideration to. ~~In considering an applicant's~~ the Planning Board may ~~consider~~ hours of operation, proximity to a residential neighborhood, signage, lighting, and sound mitigation.

Suggested changes in response to petitioner's communication dated February 1, 2017, with clarifying revisions.

Commentary – not to be included in Zoning Ordinance.

- b. Unless specifically waived upon the granting of a special permit by the Planning Board, no individual bank or financial institution (Section 4.34e) shall occupy more than twenty-five (25) feet of building frontage facing Massachusetts Avenue or Main Street, and no more than thirty percent (30%) of a lot's aggregate building frontage facing one or more public streets may be occupied by such uses.
- 4. *Formula Business District.* A Formula Business as defined in this Ordinance may be established in the Central Square Overlay District only after the issuance of a special permit from the Planning Board. In reviewing an application the Planning Board shall take the following into consideration:
 - a. The extent to which the design of the proposal reflects, amplifies, and strengthens the established historical character of existing buildings and store fronts in Central Square.
 - b. The extent to which the particulars of the building or storefront design is varied from the formula or standard design of the chain in order to reflect the unique character and conditions of Central Square generally or the specific location in particular.
 - c. The extent to which the standard elements of the enterprise as they define it as a Formula Business are modified to respect and provide unique expressions of Central Square history and traditions as well as innovation in physical design and marketing that will distinguish the Central Square location from other locations of the Formula Business.

See Legal Opinion from City Solicitor dated January 30, 2017 regarding legal analysis of Formula Business provisions. There was discussion at the Ordinance Committee meeting of February 2, 2017 about whether to remove from current petition in order to investigate these issues further.

Amend Section 20.304.6, in its entirety, to read as follows:

20.304.6 ~~Waiver of~~ Parking and Loading Requirements. The provisions set forth in Article 6.000 shall apply except as modified by the provisions set forth below.

- 1. Maximum Parking. Where any of the following listed uses are established in the Central Square Overlay District as of August 1, 2016, the accessory off-street parking for such uses shall be limited by the maximum rates set forth below. For

Clarifying revisions included in CDD Memo dated January 25, 2017.

Commentary – not to be included in Zoning Ordinance.

uses not listed below, any maximum rate set forth in Article 6.000 shall apply. ~~When applying such a rate results in a maximum allowed number of parking spaces that is less than the minimum number of parking spaces required by Section 6.36 or other provisions of this Section, then the minimum required number of parking spaces shall be waived so that the maximum limitation may be met.~~ Exceeding the maximum allowed parking shall require a waiver of maximum parking under the general provisions of Article 6.000.

- (a) Residential Uses (6.36.1), excluding Hotel and Motel (i-2 and i-3): ~~0.5~~ 0.75 space per dwelling unit ~~maximum~~
- (b) Hotel or Motel Uses (6.36.1 i-2 or i-3): 0.25 space per sleeping room ~~maximum~~
- (c) Office Uses (6.36.4), excluding Technical Office (f): ~~1 space per 500~~ 0.90 space per 1,000 square feet ~~maximum~~
- (d) Technical Office Uses (6.36.4 f): ~~1 space per 800~~ 0.80 space per 1,000 square feet ~~maximum~~
- (e) Retail and Consumer Service Establishments (6.36.5): 0.50 space per 1,000 square feet

Changes recommended by Planning Board (to incorporate the parking recommendations of the Central Square Study).

- 2. Minimum Parking and Loading. The minimum parking and loading requirements as specified in Section 6.36 Schedule of Parking and Loading Requirements shall be ~~modified in the following ways~~ apply except as set forth below:
 - (a) For Residential Uses (6.36.1), excluding Hotel and Motel (i-2 and i-3), the minimum required parking ratio shall be 0.50 space per dwelling unit.
 - (b) Where the minimum number of parking spaces derived from the requirements of Article 6.000 is greater than the maximum number of parking spaces derived from Paragraph 1 above, the minimum required number of parking spaces shall be reduced to the greatest number that conforms to the maximum requirements derived from Paragraph 1 above.

Commentary – not to be included in Zoning Ordinance.

3. Waiver of Parking and Loading Requirements. Uses in the Central 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 and the minimum requirements set forth in Paragraph 2 above.
- (a) 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
 - (b) 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:
 - (i) The total development authorized on the site is reduced to ninety (90) percent of the maximum permitted on the lot; or a cash contribution is made to the Central Square Improvement Fund to be established by the City of Cambridge in an amount equal to the per foot permit cost of construction of the parking spaces not provided (Calculation of parking space square footage to be determined by Article 6 Section 6.42 "regular" off-street parking space width and depth only), said contribution to be used by the City of Cambridge for one or more of the following ~~capital~~ improvements in the Central Square Overlay District:
 - (1) Provision of public parking, preferably for short term users;
 - (2) Programming, events, and infrastructure that contribute to the Cultural District established in Central Square;
 - (3) 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;
 - (4) Improvements to public pedestrian and bicycle facilities such as sidewalks, crosswalks, dedicated cycling paths and bicycle parking.

These standards were discussed at the Ordinance Committee on February 2, 2017, and could be modified. In the Harvard Square Overlay District – the other area where a “payment in lieu of parking” is provided – the standard for the waiver is 80% of the maximum development permitted on the lot and the “in lieu of” payment is equal to half the estimated construction cost of the reduced number of parking spaces.

Commentary – not to be included in Zoning Ordinance.

- The Central Square Advisory Committee shall receive and make comments on any proposal for the expenditure of such cash contributions. The funds shall not be used for ordinary maintenance activities normally undertaken by the City of Cambridge. 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.
- (ii) 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).
 - (iii) 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 Central Square Development Guidelines.
 - (iv) 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
 - (v) 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.
4. Location of Parking. For any new development in the Central Square Overlay District that requires a special permit from the Planning Board, notwithstanding anything to the contrary in Article 6.000, the accessory parking may be provided on-site or within existing parking facilities elsewhere in the Central Square Overlay District, subject to Planning Board Approval. In general, new development shall use below-grade structured parking instead of existing surface

Questions about criteria (ii) and (iii) were raised in the Ordinance Committee Recommended Amendments dated February 2, 2017. These criteria are applied in Harvard Square with the goal of preventing the detrimental impact on urban design that can result from requiring the construction of new parking. For instance, requiring below-grade parking might encourage consolidation into larger development parcels, because below-grade parking is more difficult to accommodate on smaller lots, or could result in surface parking that would disrupt the pedestrian-oriented character of the area.

Suggested change in response to Ordinance Committee Recommended Amendments dated February 2, 2017.

Commentary – not to be included in
Zoning Ordinance.

parking lots; however, the Planning Board may approve the use of existing surface parking in special circumstances, such as temporary parking for a phased development or special permits for small-scale retail uses in existing buildings.