



CITY OF CAMBRIDGE

Community Development Department

To: Planning Board
From: Community Development Department (CDD) Staff
Date: April 25, 2023
Re: **Michael Monestime, et. al., Zoning Petition**

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Overview

Petitioner: Michael Monestime, et al. (group of at least 10 registered voters)

Zoning Articles: 4.000 (Use Regulations), 20.300 (Central Square Overlay District)

Petition Summary: Creating new footnotes in the Table of Permitted Uses in Section 4.30 for *Outdoor Retail or Consumer Service Establishment, not otherwise defined* and *Outdoor Entertainment and Recreation Facility* in the Business B, B-1 and B-2 column which read, "For the Central Square Overlay see section 20.304.5 (5)" and "For the Central Square Overlay see section 20.304.5 (6)"; and by amending Section 20.304.5 of the Central Square Overlay District to allow *Outdoor Retail or Consumer Service Establishment, not otherwise defined* by Special Permit from the Planning Board, with associated approval criteria, and to permit *Outdoor Entertainment and Recreation Facility* as-of-right within the Business B District of the Central Square Overlay District.

Planning Board Action: Recommendation to City Council

Memo Contents: Summary of the proposed zoning, background information on the topic of the Petition, and considerations and comments from staff.

Overview

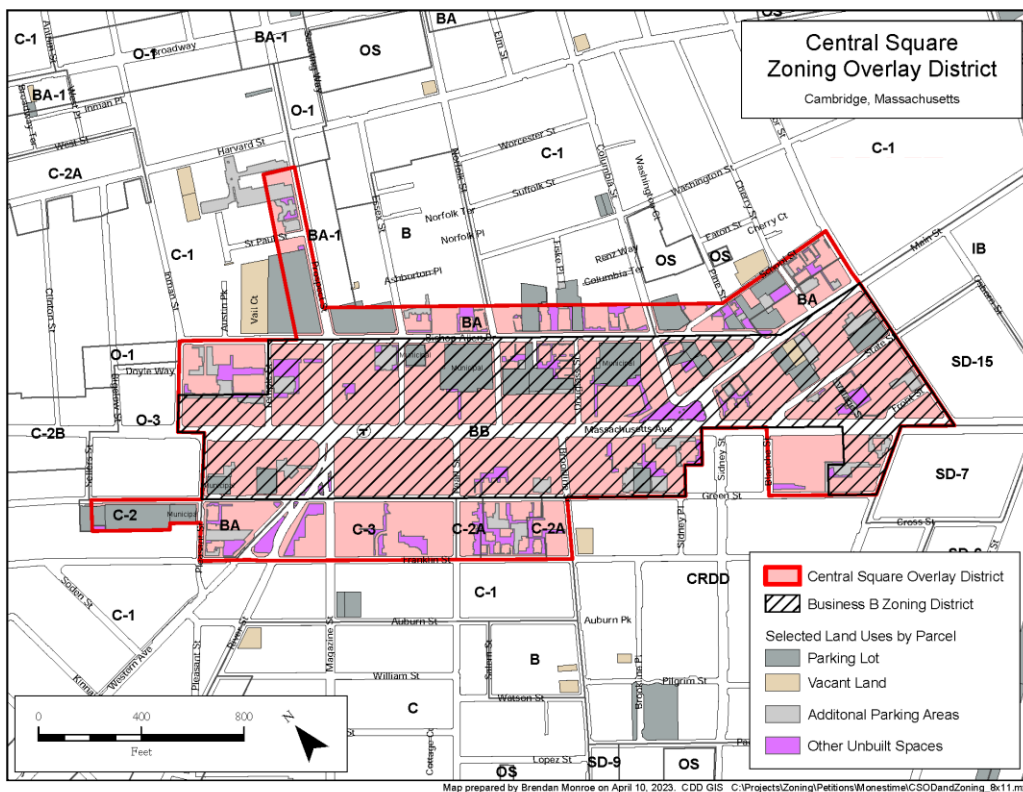
The petition proposes to modify the use regulations in the Central Square Overlay District as follows:

- 1) *Outdoor Retail or Consumer Service Establishment, not otherwise defined* - is currently permitted by Special Permit from the Board of Zoning Appeal (BZA). The petition designates the Planning Board as the Special Permit granting authority for this use and adds criteria for granting a special permit.
- 2) *Outdoor Entertainment and Recreation Facility* – is currently permitted by Special Permit from the BZA. The petition makes the use a permitted use within the Business B district.

In granting a special permit for an Outdoor Retail or Consumer Service Establishment, not otherwise defined, the Planning Board must find that the proposed use has been designed and located to minimize the impact on neighboring uses, including but not limited to:

- Light trespass
- Noise mitigation
- Hours of operation; and
- Other measures to ensure ongoing compliance with the Planning Board’s findings.

The following map illustrates the area that would be affected by the proposed change:



Existing Zoning

Overlay districts generally modify base zoning requirements in an area of the city that requires a more specialized planning approach. Overlay district provisions can be stricter than base zoning (e.g., introducing design standards for buildings that front certain corridors), or they can be more flexible (e.g., permitting taller heights or more expansive permitted uses).

The Central Square Overlay District has a combination of more flexible standards (e.g., waiver of setback and open space requirements) and stricter standards than base zoning (e.g., restrictions on ground floor uses abutting Mass Ave).

Permitted uses generally follow the permitted uses of the base zoning in the Central Square Overlay District, with additional limitations:

- Ground stories facing Mass Ave and/or Main St must contain a smaller subset of permitted uses and meet certain design parameters.
- Certain automobile-related consumer service uses are strictly prohibited.
- Dance Hall or Nightclub uses must meet certain location restrictions or obtain a Special Permit from the Planning Board.
- Formula Businesses must obtain a Planning Board Special Permit.

In the Table of Permitted Uses, uses are either permitted (“P”), prohibited (“X”), permitted by Planning Board Special Permit (“PB”), or by Board of Zoning Appeal Special Permit (“SP”).

Special permits are issued in accordance with the standard Special Permit criteria outlined in Section 10.43 of the Zoning Ordinance, along with specific criteria that might be applicable to the special permit being requested. Section 10.43.1 of the Zoning Ordinance also lists additional special permit criteria used in the evaluation of any Retail or Consumer Service Establishment in Section 4.35 or 4.36 which requires a special permit. These additional criteria include, among other items, consideration for impacts on neighborhood uses, as well as consideration of any citywide or neighborhood plans in support of retail uses identified as desirable for the area.

Article 2 of the Zoning Ordinance defines an “Outdoor Entertainment and Recreation Facility” as “...a type of Outdoor Retail or Consumer Service Establishment, not including a public park or public recreation facility, whose principal use is to provide entertainment and/or recreational activities taking place partly or wholly outdoors to patrons who are charged a use, entrance, or membership fee or required to make other purchases to participate and which does not require the use of an automobile, including but not limited to neighborhood skating rinks, climbing areas, lawn or court games, playgrounds, sports fields, or similar facilities.” Outdoor Entertainment and Recreation Facilities are permitted by-right in Office districts, and by BZA Special Permit in Business B and C districts and Industrial districts.

Outdoor Retail or Consumer Service Establishment uses, not otherwise defined, are permitted only by BZA Special Permit in Business and Industrial zoning districts.

Area Planning Considerations

Envision Cambridge (2019)

Envision Cambridge, the City's Comprehensive Plan, discusses the importance of the City's squares as the heart of public life and the key environment for entertainment and culture. Community Health and Wellbeing is noted as a core value of the City, and the plan promotes opportunities to connect with neighbors and engage in civic life through a variety of means and support for community.

Central Square "C2" Study (2013)

The Central Square ("C2") Planning Study notes the potential for development of City-owned property and supports the inclusion of new public space and indoor/outdoor gathering space within the square.

Central Square Cultural District (2012)

The cultural district is a designation by the Massachusetts Cultural Council. The program establishes districts with the intention to attract artists and cultural enterprises to a community, encourage business and job development, establish tourist destinations, preserve and reuse historic buildings, enhance property values and foster local cultural development. Central Square Cultural District has become the cultural pulse of Cambridge as a vibrant destination for dance, theater, music, visual arts and multicultural cuisines. A mix of small, independently owned businesses make Central Square a place with a unique mix of art, entertainment, technology, and food. Along with cultural events, this mix of uses bring more than 500,000 visitors to Central Square.

Outdoor Entertainment Use Regulations in Other Municipalities

Other cities across the US with significant cultural and/or entertainment districts have approached regulating these types of uses differently; sometimes through a restrictive land use definition, conditions enforced through a discretionary special permit process, or regulations found outside of the zoning in a municipal code. Allowed outdoor uses within municipal culture and arts districts often include provision for live performance or amphitheater space with an associated stage and/or seating. Examples of restrictions placed on these uses include limited hours of operation and a buffer between the entertainment area and residential areas.

Zoning Considerations

For Outdoor Retail or Consumer Service Uses, not otherwise defined, the Petition proposes to change the special permit granting authority from the BZA to the Planning Board within the Central Square Overlay District where the underlying zoning is a Business B district. The petition does not explain the rationale for such a change, and the effect would be that the BZA would grant special permits for this type of use in a Business B zoning district everywhere else in the City except for in the Central Square Overlay District. The petition adds special permit criteria for the use that are separate from the criteria that exist in Section 10.43 and 10.43.1 of the Zoning Ordinance, but somewhat duplicative (e.g., considerations of light trespass and noise). One consideration would be whether the criteria established by the petition should be more carefully tailored to the planning considerations of the Central Square

district, or if they are necessary given what already exists elsewhere in the Ordinance. Another consideration is why the Planning Board is the appropriate body to review these uses within the Central Square Overlay, but not within any other area of the City.

The Petition also modifies Outdoor Entertainment and Recreation Facility uses, currently approved by BZA special permit in a Business B base district, to a permitted use in the Central Square Overlay District. A permitted use can generally proceed directly to a building permit and/or certificate of occupancy unless there is an element of the proposal that would require it to go through an established city development review process. By making the use a permitted use, there would be few limitations on any Business B-zoned parcel within Central Square incorporating the range of activities that would be encapsulated under the definition of the Outdoor Entertainment and Recreation Facility use category. The Board could consider whether expanding the permissiveness of this use aligns with the broader area planning goals of the City for Central Square.

Other Considerations

Other City bodies, such as the Cambridge License Commission, are responsible for issuing licenses/permits and enforcing local and state rules, regulations, and ordinances relating to issues such as the service and sale of alcoholic beverages, indoor and outdoor entertainment, and enforcement of the Noise Control Ordinance. Even with the zoning changes proposed herein, there may be other requirements and approvals needed before certain outdoor entertainment uses could be established.