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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 22, 2017  
Re: **Central Square Restoration Zoning Petition**

Please find attached a revised and annotated version of the Central Square Restoration Zoning Petition. The attachment reflects the zoning text passed to a second reading by the City Council on February 13, 2017, along with suggested modifications prepared by CDD staff, in consultation with other departments.

This memo addresses the following additional matters that were raised at the February 13, 2017 City Council meeting:

- Staff recommendation on calculating “payment in lieu of required parking” in the proposed zoning based on a similar approach to the Harvard Square Overlay District.
- Holding off on consideration of sidewalk width in instances where no front yard setback is required by zoning.
- Clarification on the provisions for increased residential and mixed-use density applying only in the Business B (BB) portion of the Central Square Overlay District. (This is included in the zoning text, as amended at the February 13, 2017 City Council meeting.)
- Clarification of the extent of the Business B (BB) district within the Central Square Overlay District. (See attached map verifying that the entire contiguous BB district in Central Square is within the Central Square Overlay District.)

The first two points are addressed in the commentary on the following pages and suggested zoning text changes are included in the attached document.

### ***Payment in Lieu of Parking Calculation***

The Central Square Restoration Zoning Petition introduced the concept of waiving parking requirements in exchange for a payment to the City intended to offset the potential impacts on public parking resources. This provision does not currently exist in Central Square; the only other district with this type of provision is the Harvard Square Overlay District.

### ***Current/Proposed Parking Requirements***

For context, there are already aspects of the parking requirements that are waived or reduced under current zoning, and would be further reduced under the proposed petition. Under current zoning in Central Square, to incentivize historic preservation, parking requirements are waived as-of-right for buildings built prior to 1940. Citywide, parking can also be waived as-of-right for new small-scale commercial establishments where only four (4) or fewer spaces would otherwise be required, and parking requirements may be otherwise reduced without limitation by special permit from the Board of Zoning Appeal (or the Planning Board, if a project requires a Planning Board special permit) based on findings enumerated in Section 6.35.1 of the Zoning Ordinance. The special permit may include conditions to mitigate impacts, but there is no specific fee required.

In its current form, the Central Square Restoration petition would reduce parking requirements for new development to a minimum of 0.5 space per unit for housing, and set “caps” on parking for non-residential uses that, in many cases, would lower the required amount of parking for those uses as well. These ratios are based on work done during the Central Square (“C2”) Planning Study to anticipate actual parking demand and to avoid the creation of excess parking. The “payment in lieu of parking” would only apply when less parking is provided than these lowered parking requirements, a proposed lot is developed to at least 90% of its allowed buildout under zoning, and a special permit has been granted by the Planning Board.

### ***Harvard Square Provisions***

In Harvard Square, where a payment in lieu of parking provision already applies, the requirement is to provide one half the cost of construction of structured parking spaces equivalent to the number of required parking spaces being waived. The rationale at the time the zoning was established was that excess parking demand would be absorbed by City parking garages, so the payment would contribute to that cost, or toward other public improvements. In Harvard Square, the funds have been mainly used toward streetscape enhancements and historic preservation. For projects that have used the payment in lieu of parking provision in Harvard Square over the past 20 years, the average calculated payment has been approximately \$10,000 per parking space, with the most recent contribution calculated at \$11,570 per parking space, based on general estimated construction costs for above-grade structured parking in the Boston area.

### ***Recommendation***

Though it was not included in the C2 Study, CDD and the Planning Board have been supportive of the proposal to include a “payment in lieu of parking” mechanism because it could enable additional

housing opportunities in scenarios where creating on-site parking would be prohibitively difficult or impossible.

For the current petition, staff would recommend a similar approach to the Harvard Square Overlay District and base the payment on half the cost of constructing structured parking for the number of waived parking spaces, rather than the permitting cost as proposed by the Petitioners. This approach ties the contribution to the public impact – i.e., the City’s cost to build public garage parking that would offset the impact of the reduction. Requiring a contribution of 50% of this construction cost is reasonable because equivalent City parking facilities would not serve that property alone, and the impacts and benefits of such as parking arrangement would be shared by the City and the property owner. This recommendation attempts to:

- 1) Balance the concern that too large a payment might create an impediment to new housing construction with the concern that too small a payment could encourage new development to not provide parking, which could have greater impacts on public parking supply.
- 2) Promote a fair and consistent policy across the areas where such policy is in effect.

If the contribution amounts are considered too high for some projects, the Council could also consider providing additional relief to serve other development goals, such as preservation of historic structures as a part of new housing projects, or development of housing on smaller-sized lots rather than large assemblages of land.

As a general topic, we believe that many aspects of this policy would benefit from future review and discussion within the broader context of parking requirements across the city as a whole. This could include review and discussion of the appropriate amount and uses for a payment in lieu of on-site parking, as well as the locations and circumstances in which such a payment would be desirable.

### ***Sidewalk Width Considerations***

In the current Central Square Overlay District zoning, yard requirements (often referred to as building setbacks) can be waived by special permit from the Planning Board. Under base zoning, in much of Central Square, there are no required front or side yards for non-residential uses, but residential uses must adhere to formula-calculated yards based on the height and length of the building, which often conflicts with the prevailing form of development in the area.

The original Central Square Rezoning Petition proposed no change to the current yard waiver provision, though during public discussion on the petition, the City Council sought to introduce language allowing the Planning Board to limit the reduction in front yards where additional sidewalk width might be desirable. Such language is included in the version that was passed to a second reading.

At the February 13 City Council meeting, it was asked whether additional language could be included requiring a front yard setback where none was currently required. This could be problematic given that such a new requirement was not part of the current petition when it was originally advertised, but could be discussed in the future through a new zoning initiative.

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) portion of the 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, 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.

Text includes clarifying modification voted at February 13, 2017 City Council meeting.

5. *FAR Exemption for Residential Balconies*

Notwithstanding any other provision of this Zoning Ordinance, the Gross Floor Area of balconies, porches, stoops, or mezzanines on any floor of a structure that are accessory to residential uses and not exceeding six (6) feet in depth measured back from the 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.

6. *FAR Exemption for Rooftop Spaces*

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 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 ongoing compliance with the Board's finding.

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** 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.
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 are directly from Massachusetts Avenue, Prospect Street between Massachusetts Avenue and Bishop Allen Drive, or Main Street, or by Special Permit 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 hours of operation, proximity to a residential neighborhood, signage, lighting, and sound mitigation.
- 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

Commentary – not to be included in Zoning Ordinance.

(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** 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 uses not listed below, any maximum rate set forth in Article 6.000 shall apply. 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): 0.75 space per dwelling unit
  - (b) Hotel or Motel Uses (6.36.1 i-2 or i-3): 0.25 space per sleeping room
  - (c) Office Uses (6.36.4), excluding Technical Office (f): 0.90 space per 1,000 square feet
  - (d) Technical Office Uses (6.36.4 f): 0.80 space per 1,000 square feet
  - (e) Retail and Consumer Service Establishments (6.36.5): 0.50 space per 1,000 square feet
2. Minimum Parking and Loading. The minimum parking and loading requirements as specified in Section 6.36 Schedule of Parking and Loading Requirements shall 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.
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

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- (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 fifty (50) percent of the 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 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.

Staff recommends amending the zoning language to reflect the standards in the Harvard Square Overlay District, as it is logical to base the contribution on the actual cost to the City to construct structured parking spaces rather than the building permit fees assessed for development of a particular square footage.

As alternatives, the Council could consider different percentages, or could consider relief in exchange for serving particular public objectives such as preservation of historic buildings or development on smaller lots.

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 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.

