

# HARVARD SQUARE ZONING PETITION

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CAMBRIDGE, MASSACHUSETTS

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## **Introduction**

Harvard Square has been the subject of much debate over the past few years. The Historic Commission, thanks in large part to Council intervention, initiated a revision of their Conservation District guidelines and during this process the subject of zoning has been ever present. How do we ensure that the work of the Harvard Square Conservation District Study Committee is synchronous with the zoning regulation of the Harvard Square Overlay? The purpose of this proposed amendment is to answer that question and provide a more streamlined and practical approach to development in Harvard Square. We realize that zoning alone does not make the square, people do, and it is in this spirit that we recommend changes to the existing overlay language that aims to gently increase density, reduce parking, increase housing viability, foster a balance between local and formula retail, and give renewed vibrancy to a retail destination that has been steadily declining.

## **Statement of Facts**

WHEREAS Harvard Square is a vibrant hub of tourism, business, university and character; and

WHEREAS Harvard Square is at risk of losing the character and vibrancy needed to maintain an eclectic mix of retail, office and housing; and

WHEREAS The existing zoning contains inconsistencies and anachronistic regulations that no longer serve the public good; and

WHEREAS Zoning must be looked at, revised, updated, and monitored at least every twenty years; and

WHEREAS Meaningful change in Harvard Square has not taken place in decades.

NOW THEREFORE we the Undersigned respectfully petition the honorable City Council of Cambridge to amend the Cambridge Zoning Ordinance by amending Article 20.50 ("Harvard Square Overlay District") to read as follows:

### **(ALL SECTION NUMBER AND PROSPOSED LANGUAGE IN BOLD)**

#### **20.50 HARVARD SQUARE OVERLAY DISTRICT AND HARVARD SQUARE**

#### **HISTORIC OVERLAY DISTRICT**

**20.51 Establishment and Scope.** There is hereby established the Harvard Square Overlay

**District, Harvard Square Historic Overlay District and Harvard Square Conservation District**

**Guidelines** which shall be governed by the regulations and procedures specified in this Section 20.50. It

is the intent of this section that these regulations will apply to an area described generally as the Harvard

Square business district and certain abutting portions of the neighborhoods around it.

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

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

**20.53 General Provisions**

**20.53.1** The Harvard Square Overlay District shall be considered an area of special planning concern. Development proposals listed in Subsection 19.42 and 19.43, Development Consultation Procedures, shall be subject to the Development Consultation Procedure

specified in Article 19.40 except that any Large Project Review (new buildings of 2,000 square feet or more) shall be conducted by the Harvard Square Advisory Committee using procedures specified in Subsection 20.54.1 of this Section 20.50.

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

**20.53.3 National Register and Contributing Buildings**

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

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

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

## **20.54 Detailed Provisions**

### **20.54.1 Harvard Square Advisory Committee**

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

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

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

b. To provide a forum within which a wide range of perspectives on development actions can be heard.

**c. To support local businesses and uses that enhance the vibrancy and historical nature of Harvard Square with the aspirational goal of maintaining a seventy percent local and non-formula retail experience throughout the district.**

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

2. Responsibilities. The Committee shall undertake all Large Project Reviews and shall receive all applications for variances and special permits for activities within the Harvard Square Overlay District for review and comment. In addition, the Committee may comment on any preliminary proposal for which any public agency or private interest has planned for the Overlay. **The Committee shall meet on a monthly basis or with as much frequency as is deemed required to address pertinent issues in Harvard Square Overlay District.**

**3. Procedures.**

a. Within six (6) months preceding any application for (1) a building permit for any project subject to Large Project Development Consultation Review or (2) a special permit or variance for any project within the Harvard Square Overlay District, the

graphic and other material required in Section 19.43.2 – Application for a Large Project Review shall be submitted to the Harvard Square Advisory Committee for their review and comment.

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

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

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

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

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

#### **4. Membership and Terms**

##### **a. Membership.**

**(1) At least two members having recognized qualification as an architect, attorney who specializes in zoning, urban planner, architectural historian, or landscape architect. (2) One member from Harvard University.**

**(3) One member who operates a non-formula business within the Harvard Square Overlay District.**

**(4) One member owning commercial property within the Harvard Square Overlay District.**

**(5) Four residents living within a half mile of the Harvard Square Overlay.**

**(6) One member representing the Harvard Square Neighborhood Association or Neighborhood group**

**representing Harvard Square and registered with the City of Cambridge.**

**(7) One member representing the Cambridge Historical Commission.**

**b. Terms. Committee members shall be appointed for terms of three years each.**

**Initial appointment shall, however, be staggered such that four members shall**

**have terms of one year, five members shall have terms of two years, and four**

**members shall have terms of three years each. On an annual basis at the first meeting in September**

**the Harvard Square Advisory Board will appoint a Chair member who may serve no more than two (2) years as chair within a three (3) year period.**

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

**1. As of Right Height Limitations. The maximum height of any building shall be sixty (60) feet.**

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

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

**1. Any retail use (4.35) allowed in the Business B zoning districts within the Overlay may also be allowed as of right in any office or residential zone within the Overlay provided the structure that**



**contains the use has a main entrance on Massachusetts Avenue, Mt. Auburn Street, Harvard Street or Bow Street. For all other lots The Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met:**

- a. The general purposes of this Section 20.50 are met.
- b. The use will be located in a structure in existence as of June 1, 1985
- c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features.
- d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect.
- e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space.
- f. In its operation the use will not, in impact, be significantly different from the uses permitted in the base district.
- g. The use is completely contained within the structure.
- h. The use will be patronized substantially by pedestrians and will, if required by the Planning Board, function adequately without additional offstreet parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses.
- i. The retail use does not take the place of a residential or dormitory use.
- k. The use is not a Formula Business.**
- l. The following uses listed in Section 4.35 are however specifically prohibited:
  - 4.35j (Mortuary, undertaking or funeral establishment);
  - 4.35l (Veterinary establishment, kennel, pet shop);
  - 4.35m (sales place for new and used cars);
  - 4.35p (Massage establishment).
  - 4.35s (Cannabis Retail Store).
- 2. In the Office 2 base district the provisions of Section 4.40 - Footnotes to the Table

of Use Regulations, footnote 12, shall not apply in the Harvard Square Overlay District.

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

1. The use is contained within a structure or portion of a structure in existence on or before June 1, 1940 or if constructed later is identified as a National Register or contributing building; or
2. The use is contained in a new structure or new addition to a structure identified in (1.) above, after the issuance of a special permit by the Planning Board provided:
  - b. The subject lot is sufficiently small in size as to contribute to a development pattern of diverse, small scale, new structures and the retention of existing structures (for lots exceeding 10,000 square feet a specific finding shall be made that this objective has been met).
  - c. The Planning Board shall specifically find that an exemption from parking and loading requirements will result in a building design that is more appropriate to its location and the fabric of its neighborhood and that it is in conformance with the objectives and criteria contained in Harvard Square Development Guidelines.
  - d. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and
  - e. No National Register or contributing building has been demolished or altered so as to terminate or preclude its designation within the five (5) years preceding the application.

**20.54.5 Building Setbacks.** Maintenance of the Harvard Square Overlay District's positive diversity of building form and scale and its variety of open spaces, yards and courtyards is encouraged throughout the District. It is therefore desirable to permit design flexibility to allow any physical change in the District to reflect the character of the area within which it is located. To this end any building in the Harvard Square

Overlay District shall be exempt from the yard requirements as specified in Section 5.30, (except where such yard abuts a lot, but not a public way, outside the Overlay District) if the following conditions are met:

1. The building existed as of December 15, 1985 or a building permit had been issued by that date, or
2. For any new building in any Business, Office or Residence C-3 base-zoning district, for which a building permit is issued after December 15, 1985, the Planning Board issues a Special Permit exempting the building from yard requirements provided:
  - a. The design of the new structure shall be in conformance with the objectives and criteria contained in Harvard Square Development Guidelines.
  - b. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and
  - c. No National Register or contributing building previously existed on the site in the preceding five (5) years and which has been so altered as to terminate or preclude its designation or demolished prior to the application.

**20.54.6 Maximum Ratio of Floor Area to Lot Area (FAR) in the Harvard Square Historic Overlay District.** Notwithstanding the FAR limits set forth in Article 5.000 or elsewhere in this Ordinance, the maximum FAR applicable in the Harvard Square Historic Overlay District shall be as follows: Business B district: 4.0 for all Non-Residential Uses and 4.0 for all Residential Uses (4.31 a-h); Office 3 district: 3.0 for all uses; Office 2 district: 2.0 for all uses; Residence C-3 district: 3.0 for all uses; Residence C-2B district: 1.75 for all uses; Residence C-1 district: 0.75 for all uses; Business A district: 1.0 for all uses except dwellings, 1.75 for dwellings.

#### **20.54.7 Additional FAR**

**Upon the issuance of a special permit, the special permit granting authority may increase the allowable FAR on any lot or portion of a lot located within the Harvard Square Overlay District for any residential use in section 4.31 (a-h) or any commercial use in section 4.34 or 4.35 provided the**

**use and design complies with the goals and design guidelines set forth in the Harvard Square Conservation District.**

#### **20.54.8 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.**

#### **20.54.9 Restricted Uses**

**No bank or financial institution (Section 4.34e) or Cannabis Retail Store (Section 11.803.1), shall occupy more than twenty (20') feet of building frontage within the Harvard Square Overlay, 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. Fast Order Food Establishments (4.35o) are allowed by right within the Harvard Square Overlay and are further not subject to the provisions of Article 11.30 of this Ordinance provided the Fast Order Food Establishment is not a Formula Business.**

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

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

1. In Section 7.16.22 – Signs in all Business, Office and Industrial Districts, Paragraphs A, B, and C shall not apply in office and business base districts.

However, no sign on the outside of a building may extend higher than 20 feet above grade.

2. In Section 7.16.3 – Application of the Sign Frontage Formula shall not apply.

3. In the Residence C-2B base district the provisions of Section 7.16.22 shall apply to permitted or legally established nonconforming office and retail uses.

## Line by Line Comparison of Proposed Changes to Ordinance Language with Explanations for Each Change

**Date: September 22, 2019**

<u>Section Proposed to be Altered from Existing Ordinance Language</u>	<u>Existing Language</u>	<u>Petition Language (Changed Language in Bold)</u>	<u>Reason for Change</u>
<p><i>20.51 Establishment and Scope</i></p>	<p>Establishment and Scope. There is hereby established the Harvard Square Overlay District and the Harvard Square Historic Overlay District which shall be governed by the regulations and procedures specified in this Section 20.50. It is the intent of this section that these regulations will apply to an area described generally as the Harvard Square business district and certain abutting portions of the neighborhoods around it.</p>	<p>20.51 Establishment and Scope. There is hereby established the Harvard Square Overlay District, Harvard Square Historic Overlay District <b>and Harvard Square Conservation District Guidelines</b> which shall be governed by the regulations and procedures specified in this Section 20.50. It is the intent of this section that these regulations will apply to an area described generally as the Harvard Square business district and certain abutting portions of the neighborhoods around it.</p>	<ul style="list-style-type: none"> <li>• Prior to this there has been no official recognition of the Harvard Square Conservation District Guidelines to the zoning overlay. The petitioner feels this is an oversight.</li> </ul>
<p><i>20.54.1 Harvard Square Advisory Committee</i></p>	<p>1. Purpose. Added new language.</p> <p>2. Responsibilities. The Committee shall undertake all Large Project Reviews and shall receive all applications for variances and special permits for activities within the Harvard Square Overlay District for review and comment. In addition, the Committee may comment on any preliminary proposal for which any public agency or private <b>interest may wish to receive advice and recommendations.</b></p>	<p>1. Added: <b>“c. To support local businesses and uses that enhance the vibrancy and historical nature of Harvard Square with the aspirational goal of maintaining a seventy percent local and non-formula retail experience throughout the district.”</b></p> <p>2. Language is altered in the last sentence in bold in the Existing Language column. “...may wish to receive advice and recommendations.” Is replaced with “...has planned within the Overlay.” An additional sentence has been added after the last sentence: <b><u>The Committee shall meet on a monthly basis or with as much frequency as is deemed required to address pertinent issues within the Harvard Square Overlay District.</u></b></p>	<ul style="list-style-type: none"> <li>• Petitioner wishes to add a section that is aspirational in nature to provide guidance to the advisory board when considering non-formula businesses.</li> <li>• The first alteration makes clear that any public or private agency working in the Overlay or with plans that effect the Overlay are subject to Advisory Board scrutiny. Second, the Petitioner feels that in order to effectively address the changes in Harvard Square as a continuum of development and change that monthly meetings should be required to remain up to date, educated, to foster well informed</li> </ul>

<p><b>Harvard Square Advisory Committee:</b>  <b>4. Membership and Terms</b></p>	<p>a. Membership. (1) At least one member having recognized qualification as an architect or landscape architect. (2) One member having recognized qualifications as real estate or development or financial expert. (3) One member who operates a business within the Harvard Square Overlay District. (4) Two members owning commercial property within the Harvard Square Overlay District. (5) Five members representing residents of the five abutting Cambridge residential neighborhoods. (6) One additional resident to be appointed with should serve at large. (7) One member representing an institution owning institutional property in the Harvard Square Overlay District. (8) One member representing the Cambridge Historical Commission. b. Terms. Committee members shall be appointed for terms of three years each. Initial appointment shall, however, be staggered such that four members shall have terms of one year, five members shall have terms of two years, and four members shall have terms of three years each.</p>	<p>a. Membership.  (1) At least two members having recognized qualification as an architect, attorney who specializes in zoning, urban planner, architectural historian, or landscape architect. (2) One member from Harvard University.  (3) One member who operates a non-formula business within the Harvard Square Overlay District.  (4) One member owning commercial property within the Harvard Square Overlay District.  (5) Four members living within one half mile of the Harvard Square Overlay residential neighborhoods.  (6) One member representing the Harvard Square Neighborhood Association or registered Neighborhood group representing Harvard Square.  (8) One member representing the Cambridge Historical Commission.  b. Terms. Committee members shall be appointed for terms of three years each. Initial appointment shall, however, be staggered such that four members shall have terms of one year, five members shall have terms of two years, and four members shall have terms of three years each. On an annual basis at the first meeting in September the Harvard Square Advisory Board will appoint a Chair member who may serve no more than two (2) years as chair within a three (3) year period.</p>	<p>recommendations for future projects.</p> <ul style="list-style-type: none"> <li>• Section 1 adds addition potential qualifications that would be pertinent to the board.</li> <li>• Section 2 removes the requirement for someone having “recognized qualifications as real estate or development or financial expert” and adds the requirement for a representative of Harvard University. REASON: The Petitioner believes that due to the fact that Harvard is the largest commercial stakeholder in the Hsq Overlay that they would be the best fit for this position on the board.</li> <li>• Section 7 removes the requirement of “an institution owning institutional property in the Harvard Square Overlay District” and replaces with requirement for Hsq Neighborhood Group Member or registered Harvard Square neighborhood group. REASON: Petition addresses need for institutional owners in section 2 and feels that it is important for registered neighborhood group representation.</li> <li>• Section 8 adds requirement for annual Chair appointment and sets term limits. REASON: Petition believes that in order to make sure more voices are heard in discussion that take place that a healthy board requires a steady rotation of leadership.</li> </ul>
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<p><b>20.54.3 Retail, Business, and Consumer Service Establishments (Section 4.35) in Office and Residential Districts.</b></p>	<p><b>20.54.3 Retail, Business, and Consumer Service Establishments (Section 4.35) in Office and Residential Districts.</b> 1. The Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met or findings made: a. The general purposes of this Section 20.50 are met. b. The use will be located in a structure in existence as of June 1, 1985 and will not involve significant new construction. c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features. d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect. e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space. f. In its operation the use will not, in impact, be significantly different</p>	<p><b><u>1. Any retail use (4.35) allowed in the Business B zoning districts within the Overlay may also be allowed as of right in any office or residential zone within the Overlay provided the use has a main entrance on Massachusetts Avenue, Mt. Auburn Street, Harvard Street, Arrow Street, and Bow Street.</u></b> For all other lots The Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met.:</p> <p>a. The general purposes of this Section 20.50 are met.</p> <p>b. The use will be located in a structure in existence as of June 1, 1985.</p> <p>c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features.</p> <p>d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect.</p> <p>e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space.</p>	<ul style="list-style-type: none"> <li>• Petitioner has added a sentence prior to existing language to allow retail uses along streets within the Overlay that are already largely commercial in nature that comport to allowed uses in the Business B section of the Overlay. REASON: This will make it easier for more non-formula businesses to open along areas that are not “prime” retail locations without the need for special permit review or variances. Further these areas already have many commercial uses nearly all of which are non-conforming.</li> </ul>
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	<p>from the uses permitted in the base district. g. The use is completely contained within the structure. h. The use will be patronized substantially by pedestrians and will, if required by the Planning Board, function adequately without additional off street parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses. 20-18 i. The applicant can demonstrate a need for the use(s) as a service to adjacent residential communities or to the academic community and can demonstrate that for economic or other reasons the use cannot easily be located in existing business or office districts where the use is permitted. In addition, the applicant must demonstrate that either the use has been displaced as result of redevelopment elsewhere in the Harvard Square Overlay District, or that the use is important in its contribution to the variety, continuity, or uniqueness of the Harvard Square Overlay District. j. The retail use does not take the place of a residential or dormitory use. k. The following uses listed in Section 4.35 are however specifically prohibited: 4.35e (Lunchroom, restaurant, cafeteria); 4.35f (Establishments where alcoholic beverages are sold and</p>	<p>f. In its operation the use will not, in impact, be significantly different from the uses permitted in the base district. g. The use is completely contained within the structure. h. The use will be patronized substantially by pedestrians and will, if required by the Planning Board, function adequately without additional offstreet parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses. i. The retail use does not take the place of a residential or dormitory use. j. The use is not a Formula Business. k. The following uses listed in Section 4.35 are however specifically prohibited: 4.35j (Mortuary, undertaking or funeral establishment); 4.35l (Veterinary establishment, kennel, pet shop); 4.35m (sales place for new and used cars); 4.35p (Massage establishment). 4.35s (Cannabis Retail Store).</p>	
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	<p>consumed and where no dancing or entertainment is provided); 4.35g (Bar or other establishment where alcoholic beverages are sold and where dancing is provided); 4.35j (Mortuary, undertaking or funeral establishment); 4.35l (Veterinary establishment, kennel, pet shop); 4.35m (sales place for new and used cars); 4.35o (Fast Order Food Establishment); 4.35p (Massage establishment). I. The proposed use is not located in a base Residence C-2B or Office 2 District.</p>		
<p><b>20.54.4 Parking and Loading Requirements.</b></p>	<p>1. The use is (1.) above, after the issuance of a special permit by the Planning Board provided: a. The total development authorized on the site is reduced to eighty (80) percent of the maximum permitted on the lot; or a cash contribution is made to the Harvard 20-19 Square Improvement Fund to be established by the City of Cambridge in an amount equal to fifty (50) percent of the cost of construction of the spaces not provided, said contribution to be used by the City of Cambridge for one or more of the following capital improvements in the Harvard Square Overlay District: (1) Provision of public parking, preferably for short term users; (2) Improvements to public parks, or restoration of historic structures, monuments and other features owned by the City of Cambridge or</p>	<p>20.54.4 Parking and Loading Requirements. Uses in the Harvard Square Overlay District which meet the following requirements shall be exempt from the parking and loading requirements as specified in Section 6.36 - Schedule of Parking and Loading Requirements.</p> <p>1. The use is contained within a structure or portion of a structure in existence on or before June 1, 1940 or if constructed later is identified as a National Register or contributing building; or 2. The use is contained in a new structure or new addition to a structure identified in (1.) above, after the issuance of a special permit by the Planning Board provided: a. The 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).</p>	<ul style="list-style-type: none"> <li>• Petitioner seeks to remove requirements that reduce FAR or require payment for the removal of parking or loading from a site within the Harvard Sq Overlay. The process as currently written has not worked well and is unnecessarily cumbersome especially for small owners. Harvard Square is a major transit hub and reduction of vehicles within the overlay is seen as a goal. Further the requirement that one reduce density in order to avoid payment is counterintuitive to the need for slightly more density within the overlay which is needed to promote the health of retail and maintain vibrancy of the square. We should be allowing developers enough FAR to escape the unnecessary contortions buildings often take to "max out."</li> </ul>

other public agency or a nonprofit organization; (3) Extension throughout the Harvard Square Overlay District of the surface improvements installed by the MBTA as part of the Red Line subway extension(brick sidewalks, light post, street furniture, etc.) The Harvard Square Advisory Committee shall receive and make comments on any proposal for the expenditure of such cash contributions. To the extent practicable the provision of public parking facilities shall be the first priority of any expenditure. The funds shall not be used for ordinary maintenance activities normally undertaken by the City of Cambridge. The value of the cash contribution shall be determined by the Community Development Department assuming equivalent structured parking spaces and using generally accepted cost estimation methods customarily used by architects and engineers or using actual construction costs for comparable contemporary parking construction in Cambridge. b. The subject lot is sufficiently small in size as to contribute to a development pattern of diverse, small scale, new structures and the retention of existing structures (for lots exceeding 10,000 square feet a specific finding shall be made that this objective has been met). c. The Planning Board shall specifically find

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

	<p>that an exemption from parking and loading requirements will result in a building design that is more appropriate to its location and the fabric of its neighborhood and that it is in conformance with the objectives and criteria contained in Harvard Square Development Guidelines. d. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and e. No National Register or contributing building has been demolished or altered so as to terminate or preclude its designation within the five (5) years preceding the application.</p>		
<p><b>20.54.6 Maximum Ratio of Floor Area to Lot Area (FAR) in the Harvard Square Historic Overlay District.</b></p>	<p>Notwithstanding the FAR limits set forth in Article 5.000 or elsewhere in this Ordinance, the maximum FAR applicable in the Harvard Square Historic Overlay District shall be as follows: Business B district: 4.0 for all uses except dwellings, 3.0 for dwellings...</p>	<p>The language of this section is unaltered but for the following: Notwithstanding the FAR limits set forth in Article 5.000 or elsewhere in this Ordinance, the maximum FAR applicable in the Harvard Square Historic Overlay District shall be as follows: <b>Business B district: 4.0 for all Non-Residential Uses and 4.0 for all Residential Uses (a-h).</b></p>	<ul style="list-style-type: none"> <li>• The phrase "...except dwellings, 3.0 for dwellings." Has been deleted. REASON: While the petitioner believes it will be difficult to build housing in some areas of the overlay it should not be penalized in favor of any other use; reduction of FAR to a 3.0 in the Business B district is contrary to any housing policy currently espoused by the City.</li> </ul>
<p><b>20.54.7 Additional FAR</b></p>	<ul style="list-style-type: none"> <li>• <b>No existing language</b></li> </ul>	<p><b>Upon the issuance of a special permit, the special permit granting authority may increase the allowable FAR on any lot or portion of a lot located within the Harvard Square Overlay District for any residential use in section 4.31 (a-h) or any commercial use in section 4.34</b></p>	<ul style="list-style-type: none"> <li>• This new section will allow both new and existing buildings to build above their current FAR allowance provided that the SP granting authority finds that the use of this additional density</li> </ul>

		<p>or 4.35 provided the use and design complies with the goals and design guidelines set forth in the Harvard Square Conservation District.</p>	<p>complies with the purpose and intent of the Ordinance, Historic District Guidelines, and is appropriate for the locus. Simply put it provides flexibility for developers to encourage good design and not force outcomes that exclusively promote “maxing out” density. Height limitations and dimensional controls will remain intact.</p>
<p><b>20.54.8 FAR Exemption for Ground Floor Retail</b>  <b>20.54.9 Restricted Uses</b>          Unless specifically waived upon the granting of a special permit by the Planning Board, no individual bank or financial institution (Section 4.34e) or Cannabis Retail Store (Section 11.803.1), shall occupy more than twenty (20') feet of building frontage within the Harvard Square Overlay, 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.</p>	<ul style="list-style-type: none"> <li>• <b>No existing language</b></li> </ul>	<p><b>Retail spaces of 1,500 square feet or less shall be excluded from the calculation of floor area ratio.</b></p>	<ul style="list-style-type: none"> <li>• This provision exists in both the Central Square Overlay and Mass and Main Overlay. The purpose is to increase retail possibilities in the square as well as promote local retail by reducing the footprint which will naturally reduce national chains. Further the exemption allows for Owners/Developers to add GFA to upper stories of buildings, where appropriate, which gently increases density and changes the economics of buildings and giving greater economic flexibility to invite retailers who would typically not be viable.</li> </ul>
<p><b>20.54.9 Restricted Uses</b></p>	<ul style="list-style-type: none"> <li>• <b>No existing language</b></li> </ul>	<p><b>No individual bank or financial institution (Section 4.34e) or Cannabis Retail Store (Section 11.803.1), shall occupy more than twenty (20') feet of building frontage within the Harvard</b></p>	<ul style="list-style-type: none"> <li>• This new provision limits the street frontage allowed for Cannabis Retail Stores, Banks, and Financial Institutions. Petitioner wishes to promote a</li> </ul>

		<p><b>Square Overlay, 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. Fast Order Food Establishments (4.35o) are allowed by right within the Harvard Square Overlay and are further not subject to the provisions of Article 11.30 of this Ordinance provided the Fast Order Food Establishment is not a Formula Business.</b></p>	<p>vibrant square and believes this begins with limiting the amount of frontage financial institutions may occupy. Further, due to stringent State regulations, cannabis stores are required to have fogged windows which are not conducive to an active and vibrant streetscape.</p> <ul style="list-style-type: none"> <li>• Fast Order Food Establishment uses are now allowed as of right provided they are not formula businesses and further avoid the duplicative special permit process of Article 11.</li> </ul>
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