14.

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CAMBRIDGE MA.

131 Whittemore Ave.
Cambridge, MA 02140
May 6, 1996

City Council Members
City Clerk's Office
795 Massachusetts Ave.
Cambridge, Ma 02139

Dear City Council Members:

I unconditionally support the Bromfield/Volpe petition to amend the PUD-IC zoning in North Cambridge to create a 400 feet wide buffer strip to protect the surrounding residential area. I urge each of you to pass this zoning modification to protect the character of this small neighborhood.

My husband and I moved to this area 2 years ago because we were immediately attracted to the open space with access to the bike path and playing fields that surrounds the Alewife train station. In the past two years we have been delighted to discover rabbits, Canadian geese, and the occasional skunk in this area. The open wetland space provides a safe environment for them. The proposed buffer strip would help safeguard these creatures.

In addition, this space currently provides valuable drainage area during heavy rainfall. Currently our house has two sump pumps which are frequently in use throughout the year. Additional paving across the street would lead to increased water flow on our property and substantially increased flood risk. The buffer strip would help to maintain the current condition.

In the two years we have lived here we have come to love the small, peaceful character of our neighborhood. Please help us preserve this by passing the Bromfield/Volpe amendment to the PUD-IC zoning in this area.

Sincerely,

Neera K. Dahl

Neera K. Dahl

S-269

Consent Communication #14

Communication was received from Neera K. Dahl, 131 Whittemore Avenue, transmitting her support for the Bromfield/Volpe petition to amend the PUD-IC Zoning in North Cambridge.

In City Council May 13, 1996

Referred to the Petition

CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

February 7, 1996

To the Honorable, the City Council:

SUBJECT: Amendments to the Text of the Zoning Ordinance as Recommended by the Planning Board

The Planning Board is respectfully submitting to the City Council for its consideration, several amendments to existing provisions of the Zoning Ordinance that the Board has found require refinement in order to eliminate an identified ambiguity, to clarify or restore the original intent of a provision, to correct omissions made when the provision was first adopted, or to complete a cycle of rezoning initiated with earlier amendments to the Ordinance.

Briefly the five amendments are as follows.

1. A harmonizing of the two locations in the Ordinance where the listing of those special permits subject to the requirements of the Incentive Zoning Provisions - Section 11.200 of the Zoning Ordinance appears.

2. A clarification of the intent of provisions of the Ordinance regulating the location of parking spaces in relation to dwelling houses and side lot lines.

3. Refinement of the provisions of the Ordinance that exempt certain portions of attics and basements from the calculation of gross floor area.

4. New provisions that clarify how external modifications to one townhouse within a Townhouse Development are to be approved once the townhouse has been built and occupied for the first time.

5. Modifications to the setback requirements of the Residence C-2B District as suggested by participants in the rezoning effort in 1995 that applied this District to the Youville Hospital property.

An explanation for each recommended change is presented. In addition to the full amendment text as it is recommended by the Planning Board, a second version of the that text is provided highlighting all the additions and deletions made to the current text of the Zoning Ordinance.

Respectfully submitted for the Planning Board

Paul Dietrich

Paul Dietrich, Chairman

PROPOSED AMENDMENTS TO THE ZONING ORDINANCE OF THE CITY OF CAMBRIDGE

A. Listing of Special Permits in the Central Square and Harvard Square Overlay Districts subject to the Incentive Zoning Provisions - Section 11.200

Explanation *Section 10.48 (the section of the Zoning Ordinance that sets out general rules governing issuance of special permits) and Section 11.200 (the detailed provisions of the city's incentive zoning ordinance) are meant to have parallel listings of those special permits that trigger the provisions of Section 11.200, i.e. the payment of a fee to the Affordable Housing Trust for each square foot of development authorized by the special permit, above 30,000 square feet. In adopting the Central Square Overlay District, the new special permits created that are subject to the incentive zoning requirements were listed in 10.48 but not in 11.200. This amendment lists the permits in Section 11.200 as well.*

When the Incentive Zoning Provisions were adopted in 1988, a number of previously existing special permits in the Harvard Square Overlay District were made subject to the new ordinance. At that time, however, the special permit waiver of setback requirements was overlooked. As this provision differs little from other incentive provisions in the Harvard Square Overlay District that are subject to Section 11.200, it is logical to correct that omission. Therefore, this special permit is added to the list of permits subject to Section 11.200.

The Amendment

Amend the text of the Zoning Ordinance by deleting existing Sections 10.48 and 11.202 in their entirety and substituting therefor the following:

10.48 As expressly authorized in Section 9 of the Zoning Act, M.G.L., Ch 40A, the following Special Permits, which authorize increases in the permissible density of population or intensity of a particular use in the proposed development, shall be subject to the provisions of Section 11.200 of this Ordinance.

Section 6.35	Reduction in required parking for nonresidential development
Section 11.108	Divergence from dimensional requirements, Massachusetts Avenue Overlay District
Section 11.54.2(2)	Additional height, Harvard Square Overlay District

Section 11.54.4(2)	Waiver of parking and loading requirements, Harvard Square Overlay District
Section 11.54.5(b)	Exemption from yard requirements, Harvard Square Overlay District
Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

11.202 **Applicability.** Where a developer chooses to seek to obtain a special permit pursuant to the sections listed below, which special permit authorizes an increase in the permissible density of population or intensity of a particular use in the proposed development, the developer shall be subject to the provisions of this Section 11.200 et al. Increases in density or intensity of use shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

Section 6.35	Reduction in required parking for nonresidential development
Section 11.108	Divergence from dimensional requirements, Massachusetts Avenue Overlay District
Section 11.54.2(2)	Additional height, Harvard Square Overlay District
Section 11.54.4(2)	Waiver of parking and loading requirements,

	Harvard Square Overlay District
Section 11.54.5(b)	Exemption from yard requirements, Harvard Square Overlay District
Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

Amendment Text with the Additions to and ~~Deletions~~ from the Existing Text Noted

10.48 As expressly authorized in Section 9 of the Zoning Act, M.G.L., Ch 40A, the following Special Permits, which authorize increases in the permissible density of population or intensity of a particular use in the proposed development, shall be subject to the provisions of Section 11.200 of this Ordinance.

Section 6.35	Reduction in required parking for nonresidential development
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Section 11.54.2(2)	Additional height, Harvard Square Overlay District
Section 11.54.4(2)	Waiver of parking and loading requirements, Harvard Square Overlay District

Section 11.54.5(b)	Exemption from yard requirements, Harvard Square Overlay District
Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

11.202 **Applicability.** Where a developer chooses to seek to obtain a special permit pursuant to the sections listed below, which special permit authorizes an increase in the permissible density of population or intensity of a particular use in the proposed development, the developer shall be subject to the provisions of this Section 11.200 et al. Increases in density or intensity of use shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

Section 6.35	Reduction in required parking for nonresidential development
Section 11.108	Divergence from dimensional requirements, Massachusetts Avenue Overlay District
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Section 11.54.4(2)	Waiver of parking and loading requirements, Harvard Square Overlay District
Section 11.54.5(b)	Exemption from yard requirements, Harvard

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Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

B. Clarification of language relating to location of parking spaces adjacent to dwellings and side lot lines.

Explanation

1. Paragraph a, adopted in 1981, is intended to allow the parking of automobiles somewhat closer to one, two and three family dwellings than is required for all other dwellings and uses, which are required to be set back at least ten (10) feet. The language, however, has been interpreted to mean that no setback at all is required, when at least a five foot setback was intended. The language modifications are meant to restore the original intent of the provision.

2. Paragraph b, also adopted in 1981, eliminates the side and rear yard setbacks for parking spaces and driveways on lots with three or fewer units in pre-existing buildings. It recognizes that desirable parking would be difficult to locate on lots densely develop before the parking requirement was established and therefore relaxes the setback standards somewhat for small dwellings. Dense development, however, is not typically the prevailing condition in the A-1 and A-2 residential districts, where large lots and wide yards are required and routinely provided even in long developed lots. Therefore, this amendment would not grant the waiver of the five foot setback requirement for any dwellings in the Residence A districts; other

changes are meant to clarify the original language.

The Amendment

Amend the Text of the Zoning Ordinance in Subsection 6.44.1 by deleting paragraphs (a) and (b) in their entirety and substitute therefor the following:

6.44.1 (a) No on grade open parking space shall be located closer than ten (10) feet to that portion of a building wall containing windows of habitable or occupiable rooms at basement or first story. However, on grade open parking spaces serving one, two, or three family dwellings may be located closer than ten (10) feet, but in no case closer than five (5) feet, of that portion of such building wall.

6.44.1 (b) Except for dwellings that: (1) contain no more than three dwelling units, (2) were in existence at the time of the effective date of this Ordinance or any amendment thereto, and (3) are not located in any Residence A-1 or A-2 Residence District, no on grade open parking space or driveway shall be located closer than five (5) feet to any side or rear property line.

Amendment Text with the Additions to and ~~Deletions~~ from the Existing Text Noted

6.44.1 (a) No on grade open parking space shall be located ~~within~~ closer than ten (10) feet ~~of~~ to that portion of a building wall containing windows of habitable or occupiable rooms at basement or first story. However, on grade open parking spaces serving one, two, or three family dwellings may be located ~~within~~ closer than ten (10) feet, but in no case closer than five (5) feet, of that portion of such building wall.

6.44.1 (b) Except for dwellings that: (1) contain no more than ~~one, two, or~~ three ~~family~~ dwellings units, (2) were in existingence at the time of the effective date of this Ordinance or any amendment thereto, and (3) are not located in any Residence A-1 or A-2 Residence District, no on grade open parking space or driveway shall be located ~~within~~ closer than five (5) feet ~~of~~ to any side or

rear property line.

C. Alteration in the language defining the basement and cellar areas that are excluded from the Floor Area Ratio restrictions of the Zoning Ordinance

<u>Explanation</u> Basements and attics have routinely been exempt from Gross Floor Area (GFA) calculations when their dimensions are such that they are not easily useable for occupancy and/or where the volume of the excluded portions was modest and did not contribute to a significant increase in the perceived bulk of the building from the pubic street or from abutting lots. However, the current language has made it possible to circumvent the intent of these provisions and construct perfectly useable, habitable (as defined by the Building Code) living space in excess of the limits the FAR standard in each zoning district is intended to impose.

For instance, in both basements and attics, easily removable "finished ceilings" can be installed to meet the dimensional standards for exemption; removal of those ceilings creates habitable space that otherwise would be required to be counted as GFA. Basements (defined as a floor, any portion of which is below grade) have been routinely constructed where only inches of the space have been below finished grade; the result has been "basement space" essentially fully out of the ground and contributing considerably to the perceived bulk of new construction and containing space, like recreation rooms, that the Building Code allows to be occupied. Townhouse developments in particular have employed these devices to create additional and quite useable living space, and additional bulk.

This amendment is meant to restore the original intent of these provisions by doing the following:

> ** Taking the relevant ceiling height measurement from a permanent element of the building's structure, i.e. roof rafters or floor joists.*
>
> ** In the case of basements and cellars, reducing the measured ceiling height from less than 7'3" to less than 7', and further requiring that no more than four feet of that height be above the finished mean grade.*

<u>The Amendment</u>

Amend, in Article 2.000, the definition of "Gross Floor Area shall include" and "Gross Floor Area shall not include", paragraphs (d), (7) and (8) by deleting the existing paragrpahs and substituting therefor the following:

Gross Floor Area shall include:

(d) Attic space, whether finished or unfinished, within the area of a horizontal plane that is five (5) feet above the attic floor and which touches the side walls and/or the underside of the roof rafters and which is not excluded in (5) below.

Gross Floor Area shall not include:

(7) attic space not otherwise included in (d) above.

(8) Basement and cellar spaces with less than seven feet of ceiling height measured from the floor to the line of the bottom of the floor joists, or to any subfloor or finished surface above any floor joists that are spaced not less than (4) feet on center, and further provided that the height between mean grade and the line of the bottom of the floor joists does not exceed four (4) feet.

Amendment Text with the Additions to and ~~Deletions~~ from the Existing Text Noted

(d) Attic space, whether finished or unfinished, within the area of a horizontal plane that is five (5) feet above the attic floor and which touches the side walls and/or the underside of the roof rafters and which is not excluded in (5) ~~or (7)~~ below.

(7) attic space ~~within the area of the plane that is less than five (5) feet above the attic floor and which touches side walls or a finished ceiling or if an unfinished ceiling, touches the underside of roof rafters~~ not otherwise included in (d) above.

(8) Basement and cellar spaces with less than seven feet~~, three inches (7'3")~~ of ceiling height measured from the floor to the ~~finished ceiling or if an unfinished ceiling to the~~ line of the bottom of the floor joists, or to any subfloor or finished surface above any floor joists that are spaced not less than (4) feet on center, and further provided that the height between mean grade and the line of the bottom of the floor joists does not exceed four (4) feet.

D. Clarification of the process by which townhouses are altered after they are first occupied and subdivided.

Explanation The existing 11.15, which sets out the dimensional requirements applicable to

townhouse developments, is unclear as to how changes to townhouses should be regulated after construction and after the development has been subdivided into lots, and after many owners have acquired interest in the property. The lack of clarity has complicated interpretation of the regulations when the allocation of residual Gross Floor Area among multiple lot owners is necessary; the construction of decks, additions, bay windows is proposed; or the loss of open space as a result of such changes arises. Further the policy question is raised as to what the appropriate role of owners of lots in the townhouse development should be when fellow owners propose changes in often tight physical circumstances.

This amendment defines how dimensional requirements are to be applied to subdivided lots (to the new subdivided lot lines) and how changes to townhouses are to be reviewed (through a special permit review by the Planning Board or the Board of Zoning Appeal when the dimensional standards cannot be met). Certain limited alterations, like bay windows, are allowed to proceed without a special permit.

The Amendment

Amend the text of the Zoning Ordinance of the City of Cambridge by deleting the existing Section 11.15 and substituting therefor the following.

11.15 Dimensional Standards for Townhouse Development

The following development controls apply to the parcel of land upon which a townhouse development is constructed and are not applicable to the initial subdivision of the townhouse parcel into individual lots. The townhouse development parcel as a whole must conform to these controls. But once satisfied for the total parcel, the controls are waived for the subsequent subdivision into individual lots. The required minimum lot size for a townhouse development shall conform to the existing regulations for the district in which the townhouse development is constructed.

However, modifications to the townhouse development after a subdivision plan has been recorded in the Registry of Deeds shall be subject to the dimensional standards as set forth in this Section 11.15 applied to the individual lot lines of the subdivided lots; modifications that do not so conform may be permitted as set forth below:

a. For any townhouse development, after issuance of a building permit, projecting eaves, chimneys, bay windows, and balconies that do not project more than three and one half (3 1/2) feet.

b. For any townhouse development for which a special permit has been

granted by the Planning Board, modifications specifically enumerated in the special permit. For those modifications not so enumerated, or where the special permit fails to specifically enumerate allowed modifications, after issuance of a new special permit (a Major Amendment to the original special permit) by the Planning Board to allow the proposed modification(s).

c. For any townhouse development originally constructed as of right, after issuance of a special permit by the Board of Zoning Appeal.

Where a special permit is required in paragraphs b. and c. above, all owners of lots that together constitute the original townhouse development parcel shall receive notice of the special permit public hearing, in the manner provided for in Chapter 40A for parties in interest; such owners shall be considered parties in interest, however, only as they are so defined in Section 11, Chapter 40A.

Amendment Text with the Additions to and ~~Deletions~~ from the Existing Text Noted

11.15 *Dimensional Standards for Townhouse Development*

The following development controls apply to the parcel of land upon which a townhouse development is constructed and are not applicable to **the initial** subdivi~~ded~~**sion of the townhouse parcel into individual** lots. The townhouse development parcel as a whole must conform to these controls. But once satisfied for the total parcel, the controls are waived for ~~any~~ **the** subsequent subdivision ~~of~~ **into individual** lots. The required minimum lot size for a townhouse development shall conform to the existing regulations for the district in which the townhouse development is constructed.

However, modifications to the townhouse development after a subdivision plan has been recorded in the Registry of Deeds shall be subject to the dimensional standards as set forth in this Section 11.15 applied to the individual lot lines of the subdivided lots; modifications that do not so conform may be permitted as set forth below:

a. For any townhouse development, after issuance of a building permit, projecting eaves, chimneys, bay windows, and balconies that do not project more than three and one half (3 1/2) feet.

b. For any townhouse development for which a special permit has been granted by the Planning Board, modifications specifically enumerated in the special permit. For those modifications not so enumerated, or where the special permit fails to specifically enumerate allowed modifications,

after issuance of a new special permit (a Major Amendment to the original special permit) by the Planning Board to allow the proposed modification(s).

c. For any townhouse development originally constructed as of right, after issuance of a special permit by the Board of Zoning Appeal.

Where a special permit is required in paragraphs b. and c. above, all owners of lots that together constitute the original townhouse development parcel shall receive notice of the special permit public hearing, in the manner provided for in Chapter 40A for parties in interest; such owners shall be considered parties in interest, however, only as they are so defined in Section 11, Chapter 40A.

E. Limitation on the scope of the special permit setback exception in the Residence C-2B District

Explanation When the Residence C-2B District was created in 1986, it retained most of the use and dimensional characteristics of the Residence C-2 district, except that the height was reduced from 85 feet to 45 feet. Because the volume of permitted building (Floor Area Ratio) was not altered, it was deemed desirable to grant some flexibility in the front and side setbacks required so that shorter buildings might be more appropriately sited on some lots. That flexibility is provided through a special permit from the Planning Board, to reduce the front yard to no less than ten feet and the side yards to no less than 20 feet. When the Residence C-2B District was applied to the Youville Hospital site, there was concern expressed that this potential to reduce the required setbacks might allow hospital buildings to be placed too close to homes on Leonard Avenue. To eliminate that possibility the amendment would not permit the application of the special permit reduction of front and side yards to any structure on a lot that is not exclusively used for residential purposes.

The Amendment

Amend the text of the Zoning Ordinance Article 5.000, by deleting Section 5.31, Subsection 3, paragraph d in its entirety and substituting therefor the following:

3. Setback exceptions

(d) In a Residence C-2B district the required front yard may be reduced to a minimum of ten (10) feet and the required side yard may be reduced to a minimum of twenty (20) feet, after the issuance of a special permit from the

Planning Board, for any structure on a lot containing exclusively the following residential uses: Townhouse development, Section 4.31 d; Elderly oriented congregate housing, Section 4.31 e; Multifamily dwelling, Section 4.31 g.

Amendment Text with the Additions to and ~~Deletions~~ from the Existing Text Noted

3. Setback exceptions

(d) In a Residence C-2B district the required front yard may be reduced to a minimum of ten (10) feet~~;~~ and the required side yard may be reduced to a minimum of twenty (20) feet, after the issuance of a special permit from the Planning Board, for any structure on a lot containing exclusively the following residential uses: Townhouse development, Section 4.31 d, Elderly oriented congregate housing, Section 4.31 e, Multifamily dwelling, Section 4.31 g.

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CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

February 12, 1996

To The Honorable, The City Council:

I am hereby transmitting for your consideration a recommendation from the Planning Board concerning amendments to the text of the Zoning Ordinance.

This report also answers Awaiting Report Item No. 44.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachment

Cal. 1

Consent Agenda #4

Relative to a recommendation from the Planning Board concerning amendments to the text of the Zoning Ordinance.

O-1

In City Council February 12, 1996

Charter right exercised by Councillor Sullivan.

2/26/96

Placed on file under Rule 19 of City Council Rules.