

Somerville Zoning Overhaul Proposed by the Curtatone Administration: Initial Questions and Concerns

Mark Niedergang, Ward 5 Alderman, mniedergang@somervillema.gov, (617) 629-8033

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Introduction

This proposed new zoning code would be a tremendous change from the current zoning. I have received many thoughtful communications from residents, and I am still learning about the impact that it would have if adopted. There are many layers of the onion to peel back to understand this new zoning system.

There is much that I like about it. It would solve a number of serious problems that exist in the current zoning code. You can read about its strong points on the City website at www.somervillema.gov/zoning. There is a good summary and a letter from the Mayor that outlines the Administration's rationale.

However, I have read many objections to some of the new provisions that seem valid. A number of these are major problems. And this is before the Board of Aldermen (BOA) has begun to discuss it.

The first three meetings of the BOA to discuss the zoning proposal are scheduled for March 30th, April 7th, and April 15th, all at 6 PM in City Hall, and are open to the public. The Planning Director has said the Administration's proposal will be revised based on public comment received as of March 27th in time for the April 15th BOA meeting. I look forward to seeing the Administration's responses to the many concerns and objections that have been raised.

The current zoning code has major problems, too. If the BOA does not support the dramatic change that the proposed form-based new zoning entails, than I will push to correct and eliminate the problems in the current zoning and to introduce positive changes incrementally.

In terms of the BOA's action on the proposal, there is a limit of 90 days from March 27. The BOA is likely to hold another Public Hearing during that period. The BOA can either take no action, in which case the proposal will expire (but the Administration could re-introduce it), or vote it up (with amendments if we desire), or vote it down. Any change to the current zoning ordinance, large or small, requires a two-thirds vote of the Board of Aldermen, i.e. eight votes.

Below are some of my concerns and questions at this time. I have included everything I think is significant, even if I am unsure about whether it is correct. It is better to raise too many questions than not enough! Most of these have been communicated to me by others, and I am grateful for their analyses. I particularly want to thank the zoning team at Union Square Neighbors, Tom Bok, William Valletta, Nancy Iappini, Alison Hammer, and Denise Provost for their contributions.

I am sure this list of concerns and questions will change as other members of the BOA share their concerns and as the Planning Department responds. New concerns and questions will arise and some of the concerns here may get dropped if there are satisfactory responses by the Administration. I remain

interested in hearing from anyone who has additional questions or concerns, please do not hesitate to contact me.

Initial questions and concerns about the new proposed zoning

- Should the Board of Aldermen commission/hire an independent zoning consultant to provide a third-party professional review of the proposed new zoning code, “a thorough analysis of the implications of the changes, and the impact of the changes on the property rights of homeowners and the quality of life of residents?” I will be discussing this question with my colleagues. We do have the expertise of the City’s Planning Staff; however, as the authors of the new ordinance, they may not be in the best position to provide independent, objective analysis. Under Somerville’s strong mayor form of government, the Mayor would need to propose funds to pay for an independent consultant, subject to approval by the BOA.
- The Site Development Plan (SDP) process, which would replace the Special Permit process for all projects of significant scale as well as some smaller projects, provides for less discretion by the Planning Board and Zoning Board of Appeals. The SDP process also gives neighbors and the community less influence and standing to negotiate with developers for improvements than does the current Special Permit process. The intent of the Site Development Plan process is to increase the predictability of outcomes. There is a balance between predictability and public influence, however. A process like the SDP in which developers can do projects by right, without any room for neighbors or community members to force adjustments, would disenfranchise the community and give too much power to developers. In a small, crowded City, we need a fair balance between predictability of development and community influence.
- Not enough emphasis on and incentive for commercial office, R&D and lab development; too much allowance for and incentive for residential development. For example, mixed-use buildings of between three and 10 stories are only allowed to have commercial space on the first floor with only residential above. Office and other commercial uses should be allowed, and perhaps in some areas even required, above the first floor in mixed-use buildings.
- Affordable housing: The entire leadership of our City now agrees: we are in an affordable housing crisis. The proposed new inclusionary zoning numbers are not high enough to address this crisis and are also unnecessarily complicated. Unless someone presents data that prove developers won’t do it, I favor a flat 20% inclusionary affordable rate everywhere in Somerville for new construction of more than three units. There has been 20% inclusionary zoning in other places in Massachusetts (under the 40B program, the state provides funding for dense, transit-oriented residential development and 20% inclusionary is required) as well as elsewhere in the U.S.
- Form-based zoning inherent problems -- Many urban planners, architects and designers in Somerville have said that form-based zoning, such as in this code, is too prescriptive and inflexible, and restricts design options. As such, it does not allow for creativity and the funkiness and quirkiness that is a hallmark of Somerville’s built environment. As one architect with a strong knowledge of zoning put it, “My main concerns ultimately are about over-regulation leading to

poor design and development outcomes...It is taking every single decision out of the hands of the owner and will create some poor outcomes, or necessitate excessive variances.”

- Open space -- The new zoning code does not require enough open space to get to the 20-year Somervision goal of 125 new acres of open space. Union Square Neighbors calculated that the maximum amount of open space likely to be created under the new zoning code is only 45 acres. In addition, open space is too broadly defined in the new code. It includes wider sidewalks and other concrete and small areas.
- Green space -- There are not adequate requirements for green space. Even if the open space requirements were adequate, there is insufficient green space required. We need more parks and playing fields. Also, the City should establish a Green Space mitigation fund to which developers could contribute funds instead of putting a tiny plot of grass or shrubbery on a site. Also, possibly a linkage fee with a required contribution by developers. While this could not be required by law without passing a home-rule petition, it could be a voluntary option. One large publicly-accessible green space is better than a dozen tiny little plots that may not even be accessible for public use.
- Permeable surfaces – All driveways and parking should be required to be a permeable surface. The new ordinance should strengthen the existing permeable surface requirements to reduce flooding. If paved surfaces count towards open space, they should be permeable.
- Tree protection – Under the current and new proposed zoning, it is too easy for a property owner to cut down trees on their property if they want to expand a building or build a new structure. If someone seeks a building permit, the government and the community has an interest in regulating whether a property owner can cut down a tree on their land. We have too little green space and too few trees in Somerville, so there is a public interest in preserving the trees we have, on public and private property. I will be filing a zoning amendment change request to “Article 6: Development Standards, Section 5, Tree Preservation” that would strengthen the already-improved language there to require that a property owner replace any trees four inches or larger that were cut down to expand or construct a new building and require that the City’s Tree Warden, rather than a building inspector, to make determinations about the health of trees.
- Green and solar roofs – There should be requirements on at least commercial buildings for green roofs and/or solar installations, not just incentives. There should be incentives for commercial developers of properties with large roofs to consider building playing fields on top of them.
- Upzoning of current RA districts to make them denser – In residential districts that include about half the single and two-family houses in the City, developers would be allowed to convert them into three families with greater height and area if the Zoning Board granted a special permit. Since in recent years both the Zoning Board of Appeals and the Planning Board have tended to grant a high percentage of special permit applications, this is concerning. This could potentially make many of our residential neighborhoods more crowded.
- Smaller side setbacks in the NR new zone than in current RA and RB districts – Most of the single, two and 3-family houses are currently in these two zoning districts. These would become NR

(Neighborhood Residential). The new zoning in NR would allow narrower side setbacks (i.e., the width of area between houses) of as little of five feet, and allow fire escapes and overhangs within two feet of the neighboring lots. Our neighborhoods are already pretty crowded and tight, I am not sure why we would want houses to be even closer together than currently.

- Borders between residential neighborhoods and business districts (transitional areas) – A number of people have expressed concern about the abrupt increase in height from neighborhoods with two- and three-family homes to larger buildings in business districts in the new code. They are concerned that the transition between residential and business districts will be too sharp with the heights allowed in the new zoning.
- Union Square – This is a huge topic in-and-of itself. The Union Square Neighbors zoning team has identified many concerns, including the allowed density of residential housing if the new form-based code were applied in Union Square. The proposed new zoning does not yet revise the zoning adopted for Union Square in 2009. That zoning needs changes given the redevelopment of much of Union Square and is supposed to be considered as part of the ongoing Somerville by Design planning process that is to be completed later this spring.
- Highland Avenue in Ward 3 – While most of Highland Avenue in Ward 5 is zoned Neighborhood Residential, most of it in Ward 3 is zoned Urban Residential. It seems like the Ward 3 part should be done in a more fine-tooth fashion. Some parts of Highland Avenue already have apartment buildings, and those areas would be appropriate for UR. Others are comprised primarily of large old homes, many of which have been turned into multi-unit apartments; if they were made UR, there is a possibility those homes would be demolished and new apartment buildings built. I do not think additional density in some parts of Highland Avenue is a problem, but we do not want to lose architectural gems for just a few more units of housing.
- Private clubs with alcohol in residential neighborhoods -- There seems to be the option in the new zoning, by right, for private clubs to operate function halls with alcohol in residential neighborhoods, with events up to 80 nights a year and lasting until 1 AM on weekdays and midnight on weeknights. This seems unwise and not good for the neighbors.
- Tiny homes, small units and accessory dwellings – One way to provide affordable housing is to build houses and apartments that are small and therefore less expensive. There is a movement in the U.S. to build tiny houses and micro apartments. Many cities use accessory buildings such as garages, barns, etc. for housing; but the current and new zoning code in Somerville both prohibit it. Why shouldn't a parent, parent-in-law, son, daughter or other person be able to live in a garage that is currently used just for storage? There are some legitimate safety concerns to address, and we should go down this path slowly and thoughtfully. But each of these three ideas could have significant benefits. Small houses in a small city – it makes sense. All three of these are being done successfully in other U.S. cities.
- More three-bedroom units – There need to be stronger incentives in the zoning code for developers to build apartments that are big enough for families. Currently, most residential construction in Somerville is studios, 1 BR, and 2 BR apartments.

- Parking -- The new zoning would significantly reduce parking requirements. This makes sense for perhaps 10 years from now, but I am concerned about the immediate effect of reducing parking requirements so much. We need an interim, transitional period to get to a radical new parking regime. After all, three of the five new Green Line stations will not be completed until 2020 at the earliest. We are going through a change in our reliance upon cars, but it is a gradual transition. Building a lot of new housing without parking, and allowing new residents to get parking stickers and park on our already-crowded streets, will make life more difficult for current residents who park on the street. If the proposed parking reductions became law, there should be a change in parking policies. Perhaps residents of new housing units should not be allowed to get parking stickers & guest permits, perhaps they should pay more for them. It is time for the City to figure out a way to ration parking more efficiently and fairly. I do not know the solution although I have heard promising ideas and I know that other cities deal with parking more effectively.
- Notification of abutters – Notifications should be in several languages and notices should go out to occupants (renters), not just owners, since many owners are absentee landlords while many tenants have been living in a neighborhood for many years. Some have said that the 300 feet limit for notification is too narrow a range in a City as dense as Somerville, this should be looked at.

Ward 5 issues

- 290 Highland Ave/Quik Mart redevelopment at the corner of Cedar Street and Highland Avenue – A developer has a proposed design that is four stories. Two community meetings have been held and most neighbors are not opposed to the project. The question is: Three stories with small units, small commercial space and without an affordable unit or four stories with a range of sizes, larger commercial space and an affordable unit? I lean towards making this corner a 4-story mixed-use zone instead of the 3-story mixed-use (current and proposed), but I would like to hear from more residents about it.
- Upzone White Street to 4MU -- All of the property owners on this street, beside the huge Porter Square shopping center parking lot, want the zoning to be 4-story mixed-use instead of 3-story mixed use. I agree with them. This is a prime location for business development.
- All properties on the south side of Vernon Street, which abuts the railroad tracks, have been upzoned to Urban Residential, while all the other houses in that area are Neighborhood Residential. Given the narrowness of Vernon Street, which makes it difficult for two cars to pass each other even without snow, and the fairly small houses there, I do not understand why significantly higher density on Vernon Street is desirable.
- The Murdock/Cedar St area -- There are a number of small businesses and warehouses in the Murdock Street hook, between Cedar and Murdock Streets. This area is zoned NR in the proposed new zoning. A question has been raised with me by one of the business operators there if it should be upzoned to Urban Residential to allow more business development there.
- A number of property owners have approached me with questions about specific properties around Ward 5. These need to be examined individually to ensure that the new zoning does not harm individual property owners in unfair ways.

