



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

November 21, 2019
REPORT OF THE LAND USE COMMITTEE
MEETING AS A COMMITTEE OF THE WHOLE

Attendee Name	Title	Status	Arrived
Lance L. Davis	Chair	Present	
William A. White Jr.	Vice Chair	Present	
Katjana Ballantyne	Ward Seven City Councilor	Present	
Stephanie Hirsch	City Councilor At Large	Present	
Mary Jo Rossetti	City Councilor at Large	Present	
Jesse Clingan	Ward Four City Councilor	Present	
Ben Ewen-Campen	Ward Three City Councilor	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two City Councilor	Present	
Mark Niedergang	Ward Five City Councilor	Present	
Wilfred N. Mbah	City Councilor at Large	Present	
Matthew McLaughlin	Ward One City Councilor	Present	

The meeting was held in the Council Chamber and was called to order by Chair Davis at 6:09pm and adjourned at 11:49pm.

Others present: Dan Bartman - OSPCD; Sarah Lewis - OSPCD; Kimberly Wells - Assistant Clerk of Committees

208702: Requesting the adoption of a New Zoning Ordinance (v4.0 update) to supersede the current Zoning Ordinance as originally adopted on March 23, 1990.

The information and documents related to the zoning overhaul can be found online at www.somervillezoning.com. The calendar of meetings related to this topic includes a Public Hearing on December 10th at a joint meeting with the Planning Board.

The proposed amendments to the proposed zoning overhaul for discussion in this meeting can be accessed at <http://www.somervillezoning.com/wp-content/uploads/sites/2/2019/11/20191021-Thursday-v4-Amendments.pdf> and the proposed amendment numbers on that document coincide with the numbers set forth below.

The errata and corrections at <http://www.somervillezoning.com/wp-content/uploads/sites/2/2019/11/20191021-v4-Errata.pdf>. The section related to Development Benefits can be found here: <http://www.somervillezoning.com/wp-content/uploads/sites/2/2019/11/Buyouts-Payments.pdf> and the Zoning Atlas here:

<http://www.somervillezoning.com/wp-content/uploads/sites/2/2019/08/20190821-Proposed-Zoning-Atlas-of-the-City-of-Somerville.pdf>.

Within the amendments, text to be removed is ~~crossed-out~~ and new text is underlined.

Mr. Bartman began with the list of amendments, the first of which is a change that came from SomerVision to de-emphasize infill construction. Councilor Ballantyne wants to further refine this, and will work on an additional amendment.

Amendment #1 The Chair moved to amend §1.1.4.i. to ii. To ~~promote the adaptation of existing buildings and permit redevelopment and infill construction~~ encourage an architectural design for new construction that contributes to Somerville's ~~architectural~~ built legacy, while respecting ~~neighborhood~~ established character of existing buildings.

The motion was approved.

Amendment #2 The Chair moved to amend Article 2: Glossary to define **Open Space** as A ground level or upper story outdoor landscaped area including, but not limited to, natural woodlands, yards, forecourts, courtyards, green roofs and civic spaces.

The motion was approved.

Amendment #3 Councilor Hirsch moved to amend Article 3: Residential Districts, Article 4: Mid-Rise Districts, Article 5: High Rise Districts, Article 7: Special Districts, and Article 8: Overlay Districts to change the Required ADU's for 0 to 1 units to None and 2 or more units to 20% of units,

This change applies to all building types permitted to have 2 or more units on the lot or within the principal building in all zoning districts. The Chair expressed that he is not inclined to override the third unit requirements that have already been discussed, which it seems this proposal would do. Councilor Ewen-Campen detailed the buyout costs, and thinks the costs could be excessive for homeowners wishing to add a unit for a family member, for example, and more data and refinement of the concept is needed. Councilor Niedergang also added that this raises complicated questions and more work is needed. Councilor Hirsch reiterated that affordable housing is a critical need and this is a deal-breaker. The most ambitious version of the ordinance should be implemented at the start. Councilor McLaughlin shared support for the concept but is not confident that this proposal is ready. He emphasized that significant changes have been made to increase the production of affordable housing, including, most significantly, the change to 20% inclusionary in 2016, which the then Board of Aldermen took up first, despite both the Administration and Planning Board recommending that it wait to be included in the overhaul instead. Councilor Scott echoed that more information about the calculations and the impact on the Affordable Housing Trust Fund are needed. Councilor White expressed that an owner-occupant exemption should be included.

The motion was tabled while additional research is done.

Amendments #4 and 5 The Chair moved to amend §3.1.13.h Projecting Porch to change A Width (min) to 12ft. and to amend §3.1.13.h Engaged Porch to change A Width (min) to 12ft and add Mud Room/Foyer Width (max) 40% of main body width.

Mr. Bartman is adding to the definition of porch to address the potential second-story or multi-floored feature. Councilor Scott noted that the objective is to ensure that the setbacks are respected. There is no setback exception for porches in the back of a house.

The motion was approved.

Amendment # 6 Councilor Niedergang moved to amend §3.1.16.b Use Limitations from ~~i- Occupancy of a Backyard Cottage accessory building type that is nonconforming to the required~~

~~minimum side or rear setbacks by any permitted Residential principal use is prohibited. to i.~~
Modification of any existing principal building to add a third (3rd) dwelling unit that would result in a decrease in the number of bedrooms of any existing dwelling unit is prohibited.

Councilor Niedergang noted that this would apply to the NR District and the intention is to prohibit cannibalization, or cutting up three and four bedroom units to create smaller additional units, to maintain family-oriented housing. Councilor Scott added that there are worse impacts from taking common space to create additional bedrooms; he does not support an additional threshold to creating additional housing. Councilor White wondered whether the newly created unit has to be the one that is affordable. Councilors Ewen-Campen and McLaughlin shared reservations about adding any barriers to creating more affordable units.

The amendment was withdrawn.

Councilor Scott moved that the City Solicitor advise on whether this regulation of bedrooms through the zoning ordinance would be allowable by law.

The motion was approved.

Amendment #7 The Chair moved to amend §3.1.18.c to i. Driveways may be ~~no wider than~~ up to twelve (12) feet in width in the frontage area of a lot. See Figure 3.1.18. ii. Ribbon driveways must have paved tracks that are at least two (2) feet in width and five (5) feet on center with an unpaved area that is at least three (3) feet in width. Figure 3.1.18.

The motion was approved.

The Chair moved to amend §11.1.1.e.i to b). Provide support to the bicycle frame, allowing for both wheels to rest upon a stable surface and for the bicycle to stand upright and not fall over without the use of a kick-stand; and prevent the bicycle from falling over; c). Be configured not to block handlebars and baskets and to provide two points of contact ~~to allow for~~ locking of the frame and at least one wheel with a user-provided locking device; d). Be constructed of materials that resist cutting, rusting, bending, or deformation; and e). Be arranged in rows (with bicycles parked side-by-side) or in alignment (with bicycles parked end-to-end).

The motion was approved.

Amendment 16 (this item was originally included in the table of proposed amendments submitted at the December 19, 2019 meeting of this committee as Amendment 53). A proposal by Councilor Hirsch to amend Article 3: Residential Districts, Article 4: Mid-Rise Districts, Article 5: High-Rise Districts, and Article 6: Commercial Districts to Delete column five (minimum parking requirements outside of a transit area) from Table 3.1.18 Vehicular Parking (NR District); Delete column five (minimum parking requirements outside of a transit area) from Table 3.2.17 Vehicular Parking (UR District); Delete column five (minimum parking requirements outside of a transit area) from Table 4.1.15 Vehicular Parking (MR3 District); Delete column five (minimum parking requirements outside of a transit area) from Table 4.2.15 Vehicular Parking (MR4 District); Delete column five (minimum parking requirements outside of a transit area) from Table 4.3.15 Vehicular Parking (MR5 District); Delete column five (minimum parking requirements outside of a transit area) from Table 4.4.15 Vehicular Parking (MR6 District); Delete column five (minimum parking requirements outside of a transit area) from Table 5.1.17 Vehicular Parking (HR District); Delete column five (minimum parking requirements outside of a transit area) from Table 6.1.13 Vehicular Parking (FAB District); Delete column five (minimum parking requirements outside of a transit area) from Table 6.3.12 Vehicular Parking (CC District); Delete column five (minimum parking requirements outside of a transit area) from Table 6.3.13 Vehicular Parking (CI District); Delete column five (minimum

parking requirements outside of a transit area) from Table 6.4.14 Vehicular Parking (CB District) was then discussed.

This would remove parking minimums in all Districts. Councilor Rossetti clarified that this could be effective as of the date adopted and the Chair added that the Parking Department confirmed that it is logistically possible. Currently, the parking minimums seem greater than is realistic, but there is a community process to determine what is needed. This would remove the community process, as there would be no minimums by-right. Councilor Rossetti and Councilor Mbah are comfortable with this in transit-oriented districts, but not citywide. Councilor Niedergang added that having to put parking in a development distorts what that development becomes, often leading to fewer and more expensive units. Councilors Scott, White, Ballantyne and Ewen-Campen shared a preference for leaving the decision to a community process by requiring a variance, rather than letting the market determine the parking needs.

This item was tabled.

Proposed map amendments were discussed next, with various changes based on feedback from residents, Councilors, and business owners in various wards.

Councilor Scott moved to amend the Zoning Atlas to Change the zoning map designation for MBL 113-A-4 and MBL 113-A-5 on McGrath Hwy from HR to CI.

The motion was approved.

Amendment #52 Councilor Scott moved to remove the amendment to the Zoning Atlas that states Change the zoning map designation for MBL 96-A-6 561 Windsor Street to add the Small Business overlay district.

This item was withdrawn

This will be addressed by a text amendment to change it to the FAB District, which was expressed in Amendment #58 table of proposed amendments submitted at the December 19, 2019 meeting of this committee.

The Chair moved to amend Overlay Districts, Master Planned Development §8.3.11 to Change the designation for MBL 96-A-6 561 Windsor Place on MAP 8.3.11 (a) to Fabrication.

The motion was approved.

Amendments #52 to 59 Councilor Scott moved to amend the changes to the Zoning Atlas for parcels on Washington Street in -NR and UR also be added to the Small Business Overlay District.

The motion was approved.

The Chair moved to accept all remaining proposed amendments to the Zoning Atlas, with the referenced changes.

The motion was approved.

Mr. Bartman introduced the proposed reconfigured Section 12. Development Benefits, specifically Section 12.3 Buyouts & Payments.

Councilor Scott moved to amend §12.3.2(a)(i) to revise the calculation from (A*B) to 5*(A*B).

The motion was approved.

Councilor Scott moved to amend §12.3.2.(a)(i)(ii) to change ~~B is fifteen dollars (\$15) per square foot~~ to B the average cost to acquire, design, and develop land as a civic space.

This would ensure that there are enough resources to provide a replacement from in in-lieu payment. Councilor Scott clarified that the five times multiplier was chosen such that it would support the actual costs needed without effectively eliminating in-lieu payments.

The motion was approved.

Mr. Bartman introduced the concepts behind the Master Planned Development Overlay District. There remains underlying base zoning on the map, but the functionality is to encourage large-scale transformational development through use of the Overlay District. The intent is for this overlay to grow over time through map change amendments. There are sub-areas for specific types of places throughout the City. There are two paths to development, both requiring a special permit. One is through Master Planning, which is the intended outcome. The other is through Contributing Lots. All of the requirements are written at the building-level; every lot must provide commercial space, affordable housing, open space, civic space. The Master Planning path affords the ability to divide up all of the building-level requirements across the entire planned development. Creating new streets also requires the Master Plan process. It is recognized that not all land owners will have enough land or be able to aggregate their land in partnership. It is also valuable to have some means for developing a residential building to avoid having a 100% commercial district that is empty outside of business hours. Because of this, the Contributing Lot path to development was created. The Planning Board must also adopt an urban design framework for each of these areas to determine where streets and types of buildings should be located.

Councilor Ewen-Campen clarified that property owners could join together and be co-applicants on a Master Plan. The maximums for things like parking and commercial space in a district will be applied collectively to all property in that district. Development is easier in aggregate than for individual parcels, so there may be a decrease in the number of property owners in areas being developed. Councilor Hirsch asked how this could apply to a more linear area like Broadway, and specific criteria can be written for any sub-area, so this might include moving from 1-2 story buildings to 4-5 story buildings.

Section 8.3.1-9 includes standards that would apply to every sub-area that might be created. This outlines the requirements, the process of development review, potential in-lieu payments, and parking among other specifics. Mr. Bartman emphasized that commercial space draws more cars than any other type of development, so there is a special permit process if more parking is needed. Councilor Scott also asked about the mandated Mobility Management Association, and what authority it would have. These associations are not authorized to levy fees, but are valuable for implementation of mobility management programs and services across the district, rather than requiring each individual property owner to do so on their own. There are several already in existence in the region, and can help connect neighborhoods where busses and trains do not. Councilor Niedergang asked about the in-lieu payments, and this has been identified as a high value if this avenue is chosen. He asked further for clarification on the process for determining how the funds could be spent. Chair Davis noted that this should only be granted in areas where the minimum requirements have already been achieved, which is not explicitly specified in the ordinance.

Councilor Scott moved amend the proposed ordinance to strike Section 8.3.6(b)(ii).

The motion was approved.

Mr. Bartman detailed Boynton Yards as an example of a Master Planned Development (MPD) Overlay District sub-area. Section 8.3.11 outlines this. Within the required 20% civic space, a space

of no less than 52,000 square feet must be provided, abutting both West Ward Street and South Street, within the required civic space area indicated on Map 8.3.12 (b) and may be developed as a public common or a public square civic space type. This is a specific response to the neighborhood plan. Councilor Niedergang wondered if the city or the developers would be responsible for the water and sewer infrastructure needs and Ms. Lewis clarified that it is still a work in progress and will likely be split between both, with the percentages yet to be determined. Councilor White requested that this be provided as soon as possible. Every sub-area can be customized to address the needed uses, percentages, parking etc.

Amendment #8 Councilor Ballantyne moved to amend MPD overlay district §8.3.7 to include 7. Master Plan Standards a. Submitted master plans must include a sustainability component that details the following: i. Identification of all master plan scale efforts to mitigate climate change impacts identified in Somerville's Climate Change Vulnerability Assessment in relation to the design, construction, and occupancy or use of all thoroughfares, civic spaces, and buildings. ii. A carbon neutral pathway assessment and a stormwater management and green infrastructure plan. b. Submitted master plans must include development phasing commitments and proposed contingencies as a basis of a performance bond.

The motion was approved.

Amendment #10 Councilor Scott moved to amend MPD overlay district Boynton Yards sub-area §8.3.11.g to b). At least ~~five~~ ten percent (~~5~~ 10%) of the total commercial floor area required by §8.3.11.f.iii must be dedicated to Arts & Creative Enterprise principal uses.

Councilor Scott explained that this is designed to reflect what already exists and ensure that it isn't replaced.

The motion was approved.

Amendment #9 A proposal by Councilor Ballantyne to amend the proposed MPD overlay district Boynton Yard sub-area §8.3.11.e. (Build Out Standards) to iii. Commercial Floor Area a). At least ~~sixty~~ seventy-five percent (~~60~~ 75%) of the floor space of any building must be dedicated to ~~non-residential uses, excluding Auto Oriented and Industrial~~ the following Principal Uses: i). General Office ii). Research & Development or Laboratory iii). Arts & Creative Enterprise was discussed.

The 75% accounts for the inclusion of the 10% requirement for Arts & Creative Enterprise, calculated from a 68% starting point, which was the Minimum Mixed Use Ratio proposed by the then Board of Aldermen in 2016. Councilor Ballantyne noted that this is a huge opportunity to decrease the residential contribution to the tax base. Chair Davis noted that this would not include Hotel, Food & Beverage, or other commercial uses. Councilor Ballantyne emphasized that the focus should be on jobs that provide living wages. Councilor Niedergang added that there will be retail and other commercial uses close by in Union Square. Councilor White agreed with the concept but expressed concern that this would exclude residential space with a retail ground floor. Mr. Bartman agreed that there is an imbalance between residential and commercial development in the city but shared concern that Commercial Services, Lodging, Food & Beverage and Retail are excluded. Councilors Hirsch, Rossetti, and Niedergang supported this and believe it will bring needed jobs and commercial tax revenue. Councilor Scott noted that there are some very large projects with huge implications that are included in the Boynton Yards sub-area, such as water and sewer infrastructure, an underground tank, street design. Given all of the moving pieces, the collections of land-owners, and the lack of knowledge about the industries of the future, the percentage seems high and the principal uses seem limited and should be expanded to adapt to demand. Councilor Ewen-Campen added that there are consequences to bringing exclusively higher-paying jobs to the city, and it can

have a negative impact on things like housing prices. There should be more consideration given to a mix of jobs, rather than focusing exclusively on the tax base. Chair Davis expressed concern with establishing this preference for certain use types over others.

Councilor Niedergang moved to amend the proposed amendment to the proposed MPD overlay district Boynton Yard sub-area §8.3.11 e. (Build Out Standards) to iii. Commercial Floor Area a). At least sixty-eight percent (68%) of the floor space of any building must be dedicated to non-residential uses, excluding Auto-Oriented.

The motion was approved.

The proposed amendment as amended was then approved.

Councilor Scott moved to amend the use table 9.1.1 under the Industrial category to change the requirement for Dry Cleaning or Laundry Services and Manufacturing in the High Rise District to be permitted with a Special Permit.

Several Councilors noted that this is a lot to consider at the late hour and they would like more time to review the implications. Councilor Scott withdrew the motion and asked Mr. Bartman to draft language regarding special permitting for Boynton Yards specifically.

Amendment #13 Councilor Scott moved to amend §15.2.2 to c. Compliance i. The Review Board ~~may require the posting of a bond or other performance guarantee to ensure compliance with the development review application and conditions, as approved~~ shall require a performance bond for one hundred and twenty five percent (125%) of the estimated construction costs of the full build out to guarantee satisfactory completion of the approved master plan and conditions.

Councilor White noted that a performance bond for construction is generally required at between one and fifteen percent.

The motion was approved.

Amendment #11 A proposal by Councilor Ballantyne to amend the proposed MPD overlay district Union Square sub-area §8.3.17.f (Build Out Standards) to “iii. Commercial Floor Area a). At least ~~sixty~~ seventy-two percent (~~60~~ 72%) of the gross floor area of any building must be dedicated to ~~non-residential uses, excluding Auto Oriented and Industrial~~ the following Principal Uses: i). General Office ii). Research & Development or Laboratory iii). Arts & Creative Enterprise iv). Lodging b). At least forty percent (40%) of the commercial floor area required §8.3.16.f.iii.a) must be dedicated to either Office principal uses or Design Services uses from the Arts & Creative Enterprise use category” was discussed.

Councilor Scott is recused from this discussion.

Councilor Ballantyne expressed that the objective is not to discriminate against any jobs, rather to diversify the types of jobs. Councilor Ewen-Campen wondered how this would impact development underway in Union Square and if it would only apply if US2 amends their Master Plan. This could happen if they wanted to take advantage of a new entitlement. Chair Davis asked the Solicitor’s office advise the committee whether this would trigger a recalculation of the community benefits under the Covenant entered into between the City and US2. Chair Davis shared a lack of comfort with how this would be applied with a major project already underway and wants to better understand the impact on the covenant with US2.

The motion was tabled.

Chair Davis moved that Mr. Bartman make all of the changes set forth in the errata and corrections document.

The motion was approved.

Councilor White moved that the proposed overhaul be amended to reflect all of the changes approved by the committee in a new draft, consistent with the recent discussions and that such new draft be submitted to the City Council for consideration.

The motion was approved.

RESULT:

KEPT IN COMMITTEE

Handouts:

- 20191021-Thursday-v4-Amendments (with 208702)
- 20191021-v4-Errata (with 208702)
- Buyouts-Payments (with 208702)