



## CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

November 19, 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	Absent	
Mark Niedergang	Ward Five City Councilor	Present	
Wilfred N. Mbah	City Councilor at Large	Present	
Matthew McLaughlin	Ward One City Councilor	Present	

### Approval of the October 22, 2019 Minutes

<b>RESULT:</b>	<b>ACCEPTED</b>
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### **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.**

Mr. Bartman's presentation along with the proposed amendments to the proposed zoning overhaul can be found at [somerillezoning.com](http://somerillezoning.com). The proposed amendments can also be accessed directly here: <http://www.somerillezoning.com/wp-content/uploads/sites/2/2019/11/20191019-Tuesday-v4-Amendments.pdf>, and will be referenced by the corresponding number (from the column titled #) throughout the following narrative.

Mr. Bartman shared the schedule of upcoming meetings and the goal of voting on the amendment before the end of the calendar year. He also reviewed the Planning Board's recommendations, which are detailed here: <http://www.somerillezoning.com/wp-content/uploads/sites/2/2019/11/20191114-PB-Recommendation-v4-SZO.pdf>.

Councilor Ballantyne shared that much progress has been made relative to the Green Score, but many advocates have shared additional feedback and identified priorities, including buildings and

stormwater management. Passing the ordinance is a priority and issues can be addressed and the ordinance can be amended in the new year if needed.

The Chair announced that the amendments related to sustainability would be addressed first.  
Amendment #3

Councilor Ewen-Campen moved to approve the amendment, which updates a definition.

The motion was approved.

Amendment #4

Councilor Ballantyne moved to approve the amendment, which updates a definition.

Mr. Sellers-Garcia responded to Councilor Hirsch's question about affordable housing to note that affordable housing is very well suited to this standard. Councilor Ewen-Campen also added that this was included in the Community Benefits Agreement for Union Square.

The motion was approved.

Amendment #6

Councilor Ballantyne moved to approve the amendment, which updates a definition.

The motion was approved.

Amendment #7

Councilor Ballantyne moved to approve the amendment.

The motion was approved.

Amendment #57

This amendment was discussed and there were some questions around the LEED Platinum language. Chair Davis also wondered if there was consideration of including a solar array instead of strictly a green roof, and this had not been part of the conversation. Mr. Sellers-Garcia noted that it would not be prohibited, but Councilors Ewen-Campen and White suggested that specifically including a reference to this would be useful. Chair Davis asked if there was a more encompassing term and Mr. Bartman suggested solar energy collectors. Councilor White also wondered if stick-built construction could support green roofs and Mr. Sellers-Garcia shared that green roofs vary greatly in their design and Ms. Lewis added that the architecture would be considered to determine what could be supported. Mr. Bartman will update this amendment based on the discussion.

Amendment #62

Councilor Ballantyne moved to approve the amendment.

The motion was approved.

Amendment #63

Councilor Ballantyne moved to approve the amendment.

The motion was approved.

Amendment #64

Councilor Rossetti noted that d. would become c.

Councilor Ballantyne moved to approve the amendment with the clerical change

The motion was approved.

Amendment #65

Mr. Bartman shared that engineered soil-based vegetated walls do not hold up well in winter and do not contribute as much to performance, so a decrease to their value in the Green Score is suggested. Councilor Hirsch asked how it would be monitored to ensure that these elements are maintained, and it is not currently done. Technically, there could be a zoning violation, but the City does not currently have the staff to conduct routine checkups for enforcement. There is also no legal jurisdiction for these types of features as there is for types of buildings in the building code.

***Councilor Hirsch moved that the administration advise the Council on what policy would be necessary to enforce the green roof and related requirements in the future.***

Councilor White noted that there is a constitutional requirement for an administrative order before entering a home.

***The motion was approved.***

Councilor Ballantyne moved to approve the amendment.

The motion was approved.

Amendment #66

This is a recommendation from the Planning Board that suggests one step up in the certification requirement.

Councilor Ballantyne moved to approve the amendment.

The motion was approved.

Amendment #20

Councilor White clarified that if an asphalt driveway was ripped up, that would count as a new driveway, but not if overlaid with new asphalt. Councilor Ballantyne wondered whether dimensions should be included for a ribbon driveway and whether it should be clarified what that ribbon driveway is made of.

Chair Davis moved to approve the amendment.

The motion was approved,

The Chair announced that the next group of amendments to be addressed would be those related to parking.

Amendment #5

Councilor Rossetti noted that it should read "used as a garage".

Chair Davis moved to approve the amendment with the clerical change.

The motion was approved.

Amendment #8

It was noted that frontage area refers to the space between a building and the lot line.

Chair Davis moved to approve the amendment.

The motion was approved.

#### Amendment #18

Councilor White clarified that this is limited to residential buildings, and parking garages are addressed separately.

Chair Davis moved to approve the amendment.

The motion was approved.

#### Amendment #53

This would remove minimum parking requirements. It would not prohibit parking, but would allow people to determine the correct amount of parking for themselves. The science used to determine the amount of parking for different uses is not statistically significant and minimum parking is known to increase costs for everyone. A minimum parking requirement is also known to increase traffic congestion. Councilor White expressed concern that this would not work for high density residential neighborhoods and he is not inclined to support this change for NR Districts. Councilor Rossetti also shared concerns that developers won't build parking if it isn't required and this could discourage people from moving here. Mr. Bartman clarified that this will not affect any existing parking, and the goal is to create a suite of policies that will not induce additional traffic in already congested streets. Councilor Rossetti is comfortable with removing the minimum within a half mile of transit stations, but not for the entire city. Councilor Ewen-Campen added that there are already complaints in community meetings about insufficient parking, and this may be too much at the outset. Councilor Hirsch noted that she supports this, and that additional driveways and parking lots make for a less safe city. This is a great direction to encourage people to go without a car, without requiring it. Councilor Ballantyne noted that she was able to commute with a family without a car in the city, and she is inclined to support it as well. Councilor McLaughlin added that many residents are furious about parking already, and developers are going to do what is in their own best interest. Councilor Niedergang suggested that it needs to be determined whether we want people to bring more cars into the city. Minimums will increase traffic and parking problems.

Chair Davis shared that there is a separate conversation about restricting access to street parking stickers for new addresses (new construction) in transit-oriented districts in the future. This discussion is related, as the removal of minimum parking requirements could be applied to buildings in these zones. Councilor Mbah emphasized that this could make individuals who need cars, including seniors and disabled people, feel alienated from moving to Somerville. Councilor White also added that this will not necessarily discourage people with cars from moving here, it will just make street parking even worse. He wondered whether it could be identified which lots in NR Districts have the potential for development. Councilor McLaughlin noted that the message should not be that people with cars are not welcome in the city, but that they should focus on the areas that do have parking. Chair Davis added that the ramifications of getting this wrong are significant, and here does not seem to be significant risk of not making this change.

#### Amendment #9

The proposal is to delete a sentence to allow fire escapes to encroach into setbacks. These could still be granted through a Zoning Board of Appeals variance, but would not be by-right.

Chair Davis moved to approve the amendment.

The motion was approved.

#### Amendment #11

Chair Davis moved to approve the amendment.

The motion was approved.

The Chair announced that the next group of amendments would be those regarding the Building Tables.

Amendments #15 & #16

Councilor Ewen-Campen asked why the width of a mudroom should be limited, and this will ensure that porches cannot be fully enclosed within a front setback, thus adding to interior space. The definition also does not account for height, so will be further refined.

Amendments #23, #24 & #25

The estimates were updated to be based on neighboring communities, and are more realistic. In most cases, the building heights decreased.

Chair Davis moved to approve the amendments to these tables.

The motion was approved.

Amendment #26

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #27

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #28

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #29

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #30

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #31

The setback information was moved into the previous table, and this references the step-backs.

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #32

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #33

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #34

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #35

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #36

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #37

The total height adjustments are not due to additional feet required for the ground floor, rather this is to emphasize all uses on all floors of a mixed-use building. Councilor White clarified that any change of use, or building residential units in MR6 Districts would require special permits.

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #38

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #39

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #40

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #41

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #42

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #43

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #44

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #45

Councilor Niedergang noted that a FAB building should be a maximum of four stories, so the 4th-6th story abutting NR or LHD should be updated.

Chair Davis moved to approve the amendment with the correction.

The motion was approved.

Amendment #46

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #47

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #48

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #49

Mr. Bartman noted that he will update the language referencing the 4<sup>th</sup>-6<sup>th</sup> stories.

Chair Davis moved to approve the amendment with the clerical corrections.

The motion was approved.

Amendment #50

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #1

The purpose statement is updated to emphasize that new buildings should fit in. Councilor Hirsch clarified that there are a number of other goals, this one in particular does not stand alone.

Amendment #2

The concept formerly for formula retail specifically would be applied to all types of businesses.

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #59

This captures the definition of formula businesses more generally. Councilor White clarified that "unless otherwise specified" refers to the Assembly Square District, where these business are allowed by-right.

Chair Davis moved to approve the amendment.

The motion was approved.

Amendments #54, #55 & #56

These amendments move language around and have not substantively changed in content.

Chair Davis moved to approve the amendments.

The motion was approved.

To elaborate on this concept, a review of how the Master Plan Overlay Districts work will be planned for the Thursday, December 21 meeting of this committee.

Amendment #60

This is a recommendation from the Planning Board to include additional criteria for a Special Permit for Cannabis Cultivation. Councilor White clarified that it should read "cannabis cultivation" rather than "cannabis retail sales".

Chair Davis moved to approve the amendment with the correction.

The motion was approved.

Amendment #61

The outbuilding was added into the definitions of accessory structures and the section was adjusted to set a standard maximum height limit. Councilor Ballantyne expressed concern that a trellis could be used to provide green space and a maximum height of eight feet would not be sufficient. Mr. Bartman noted that this would only apply to a free-standing structure and not if attached to the main building. Councilor Davis suggested including this in certain zones.

Councilor Rossetti clarified that a carport and an outbuilding are treated equally vis a vis setbacks, as they both could be used for parking. Chair Davis added that these were designed to follow the building code.

Amendment #67

The Bicycle Committee shared this recommendation. Councilor Ballantyne noted that there are some smart vertical designs that could be utilized, that this seems to prohibit. This does not allow for design to evolve. Councilor Ballantyne will follow up with the Bicycle Committee to clarify what the intended goals are and refine the language.

Amendment #68

The Bicycle Committee also shared this recommendation.

Chair Davis moved to approve the amendment.

The motion was approved.

The Chair announced that the next section of amendments relate to affordable housing.

Amendment #17



Councilor Niedergang clarified that the intent was to focus on the third unit in the NR District. Councilor Ewen-Campen wanted to make buildings in the NR District less attractive to developers as they would not be able to subdivide the buildings into multiple units, and the buildings could remain for families. The impact as proposed would create units out of basement or attic space, or lead to much smaller bedrooms. Chair Davis suggested that this could be allowable if the additional unit was required to be affordable. Councilor Ballantyne expressed that owner-occupied buildings should be exempt, for example if the additional unit created is for a family member. Councilor McLaughlin clarified that the Solicitor's office has noted that these exemptions would not stand up to legal challenges. The reasoning behind this includes that in zoning, there should be consideration of the structure rather than the applicant.

#### Amendment #19

This would create a linkage payment for affordable housing. It is the opinion of the Solicitor's office that this would require a Home Rule Petition (all linkage fees require this). For this reason, the Chair shared the opinion that it should not be considered at this time.

#### Amendment #21

This clarifies that if a third unit is built in a Semi-Detached Triple Decker in an NR or UR District, it must be affordable.

Chair Davis moved to approve the amendment.

The motion was approved.

#### Amendment #22

This establishes the threshold for the Multiplex building type with 4-6 units to require that 20% of all units be affordable. Mr. Bartman added that there are not many sites where a new Multiplex could exist.

Councilor Ewen-Campen moved to approve the amendment.

The motion was approved.

#### Amendment #51

This applies a 20% inclusionary affordable housing requirement to all building types with four or more units for purposes of uniformity. Councilor Ewen-Campen noted that three unit row houses could still be built, and should not be exempt from affordable housing requirements. Mr. Bartman is working on a solution to this concern.

Chair Davis moved to approve the amendment.

The motion was approved.

#### Amendment #52

This would apply everything from Amendment #51 to start at two units rather than at four units. Chair Davis reiterated that this is not statutorily permitted to start at one unit. Councilor Hirsch emphasized that the zoning overhaul should do everything legally in the Council's power to encourage affordable housing. Chair Davis shared concerns about the financial impact, the likelihood of a two-unit building to be owner occupied, the subjectivity and probability that this would be the source of community pushback that could derail the ordinance. Councilor Ewen-Campen requested a specific breakdown of what the costs will be.

Councilor Mbah moved to approve the amendment.

after discussion the proposal was tabled until the Thursday, December 21<sup>st</sup> meeting of this committee.

The Chair announced that the final group of amendments relate to backyard cottages, and Councilor Hirsch recused herself from discussing these matters.

Amendment #10

This discussion to determine a naming convention will be taken up on Thursday.

Amendment #13

Chair Davis moved to approve the amendment.

The motion was approved.

Amendment #14

Chair Davis moved to approve the amendment.

The motion was approved.

1. 20191119-v4-Discussion (with 208702)

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2. 20191019-Tuesday-v4-Amendments (with 208702)

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3. 20191114-PB-Recommendation-v4-SZO (with 208702)

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**RESULT:**

**KEPT IN COMMITTEE**

**Handouts:**

- 20191119-v4-Discussion (with 208702)
- 20191019-Tuesday-v4-Amendments (with 208702)
- 20191114-PB-Recommendation-v4-SZO (with 208702)