



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MICHAEL A. CAPUANO, ESQ.
REBECCA LYN COOPER
GERARD AMARAL, *ALT.*

March 3, 2016

The Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: AN ORDINANCE AMENDING THE SOMERVILLE ZONING ORDINANCE TO
AMEND SECTION 7.15 TITLED MEDICAL MARIJUANA FACILITIES

Dear Honorable Board of Aldermen:

In keeping with its lawful responsibilities, the Planning Board submits to your Honorable Board its recommendation on an ordinance to increase the inclusionary zoning requirements in the City.

On December 9, 2015, at 6:00 p.m. the Planning Board and Land Use Committee of the Board of Aldermen jointly held a duly advertised public hearing in the Aldermanic Chambers in City Hall. The purpose of the hearing was to solicit public comments on the proposed amendments and to evaluate the amendments in the context of testimony received and information provided by the Planning Staff at the hearing.

This report from the Planning Board to the Board of Aldermen will focus on the discussion at the December 9, 2015 hearing and subsequent Planning Board meetings on February 18 and March 3, 2016. The report will also provide the Planning Board's final recommendation.

DISCUSSION DURING HEARING

At the public hearing on December 9, 2015, Mr. Fred Berman spoke on behalf of the 11 registered voters that submitted the zoning amendment. He spoke about the reasoning behind the proposal and the need for diversity and families. He gave reasons why the city should not wait for the zoning overhaul, adding that he does not want developers to try to beat the new law. Alderman White expressed concern about luxury housing and requested an in depth analysis of the turnover in rental units. Alderman Niedergang expressed his support for the proposal.

George Proakis, Director of Planning, provided the Planning Staff's perspective on the application. Mr. Proakis indicated that the staff had no immediate recommendation on the application, as it was completing studies about the housing needs and financial feasibility for affordable housing. Mr. Proakis discussed how the city's success has made it difficult for families and said that the city is committed to the increasing inclusionary housing as much as possible, but that without the studies, we cannot determine if the proposal will create more affordable housing or less affordable housing. Mr. Proakis spoke about ordinances in other parts of the country, particularly those that have set a requirement for 20% inclusionary housing, and how those ordinances are different than the system that Somerville has today.

Several individuals spoke on this item and expressed their thoughts on the following areas:

- The city cannot count on the Green Line Extension
- The proposal would enrich the city
- 50% of kindergarteners leave the city before reaching the eight grade
- Gentrification issues
- Affordability
- Lack of housing
- The amount of development in the city
- Inability to find affordable housing
- Millennials are being priced out of the market
- Development will not suffer
- Fear of being displaced
- The level should be higher than 20%
- The proposal is feeble
- Implement a 1% transfer tax

Mr. Paul Scapicchio stated that increasing the level to 20% will cause developers to charge more, leaving the middle class out. Alderman McLaughlin stated that there have been enough studies and something needs to happen now. He read a statement from Alderman Ballantyne in support of the proposal. Alderman Rossetti indicated support for the proposal. Alderman White stressed that this proposal would not negatively affect the owners of 2 and 3 family houses. It would impact developers and owners of land that is ripe for development.

Planning Board member Michael Capuano expressed his concern over affordability. Planning Board member Joseph Favaloro expressed his frustration over nothing getting accomplished.

The Planning Board left the public hearing open for written comments until February 11, 2016.

DISCUSSION DURING PLANNING BOARD MEETINGS

After the public hearing was closed, the Planning Board held public meetings to discuss the amendment on February 18 and March 3, 2016. Planning Staff submitted a recommendation on the amendment to the Planning Board that is dated February 18, 2016.

At the February 18 meeting Lori Massa, Senior Planner, introduced the staff's recommendation. Ms. Massa presented the current inclusionary housing requirements, the proposal in the zoning overhaul, and the recommendations that are in the staff report. Eric Halvorsen and Kyle Talente from RKG, presented the preliminary results of a model that they are creating for the city. RKG was chosen by Mass Housing Partnership to assist the city with this process.

The preliminary results show that increasing from 12.5 to 20% will impact the feasibility of small projects. The scale of larger projects are more likely to allow costs to be distributed among the market rate units to make the increase more feasible. Parking requirements and other zoning restricts greatly impact the feasibility of the affordable units, which vary greatly by district. Increasing the requirement decreases property values and tax base. Decreased property values can slow development and reduce the amount of market rate and affordable units that are built. There can be offsets for lost revenue such as density bonuses, parking relief, tiered affordability requirements, or other sources of funding or relief.

The Planning Board asked RKG to explain their experience doing similar studies. They help communities to understand the market realities and anticipate how a change will affect the market. Communities take the information and make policies decisions based on the information. RKG is not prescribing the solution.

Michael Capuano suggested that change to the inclusionary requirements should happen with the Zoning Overhaul and not ahead of it. The Board discussed how the discussions that RKG had with banks and developers was designed to gather local data on lending parameters and market conditions and not on how much a profit is desired. Kevin Prior expressed appreciation for the work that RKG and staff were doing to turn the dials on the affordability variable to make projects viable. Joseph Favaloro expressed that the density bonus may need a cap at a certain number of units.

With the number of variations to the model that staff asked RKG to incorporate, the final results were not ready for the following March 3 meeting.

At the March 3 meeting the Board discussed the amendment and staff recommendations again. Rebecca Lynn Cooper made a number of points for the Board to consider. To summarize, Ms. Cooper addressed that affordability does not rest solely on the cost of a unit but also on a range of other factors. All of the factors need to be addressed in tandem with the question of what is the right rate and threshold for various conditions. We do not yet have an answer to these questions. Sometimes what seems like the right thing to do is counterintuitive. Increasing the percentage may seem like the straightforward solution but it may not result in more housing if projects are not be able to meet the thresholds for funding. We need a robust zoning code to be able to respond to current needs and conditions. The percentage at 20% may not work but 18% would and this calibration needs to happen before the ordinance is changed. We should be less concerned with a percentage than with creating as much housing as possible at a wide range of affordability. The zoning overhaul is hard work but worthy of doing and this amendment should wait for the new code.

The remaining members of the Planning Board expressed general support for increasing inclusionary housing and support for the Planning Division’s staff recommendations to adjust the ordinance. Michael Capuano voiced his disappointment that the zoning overhaul did not move forward yet and would like to act to address affordability. He requested that the recommendation include trying to increase the 15% for projects with less than 20 units and setting a cap for the density bonus. He also expressed that he did not support reduction in parking requirements. Joseph Favaloro and Rebecca Lynn Cooper also felt that the bonus proposed by the Planning Staff may need to be capped. Kevin Prior recommended changes to the language on the timing considerations.

PLANNING BOARD RECOMMENDATION

The Planning Board made the following recommends for the Land Use Committee to consider in their deliberations.

1. Address Project Financing

- a. Establish that the 20% requirement apply only to developments with 20 or more residential units by requiring:
 - i. 1-6 units exempt from Inclusionary Zoning Requirement except for 3-6 units in RA/RB which will remain at 12.5%.
 - ii. 7-19 units are required to provide 15% Inclusionary Zoning Requirement
 - iii. 20 units and greater are required to provide 20% Inclusionary Zoning Requirement

Continue to work with the model that RKG created to determine the feasibility of increasing the percentage for 7-19 unit projects.

- b. Permit the number of affordable units in addition to the number of units permitted by the base district with a cap at unit number threshold that makes project financially based on the model.
- c. Re-adjust the percentages as follows:
 - i. Base income tiers on median family income for the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.
 - ii. Establish a third income tier for projects with the 20% affordable requirement. The adjusted income tiers and the breakdown of the affordability of the units according to the following table:

Recommended Inclusionary Requirement	% of dwelling units	For-sale Income Level	Rent Income Level
Tier 1	8%	MFI ≤ 80%	MFI ≤ 50%
Tier 2	8%	MFI ≤ 110%	MFI ≤ 80%
Tier 3	4%	MFI ≤ 140%	MFI ≤ 110%
Total	20%		

- d. Allow for projects with inclusionary units to apply to reduce parking requirements by special permit rather than variance.

2. Timing Considerations for Projects

The ordinance should be amended to provide exceptions for existing projects as follows:

- a. The 20% adjustment shall not apply to any project on land within an area for which a Preliminary Master Plan has already been approved.
- b. The 20% adjustment should not apply to any project that has received approval for a Special Permit before the approval date of the inclusionary zoning amendment.

3. Fix Off-site Incentives:

- a. Increase the formula for payment in lieu of units to match actual cost of developing off-site units.

4. Continue the discussion regarding being less concerned with a percentage than with creating as much housing as possible at a wide range of affordability.

5. Consider waiting to have more data on financial feasibility.

6. Consider waiting for the zoning overhaul to address all of the factors related to affordability comprehensively.

7. Non-zoning proposals

The items enumerated below are outside of the purview of the Somerville Zoning Ordinance. The Planning Board cannot recommend approval of these items as a part of this package, as the provisions of MGL 40A, Section 5, which permit voters to submit zoning amendments, do not permit the submittal of non-zoning municipal ordinance amendments.

- Item 3 - Tenancy Preservation: Leases for the rental units created under the provisions of this Article 13 shall provide that tenants occupying such units shall not be evicted at any time except for good cause based on tenant fault and shall be comparable to the provisions of 12 USC 1715z-1b(3) which governs leases and evictions for multi-family housing subsidized by the US Department of Housing and Urban Development.
- Item 9 – OSPCD is herein authorized and directed to develop a citywide application process and waiting list for all units of inclusionary housing. OSPCD is herein further authorized and directed to develop a preference system whereby priority points are assigned to households that: are Somerville residents; and would be income eligible for inclusionary units of rental housing; and have been displaced from Somerville within the twelve months prior to the date of application for an inclusionary unit, or have been displaced subsequent to their application for an inclusionary unit; or are at imminent risk of such displacement, and their actual displacement or risk of displacement is for reasons beyond their control, including, but not limited to, no fault evictions, and evictions for non-payment of rent where shelter expenses (i.e. rent plus utilities) exceed 50% of household income. Development of these and other guidelines for assigning priority above and beyond date of application shall be accomplished with guidance from the Affordable Housing Trust, in consultation with the Housing and Community Development Committee of the Board of Aldermen, and pursuant to a public hearing.

Following due consideration, Kevin Prior made a motion to **RECOMMEND APPROVAL WITH CONSIDERATION TO THE ITEMS ENUMERATED ABOVE**. Kevin Prior made a motion and Michael Capuano seconded the motion, which carried 5-0.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Prior". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kevin Prior
Chair