



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

=June 17, 2021

REPORT OF THE LAND USE COMMITTEE

Attendee Name	Title	Status	Arrived
Ben Ewen-Campen	Chair	Present	
Lance L. Davis	Vice Chair	Present	
Matthew McLaughlin	Ward One City Councilor	Present	
Mark Niedergang	Ward Five City Councilor	Present	
Kristen Strezo	City Councilor at Large	Present	

The meeting was held via GoToWebinar and was called to order by Chair Ewen-Campen at 6:02pm and adjourned at 9:52pm on a roll call vote of 4 in favor (Niedergang, McLaughlin, Strezo, Ewen-Campen), 0 opposed and 1 absent (Davis).

Chair Ewen-Campen announced that due to Councilor White's attendance at the Finance Committee meeting held at the same time, Councilor Strezo would be serving on the Committee for this meeting.

The Committee entered into recess at 6:04pm for the Planning Board to open its meeting, and returned to the regular session at 6:08pm with all members present.

The Committee entered into recess at 9:01pm and returned to the regular session at 9:06pm with all members present.

Others present: George Proakis - OSPCD; Dan Bartman - OSPCD; Rebecca Cooper - OSPCD

Planning Board: Michael Capuano - Chair, Amelia Aboff - Vice Chair, Robert Buchanan - Clerk, Jahan Habib, Erin Geno, Deborah Howitt Easton - Alternate

Approval of the April 29, 2021 Minutes

RESULT: ACCEPTED

Approval of the May 18, 2021 Minutes

RESULT: ACCEPTED

Public Hearing

211675: Scott Zink proposing a zoning amendment to re-zone his property at 471

Somerville Avenue from Urban Residential to MR4.

Chair Ewen-Campen opened the Public Hearing at 9:12pm.

Peter Quinn, an architect, works for the firm that designed this building, which was made conforming according to the previous zoning, with retail space on the ground floor, explained that the zoning overhaul reclassified it to UR, but MR4 would make it more conforming and create consistency.

Chair Ewen-Campen asked for clarification that the request is not to modify what is being built, but to allow the commercial space on the first floor to be conforming and thus not restrict its use and Mr. Quinn confirmed that was accurate.

Chair Ewen-Campen closed the Public Hearing at 9:16pm, adding that the public comment period will remain open until July 9th at noon. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th in order to take the item up at the next meeting, and requested staff input for this item at its meeting on July 15th.

RESULT: KEPT IN COMMITTEE

Public Hearing

211890: 13 registered voters requesting the adoption of an amendment to the Zoning Map to revise the Boynton Yards sub-overlay area.

Chair Ewen-Campen invited some of the residents who submitted the amendment to share information regarding the proposal. Roger Levy and Joyce Wu shared amendments on behalf of residents of 80 Webster, as trustees of that condominium association. Mr. Levy emphasized that the community of this building is pro-development, and welcomes the community friendly development. He shared renderings of the vision for Boynton Yard, as shown in several planning documents. The size and scale of buildings in these renderings is similar to that of the 4-story (MR) 80 Webster building. A newer illustration, from the Boynton Gateway Project, depicts buildings that are much larger, including a 230 foot commercial high-rise within 20 feet of the residential building. This was made possible because half of the block was shifted from MR5 to HR in a late iteration of the zoning ordinance. Mr. Levy also expressed concern that there is no minimum setback requirement on corner lots. He shared various attempts to engage with the zoning process, noting that it was complicated to follow. He also shared the Union Square (USQ) Overlay, highlighting the setback requirements where HR abuts residential buildings.

The petition requests shifting the zoning for most of the block to MR5, with the 80 Webster building as UR, and the northern part of the block expanding to HR. This would shift the location of the HR commercial development, but allow it to remain on the site. This would achieve the effect of separating the HR from the residential building by a street, and also allow buildings of similar scale to face each other. The petition also requests adjusting the text to apply side and rear setbacks of 20 feet for the 1st through 3rd story and 30 feet for the 4th story and above in both MR5 and HR districts abutting NR, LHD or UR.

Chair Ewen-Campen noted that though the proposal focused on a specific development, the amendment would extend beyond these parcels. He also asked for clarification on why the building should be zoned as UR, rather than the MR5 of the rest of the block, and Mr. Levy noted that it is

essential because the setback requirements are tied to residential status, and the building fits perfectly within the description of UR.

Mr. Proakis shared that there are legal, design, and other concerns. He expressed appreciation for the presentation, and noted that the area is a Transform District, where commercial development was specifically sought. The knowledge that this would be heavily life-sciences focused was not completely understood at the time it was created, but the market has demonstrated a need for this. The zoning evolved over seven years, and there were public hearings, including a public hearing that included the final overlay map. Mr. Proakis suggested that the remaining issues may be solved through the special permit process. A suggestion has been made to shift the proposed commercial building through creation of a narrower sidewalk. Life sciences buildings have certain expectations in terms of shape and the amendments would change the building width to a level that would accommodate a residence, but not most commercial options. He emphasized that the buildings in the Overlay must be at least 75% commercial.

Mr. Proakis articulated that three policy challenges to preventing a life sciences building on this site would be: the perception that zoning would be constantly changed rather than remaining predictable and addressed through the special permit process; the ability to attract the life sciences community to the City by accommodating the needs of the industry; and the legality of rules surrounding spot-zoning. Spot-zoning highlights the difference between private benefit and public impact. The impact of making the requested changes would be to undo something that was part of a plan and a pattern, and would benefit the residents of only one building. The goals of the Overlay are to create new jobs, community benefits, and additional tax revenue, and those are the administration's priorities, though Mr. Proakis emphasized that he and the administration are open to a collaborative solution.

Chair Ewen-Campen asked about that the Solicitor's Office also issued an opinion that this would be vulnerable to a challenge on the grounds of spot-zoning, and asked for clarification on how other proposals avoid the same challenge, and also if the petition including the entire block would generate a different opinion. Mr. Proakis will confer with the Law Office to answer those questions.

Chair Ewen-Campen invited members of the development team to speak: Alexandra Phillips of CV Properties, John Sullivan, an architect with SGA, and Jennifer Schultz, the Land Use and Permitting practice leader at the Law Offices of Sullivan and Worcester, LLP. Ms. Phillips shared the background of the process, including meetings with City staff and holding neighborhood meetings. Many other meetings have been held since, and the team has met with other stakeholders throughout the City to ensure that local and minority residents can participate in the opportunities that the development creates. The benefits of the project will include approximately \$5.8M in linkage fees, nearly \$15M of in-kind infrastructure contribution, over 31,000 square feet of arts and creative office space, approximately 900 construction jobs and 1,000 construction jobs, and an increased commercial tax base estimated at \$3M per year. The project will provide benefits for the neighborhood and City as a whole through increased public space, sustainable features, and investment in bike lanes.

Mr. Sullivan shared a presentation on how the proposed amendment would impact the ability to support a life sciences building. He highlighted the existing zoning, which would allow investment in the public realm along Columbia Street. Flipping the orientation of the building as suggested would leave a dimension of 62 feet at the upper levels, which would reduce the footprint significantly. A viable lab building requires multiple loading docks, mechanical spaces, support space, and other features that would encompass the entire 15,000 square feet. A loading zone would replace a pocket park, and there

would be little available research space. He shared some floor plan examples to indicate the minimum required space, which would be greater than what would be available in the reconfigured option.

Ms. Schultz added that there were a few misstatements, including that the 80 Webster building is a 4-story residential building, when it is a 5-story building, according to the floor plan. This is important because it makes the building similar to all other MR5 buildings, rather than a UR building. It was planned and permitted through the special permit process, outside of the zoning code. Due to this, the building was constructed to within 6 feet of the shared property line. Ms. Schultz offered an explanation of illegal spot-zoning, adding that if this amendment is approved, her professional opinion is that a lawsuit would be in order. Illegal spot-zoning is defined as the non-uniform treatment of land for private benefit. The reasons for the illegality in this proposed amendment include the improper down-zoning of the 80 Webster building, preferential treatment to that lot in the form of additional setbacks, and downsizing the entire block in order to benefit the 80 Webster building. She added further that the requirement that an HR building be separated by a street is not actually in the zoning code. Regarding Chair Ewen-Campen's previous question about whether there is impact from the fact that the proposal is to change zoning for more than just 80 Webster, Ms. Schultz added that the size of the "spot" is not relevant in case law. She emphasized that passage of this amendment would undo the last decade of work to move toward form-based zoning.

Councilor Niedergang noted that the City is dense and these problems will inevitably arise, and encouraged conversation about compromise and potential solutions.

Chair Ewen-Campen opened the Public Hearing at 8:04pm.

Bill Cavellini, a neighbor of the 80 Webster building, supported the proposed amendment, as a way to address an error made during the zoning overhaul. He noted that nowhere else in the City does a high-rise exist so close to a low-rise. Meredith Porter, a Ball Square resident, also supported the change, and expressed disappointment that the changes are difficult to find and understand. He noted that while development is important, so is livability. Seth Wood, a resident of 80 Webster, shared that he was surprised and frustrated that it seems the changes were intentional. Andrew Greenspon, a Union Square resident, also shared that though he is pro-development, he feels that this process was flawed and there are errors in the overhaul that should be corrected, and this amendment could help achieve that. Jacqueline Gerritsen, another resident of 80 Webster, added that CV Properties has not offered any solutions other than possibly changing the sidewalk, and noted that it would reflect poorly on the City to reject this, as it would impact the residents' enjoyment of living in the City. Lisa Bedford, a Ward 3 resident, commented on the lack of solutions proposed by the developers. She has worked in small labs and urged the architects to work on other options. Jillie Wowk-Aposhian, also an 80 Webster resident, explained that it was difficult to understand the actual impact of the development, and concerns were voiced along the way that were ignored. She emphasized that this is an issue of inconvenience vs. livability. Kate Byrne added that there are many people surrounding 80 Webster who are also opposed to what is happening. Michele Hansen, a co-chair of the Union Square Neighborhood Council, also supported both amendments, commending the residents for their work and noting that they are pro-development and trying to work toward a solution. She emphasized that this is not just about lines on maps, it's the effect on peoples' lives. Sarah Zeiser, a resident of 80 Webster, shared more support for the amendments and echoed the need for compromise.

Stephen Mackey expressed that the community has done great work with the best intentions, and the developers are first rate and have stayed within the rules. He also noted that Mr. Proakis offered a

remedy in the way of a special permit through the Planning Board, which is preferable to spot-zoning. Ann Camara, a resident of Duck Village and co-chair of the Union Square Neighborhood Council, elaborated that there were no studies or neighborhood meetings prior to the design process, and it should be dismissed. She supported the amendments. Stephanie Smith, an 80 Webster resident, clarified that there is concern that moving the building would be untenable for a life sciences building, but this does not appear to be complete information, as a 2 foot change in width would seem to be a reasonable compromise. Thomas Bent, a Ward 3 resident, noted that one of the guiding principles of zoning was that it would be predictable. He agreed that the amendment is the wrong route, and the special permit process should be utilized, with a compromise encouraged. He added that as a homeowner, growing the commercial tax base is essential to managing residential taxes. Kim Park, a resident of 80 Webster, noted that the support for the amendment extends beyond the building, adding that the shadow study shows a dramatic impact. Murtuza Dhilla, also a resident of 80 Webster, emphasized that the development is not in the spirit of the area, and he supports development but the execution needs to be better. Joyce Wu expressed that the residents are open to continue negotiating, but CV Properties has been unwilling to do so. Katherine Huang, also a resident of 80 Webster, supported the amendments, noting that there was much more support than the 13 signatures, and the impact is significant.

Chair Ewen-Campen closed the Public Hearing at 9:00, adding that the public comment period will remain open for three weeks, until noon on Friday July 9th. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th.

RESULT:	KEPT IN COMMITTEE
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Public Hearing

211988: Moshe Safdie proposing a zoning amendment to extend the Small Business Overlay to his property at 92 Properzi Way.

Chair Ewen-Campen opened the Public Hearing at 9:12pm.

Chair Ewen-Campen closed the Public Hearing at 9:16pm, adding that the public comment period will remain open until July 9th at noon. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th.

RESULT:	KEPT IN COMMITTEE
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Public Hearing

211889: 13 registered voters requesting the adoption of an amendment to the Zoning Ordinance to revise the Boynton Yards sub-overlay area.

See 211890.

RESULT:	KEPT IN COMMITTEE
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Public Hearing

212047: Senthil Kumar proposing a zoning amendment to rezone his property at 8-8A

Melvin Street from Mid Rise 5 to Neighborhood Residential.

Krishna Kumar expressed that the goal is to turn the third floor of the property into an affordable unit, but the MR5 designation created a problem with updating dormers, and thus the change is requested. Mr. Bartman informed the Committee that the staff supports this amendment and encouraged the proponent to pursue this, as the NR District is appropriate for the site and how the building will be used.

Chair Ewen-Campen opened the Public Hearing at 9:12pm.

Andrew Greenspon supported the change and noted that this is another error in the zoning overhaul that needs correcting.

Chair Ewen-Campen closed the Public Hearing at 9:16pm, adding that the public comment period will remain open until July 9th at noon. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th.

RESULT:	KEPT IN COMMITTEE
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Public Hearing

212048: Dean Matarazzo proposing a zoning amendment to rezone his property at 13 Garfield Ave from Fabrication to Urban Residential.

Chair Ewen-Campen noted that this item was not advertised, and the public hearing will not be held this evening.

RESULT:	KEPT IN COMMITTEE
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Public Hearing

212050: Requesting an amendment to the Zoning Ordinance to repeal Section 10.5 - Outdoor Café Seating.

Mr. Bartman shared that this was done as a response to the pandemic, in an attempt to more easily address concerns. As the City has evolved, many permits collected over time, and this aims to maintain the efficiencies that were learned through the pandemic. Chair Ewen-Campen relayed concerns from the Commission for Persons with Disabilities that outdoor dining posed issues for the disability community and ADA compliance should be addressed in the context of making these changes. Mr. Bartman added that the standards have not changed, they have been relocated and streamlined.

Chair Ewen-Campen opened the Public Hearing at 9:32pm.

Jessica Eshleman, Executive Director of Union Square Main Streets, shared that approving this is efficient for the small businesses that are operating with little staff, as well as for the City; the ADA accommodations are important and it is a topic being continually addressed; this will bring support to recovering small business as well as the vibrancy of the City; the pandemic has brought so many challenges, we need to act on the good that can come out of it to create more opportunities; the requirement for architectural drawings for outdoor seating is a huge barrier that has prevented people from pursuing these opportunities, and is not required at the state level. Eliminating that as well could bring more equity and even more streamlining.

Chair Ewen-Campen closed the Public Hearing at 9:43pm, adding that the public comment period will remain open until July 9th. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th.

RESULT:

KEPT IN COMMITTEE

Public Hearing

212051: Requesting an amendment to the Zoning Ordinance to revise the façade build-out dimensional standard for any Apartment Building in the Urban Residence district when abutting the Neighborhood Residence district.

Mr. Bartman explained that this is a correction needed to make an adjustment for the adoption of an additional side setback.

Chair Ewen-Campen opened the Public Hearing at 9:32pm.

James Douglas explained that making this change will enable many more projects, as currently anything under 125 feet is eliminated, so he is in favor of making this change. Peter Quinn added that this proposal will fix the situation and correct the unintended consequences. Sean O'Donovan added that Mr. Douglas met with the neighbors and they just want the building to come down and this approval will allow him to make that happen.

Chair Ewen-Campen closed the Public Hearing at 9:43pm, adding that the public comment period will remain open until July 9th. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th. Councilor Niedergang urged action as quickly as possible, as Mr. Douglas has been very accomodating and has done a lot of work already and the neighborhood would benefit from this project moving forward.

RESULT:

KEPT IN COMMITTEE

Public Hearing

212052: Requesting adoption of an amendment to the Zoning Ordinance Section 2.1 - Glossary and the provisions of multiple permitted building components.

Mr. Bartman noted that this is a correction largely to address the ability of porches to be multi-story and/or not be a roofed structure.

Meredith Porter emphasized that learning from experience and making changes is a good approach and the code should continue to be refined.

Chair Ewen-Campen opened the Public Hearing at 9:32pm.

Chair Ewen-Campen closed the Public Hearing at 9:43pm, adding that the public comment period will remain open until July 9th. Chair Capuano noted that the Planning Board will also keep the written record open until July 9th.

RESULT:

KEPT IN COMMITTEE

Referenced Material:

- Illegal Spot Zoning - Legal Memorandum (with 211889, 211890)
- Ex. B - 80 Webster Plans and Elevations (with 211889, 211890)
- Ex. C - Cumulative Shadow Study (with 211889, 211890)
- Zoning Amendments - 80 Webster (with 211889, 211890)
- Public Comments (with 211889, 211890)