



# CITY OF SOMERVILLE, MASSACHUSETTS

## CLERK OF COMMITTEES

December 10, 2019  
REPORT OF THE LAND USE COMMITTEE

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 6:20pm and adjourned at 10:27pm.

Others present: George Proakis - OSPCD; Dan Bartman - OSPCD; Sarah Lewis - OSPCD; Annie Connor - Mayor's Office; Michael A. Capuano - Planning Board Chair; Amelia Aboff - Planning Board; Gerard Amaral - Planning Board; Joseph Favaloro - Planning Board Clerk; Dorothy Kelly Gay - Planning Board; Kimberly Wells - Assistant Clerk of Committees

### Approval of the October 29, 2019 Minutes

<b>RESULT:</b>	<b>ACCEPTED</b>
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### Approval of the November 19, 2019 Minutes

<b>RESULT:</b>	<b>ACCEPTED</b>
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### Approval of the November 21, 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.**

**RESULT:**

**KEPT IN COMMITTEE**

**Joint Public Hearing by the City Council's Land Use Committee and the Planning Board to receive public comments concerning the ADOPTION OF A NEW SOMERVILLE ZONING ORDINANCE TO SUPERSEDE THE CURRENT ZONING ORDINANCE AS ORIGINALLY ADOPTED ON MARCH 23, 1990.**

Director Proakis offered an introduction of the changes to the v4.0 of the Zoning Ordinance and noted that the version discussed this evening has been updated further. This is the fifth public hearing in the process of the zoning overhaul. The updated draft can be found online at [www.somervillezoning.com](http://www.somervillezoning.com), along with the succession of amendments and feedback.

He highlighted three specific issues that will be raised by the Administration following the Public Hearing to be considered in more detail by the City Council: 1. the calculation of the performance bond required for public infrastructure; lots in the Union Square East (USQE) Sub-Area; and the language around the US2 plan, in particular the D2 project, to allow that to move forward as previously determined. Director Proakis also noted that there is substantial discussion in the development community around whether certifiable LEED Platinum buildings are possible in the lab buildings. He recommended that the City Council leave the requirement in place, and adjust later if needed. He stated that the Mayor will convene a forum in early 2020 to take a close look at how the city and the community can work with the design community and the private sector to accomplish both the goal of and commitment to embracing lab development in the city while also meeting our sustainability goals. This is an important part of the goal to be carbon neutral by 2050.

Members of the public then had two minutes to provide oral testimony on the proposed zoning overhaul.

George Moussallem expressed that he still has many questions.

Bill Shelton, representing the Mystic View Task Force, asked for an amendment to require 75% of built square footage in Boynton Yards be used for commercial purposes, with a restriction on retail spaces over 15,000 square feet. Neighboring communities are making money on the properties where Somerville residents go to work each day. This is the city's best opportunity to correct the imbalance in commercial development.

Stephen Moore, an architect who works with green buildings, addressed the LEED rating system and reiterated that the goals of the LEED system align with the City's and are urgent. Malcolm Cummings, an engineer, also supported the energy standards as written, noting that climate change is an emergency and the standards are achievable goals.

Larry Yu, a Climate Coalition member, added that sustainability is a value that shapes the community and the zoning is in service to those values. The standards should not be lowered, lest they debase our values.

Susan Fendell thanked the Council for the improvements related to Davis Square and the green standards. She asked that the Council work to protect small businesses, particularly in

Davis Square.

Jacob Kramer, of the Union Square Neighborhood Council, expressed concerns about the community process and encouraged an amendment to facilitate and foster more interaction between developers and community groups, focused on community impact mitigation.

Alan Bingham voiced concern for Davis Square and ensuring that the zoning supports maintaining the small businesses in the community.

John Eleftherakis opposed the changes for happening so quickly.

Rebecca Chase suggested that a tweak after passage should include looking at the accessory units and consideration of allowing more freedom for development of accessory units within existing structures.

Anne Vigorilo spoke on behalf of a client on Washington Street, which has moved from an MR5 to an NR District and hopes for a map change.

Meredith Elbaum, an architect, supports LEED and sustainable buildings and emphasized that LEED Platinum is possible. She noted that LEED is a flexible system and there is a large range within Platinum to address different aspects of a building.

Joe Tagliente, who owns the building where Burger King is located, echoed that this is being done in a hasty fashion. He plans on being part of the evolutionary future of Union Square.

Bill Cavellini, Union Square Neighborhood Council, seconded the suggestion about community involvement language, with specific reference to community benefits agreements.

Amanda Maher Keefe, a former OSPCD employee who now works as an advisor to many lab buildings, shared concerns about the LEED Platinum requirement. This has never been done before in this type of building, and she is not certain of the path to get there. There is no precedent nationwide; and even getting to LEED Gold is a huge barrier to overcome. She urged the Council not to kill the lab development that was worked so hard to achieve.

Andy Dulac also encouraged changing the LEED standard to Gold, as the Platinum threshold is a high barrier to overcome. The standard would have an adverse impact on the small to mid-sized life sciences companies that the City wants to attract.

Elizabeth Galloway, an architect and building scientist who works on sustainable buildings and laboratory buildings, is currently working on projects that are targeting net zero energy. She is confident that the LEED Platinum building standards are feasible.

Jonathan Hondop, supports the small businesses in Davis Square and encouraged caution about how high the building are allowed.

Jacob Knowles, an engineer and director of sustainable design, supported the LEED Platinum standards and noted that net zero lab building projects are currently being created. The statewide net zero stretch code, posted on the USGBC Massachusetts website ([https://usgbcma.org/wp-content/uploads/2019/12/Zero\\_Stretch\\_Code\\_Letter\\_of\\_Support\\_Dec\\_6-4.pdf](https://usgbcma.org/wp-content/uploads/2019/12/Zero_Stretch_Code_Letter_of_Support_Dec_6-4.pdf)), has over 100 firms signed on.

Barbara Steiner supported the suggestion for an amendment to require greater commercial development in the Boynton Yards area to shift the tax burden off of residents. She encouraged caution about the LEED standards to avoid losing development of labs in the city.

Wig Zamore offered thoughts that residents' jobs, transportation, and sustainability need to be balanced, and shared concerns on equity when the large developments are concentrated in the eastern area of the city.

Jack [inaudible] expressed concerns about the change on Somerville Ave from BA, allowing four stories, to UR, which only allows three stories.

Ulysses Lateiner is very pleased with the changes that were made to maintain the character of Davis Square and allow the community to contribute to discussion for future development.

Meredith Porter urged consideration of affordability and density bonuses for additional affordable units. He also shared a concern around transparency and noted it is difficult to obtain information on projects, particularly in advance and before decisions are made.

Tori Antonino added that sustainability and green infrastructure, particularly infiltration, need to be used more. She would like to see civic space requirements in more than just the Transform areas, as well as linkage fees. She reiterated that the city needs more of a tax base.

Joe Nissenbaum thinks that buildings need to be taller to generate the taxes to support education and jobs.

Renee Scott would like to see sustainability taken further, but encouraged passage as this is a great step forward. Alan Moore supported the increased height in Davis Square, and would like to explore penalties for violations of building permits.

Chris Iwerks clarified that LEED is a strict system at the Platinum level. There are potential conflicts of interest to consider, as the designers make more money from sustainable buildings.

Lee Auspitz pointed out that there is a public parking lot in Davis Square that is zoned as a private lot.

Tom Bent voiced the support of the Chamber of Commerce but noted confusion about last minute changes and concerns about the LEED certification issue.

The Chair closed the Public Hearing at 7:43pm. Planning Board Chair Capuano noted that the Planning Board will not be accepting further written testimony and intends to make a recommendation this week.

**209339: Requesting the adoption of a New Zoning Ordinance to supersede the current Zoning Ordinance as originally adopted on March 23, 1990.**

Following the close of the Public Hearing, the Committee recessed until the Planning Board completed its use of the Chambers and reconvened at that time. Mr. Bartman shared that the Planning Board did vote to has recommend adoption of the new ordinance and that the formal recommendation from the Planning Board will be presented to the City Council at its meeting on December 12th. The Planning Board's discussion focused on making sure the D2 development is allowed to move forward as permitted, as well as the need to further research the LEED requirement. They urged the Council to act sooner than later.

Mr. Bartman shared that, in the time since the last meeting of the Committee, he has had discussions with several Councilors regarding additional amendments to the proposed zoning overhaul. The most substantive of those is to Section 8.18, the Master Planned Development (MPD) Union Square East (USQE) Sub-Area. Councilor Scott noted that a sub-area allows for a future potential street layout and green space, and mirrors the Boynton Yards sub-area relative to community impact mitigation. The overlay requires commercial building types and uses, and grants expanded height possibilities. Councilor White echoed that the core business district with the overlay is an important way to move forward with the development that the City is looking for.

Councilor Scott moved to amend the proposed zoning ordinance to create a Union Square East Sub-Area in the Master Planned Development (MPD) as Section 8.18 (see attached Reference Docs page 409-410).

The motion was approved.

Councilor Scott elaborated on the change to the bonding requirement from 125% of construction costs. This is much higher than standard, but there should still be a provision that helps ensure that the City will be able to support Civic Space and infrastructure costs even if the developer ceases a project contract.

Councilor Scott moved to amend the proposed zoning ordinance Section 15.2.g.i and 15.2.g.ii to clarify the performance bond (see attached Reference Docs page 539).

The motion was approved.

Councilor Scott noted that the neighborhood meeting process is critical and a helpful process throughout the City. He proposed change includes to language to ensure that Neighborhood Councils are included in the zoning process. Chair Davis clarified that Neighborhood Council is not a defined term in this document. Councilor Ewen-Campen noted that the definition is in an ordinance (7-220 and 7-224).

Councilor Scott moved to add a definition of Neighborhood Council, as defined in Section 7-220 of the Somerville Code of Ordinances.

The motion was approved.

Councilor Scott moved to amend the proposed zoning ordinance Section 15.1.3.a.ix to include Neighborhood Councils (see attached Reference Docs page 533).

The motion was approved.

Councilor Scott moved to amend the proposed zoning ordinance Section 15.1.3.a.viii to add the same reference to Neighborhood Councils as was added to Section 15.1.3.a.ix in the prior motion.

The motion was approved.

Councilor Scott moved to update Map 18 to reflect the additions to the properties added to the Small Business Overlay District (a block that was missed) (see attached map in Reference Docs).

The motion was approved.

Councilor Scott recused himself from the discussion of the Overlay Districts in the Union Square Sub-Area. Director Proakis shared a concern that was brought to the Administration by US2, the development partner in Union Square, that changes in the current proposed zoning overhaul (specifically the LEED Platinum requirement) would have a material impact on their ability to move forward with the planned D2 buildings, which are very close to receiving a building permit. US2 requested a change in the ordinance that would apply the 2017 zoning to the entirety of the Coordinated Development Special Permit for US2's project. Chair Davis noted that the then Board of Alderman specifically included carve-outs to the Vested Rights provision in the 2017 Union Square zoning such that future zoning changes to certain enumerated key areas would apply to the Union Square project. At that same time the Administration agreed to a provision in the Covenant Agreement between the City and US2 that provides that, if such zoning changes are made, US2 can come back to the City to amend the Covenant and reduce the amount of community benefits payments they are required to make. The change to the proposed overhaul requested by US2 and presented by Director Proakis would remove the requirement that such zoning changes apply and the requirement that US2 come back to the City to negotiate a reduction in Community Benefits. Chair Davis stated that he does not support any amendment that would broadly over-ride this process for the entirety of the US2 project. He would prefer that, if the provisions of the zoning overhaul present an issue for US2 on future blocks within the project, the discussion should be undertaken at the time. Chair Davis stated that he would support a more narrowly tailored amendment to allow the D2 project, for which Design and Site Plan review has already been approved, to continue under the terms of

the 2017 zoning, as this is consistent with the intent of the then Board of Aldermen in 2017. Director Proakis noted that the D2 block is the only part of the development with a Design and Site Plan Review in place and suggested the language could be changed to focus solely on the D2 project. Councilor Ewen-Campen also supported the amendment focused on D2 specifically. There has already been a community process, permits are underway, and a community benefits agreement already exists. Future phases of this development should live up to the requirements of the new zoning in order to take advantage of its benefits. Councilor White confirmed that the Public Safety building is in the D1 parcel and that, since the City still owns that building additional negotiation can also take place at the time designs for that parcel occur. Councilor Ballantyne confirmed that the sustainability provisions of the 2017 ordinance include adherence to a LEED Gold standard and other sustainability requirements are included.

Chair Davis moved to amend the proposed ordinance to add a paragraph Section 8.17.a.c.iii. that reads "Real property subject to an approved Design and Site Plan Review first approved prior to the adoption of this Ordinance may be developed in accordance with the provisions of the Somerville Zoning Ordinance effective as of December 14, 2017 in lieu of the provisions of this Ordinance" (see attached Reference Docs, page 405).

The motion was approved.

Councilor Ballantyne moved to amend Section 8.9.a.iii to provide a more appropriate description of solar power collection equipment in the sustainable development standards (see attached Reference Docs, page 389).

The motion was approved.

Chair Davis moved to make the necessary changes in the zoning map to reflect the City-owned parking lot at Highland Ave and Grove St., next to the Rite Aid, be zoned in the Civic district, to be in line with other City-owned parking lots.

The motion was approved.

Councilor Ballantyne moved to amend the Boynton Yards Overlay District Section 8.12.f.iii.a) to substitute 75% for the 68% required commercial space.

Councilor McLaughlin expressed that 60% should be sufficient to allow for commercial space as well as a lively neighborhood. He cited Kendall Square as an example, which started at 100% commercial space and has now changed to 60%. In Assembly Square, the current commercial use is approximately 40%, with the goal of 60%. Residential space is an important component to the creation of commercial development. Chair Davis clarified that the percentages in Kendall Square are calculated only on new development. Councilor Niedergang supported the 75% change, largely because 15% of that is allocated to arts and community space. Residential development will happen adjacent, in the D3 block, and this the area will not be a desert in the evenings. Councilor Rossetti also supported the change to 75%. Councilor Clingan asked for the administration's recommendation, and Director Proakis suggested using caution in making the change, as it can be updated when further information is gained. Councilor Scott emphasized that arts and creative economy spaces can be high value uses, and includes such things as co-working spaces and design services including software development. These should not be subtracted from the percentage, as they still generate tax revenue and job creation. None of the language provides a ceiling for commercial development, only a floor, and what is currently planned is likely to make the determination of a floor moot. Councilor Ewen-Campen also shared an inclination to defer to the expertise of the planning staff. Councilor Ballantyne elaborated that the goal is to keep the taxes as low as possible to mitigate the issue of residents who are getting priced out of the City. Councilor McLaughlin added that the only way to make the City more affordable is to build more affordable housing. Councilor Scott pointed out that the amount of square footage that would be shifted in the difference between the proposals is negligible in the scheme of the built square footage in the city. Councilor White echoed that creation of affordable housing is a goal, and creating a more vibrant neighborhood is important as well.

The motion was approved on a 6-5 roll call vote (Yes: Scott, Niedergang, Rossetti, Mbah, Hirsch, Ballantyne. No: Clingan, White, Ewen-Campen, McLaughlin, Davis).

Councilor Hirsch presented changes to the required affordable dwelling units, which would introduce a Tier 4 inclusionary housing category. Director Proakis clarified that any perceived lack of conversation about affordable housing in the recent overhaul discussion is largely due to the substantial changes that were made in 2016 to change the inclusionary requirement to 20%, and an assessment of housing needs is underway, as requested by the Council, following receipt of which a review of the affordability measures can be undertaken with the benefit of that analysis. One of the substantial concerns in the financial feasibility study is how to address the smaller unit buildings and lack of knowledge about the impact on development of smaller unit properties. Many Councilors commended Councilor Hirsch's work and expressed a need to review this more thoroughly and better understand the implications. Councilor Ewen-Campen stated that he still has concerns about the potentially high payments that this would impose on owner-occupants who simply wanted to add, for example, an in-law apartment for family. He would support the concept generally but feels that it needs to be discussed carefully to consider those concerns. Councilor McLaughlin specified that considering all opportunities to address the housing affordability crisis, including this idea, would be a focus for next year. Councilor Hirsch noted that more time needs to be dedicated to affordable housing in order to preserve the community that is worth doing all of the other work for. She will be voting against the zoning overhaul because of the lack of attention to affordable housing. Chair Davis clarified that significant attention has been paid to affordable housing measures during the multi-year consideration of the zoning overhaul. This included insisting that the 20% inclusionary amendment, which was more aggressive than any other community at the time, be considered first in 2016, rather than waiting for it to be included in the overhaul. This was despite pressure from the Administration, development community, and even some members of the then Board of Aldermen. He also reminded the Committee that discussion of the overhaul was set aside again in late 2017 so that stand-alone zoning amendments could be considered and passed that created the City's first jobs linkage fee and raised the affordable housing linkage fee for commercial developments. Chair Davis noted that, in addition to those large changes and the requirement in the current proposed overhaul that any new third unit in the NR district be designated affordable, the Committee voted in November to make further revisions to the inclusionary provisions to begin at four units rather than six and to apply the 20% calculation right away - at four units - rather than the step up from 17.5% that is in the current zoning. To the extent that the Committee did not spend a significant amount of time discussing these changes it was due to the fact that members largely did not express opposition. He also noted that, during the same period in which the zoning overhaul has been considered, the then Board of Aldermen pushed for the creation of the Office of Housing Stability, which is now in operation and is led by some of the same community advocates that have led the conversation on housing affordability for many years. He agrees with the priority in 2020 for discussion of measures to address housing affordability stated by Councilor McLaughlin, shares that commitment, and agrees with other members that the proposal to apply an inclusionary rate to new two unit developments should happen at that time, with the benefit of additional information and time to address the concerns that were raised.

Councilor Hirsch moved to amend the proposed ordinance Table 3.1.8 (Required ADUs) and related text to reflect the addition of a Tier 4 (see attached Reference Docs) and begin an inclusionary requirement at new two unit houses.

The motion was not approved on a 1-10 roll call vote (Yes: Hirsch. No: Clingan, White, Ewen-Campen, Scott, Davis, Niedergang, Rossetti, Mbah, McLaughlin, Ballantyne).

Councilor Davis moved to recommend approval of the Zoning Ordinance Overhaul, as amended.

The motion was approved on a voice vote with Councilor Hirsch voicing opposition.

**RESULT:**

**APPROVED AS AMENDED**

**Handouts:**

- Comments - SBAC - (with 208702, 209339)
- Reference Docs (with 208702, 209339)
- USGBCMA Net Zero Stretch Code Letter (with 208702, 209339)