



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MEMORANDUM

TO: The Somerville Board of Aldermen
FROM: George Proakis, Director of Planning
RE: Updated Demolition Review Ordinance
DATE: September 26, 2017

This memo summarizes the proposed demolition review ordinance that is being submitted to your Honorable Board this evening. This ordinance is the culmination of many months of work on behalf of the Historic Preservation Commission and the OSPCD Planning Division staff. This memo will serve to summarize the challenges with the existing demolition review process, the proposed changes to address those challenges, the process for public feedback to date, and the elements of the submitted ordinance.

The Trouble with Demolition Review

Demolition Review is a creation under the City's home rule powers. These regulations have been established by many communities in the Commonwealth. Typically, they permit a historic commission to put a pause on the demolition of a building for the purpose of determining the value of retaining the building, and to seek alternatives to demolition in circumstances where such alternatives are worthy of review. While the length of a demolition review period is individually determined by each municipality, typical demolition review time periods in MA are between 6 and 18 months. A handful of communities in the Commonwealth are looking to extend demolition review periods beyond 18 months. While demo review ordinances are not uncommon, less than half of the 351 cities and towns in Massachusetts currently have demolition review laws in place.

Demolition review is not an outright prohibition of demolition. The only way to prohibit the demolition of a building is to place that building in a Local Historic District (LHD) and to have a

local historic district commission refuse to allow the demolition of the building. This is why it remains important to ensure that the most significant buildings in any city or town are protected by a Local Historic District. Somerville's Historic Preservation Commission and Preservation Planning Staff continue to identify and recommend that your Board vote to designate as LHDs important historic structures such as the Union Square Post Office and the Harvard Hill Local Historic District when the circumstances arise to deem them necessary of preservation. Currently, Preservation Planning Staff and the Commission are reviewing a larger local historic district for areas around Union Square.

Most demolition review ordinances were established from a template provided by the Massachusetts Historical Commission (MHC). These laws have worked well to pause the demolition of historic structures in many cities and towns while alternatives to demolition are explored by all parties. But, they have a mixed record of success when seeking to preserve the most important structures in a community.

The existing Somerville ordinance is a modified version of the state model ordinance. This existing Somerville ordinance was adopted in May, 2003, by the Board of Aldermen and consists of a two-step process to determine if the demolition review period should be imposed:

1. The first step is a public meeting for determination of significance. This occurs without abutter notices, and without a public hearing. If the result of step 1 is that the building is determined to be *not* "historically significant," the building is released for demolition.
2. If the result of step 1 is that the building is determined to be "historically significant," then the HPC holds a public hearing on a significant structure to determine if it is "preferably preserved." Currently, abutters are noticed at this point in the HPC's process.

Once a building is determined to be "preferably preserved," it enters a 9-month demolition review period. During this time, the HPC seeks to work with an applicant to see if the building can be retained, or at least photographically and/or architecturally documented. The Commission can shorten this period - and often does - if an agreement is reached to address their concerns.

Over the years, Preservation Planning Staff, the Commission, applicants, and abutters have raised a number of concerns about the existing demolition review ordinance, including:

1. The nature of the two-step process, especially with regard to the fact that abutter notification occurs only at the second step in the process.
2. The requirement for all projects to undergo that two-step process, including those where the project will obviously be determined as "historically significant."
3. Limited ability for the Commission to delegate review of small, insignificant buildings to Staff review and sign-off, often requiring homeowners to wait for months to demolish small outbuildings.



4. A lack of clarity in the language surrounding the determination process and related findings, in particular as it does not provide clear guidance to the Commission on how and what to review through each step of the process.
5. Having only a demolition application as the sole trigger for historic review, often does not allow for the Commission to review substantial partial and serial demolitions that may have impacts on neighborhoods and on structures that would otherwise have been determined to be “historically significant.”
6. The poor organization of the ordinance, especially in the way that it mixes procedural text within the definitions and definitions within procedural text.
7. The lack of connection to SomerVision, by applying a one-size-fits-all demolition moratorium that is too short to make an impact in areas identified for conservation, while potentially slowing projects in areas identified for growth and change.
8. The lack of guidance on how to lift or altogether not impose the 9-month review period when a mutual agreement between the Applicant and the HPC determines conditions under which demolition should be allowed to proceed.
9. The length of the review period, while long enough to slow a project, is not long enough to deeply explore alternatives for the most valuable buildings at risk of demolition.

Strategies for a New Demo Review Process

The proposed ordinance was designed to implement the goals of SomerVision and work in conjunction with components of the proposed zoning overhaul. Increasing the demolition review period to be up to 24 months allows the HPC and/or Preservation Planning Staff more time to work with applicants to come to a better solution for the neighborhood and City than the demolition of a historic building.

It is in this vein that the proposed ordinance coincides with one of the key goals of SomerVision which is to *“preserve and enhance the character of Somerville’s neighborhoods, enable sensitive, economically-feasible maintenance and adaptive reuse of historic buildings, and respect neighborhood form and patterns while expanding Somerville’s architectural legacy.”* The parameters provided by the demolition review process help ensure that the human scale of our neighborhoods and much of Somerville’s unique history will be preserved through the retention of the historic, built environment.

Under the current demolition review ordinance, abutters are notified that a property is under consideration for demolition late in the Historic Preservation Commission’s determination process: the point at which they determine whether or not a building is “preferably preserved.” The updated version of this ordinance calls for notifying the public much earlier in the Commission’s process: at the point of determining whether or not a building is “historically significant.” Further, rather than the determination of significance being decided during a regular meeting of the HPC, the determination of significance will be performed as part of a



public hearing, formally allowing for public comment much earlier in the process than is currently regulated.

Another key change in this proposal involves the radius in which abutters are noticed. Currently, abutters within 100 feet of the property under consideration for demolition receive legal notices about the demolition request that is before the HPC. The updated ordinance not only requires that abutters be notified earlier in the HPC's determination process, it also requires that abutters within 300 feet of the property to be legally noticed. This proposed change will place HPC notification regulations in lock-step with zoning notification requirements. As demolition proposals nearly always have a zoning relief component to them, Staff believes that earlier and wider notification to abutters of pending changes to a property would allow for great public participation in our civic processes, while ensuring that there is not a class of residents who were notified about a zoning hearing without knowing about the previous demolition hearing.

Public Comment Process

A draft of the proposed ordinance was made available to the public on the City website in March, 2017. Public informational meetings were held on the following dates and locations:

- Thursday, March 30, 2017 @6:00pm in the SHS Library
- Thursday, April 6, 2017 @6:00pm, Somerville Baptist Church
- Thursday, May 25, 2017 @6:00pm in the SHS Library

Prior to each of these meetings, the following actions were also taken to notify the public of the proposed changes and the upcoming meetings:

- Legal notices announcing the meetings were published in the Somerville News a minimum of two weeks prior to each meeting;
- Meetings were announced through the City social media page (Neighborhood Updates);
- Meetings were posted to the City's online calendar
- Emails were sent to all those signed up to the Planning Division's historic preservation and zoning email interest lists.

Throughout this process, the staff received comments from the public including many residents who have been concerned about neighborhood demolitions in the past as well as individuals involved in the development process in Somerville.

Changes to the Draft

The version of the ordinance submitted to you by the administration today is different than the draft that was circulated at the public meetings, as it now:



- Incorporates changes to reflect relevant suggestions from the public process, including recommendations from members of the Commission, abutters to past projects, interested community participants, past project applicants, and local architects.
- Incorporates recommendations from the OSPCD staff to ensure successful operation of the demolition review process, as well as adjustments to ensure that the ordinance is substantially consistent with SomerVision goals.
- Incorporates recommendations from the City's legal office.

Elements of the Proposed Ordinance

Updating the demolition review ordinance has been a priority of both the Historic Preservation Commission and the Preservation Planning Staff in recent years. Staff has worked with the Commission over the last two years on multiple drafts as well as the coordination of the public meetings.

The key changes to the demolition review process are summarized below. Many of these changes came from the initial suggestions of the Commission and the public. Some of the language in this submittal were initiated from planning and legal staff, based on overall planning priorities, SomerVision goals, best practices in the planning field and consistency with state and federal law.

There are areas in which the outreach process did not establish clear consensus amongst the stakeholders. In these areas, the Planning Division has worked to propose best practices in this draft. As we review this ordinance with your Board, we can discuss the reasons that planning and/or legal staff determined to recommend the strategy incorporated in this submittal.

The ordinance submitted today makes the following changes to the way that demolitions are reviewed in Somerville:

1. *The ordinance establishes a more straightforward operating system:*
 - a. The ordinance has been replaced and rewritten with an organizational process that allows for anybody reading the ordinance to understand how it works.
 - b. Definitions have been updated and clarified.
 - c. Timelines for key decisions are updated, to ensure timely filing of decisions.
2. *The ordinance updates metrics and thresholds to capture important priorities:*
 - a. The term 'demolition' is defined to include serial and partial demolition.
 - b. The ordinance is triggered when any project including demolition is submitted for building permit or for zoning review.
 - c. The demolition moratorium period is extended to be either 12 or 24 months, depending upon the structure that is being reviewed.
 - d. The building age that triggers HPC review is changed from 50 to 75 years
 - e. Abutter notification areas are increased to 300 feet



- f. If an individual violates the ordinance and demolishes a building, the delay before they can build a new structure is extended from two years to three years.
3. The ordinance is calibrated to SomerVision:
- a. The ordinance identifies a set of transformational areas of the city as ‘exempt areas’, expanding the current list (Assembly Square and Innerbelt) to include additional areas (portions of Brickbottom, Boynton Yards, the development blocks in Union Square, the twin city mall and any city-owned structure)
4. The ordinance provides clear guidance for the HPC:
- a. Provisions are added to establish how the HPC determines a building preferably preserved
 - b. The ordinance permits the HPC to place some conditions on a decision that a building not be preferably preserved.
 - c. If an applicant indicates that structural conditions require them to take the building down, they will be required to provide a structural survey, and the Commission may hire a peer reviewer to look over that survey and provide comment.
 - d. If an applicant indicates that financial hardship requires a demolition, the Commission may request additional information to verify this hardship.
 - e. The ordinance permits the HPC to delegate a determination that a building is not significant to staff in the case of small outbuildings.
 - f. The ordinance permits the HPC to establish rules and regulations to establish how they will manage their hearing process.
 - g. If a building is deemed preferably preserved, the ordinance formalizes the current process of doing monthly meetings with Preservation Staff and a subset of HPC members to work out alternatives to demolition or conditions of demolition.

Conclusion

The Planning Division staff look forward to working with your Board to review and finalize this ordinance.

