



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

May 5, 2022

REPORT OF THE LAND USE COMMITTEE

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

This meeting was held via GoToWebinar and was called to order by Chair Ewen-Campen at 6:31 pm and adjourned at 8:01 pm. Councilor Gomez Mouakad moved to adjourn, and the motion was approved by unanimous roll call vote.

Others present: Hannah Carrillo - Mayor's Office, Aneesh Sahni - Mayor's Office, Dan Bartman - OSPCD, Sarah Lewis - OSPCD, Brendan Salisbury - Legislative & Policy Analyst, Stephanie Widzowski - Assistant Clerk of Committees.

Approval of the April 21, 2022 Minutes

RESULT:	ACCEPTED
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MBTA COMMUNITIES: DISCUSSION

213637: Deputy Director of Planning, Preservation and Zoning conveying the Multi-Family Zoning Requirement for MBTA Communities.

Chair Ewen-Campen explained that there are no proposed zoning changes at this point, but this presentation contains guidelines from the state that will eventually result in a series of recommendations from the Administration to ensure compliance.

Dir. Bartman gave a presentation on guidelines coming out of the January 2021 Economic Development Bill. The Zoning Act requires every MBTA Community to have at least one zoning district of reasonable size (50 or more acres) that permits multi-unit housing by right. These units must be no further than a half mile from a commuter rail station, subway station, bus station, or terminal; and must have no age restriction and be suitable for households with children. The act also requires a minimum gross density of 15 dwelling units per acre. A MBTA Community that fails to comply will not be eligible for grant funds from major state programs.

Chair Ewen-Campen asked if these guidelines care about existing housing or simply about the zoning. Dir. Bartman answered that the zoning itself needs to have these provisions. He said that they are finding most communities are not compliant with this. Chair Ewen-Campen asked for clarity that Boston is excluded from this requirement, to which the answer is yes. Dir. Bartman explained that Boston is the only municipality in the Commonwealth that does not follow the same enabling legislation.

Councilor Gomez Mouakad asked how much of Somerville the 50+ acres requirement would cover. As Somerville is about 2,688 acres, this requirement would cover about 2% of the city. She also asked if the criteria about units per property would override Somerville's current requirements around bedrooms per unit, for example. Dir. Bartman said that affordable housing has bedroom requirements, but in their discussions with DHCD, those regulations will likely not be treated the same as for standard dwelling units. He said that Somerville's restriction on the number of occupants per unit may pose a problem for compliance, which would jeopardize eligibility for grant funding. Councilor Gomez Mouakad commented that she is seeing a focus on 1-bed units in development in Ward Five.

Councilor McLaughlin asked for a size comparison for the 50 acres to a city landmark such as Davis Square. Dir. Bartman said that Boynton Yards or the Cambridge Crossing development area would be a rough comparison. Councilor McLaughlin asked if the 50 acres could be spread across the city as opposed to making up one area. Dir. Bartman replied that this is an outstanding question that has been raised. He said that if there is more than one station in a community, they can be used as well - which would seem to support the idea of spreading out the district, but more guidance should come out in early summer.

Chair Ewen-Campen asked why Assembly Square was not included in the map of zoning districts within walking distance of transit. Dir. Bartman explained that Assembly meets all the location criteria, but they wanted to understand what the rest of the city could accommodate for these housing requirements rather than resorting to putting the zoning entitlement in Assembly Square. He talked about how the permitting process at Assembly would require reconfiguration to be compliant.

Dir. Bartman presented three slides comparing the distribution and qualifications of Neighborhood Residence (NR), Urban Residence (UR), and Mid-Rise (MR3-6) districts. He also discussed some Somerville regulations that might prevent compliance, including the steep slope ordinance and the regulation for number of occupants per unit. He said that various solutions to becoming compliant could require converting lots into UR or MR, which naturally allow for more dense housing.

Councilor Davis asked if it is a requirement that every building type in the subject zone has to allow at least three dwelling units. Dir. Bartman said that is not a requirement, but the zoning must entitle buildings that add to the total required density of 15 units per acre. Councilor Davis asked if that meant a lot that is only large enough for a cottage, for example, would be excluded. Dir. Bartman said that would be allowed, but if every property in the city were that small, then the area would be disqualified. There was more discussion about the building type analysis. Chair Ewen-Campen asked if the NR district would be compliant if Somerville removed the special permit requirement for group living and the number of occupants law. Dir. Bartman said the steep slope law may have to go as well. They would have to apply for compliance with DHCD to confirm if NR would be sufficient with those changes.

Dir. Bartman said that a challenge with UR is that it is less continuous than NR, but the UR district does have more building types that meet the minimum density requirement. The number of dwelling units in the current setup does not meet the minimum 9,000 to comply, although some NR lots could be “upzoned” into UR. Councilor Gomez Mouakad confirmed with Dir. Bartman that this is more of a mathematical exercise than a game plan, as the UR district is so scattered it would not meet the MBTA requirement for continuity.

Dir. Bartman talked about next steps and recent updates. Planning & Zoning did make a presentation to the Council and submit the MBTA Community Information Form to DHCD by May 2. The state has declared that all MBTA Communities must submit an action plan or file for a compliance determination by December 31, 2022. Then, by December 31, 2023, zoning must be adopted. He said he would like to finalize and submit Somerville’s proposal this summer and added that they would be happy to have councilors’ input on the plan.

Chair Ewen-Campen said he found it surprising that NR is the closest district to being compliant. Councilor Gomez Mouakad asked about the meaning a unit capacity requirement of 25% of existing dwelling units. Dir. Bartman explained that the state is using the existing density in the municipality to determine the minimum requirement for the number of units the zoning law must permit to be built. The calculation is based on the 2020 Census. Councilor Gomez Mouakad also asked why the hesitation to use Assembly Square in the analysis. Dir. Bartman replied that there are other squares that could handle the additional density; Assembly does not have to be the only relief outlet. The other reason is because of the existing special permit process for Assembly. The permit process would have to be completely reconfigured to become compliant with state guidelines, and the square’s current development plans all lend themselves to the current setup.

Councilor Gomez Mouakad asked if there is a parking requirement to the funding, to which the answer is no. She also asked if there is a public process in place yet to inform the community of proposals. Dir. Bartman said that they need to finish a finer version of the buildout potential analysis first and then determine what changes would be feasible. Then, they could get community input. He said the process is still in the preliminary phase because they are waiting for final DHCD guidelines, but they are still expecting to be ready for input sooner rather than later. Councilor Gomez Mouakad commented that there is a heavy skew towards NR in Ward Five, and she spoke to the importance of informing the public about zoning changes.

Councilor McLaughlin asked if there was any issue with the new law prohibiting readjusting inclusionary housing percentages, and how that decision is being made. Dir. Bartman said that they do not anticipate there being a restriction on affordable housing. Based on preliminary feedback, it looks like affordable housing requirements will be allowed going forward. He added that he is unsure of the details of the decision-making process, but that it is a collaboration between DHCD, MBTA, and MassDOT.

Councilor McLaughlin spoke to the zoning overhaul that happened around 2014 and asked if the zoning that was proposed, but not accepted, would make Somerville compliant with state law. Dir. Bartman said he was unsure, as that plan had a different map and density standards. Councilor McLaughlin spoke in favor of reviewing that map and said he does not want to see any one neighborhood bear the brunt of the density requirements. He said that the law is trying to get people who benefit from transit to build housing so that others can benefit from transit, and that he wants to see as much affordable housing come out of this as possible.

Chair Ewen-Campen said that a rising threat to housing production is an insatiable desire by developers for lab and office space. He said that there seems to have been a generational shift from residential to commercial development. However, if every MR development coming to Somerville is commercial, the city's housing will suffer. He asked if Planning & Zoning would be looking at requirements for denser buildings to become residential or mixed-use. Dir. Bartman said that since there are only so many sites in the city available for development, they may need to consider that. He spoke to the intention Planning & Zoning wants to take in their proposal and commented that 5-6 story buildings tend to last a long time, so options need to be weighed carefully. Chair Ewen-Campen expressed his support at this early stage for encouraging residential use of apartment-size lots.

RESULT:

WORK COMPLETED

UNION SQUARE EAST AND ALLEN ST AMENDMENTS

213243: Proposing a zoning map amendment to change the zoning district of the contiguous parcels containing 250-256 Somerville Avenue and 5-27 Allen Street (odd side only: 5-7, 9, 11, 13, 17, 21-23, and 27) from Urban Residence (UR) to Neighborhood Residence (NR).

Taken up together with item 213244. Chair Ewen-Campen said that a public hearing was held for these two items in which Dir. Proakis, current property owners on Allen Street, and others voiced concerns. Chair Ewen-Campen said he wants to hear how these items fit into the overlay district planning process.

Dir. Lewis said that in the last few years, the Union East area has been a point of discussion. Originally, it was intended to reach from where Union Square ended, and the neighborhood of Allen St, Merriam St, and Linden St did not want to be included in that exercise, but since then, there has been a large turnover of homeowners. Planning & Zoning is working with Councilor Scott to lay the groundwork and see what a small area plan would look like. Dir. Lewis described issues with nomenclatures and how the pandemic disrupted long-range planning efforts. She said that these items are part of a strategy by Councilor Scott to pause developments in these areas, and described where pressures are coming from.

Chair Ewen-Campen said he is struggling with these items because it is clear to him that the ultimate zoning for these areas should not be NR. However, that is not the intent of these items; discouraging development for a time would allow for a community planning process. At the last meeting, it was said that downzoning is a legally risky way to achieve this. Chair Ewen-Campen asked about alternatives. Dir. Lewis said they need more time to investigate some of these options. One option is a "short-term building moratorium", but Dir. Lewis said that Dir. Proakis strongly recommended against it. City Council would have to approve a time-limited stop where only simple work is allowed. The second alternative is an Interim Planning Overlay District (IPOD) in which everything would require a special permit. She said that even while the zoning district for this area is undecided, projects can go ahead with the intent to meet the future planning effort. She added that there are already a couple of projects underway, either in conversation with the Historic Preservation Commission or have applied and are waiting for building permits.

Chair Ewen-Campen asked if the department has a position on the Union Square East planning process. Dir. Lewis said that they had started groundwork, but encountered complications and are hoping to start work in earnest by the end of June. Chair Ewen-Campen also asked to what extent developments proposed under the current zoning on Allen St would disrupt the planning process. Dir. Lewis answered that it would not be a large hindrance, especially if that block ends up being 3-4 stories, but it would be difficult to tell without going through the process of envisioning the neighborhood. One issue to investigate is what options would be feasible given the narrowness of the streets.

Chair Ewen-Campen summarized the two amendments up for recommendation and said he felt there was a rational basis for rezoning specific sections of Allen St to Commercial Business (CB). He expressed concerns with the option to convert to NR. He said there seems to be community belief in the Union Square East planning process, and there is a clear need for a comprehensive plan in this area, but there are downsides to the NR strategy.

Councilor McLaughlin asked if Dir. Proakis has changed his opinion on these items upon further consideration. Dir. Lewis said that he felt these items should remain separate. Councilor McLaughlin echoed Chair Ewen-Campen's concerns and described how when people spoke in favor of downzoning at the public hearing, it was because the neighborhood has been neglected. He said that he thinks downzoning will exacerbate the problem of blighted neighborhoods, because developers will not want to do anything with that property due to its value. What he has heard from the Planning department suggests it may be illegal to convert to NR, and if not, he feels it still does not address residents' concerns.

Dir. Lewis said that they have not requested that Legal provide an opinion yet and that is an option. Councilor McLaughlin moved to seek legal advice on the proposed zoning before the committee.

RESULT:	KEPT IN COMMITTEE
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213244: Proposing a zoning map amendment to change the zoning district of the contiguous or abutting-across-a-public-way parcels of 29-31, 33-35, and 37-39 Allen Street (odd side only) and 34 Allen Street from Urban Residence (UR) to Commercial Business (CB).

Chair Ewen-Campen asked if the affordable housing overlay district would apply to properties in the CB district. Dir. Bartman answered that it would not. Affordable housing overlay correlates with NR, UR, and MR districts because those permit housing. Chair Ewen-Campen asked if there was a reason affordable housing overlay could not be amended to allow housing by-right in other districts. Dir. Bartman said that was possible, but the only type of residential property that could be built is if it is 100% affordable housing. Dir. Lewis added that CB may not be the right zone for these ideas; mixed-use may be the best approach. She noted that existing uses and businesses can continue regardless of the zoning.

Councilor Gomez Mouakad asked for clarification that after Brickbottom is done, Planning can start working on the master plan for this area, which is the concern for these zoning changes. She asked when the Interim Planning Overlay District (IPOD) is most effective for this kind of situation. Dir. Lewis said that once Brickbottom is done, they will have the staff capacity to address another area. She clarified that an IPOD would be separate from the small area planning,

and Planning needs to do more research to understand what an IPOD could look like in this situation. The next possible joint hearing with the Planning Board is June 16. Dir. Bartman said that an IPOD acts as a placeholder during the planning project that would not block development, but add another level of approval. Chair Ewen-Campen said the IPOD sounds like the most reasonable approach, creating a check on unwanted developments without locking the neighborhood.

RESULT:

KEPT IN COMMITTEE

ARTS AND CREATIVE ECONOMY ZONING UPDATE

213343: That the Director of Planning & Zoning update this Council on a proposed zoning amendment to "separate and define arts and creative workspace as an Arts and Creative Enterprise (ACE) use subcategory" as recommended in the Somerville Arts Space Risk Assessment.

Chair Ewen-Campen explained that for many large-scale developments, it is a requirement to set aside space for "artist spaces". However, an issue for many is that the zoning is too permissive for what counts as a creative use. Dir. Lewis spoke to her experience doing MAPC work for the Cultural Space task force and said there are a few factors at play here. One part is the ACE space requirement, which was written intentionally to be broad so as not to be restrictive. Dir. Lewis and Dir. Galligani meet with Dir. Jenkins of the Arts Council biweekly to discuss recommendations: for example, a fee in lieu of an ACE space requirement, which would allow the city to acquire art space elsewhere. One concern is with the consolidation and teaming of artists. Instead of multiple small spaces, there should be a question of how to consolidate. Dir. Lewis also spoke to conversations happening over the fabrication district and how its uses intersect here. Dir. Antanavica has been working on this.

Dir. Bartman said there are three areas of interest here: the nature of the fabrication district, ACE use categories, and what provisions other zoning districts have for ACE. He said they have already turned away multiple attempts at occupying ACE space required of other zoning districts for what they consider illegitimate uses - for example, a hotel lobby that displays art. Art has to be a principal use of ACE spaces. Dir. Bartman also said he has seen an effort to use coworking as a "cheat code" for meeting this requirement, and Planning is considering moving coworking out of the use category and into the office category. One of the Planning department's most pressing priorities with this item is not to lose the intent behind the zoning. Dir. Bartman said that the fabrication district was designed to include "innovative uses" that also sometimes includes intellectual property. The fabrication district is facing challenges in its current shape at the same time the city is looking to narrow its current uses. Dir. Bartman said he shared Dir. Lewis' concern about the disparity between the amount of ACE space that zoning could create, and the space that could be lost if properties redevelop.

Chair Ewen-Campen clarified that next steps included developing recommendations that fit the zoning network and asked for a timeframe. Dir. Lewis said that they had not talked about the timeline yet, but that she and Dir. Bartman could review that and have an estimate for the next meeting. Chair Ewen-Campen acknowledged the Planning department's immense workload, but stressed the urgency of revising this before the large master plan special permits that are currently underway are completed. Dir. Lewis said she hopes to address the zoning this calendar

year, and also spoke to non-zoning changes that need to happen, such as increasing capacity for the Arts Council.

RESULT:

KEPT IN COMMITTEE