

JOINT HEARING

May 17, 2021

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SOMERVILLE
ZONING
ORDINANCE

EFFECTIVE DECEMBER 12, 2019

STRATEGIC
PLANNING &
COMMUNITY
DEVELOPMENT

JOSEPH A. CURTATONE
MAYOR

AGENDA ITEMS ADDRESSED

211349 & 211612: Rooftop Mechanicals

210782 & 211693: Ground Story Commercial Spaces (SB Overlay District)

209651: *Affordable 3rd DU in NR (Not covered in presentation)*

211448: *Fair Housing Task Force (Not covered in presentation)*

211433: Civic Space Amendments

211136 & 211611: Body Art Establishments

Rooftop Mechanicals

Guest Feedback:

- Daniel Hackett Cushman & Wakefield
- Tom Donovan Cushman & Wakefield
- Chris Ham Genesis AEC
- Bill Sayles Columbia
- Alex Vanderweil R.G. Vanderweil Engineers
- Alan Ames BR+A Consulting Engineers

10. DEVELOPMENT STANDARDS

Screening

10.8 SCREENING

1. Applicability

- a. Real property within the Commercial Industry district is exempt from the provision of this Section.

2. Loading Facilities

- a. Outdoor loading facilities, including all docks and areas used for the storage and staging of materials must be screened from view by a wall or fully closed fence between six (6) and twelve (12) feet in height, as necessary to sufficiently screen delivery vehicles, and constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color.
- b. Exterior entrances and access to loading facilities that are fully enclosed within a BUILDING must have an opaque, self closing door constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color.
- c. Loading facility doors are only permitted to be opened during loading and unloading activities.

3. Service Areas

- a. Trash collection, trash compaction, recycling collection and other similar service areas must be fully enclosed within a BUILDING or located to the side or rear of the buildings.
- b. Exterior entrances and access to service areas that are fully enclosed within a BUILDING must have an opaque, self closing door constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color.
- c. Outdoor service areas that are visible from a public THOROUGHFARE (excluding an ALLEY), CIVIC SPACE, or ADJACENT properties in the NR zoning district must be fully screened by a wall or fully closed fence at least six (6) feet in height with self-closing ACCESS doors and constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color.

4. Mechanical Equipment

- a. Roof-Mounted
 - i. Mechanical equipment, except roof-mounted sustainable energy systems, and elevator/stairwell penthouses must be set back at least ten (10) feet from the edge of the exterior wall of a BUILDING.
 - ii. New buildings must provide a parapet wall or other architectural element constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color that screens the visibility of roof-mounted mechanical equipment from any a public THOROUGHFARE (excluding an ALLEY) or CIVIC SPACE.
- b. Wall-Mounted
 - i. Mechanical equipment is not permitted on any FACADE.
 - ii. Mechanical equipment on any surface that is visible from a public THOROUGHFARE (excluding an ALLEY) or CIVIC SPACE must be screened by landscaping or an opaque screen constructed of materials that are compatible with the PRINCIPAL BUILDING in terms of texture, quality, and color.
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- iv. ~~Mechanical equipment screening and mechanical penthouses must be set back at least ten (10) feet from the exterior walls of a building.~~
- v. ~~The permitted height of mechanical equipment, screening, and mechanical penthouses may be limited for certain building types or for specific zoning districts. See the provisions for each zoning district for more information.~~
- vi. ~~Roof-mounted photovoltaic (PV) devices and elevator or stairwell penthouses are exempt.~~

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4. MID-RISE DISTRICTS

Mid-Rise 4 (MR4)

MR3 & MR4

Table 4.2.13 Permitted Uses (continued)

Use Category Specific Use	MR4
Accessory Uses	
Home Occupations (as noted below)	--
Creative Studio	N
Hobby Kennel	N
Home-Based Business	N
Home Day Care	N
Home Office	P
Urban Agriculture (as noted below)	--
Apiculture	P
Aviculture	P
Commercial Farming	P
Residential Gardening	P
Vehicle Parking, Accessory (except as follows)	P
Home Business Vehicle Parking	N

P - Permitted SP - Special Permit Required N - Not Permitted
IP or SPI - Permitted as specified per §4.2.13.b

14. Development Standards

- a. General
 - i. DEVELOPMENT is subject to the provisions of Article 10, DEVELOPMENT STANDARDS of this Ordinance. Where the provisions of this section conflict with those of Article 10, the provisions of Article 10 apply.
- b. SIGNS
 - i. A SIGN, individual numerals or letters, or a nonelectrical nameplate identifying the property address is required for all real property as follows:
 - a. Each GROUND STORY non-residential USE must identify the STREET address either on the PRINCIPAL ENTRANCE door or above or beside the PRINCIPAL ENTRANCE of the USE.
 - b. All residential BUILDING TYPES must identify the STREET address either on the PRINCIPAL ENTRANCE door, above or beside the PRINCIPAL ENTRANCE, or on a mailbox.
 - ii. Address SIGNS must be made easily visible through the USE of colors or materials that contrast with the background material they are attached to and must be conspicuously located to provide visibility from the THROUGHPANE that the BUILDING faces.
 - iii. Address signs must be twelve (12) inches in height or less and may include the name of the occupant.
- c. **Rooftop Mechanicals & Penthouses**
 - i. Rooftop mounted mechanical equipment, screening, and mechanical pentouses may have a maximum height of ten (10) feet above the roof surface.

10 feet

4. MID-RISE DISTRICTS

Mid-Rise 5 (MR5)

MR5 & MR6

Table 4.3.13 Permitted Uses (continued)

Use Category Specific Use	MR5
Accessory Uses	
Home Occupations (as noted below)	--
Creative Studio	N
Hobby Kennel	N
Home-Based Business	N
Home Day Care	N
Home Office	P
Urban Agriculture (as noted below)	--
Apiculture	P
Aviculture	P
Commercial Farming	P
Residential Gardening	P
Vehicle Parking, Accessory (except as follows)	P
Home Business Vehicle Parking	N

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 - iii. Address signs must be twelve (12) inches in height or less and may include the name of the occupant.
- c. **Rooftop Mechanicals & Penthouses**
 - i. Rooftop mounted mechanical equipment, screening, and mechanical pentouses may have a maximum height of twenty (20) feet above the roof surface.

20 feet

SB Overlay - Ground Story Commercial Spaces

Guest Feedback:

- Zachary Baum Union Square Main Streets & Bow Market

8. OVERLAY DISTRICTS

Small Business (SB)

Figure 8.2.5 Example Commercial Spaces

- 5. **Mid-Rise, High-Rise, & Commercial Districts**
 - a. **Applicability**
 - i. This section is applicable to the construction of any new principal building.
 - b. **Standards & Measurements**
 - i. **Uses & Features**
 - a). **Commercial Space Width**
 - ii. The width of a commercial space is measured parallel to the facade and to the minimum required commercial space depth specified for each building type.
 - c. **Building Design Standards**
 - i. Six (6) ground story commercial spaces are required for every twenty (100) feet of building width.
 - a). Any fractional number resulting from this calculation is rounded to the nearest whole number.
 - ii. Ground story commercial spaces may have any configuration within a building.
 - iii. The leasable floor area of any ground story commercial space fronting any primary facade must have a minimum width of ten (10) feet and a minimum depth of twenty (20) feet.
 - iv. Ground story commercial spaces over (35) feet in width are not permitted to front any primary facade.

5. Mid-Rise, High-Rise, & Commercial Districts

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- i. This section is applicable to the construction of any new principal building.

b. Standards & Measurements

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General Feedback

- This *appears* to create new opportunities for startups, aspiring retailers, artisans and craftspeople coming out of farmers markets or online businesses.
- Developers, Commercial Realtors, Main Streets Orgs, Property Managers, City Planners all indicated support for multiple smaller commercial spaces in new development, but 6 commercial space per 100 feet feels overly prescriptive – if not at least set to high (4 per 100?).
- A similar restriction in Central Square on size of premises maximums intended to promote small business development stifled it instead.
- Minimum width and depth requirements (ex: 20 feet) can inhibit small business.
- A 35' ft width maximum limitation will negatively impact Food & Beverage uses (particularly restaurants).
- This will create narrow, deep commercial units that can limit the breadth of tenants and increase energy costs due to lack of daylight.
- Are tenants allowed to break through the interior demising wall into an abutting space to expand? That seems to violate the intent of the proposal. This would limit options for growth of small business if true.
- These types of leasing flexibility concerns are why commercial spaces are not typically regulated in zoning. It's not just the concern of the property owner, but also of the businesses – large, small, locals, and chains.

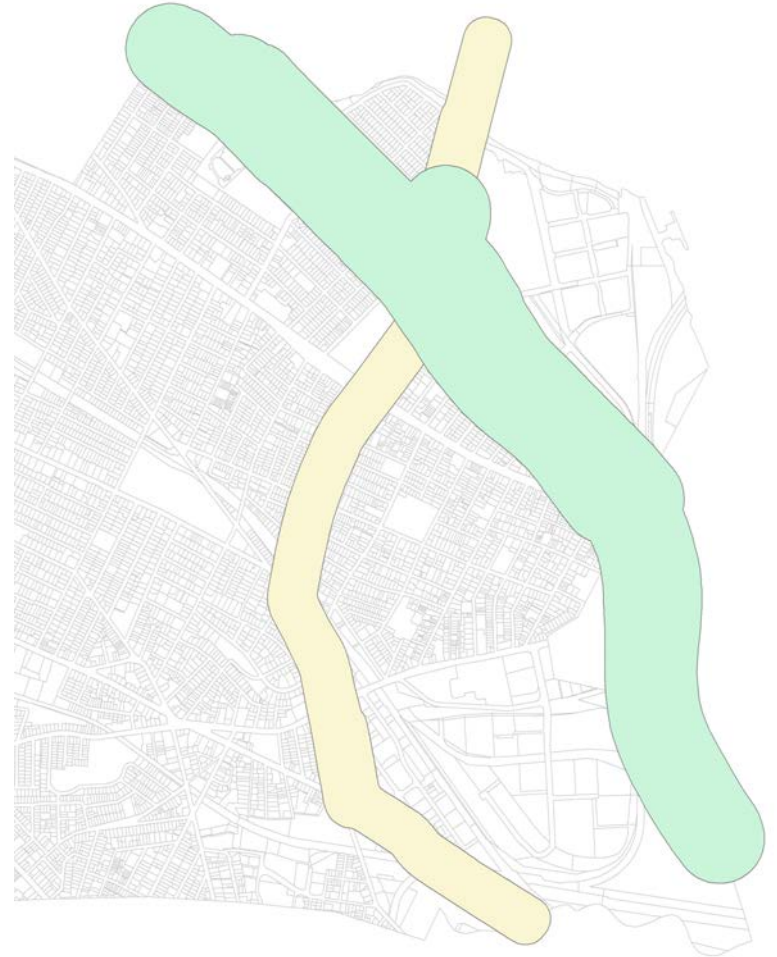
Suggestions

- Require a Special Permit for Formula Businesses
- Incentivize or require “Affordable” Commercial Spaces
- Incentivize or require first source tenant matching services
- Regulate the average width of all commercial spaces

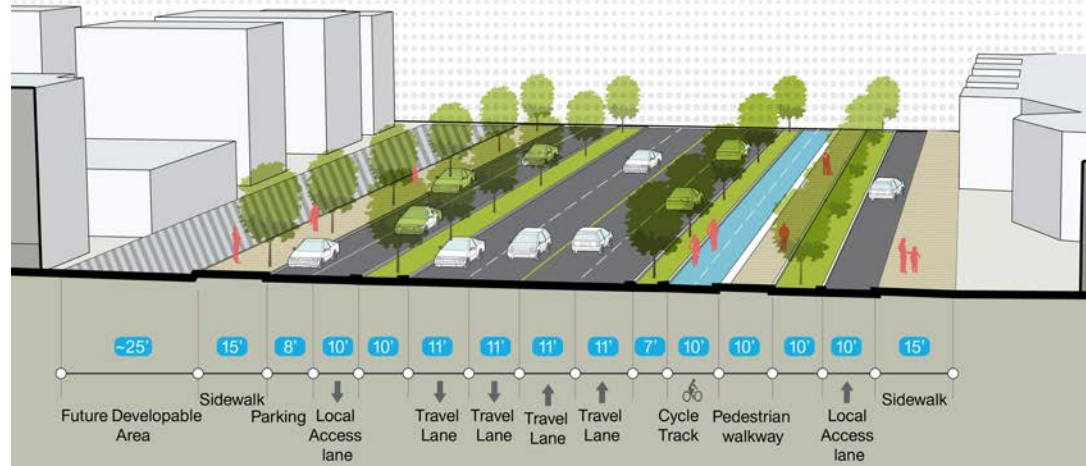
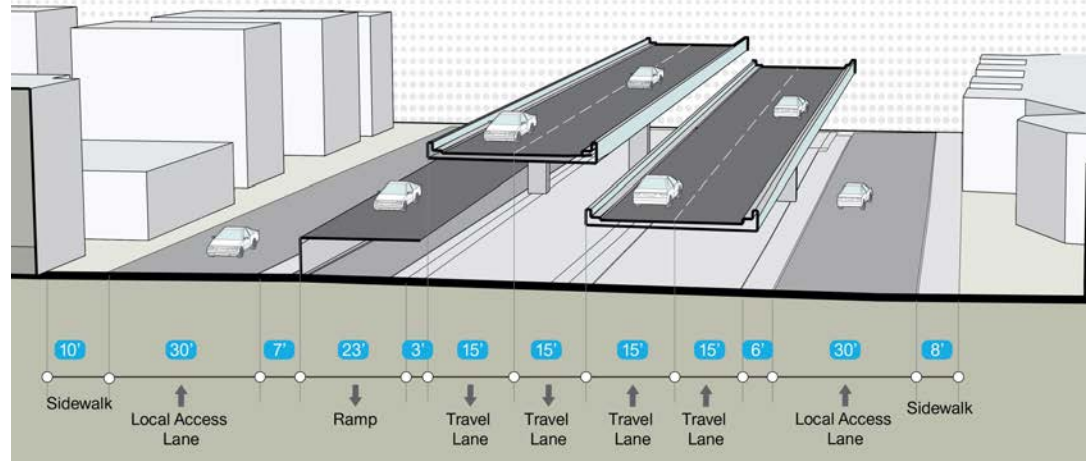
Civic Space Amendments

Civic Space Amendments

1. New discretionary Special Permit to Authorize a payment in lieu of providing Civic Space within certain distances to certain roadways
 - 500 feet of Interstate 93 Northern Expressway
 - 300 feet of Massachusetts Route 28
 - Review Criteria:
 1. Vehicle trips of the roadway?
 2. Benefit of public space despite exposure to pollutants?



Art Farm & McGrath Boulevard



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 - 500 feet of Interstate 93 Northern Expressway
 - 300 feet of Massachusetts Route 28
 - Review Criteria:
 1. Vehicle trips of the roadway?
 2. Benefit of public space despite exposure to pollutants?
2. New discretionary Special Permit to authorize developer to provide an “in-kind contribution” of off-site Civic Space for the required on-site civic space.
 - Must be within ¼ mile
 - Review Criteria:
 1. Is “off-site” civic space a net benefit over what the “on-site” civic space could have been?

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 - Must be within ¼ mile
 - Review Criteria:
 1. Is “off-site” civic space a net benefit over what the “on-site” civic space could have been?
3. Adjustment to the Payment in Lieu of Open Space formula
4. Adjustment to the Payment in Lieu of Civic Space formula

Legal Questions about Fees

SCOTUS rulings have determined that fees must meet two criteria:

1. Essential nexus (connection)
2. Rough proportionality (similarity)

- In lieu payment for “open space” must be for “open space”
- In lieu payments must be similar to costs.

What does “rough proportionality” mean? Is any X* multiplier allowed?

There is no precise mathematical equation, but the City must make an “individualized determination” that the fee charged is relative to the costs.

This amendment charges the PSUF Director to carry out that “individualized determination” (occasionally called a nexus study) to determine the actual fee amount.

3. Open Space In Lieu Payments

- a. Payment Calculation
 - i. The in-lieu payment for open space is calculated as $5*(A*B)$ where:
 - i). A is the square footage of open space not provided; and
 - ii). B ~~the average cost to acquire, design, and develop land as a civic space~~ the average cost to improve land as landscaped open space.
 - ii. The Director of Public Space & Urban Forestry shall calculate, publish on the City website, and annually update a fee schedule for the payment in lieu of open space.
 - iii. Payments in-lieu of open space must be paid to the Open Space Acquisition and Improvements Stabilization Fund.

4. Civic Space In Lieu Payments

- a. Payment Calculation
 - i. The in-lieu payment for civic space is calculated as $5*(A*B)$ where:
 - i). A is the square footage of civic space not provided; and
 - ii). B the average cost to acquire, design, and develop land as a civic space.
 - ii. The Director of Public Space & Urban Forestry shall calculate, publish on the City website, and annually update a fee schedule for the payment in lieu of civic space.
 - iii. ~~All other~~ Payments in-lieu of civic space must be paid to the Open Space Acquisition and Improvements Stabilization Fund.

Body Art Services

9. USE PROVISIONS

Use Definitions & Standards

special permit authorizing a BUILDING & home repair services PRINCIPAL USE:

- a. Visual impact and quality of screening of parked business vehicles.
- f. BUSINESS SUPPORT SERVICES
Uses that provide personnel services, printing, copying, photographic services, or communication services to businesses or consumers. Typical USES include employment agencies, copy and print shops, telephone answering services, and photo developing labs.
- g. CATERER OR WHOLESALE FOOD PRODUCTION
The preparation of food in significant quantities to be delivered and served off-site.
 - i. In addition to the review criteria for all Special Permits specified in §15 2.1.e. Review Criteria, the review board shall make findings considering the following in its discretion to approve or deny a special permit authorizing a caterer/wholesale food production PRINCIPAL USE:
 - a. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - b. Visual impact and quality of screening of parked business vehicles.
 - c. Location of loading, trash and recycling storage and the procedure for pickup and drop-off.
 - d. Ventilation and air handling techniques to reduce the emission of odor or exhaust onto neighboring properties.
- h. DAY CARE SERVICES
Uses that provide licensed care, protection, and supervision in a protective setting for children or adults, with or without compensation, on a regular basis away from their primary residence and for less than sixteen (16) hours per day. The specific USE types within the day care service USE category are:
 - i. ADULT DAY CARE CENTER: A day care service USE providing custodial care of adults over eighteen (18) years old, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention. The following standards apply:
 - a. All persons must be eighteen (18) years of age or older.
 - ii. Child Day Care Center: A day care service as defined in MGL 15D Section 1A.
- i. Educational Services
The general or specialized pre-primary, primary, secondary, vocational, or tertiary education, instruction, or training in subject areas, skills, or vocations. Facilities customarily provided by educational service USES in directly serving the needs of employees and students are permitted including, but not limited to, classrooms, administrative offices, research centers, laboratories, auditoria, study halls, on-campus housing, libraries, temporary structures, campus centers, bookstores, laundry services, light manufacturing, retail sales, Food & Beverage Services, banks, athletic fields, parking facilities, and their substantial equivalents.
- j. Maintenance or Repair Services
Uses that provide maintenance, cleaning, or repair services for consumer goods. Typical USES include dry cleaning shops, tailors, shoe repair, vacuum repair shops, electronics repair shops, and similar establishments.
- k. Personal Services
Uses that provide a variety of services associated with personal grooming, personal instruction, and the maintenance of fitness, health, and well-being. The following PERSONAL SERVICES specific USE types are regulated differently than other USES classified within the PERSONAL SERVICES USE category:
 - i. Body Art Services
Use of a space for the practice of physical body adornment by permitted establishments and practitioners using, but not limited to the following techniques: piercing, tattooing, cosmetic tattooing, branding and scarification. The following performance standards apply:
 - a. Procedures considered 'medical procedures' by the Board of Registration in medicine, such as implants under the skin, are prohibited in Body-Art Services.
 - b. No Body Art establishment may be located within 500 feet of an establishment selling items primarily involving 'sexual content' as defined by MGL 232 Section 31.
 - c. In addition to the review criteria for all Special Permits specified in §15 2.1.e. Review Criteria, the review board shall make findings considering the following in its discretion to approve or deny a special permit authorizing a body art principal use:
 - i. Design of storefront windows and operations plans for ensuring the privacy of patrons.
 - d. The review boards may not grant a special permit authorizing a body art services principal use within five-hundred (500) feet of any other body art services principal use.
 - ii. Fitness Services
Use of space for physical exercise or training on an individual or group basis, using exercise equipment or open floor space, with or without an option for having instruction with a personal trainer.
 - iii. Funeral Services
A facility where the deceased are prepared for burial display and for rituals before burial or

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5. Body Art Services

Use of a space for the practice of physical body adornment by permitted establishments and practitioners using, but not limited to the following techniques: piercing, tattooing, cosmetic tattooing, branding and scarification. The following performance standards apply:

- a) Procedures considered 'medical procedures' by the Board of Registration in medicine, such as implants under the skin, are prohibited in Body Art Services.