

City of Malden Massachusetts

INSPECTIONAL SERVICES
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Malden, Massachusetts 02148
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July 27, 2023

Malden City Council
Malden City Hall
215 Pleasant Street
Malden, MA 02148

**Re: Amendment of Title 12.08.020, Code of City of Malden
Zoning Map
To Change Zoning District of Four Parcels (5 Island Hill Avenue, 1038 Main Street, 1100 Main Street, 1128 Main Street) from Highway Business to Neighborhood Business
City Council Paper #197/2023**

Dear Councilors:

On July 17, 2023, the Planning Board and City Council Ordinance Committee jointly held a public hearing regarding the above-referenced proposed amendment.

After the public hearing, on July 17, 2023, a majority of the Planning Board, namely, five of the nine members present, decided to recommend to the City Council **disapproval** of the amendment.

For your reference, enclosed please find the Planning Report & Recommendation dated July 17, 2023, with attachments, which was presented at the public hearing.

Finally, please be advised, that, if the City Council fails to act on the amendment within ninety (90) days of the date the public hearing closed, a new duly advertised public hearing must be held. Accordingly, **the final date for action is October 15, 2023.**

I am available to discuss and answer any questions regarding the Planning Board's recommendation. Please do not hesitate to contact me. Thank you.

Sincerely,

Michelle A. Romero
City Planner

Enclosure

CC: Carol Ann Desiderio, City Clerk
Mayor Gary Christenson
Alicia McNeil, Acting City Solicitor

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: July 17, 2023
Subject: Amendments of §12.08.020, Title 12, Code of City of Malden (§ references)
(CCP 197/2023)

PROCEDURAL: The petition was filed by the City Council (§12.32.050) by sponsor Ward 4 Ryan Councilor O'Malley. For full text of amendment, see attached City Council Paper 197/2023.

SUMMARY of PROPOSED AMENDMENT: The proposal is to change the zoning map (§12.080.020) to reclassify the zoning district of the following properties from Highway Business to Neighborhood Business:

Property	Assessor's Parcel ID	Use	Approx. Date of Occ/Bldg	Lot Area (SF)
5 Island Hill Avenue (includes 6 and 8)	044 855 505A	Multifamily dwellings 3 buildings (3 & 4 stories/150 units)	2007	199,340
1038 Main Street (includes 1036, 1040, 1042, 1044, 1046, 1048, 1050, 1052, 1054, 1056, 1058, 1062, 1064)	044 855 510	Multifamily dwellings 14 buildings (2 stories/118 units)	1962-1967	162,610
1100 Main Street	044 855 507	Motor vehicle repair shop (See <i>Note 2</i> below)	1950	31,271
1128 Main Street	044 855 506	Animal hospital, Kennel	1940	13,500

The properties/land that are the subject of the amendment are shown on the attached parcel map and zoning map. The legal description of the subject properties/land must be prepared and included with any amendment of the zoning map that is ordained.

CURRENT ZONING:

A. District (§12.08.020). The subject properties have been classified as part of the Highway Business zoning district since the current zoning ordinance (MCC) was adopted on August 8, 1977 (M.G.L. c. 40A, as amended December 22, 1975).

The Residence A zoning district abuts to the south, east and west. The direct abutters to the north are multifamily residential dwellings in Melrose; to the east, on the other side of Main Street, Pine Banks Park; to the south, single and two- family dwellings; to the west, the Spot Pond Brook Culvert, on the other side of which is the Oak Grove MBTA Rapid Transit Station.

Surrounding land uses are residential and the Forestdale Cemetery.

B. Use Regulations (§12.12.030)

See attached Table of use Regulations for uses allowed by right, by special permit and prohibited in the current zoning district (Highway Business) and proposed zoning district (Neighborhood Business).

DIMENSIONAL CONTROLS & PARKING REQUIREMENTS: The use of the property, not the zoning district, determines applicable dimensional controls and parking and loading requirements (§§12.16. 010 & 12.20.010).

APPLICATION and EXEMPTIONS: The amendments will apply to new construction and new use /occupancy of existing buildings, unless exempt by M.G.L. c. 40A, §6; §12.28.010; the express language of the amendment; or the subject of a building permit or special permit issued before the first publication of notice of the public hearing (June 30, 2023).

***Note 1:** Per statute, applications for permits in the processing stage when publication occurs are not protected; historically, the City interprets, in consideration of a pending petitioner's good faith reliance on current regulations, that proposed amendments do not apply to applications filed prior to the first publication of the notice of public hearing (date above).*

***Note 2:** An application for a fast-food restaurant with drive-thru at 1100 Main Street (Permit Application #CMID-050466-2022) was filed prior to the first publication of the hearing notice and is in the processing stage. This property is the subject of this amendment to reclassify the property to the Neighborhood Business zoning district (CCP 197/2023); however, if the zoning district is amended to Neighborhood Business, the property may be subject to amendments to prohibit drive-thrus (CCP 227/2023; public hearing scheduled for July 17, 2023; same first date of publication of public hearing notice), unless an exemption is extended.*

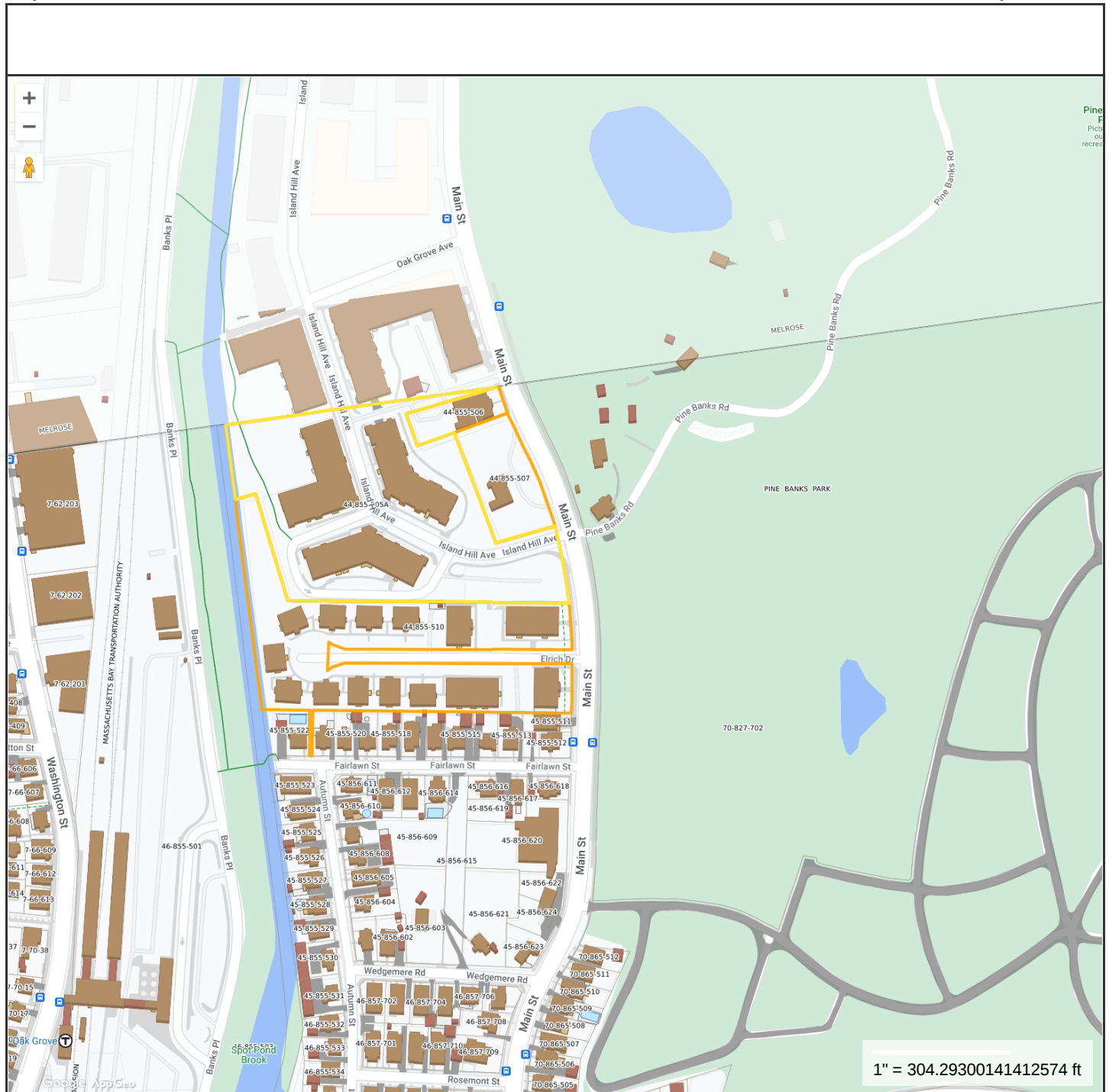
EFFECTIVE DATE: The effective date of an amendment is the date of the City Council's vote to ordain the amendment (§12.32.050.F). The Council must act on the amendment within ninety (90) days after the public hearing closes, otherwise, a new duly advertised public hearing must be held (§12.32.050.D); accordingly, if the public hearing closes on July 17, 2023, the final date for action is October 15, 2023.

STANDARD of REVIEW: The Planning Board's review and recommendation of the proposed zoning changes should be directed by *substantive planning objectives, community need and general welfare.*

In the current zoning district, numerous industrial uses in potential conflict with surrounding land uses are allowed by right or by special permit; the amendment reclassifies the subject properties to a zoning district in which these uses are prohibited.

PLANNING RECOMMENDATION: *(Made prior to the public hearing)* That the Planning Board recommends to the City Council:

1. Approval of the proposed amendment of Section 12.08.020.
2. Prepare legal description of all property/land that is the subject of the amendment and include with any amendment ordained.

**Committed Information**

Property ID	044 855 505A
Location	5 ISLAND HILL AV
Owner-1	WM OAK GROVE VILLAGE LLC
Property ID	044 855 510
Location	1038 MAIN ST
Owner	PINE BANKS MALDEN LLC
Property ID	044 855 507
Location	1100 Main St
Owner	CELONA JAMES M CELONA ROBERT J TRS CELONA REAL ESTATE TRUST
Property ID	044 855 506
Location	1128 Main St
Owner	PINE BANKS ANIMAL HOSPITAL & KENNEL INC



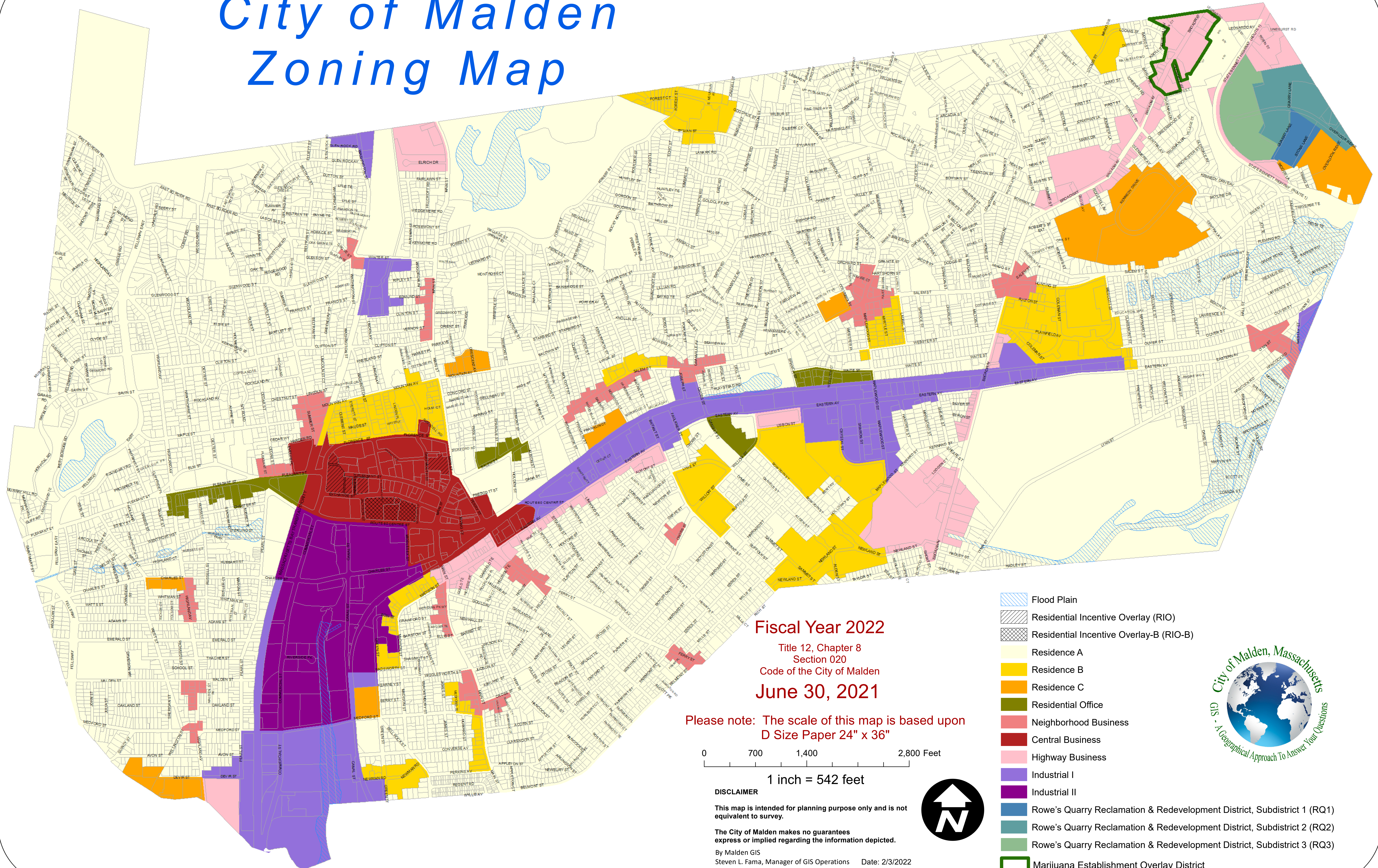
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Malden, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 02/14/2022
Data updated 08/07/2019

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.

City of Malden Zoning Map



12.12.030 USE REGULATIONS

Uses of land, buildings and structures shall be regulated throughout the City of Malden as herein set forth:

Use	A	B	C	RO	BN	BC	BH	I1	I2	ME OVERLAY DISTRICT
Agriculture	Yes	Yes	Yes	No	No	No	No	No	No	-
Residential										-
Dwelling, Single Family	Yes	Yes	Yes	Yes	Yes	No	No	No	No	-
Dwelling, Two Family	No	Yes	Yes	Yes	Yes	No	No	No	No	-
Dwelling, Three & Four Family	No	SP	SP	SP	SP	No	SP	No	No	-
Dwelling, Town or Row	No	SP	SP	SP	SP	SP	SP	No	No	-
Dwelling, Multi-family, up to 3 stories inclusive	No	SP	SP	SP	SP	SP	SP	No	No	-
Dwelling, Multi-family, more than three stories but not exceeding 6 stories	No	No	No	No	No	SP	No	No	No	-
Dwelling, Multi-family, more than six (6) stories but not exceeding seven (7) stories	No	No	No	No	No	SP	No	No	No	-
Dwelling, Group	Yes	No	Yes	Yes	Yes	Yes	No	No	No	-
Rooming House	No	No	SP	No	No	No	No	No	No	-
Manufactured Home	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	-
Planned Unit Development	No	No	SP	SP	No	No	No	No	No	-
Dwelling, Cohousing	No	No	No	SP	No	No	No	No	No	-
Short Term Rentals	No	No	No	No	No	No	No	No	No	-
Institutional Use										-
Club or Lodge	No	No	No	Yes	No	Yes	Yes	Yes	Yes	-
Day Care Centers	Yes	No	Yes	Yes	SP	Yes	Yes	Yes	Yes	-
Hospitals	SP	SP	SP	Yes	Yes	Yes	Yes	No	No	-
Non-Profit School	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	-
Religious Facilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-
Business Uses										-
Business School	No	No	No	Yes	SP	Yes	SP	SP	SP	-
Funeral Home	SP	SP	SP	Yes	Yes	Yes	Yes	No	No	-
Gasoline Filling & Service Station	No	No	No	No	SP	No	SP	SP	SP	-
Greenhouse	No	No	No	No	Yes	No	Yes	No	No	-
Motel - Hotel	No	No	No	No	No	SP	SP	SP	SP	-
Nursing or Convalescent Home	No	Yes	Yes	Yes	Yes	SP	Yes	No	No	-
Medical Center	No	No	No	SP	SP	SP	SP	SP	SP	-
Offices, General	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	-
Recreation, Gainful Business	No	No	No	No	Yes	Yes	Yes	Yes	Yes	-
Recreation, Gainful Business, Secondary to Principal Club/Lodge	No	No	No	SP	No	SP	SP	SP	SP	-
Restaurant, "Fast Food" Service, that does not take call-ahead orders and is in excess of 1000 sq. ft. gross floor area	No	No	No	No	No	SP	SP	SP	SP	-
Restaurant, All Other	No	No	No	No	SP	Yes	SP	SP	SP	-
Retail Sales										-
Less than 5,000 sq. feet gross floor area	No	No	No	No	Yes	Yes	Yes	Yes	Yes	-
5,000 Sq. Feet or more gross floor area	No	No	No	No	SP	SP	SP	SP	SP	-
Retail Sales, only in conjunction with On Site Manufacturing, Warehousing, Wholesaling & Distribution	No	No	No	No	No	No	No	Yes	Yes	-
Retail Services	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	-
Adult Bookstore	No	No	No	No	No	No	No	SP	SP	-
Adult Motion Picture Theater	No	No	No	No	No	No	No	SP	SP	-
Planned Development	No	No	No	No	No	No	SP	No	No	-
Adult Club	No	No	No	No	No	No	No	SP	SP	-
Body Art	No	No	No	No	SP	No	No	SP	SP	-
Drive Thru	No	No	No	No	SP	SP	SP	SP	SP	-
Convenience Store	No	No	SP	No	SP	Yes	SP	SP	SP	-
Supermarket	No	No	No	No	SP	Yes	SP	SP	SP	-
Substance Abuse Treatment Center	No	No	No	No	No	No	SP	SP	SP	-

Use	A	B	C	RO	NB	CB	HB	I1	I2	ME Overlay
Licensed Massage Therapy Salon	No	No	No	SP	SP	SP	SP	SP	SP	-
Medical Marijuana Treatment Center	No	No	No	No	No	No	No	SP	SP	-
Adult Day Health Center	No	No	No	No	No	No	SP	SP	SP	-
Kennel	No	No	No	No	SP	SP	SP	SP	SP	-
Marijuana Retailer	No	No	No	No	No	No	SP	SP	SP	SP
Industrial Uses										
Building Construction & Contracting	No	No	No	No	No	No	Yes	Yes	Yes	-
Manufacturing and Repair	No	No	No	No	No	No	No	Yes	Yes	-
Marina	No	No	No	No	No	No	No	Yes	Yes	-
Motor Vehicle Repair Shop	No	No	No	No	No	No	SP	SP	SP	-
Warehouse	No	No	No	No	No	Yes	SP	SP	SP	-
Wholesale and Distribution	No	No	No	No	No	No	No	SP	SP	-
Self-Storage Facilities	No	No	No	No	No	No	No	SP	SP	-
Research and Development	No	No	No	No	No	SP	SP	Yes	Yes	-
Towing	No	No	No	No	No	No	SP	SP	SP	-
Light Manufacturing	No	No	No	No	SP	SP	SP	Yes	Yes	-
Asphalt, Brick, Concrete & Soil Recycling	No	No	No	No	No	No	No	SP	SP	-
Marijuana Cultivator	No	No	No	No	No	No	SP	SP	SP	SP
Independent Marijuana Testing Laboratory	No	No	No	No	No	No	SP	SP	SP	SP
Marijuana Product Manufacturer	No	No	No	No	No	No	SP	SP	SP	SP
Marijuana Research Facility	No	No	No	No	No	No	SP	SP	SP	SP
Marijuana Transporter	No	No	No	No	No	No	SP	SP	SP	SP
Other Uses										
Fill	SP	SP	SP	SP	SP	SP	SP	SP	SP	-
Parking Facilities, Offsite	SP	SP	SP	SP	SP	SP	SP	SP	SP	-
Flood Plain - All Uses	SP	SP	SP	SP	SP	SP	SP	SP	SP	-
Artist Live/Work Space	No	No	No	No	No	Yes	No	No	No	-
Public Service Corporation	No	No	No	No	Yes	Yes	Yes	Yes	Yes	-
Marijuana Social Consumption Establishment	No	No	No	No	No	No	No	No	No	-

* In the event of a situation as described in MCC 12.12.040 Paragraph A, the Building Inspector, at his discretion, may issue a temporary unrenewable occupancy permit not to exceed sixty (60) days, providing a Special Permit is applied for prior to issuance of said temporary occupancy permit.

** For accessory uses, see MCC 12.16.070 Paragraph G

HISTORY

Amended by Ord. [261-20B](#) Attachment on 4/27/2021

Amended by Ord. [Paper 383-21](#) Title 12, Chapter 12 on 12/7/2021



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Master

File Number: 197-23

File ID: 197-23

Type: Ordinance

Status: Agenda Ready

Version: 1

Reference:

In Control: Rules & Ordinance
Committee

File Created: 05/04/2023

File Name:

Final Action:

Title: Be it ordained by the Malden City Council that the Code of the City of Malden (MCC) 12.08.020 Zoning Map is hereby amended to better reflect the current uses of the surrounding neighborhood by changing the zoning district from Highway Business ("BH") to Neighborhood Business ("BN") for the following contiguous parcels:

1038 MAIN ST	(044 855 510)
5 ISLAND HILL AVE	(044 855 505A)
1100 MAIN ST	(044 855 507)
1128 MAIN ST	(044 855 506)

Internal Notes:

Agenda Date: 05/09/2023

Sponsors: Ryan O'Malley

Enactment Date:

Attachments:

Enactment Number:

Contact:

Hearing Date:

Drafter:

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	05/09/2023	recommended for referral	Rules & Ordinance Committee			Pass
Action Text: A motion was made by Councillor O'Malley, seconded by Councillor Simonelli, that the Ordinance be recommended for referral to a joint session of the Rules & Ordinance Committee with Planning Board. The motion carried by a unanimous vote.							

Text of Legislative File 197-23