

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: April 11, 2018
Subject: Amendments of Section 300.3, Chapter 12, Rev. Ord. of 1991 (“MZO”)/CCP #124/2018

PROCEDURAL: The petition is by the City Council (§800.5, MZO), sponsored by Ward 4 City Councilor Ryan O’Malley (CCP 124/2018).

PROPOSED AMENDMENTS: The proposal is to amend various use regulations, as follows (amendments italicized):

Section #	Use	Zoning District				
		BN	BC	BH	I1	I2
300.3.4.2	Business School	SP	Yes	No <i>SP</i>	No <i>SP</i>	No <i>SP</i>
300.3.4.6	Motel-Hotel	No	SP	SP	No <i>SP</i>	No <i>SP</i>
300.3.4.7	Nursing or Convalescent Home	Yes	No <i>SPR</i>	Yes	No	No
300.3.4.10	Recreation for Gainful Business	Yes	Yes	Yes	SP <i>Yes</i>	SP <i>Yes</i>
300.3.4.12	Restaurant (other/not fast food)	SP	Yes	SP <i>Yes</i>	SP <i>Yes</i>	SP <i>Yes</i>
300.3.4.13.1	Retail Sales Less than 5,000-10,000 sq.ft. gross floor area	Yes	Yes	Yes	Yes	Yes
300.3.4.13.2	Retail Sales, 5,000 10,000 sq.ft. or more gross floor area	SP	SP <i>SPR</i>	SP	SP	SP
300.3.5.8	Research & Development	No	SP <i>SPR</i>	No <i>SP</i>	No <i>Yes</i>	Yes
300.3.5.10	Light Manufacturing	SP	SP <i>SPR</i>	SP	SP <i>Yes</i>	SP <i>Yes</i>
300.3.6.4	Artist Live/Work Space	No <i>SP</i>	Yes	No <i>SP</i>	No <i>Yes</i>	No <i>Yes</i>

The proposed amendments do not change the special permit granting authority, the current dimensional controls or parking requirements for these uses. A variance of dimensional controls or parking requirements still may be required for an allowed “by right” use of a nonconforming property and/or if the proposal creates new violations or increases existing nonconformities (§§400, 500 & 700.1, MZO).

CURRENT ORDINANCE & BACKGROUND: Current use regulations are provided above. Below is relevant and illustrative (but not exhaustive) historical background on use regulations that are the subject of the petition.

Current motel-hotel regulations were recently amended to regulate this use by special permit in the Central Business and Highway Business zoning districts (CCP 61/2017). Current use regulations were ordained for light manufacturing in 2012 (CCP 49/2012); research & development in 2002 (CCP 394/2001); and artist/live work space in 2007 (CCP 92/2007). The preliminary report for the Commercial Street Corridor Plan Study recommends zoning reform to promote economic development in the study area, which includes property located in the Industrial 2 and Industrial 1 zoning districts; the proposed amendments to use regulations in the Industrial zoning districts regarding hotel-motels, research and development, light manufacturing and artist live work/space further the goals identified in the study.

Current retail sales regulations authorize the City to regulate re/development of larger properties (existing parcels and potential new sites created through merger that may be allowed under the subdivision control law) in the business and industrial districts. The threshold gross floor area (5,000 square feet) is based on current dimensional controls (such as lot area, coverage) and remains appropriate and effective to encourage commercial growth and redevelopment of various existing premises throughout the City that are of smaller size and ideal for small businesses, yet still require review for larger re/development proposals. Current regulations were ordained with the express intent to facilitate the permitting process for small businesses and promote the redevelopment and reuse of existing vacant storefronts

throughout the City in all business and industrial zoning districts (CCP 357/2013); and represent fine-tuning of prior amendments, designed to streamline the permitting process and establish consistent regulations in the business and industrial zoning districts; and to provide the City the opportunity to determine the impacts of these business uses, such as parking and traffic, that may affect abutting neighborhoods (CCP 133/2004, CCP 30/2005, CCP 92/2007, CCP 252/2010). The current special permit regulations require a statutory process that includes a public hearing with notice to abutters, rights of appeal and lapse of rights; and allows the City discretion to determine and consider the impacts of potential business growth on abutting neighborhoods and surrounding congested intersections and roadways. Given the recent and increased residential redevelopment of property in the Central Business zoning district, current regulations for restaurants allow the City to consider the impacts typical of these businesses, i.e., noise, odors, trash, pests, that affect residential quality of life; and require a public hearing process and determination that a proposal is not detrimental to residents of these new neighborhoods.

Current Site Plan Review regulations were designed and ordained to have exclusive application to a finite amount of property in certain areas of the City, specifically, to regulate multifamily residential use of identified areas of the Central Business zoning district, namely, property located in the Residential Incentive Overlay and Residential Incentive Overlay-B zoning districts (§300.13, MZO, CCP 67/2002, CCP 329/2010, CCP 32/2012); and to regulate multifamily residential and limited business use of property in the Rowe’s Quarry Reclamation & Redevelopment zoning district (§700.14, MZO, CCP 208/2008, CCP 61/2012). Current regulations are administered by two different Site Plan Review Committees and provide specific review standards and criteria for approval, resulting in restricted decision-making authority by the City and limited protections for abutters and neighborhoods. Current Site Plan Review regulations must be amended before extended to regulate other uses.

APPLICATION/EXEMPTIONS: The amendments will apply to new construction and new use/occupancy of existing buildings, unless exempt (“grandfathered in”) by M.G.L. c. 40A, §6; §700.1.1, MZO; the State Permit Extension Act (2012); or the express language of the amendment.

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

There is one pending application filed prior to first publication: a petition for a 9,000 SF market (Retail Sales, 5,000 SF or more gross floor area) at 1-13 Highland Avenue; the public hearing on this petition is scheduled for April 11, 2018).

EFFECTIVE DATE: The effective date of the amendment is the date of the City Council’s vote to ordain the amendment (§800.5.7, MZO). The Council must act on the amendments within ninety (90) days after the hearing closes, otherwise, a new duly advertised public hearing must be held (§800.5.5, MZO); accordingly, if the public hearing closes on April 11, 2018, the final date for action is July 10, 2018.

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.*

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

1. Adoption of amendment of Section 300.3.4.2 (Business School) as proposed.
2. Adoption of amendment of Section 300.3.4.6 (Motel-Hotel) as proposed.
3. Modification of amendment of Section 300.3.4.7 (Nursing or Convalescent Home) from proposed “SPR” to “SP.”
4. Adoption of amendment of Section 300.3.4.10 (Recreation for Gainful Business) as proposed.
5. Disapproval of amendment of Section 300.3.4.12 (Restaurant -other/not fast food).
6. Disapproval of amendment of Section 300.3.4.13.1 (Retail Sales Less than 5,000 sq.ft. gross floor area).
7. Disapproval of amendment of Section 300.3.4.13.2 (Retail Sales, 5,000 sq.ft. or more gross floor area).
8. Modification in part of amendment of Section 300.3.5.8 (Research & Development) from proposed “SPR” to “SP” in Central Business; and approval as proposed in Highway Business and Industrial 1.
9. Modification in part of amendment of Section 300.3.5.10 (Light Manufacturing) from proposed “SPR” to “SP” in Central Business; and approval as proposed in Industrial 1 and Industrial 2.
10. Approval of amendment of Section 300.3.6.4 (Artist Live/Work Space).