

## PLANNING REPORT & RECOMMENDATION

**To:** Malden Planning Board  
**From:** Malden City Planner  
**Date:** October 13, 2021  
**Subject:** Zoning Amendments (CCP #405/2021)  
Section 12.12, Chapter 12, Rev. Ordinances of 2020, as Amended, City of Malden  
(*City zoning ordinance; all § references herein are to this*)

**PETITION:** This petition is made by the City Council (§12.32.050) and was filed by sponsor Councilor-at-Large Stephen Winslow (for full text of amendments see attached City Council Paper 405/2021).

**SUMMARY of PROPOSED AMENDMENTS:** The proposal is to create a Site Plan Review process for all non-residential uses allowed by right in all zoning districts.

- A. Applicability. As proposed, the ordinance would apply to:
- all non-residential uses allowed by right, including religious and educational uses.
  - change of use of existing buildings for non-residential use allowed by right.
  - extension of existing buildings for non-residential use allowed by right.
  - construction of new buildings for non-residential use allowed by right.
  - extension of existing “surface parking areas,” >10,000 SF, for non-residential use allowed by right
  - construction of new “surface parking areas,” >10,000 SF for non-residential use allowed by right

*Note 1: As written, the proposed ordinance will apply to any building, regardless of size. The sponsor indicates the intent is the proposed ordinance applies to buildings that exceed 10,000 SF; and the proposed language of the amendment should be clarified (for possible revision, see Recommendation II.B below.)*

Per the language of the amendment, the proposed ordinance would not apply where a special permit or Site Plan Review is already required under the zoning ordinance.

- B. Site Plan Review Committee. Five members: Mayor; City Council President; Ward City Councilor representing the property; Director, Office of Strategic Planning & Economic Development (former Malden Redevelopment Authority); and a resident appointed by Mayor and confirmed by City Council.

C. Administration:

- Submission Criteria. Site Plan Review materials should be submitted to Building Commissioner, who would then forward to the City Clerk for the Site Plan Review Committee.
- Review Schedule. The 45 day period should begin upon receipt by City Clerk.
- Notice. Notice of public project review meetings are the same as for public hearings.
- Appeals. Appeals of the Site Plan Review conditions are to the Board of Appeal.
- Expiration. One year from notice to Building Commissioner, unless otherwise specified.

- D. Site Plan Review Criteria. As proposed, the ordinance provides the Site Plan Review Committee shall “set forth reasonable conditions for the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage.” This provision describes regulation of more than the “design and layout” referenced in the Purpose and Intent section.

***CONCERN:** This provision creates conflicts within the zoning ordinance because these specific areas are already regulated as Dimensional Controls and Parking Regulations under the current ordinance (§§12.16, 12.20); and places the same requirements under the jurisdiction of two different City bodies: the Board of Appeal, which may grant variances of these requirements, per M.G.L. c. 40A and §12.32.040, and the proposed Site Plan Review Committee.*

As proposed, several Site Plan Review Criteria conflict with the existing zoning ordinance by regulating areas already regulated as Dimensional Controls and Parking, Loading and Screening Regulations:

- 1) “Protect adjoining premises against detrimental or offensive uses on the site and impacts that would substantially undermine existing, allowed uses of such premises and pedestrian orientated establishments.”

*CONCERN: Define/clarify, “Protect.” If the intent is to screen, screening is regulated in part by Parking, Loading and Screening Regulations (§12.20). If the intent is to restrict or prohibit uses, this would be a use regulation and is not a matter for Site Plan Review.*

- 2) Convenience and safety of vehicular, pedestrian and bicycle movement within and around site.
- 3) Adequacy of sewage and waste disposal, drainage.
- 4) “Provide adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment and require any regular off-site loading and unloading of vehicles be in legally-established zones for such purpose and that the traffic and walking route plans show that those zones will limit adverse off-site traffic and parking impacts.”

*CONCERN: Off-street loading is already regulated under Parking/Loading Regulations (§12.20) as to number and dimensions; and loading bays/spaces are not required for all uses subject to the proposed ordinance. An amendment of Loading Regulations is required to change the requirement for a particular use.*

- 5) Utilities connections.
- 6) “Provision of on-site open space and recreational facilities to serve the needs of the establishment so as to avoid the over use of nearby public open space.”

*CONCERN: Open space is already regulated as a Dimensional Control (§12.16) and is not required for non-residential uses. An amendment of Dimensional Controls is required to change the requirement for a particular use.*

- 7) “In pedestrian-orientated areas, safety improvements, building setbacks and curb cuts reasonably necessary for the continued walkability of people of all ages and abilities passing the site.”

*CONCERN: Building setbacks are regulated as a Dimensional Controls (§12.16) and are subject to change by a zoning amendment or a variance granted by the Board of Appeal.*

- 8) Access and passage of public transit and public safety vehicles.

**CURRENT ORDINANCE:**

1. **Non-residential uses allowed by right.** Various institutional, business, industrial and other uses are allowed by right in certain zoning districts, as indicated by, “Yes,” in the Table of Use Regulations (§12.12.030). Below are only those portions of the Table that contain non-residential uses allowed by right (see attached complete Table for all business and industrial uses that require a special permit):

*Zoning District*

	<b>A</b>	<b>B</b>	<b>C</b>	<b>RO</b>	<b>BN</b>	<b>BC</b>	<b>BH</b>	<b>I1</b>	<b>I2</b>
<b><i>Institutional Uses</i></b>									
Club or Lodge	No	No	No	Yes	No	Yes	Yes	Yes	Yes
Daycare Center	Yes	No	Yes	Yes	SP	Yes	Yes	Yes	Yes
Hospital	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
<b><i>Business Uses</i></b>									
Business school	No	No	No	Yes	SP	Yes	SP	SP	SP
Funeral home	SP	SP	SP	Yes	Yes	Yes	Yes	No	No
Greenhouse	No	No	No	No	Yes	No	Yes	No	No
Nursing or Convalescent Home	No	Yes	Yes	Yes	Yes	SP	Yes	No	No
Offices, general	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Recreation for gainful business	No	No	No	No	Yes	Yes	Yes	Yes	Yes
Restaurant (other/not fast-food)	No	No	No	No	SP	Yes	SP	SP	SP
Retail sales<5,000 SF gfa	No	No	No	No	Yes	Yes	Yes	Yes	Yes

	A	B	C	RO	BN	BC	BH	I1	I2
<b><i>Business Uses</i></b>									
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
Convenience store	No	No	SP	No	SP	Yes	SP	SP	SP
Supermarket	No	No	No	No	SP	Yes	SP	SP	SP
<b><i>Industrial Uses</i></b>									
Building, Construction, Contracting	No	No	No	No	No	No	Yes	Yes	Yes
Manufacturing & Repair	No	No	No	No	No	No	Yes	Yes	Yes
Marina	No	No	No	No	No	No	No	Yes	Yes
Motor Vehicle Repair Shop	No	No	No	No	No	SP	SP	Yes	Yes
Research & Development	No	No	No	No	No	SP	SP	Yes	Yes
Light Manufacturing	No	No	No	No	SP	SP	SP	Yes	Yes
<b><i>Other Use</i></b>									
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

**2. Surface Parking Areas.**

Currently, there is no separate use category, “surface parking area,” and a stand-alone surface parking lot that is the principal use of a property is regulated as an Offsite Parking Facility; a surface parking lot that is part of and used by a building on a property is not considered a principal use, however, is subject to parking requirements regarding layout, including dimensions, aisle width; landscaping and screening (§12.20).

**3. Allowed By Right Uses are subject to Dimensional Controls and Parking Requirements.**

Any use allowed by right must still comply with applicable Dimensional Controls and Parking, Loading and Screening Regulations, or may seek a variance (§§12.16, 12.20). As discussed herein above, the proposed Site Plan Review Criteria create conflicts in the City zoning ordinance re: regulation of these areas.

**4. Illustrative (not exhaustive) historical background on Business and Industrial Regulations.**

- Regulations re: convenience stores and supermarkets were ordained (CCP 92/2007).
- Regulations re: retail sales, retail services and recreation for gainful business were amended 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, CCP 124/2018).
- Regulations re: research & development and light manufacturing were amended to establish consistent regulations in the Industrial zoning districts (CCP 124/2018).

**5. Site Plan Review.** Current Site Plan Review regulations have exclusive and restricted applicability to a known and finite amount of property in specific and limited areas of the City:

- Site Plan Review for Residential Incentive Overlay and Residential Incentive Overlay-B: applicable to multifamily residential use of identified areas of the Central Business zoning district (§12.12.130) (CCP 67/2002, CCP 329/2010, CCP 32/2012).
- Site Plan Review for Rowe’s Quarry Reclamation & Redevelopment District: applicable to multifamily residential use and limited business uses of property in this district (§12.28.140) (CCP 208/2008, CCP 61/2012).
- Malden River Site Plan Review: applicable to properties abutting the Malden River (§12.12.200) (CCP 41/2021).
- Each of the above-referenced Site Plan Review regulations is administered by a different Site Plan Review Committee and provides specific review standards and criteria for approval.

**APPLICATION and EXEMPTIONS:** The amended ordinance will apply to new lots and new buildings and new use and occupancy of existing buildings on existing lots, unless exempt per M.G.L. c. 40A, §6, as a preexisting nonconforming use or building (§12.28.010); the subject of a building or special permit issued before the first publication of notice of the public hearing (September 24, 2021); land part of an approved and endorsed Approval Not Required or Definitive subdivision plan; or express language of the amendment.

The proposed amendment provides (Section C):

*“This section shall apply as a pre-condition of the issuance of any building permit, without regard to the date of the filing of an application for a building or demolition permit.”*

The latter phrase of this provision eliminates the City’s typical extension of the exemption to applications filed prior to the date of first publication of the notice of public hearing re: the amendment, and the opinion of the City Solicitor should be obtained.

***Note 2:** Per state 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 (September 24, 2021). Three permit applications were filed prior to the date of first publication: 12-24 Lebanon Street (Permit Application # CMID-039265-2021 filed September 22, 2021); 28 Lebanon Street (Permit Application # CMID-039281-2021 filed September 22, 2021); and 17 Columbia Street (Permit Application # CMID 039297-2021 filed September 23, 2021); all are for demolition permits re: buildings on parcels with lot areas that exceed 10,000 SF and for properties proposed to be merged for educational use (open space school yard and parking). See Recommendation to extend the exemption to applications filed before the date of first publication of the hearing notice.*

It is unknown whether religious uses, educational uses and childcare facilities uses may be exempt from the proposed amendments, per M.G.L. c. 40A, §3, and it is recommended that the review of the proposed amendments and opinion of the City Solicitor be obtained.

**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 October 13, 2021, the final date for action is January 11, 2022.

**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.*

The proposed amendment is consistent with recommendations of the *Malden Master Plan* (2010) (Site plan review for “projects under review,” Design Review and Design Guidelines/Standards, and Community Impact Statement, L2.1-L2.3, Chapter 8), and several of the Site Plan Review Criteria in the proposed amendment are similar to items recommended.

**OUTSTANDING CONCERNS:** As proposed, the amendments would apply to all non-residential uses allowed by right in all zoning districts, and this raises the following concerns:

- far-reaching applicability to an unknown number of unidentified properties citywide.
- regulation of business uses that historically have limited impacts in the business districts, such as offices, retail services and recreation for gainful business.
- contrary to recent amendments made to promote certain industrial uses in the industrial districts, such as research & development and light manufacturing.

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

- I. Obtain legal review by the City Solicitor of the proposed amendments and the opinion of the City Solicitor re:
  - A. Legality of the proposed amendments with respect to educational uses and religious uses, per M.G.L. c. 40A, §3.
  - B. Proposed provision re: application to all permit applications filed (Section C).
  
- II. Approval of the proposed amendments, further amended to apply to only educational uses and religious uses, and revised as follows:
  - A. Revise Section A (Purpose and Intent) to read as follows:

“To set forth the process to establish reasonable regulations consistent with MGL Chapter 40A Section 3 of the design and layout of new **or expanded educational use or religious use of any buildings or property** ~~non-residential buildings allowed by right~~ in any district, ~~including religious and educational institutions.~~”
  - B. Revise Section B (Applicability) to read as follows:

“No building ~~or~~ structure **with a gross floor area exceeding 10,000 square feet**, or surface parking area exceeding 10,000 square feet, for a ~~non-residential~~ **religious or educational** use ~~that is allowed by right, including any charitable or philanthropic, religious or educational use or purpose,~~ shall be constructed or extended, or established in an existing building, except in conformity with a site plan bearing an endorsement of approval by the Site Plan Review Committee.”
  - C. Revise Section C (Relationship to Building Permit and Occupancy Permit) to read as follows:

“This section shall apply as a pre-condition of the issuance of any building permit, ~~without regard to the date of the filing of an application for a building or demolition permit,~~ **provided this ordinance/amendment shall not apply to any application for a special permit or building permit filed before the date of first publication of the notice of public hearing re: this ordinance/amendment.**”
  - D. Revise Section D (Site Plan Submission Criteria), second sentence, as follows:

“The Site Plan Review materials shall be submitted to the ~~City Planner~~ **Building Commissioner**; said office shall forward all materials to **the City Clerk for** the Site Plan Review Committee.”
  - E. Revise Section F (Review Schedule) as follows: change, “City Planner,” to “City Clerk.”
  - F. Revise H (Site Plan Review Criteria), first sentence, to read as follows:

“The SPRC shall review all site plans and set reasonable conditions for the ~~bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage~~ **design and layout** so as to:”
  - G. Revise Section H (Site Plan Review Criteria) sections to read as follows:
    - 4) “Provide ~~adequate space~~ for the off-street loading and unloading, **as required by §12.20 of this Ordinance**, of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment and require any regular off-site loading and unloading of vehicles be in legally-established zones for such purpose and that the traffic and walking route plans show that those zones will limit adverse off-site traffic and parking impacts.”
    - 6) “Provision of on-site open space and recreational facilities **as required by §12.16 of this Ordinance** to serve the needs of the establishment so as to avoid the over use of nearby public open space.”
    - 7) “In pedestrian-orientated areas, safety improvements, ~~building setbacks~~ and curb cuts reasonably necessary for the continued walkability of people of all ages and abilities passing the site.”

**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	R O	BN	BC	BH	I1	I2	ME OVERLAY DISTRICT
<b>Agriculture</b>	Yes	Yes	Yes	No	No	No	No	No	No	-
<b>Residential</b>										-
Dwelling, Single Family	Yes	Yes	Yes	Ye s	Yes	No	No	No	No	-
Dwelling, Two Family	No	Yes	Yes	Ye s	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	Ye s	Yes	Ye s	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	
<b>Institutional Use</b>										
Club or Lodge	No	No	No	Ye s	No	Ye s	Ye s	Ye s	Ye s	-
Day Care Centers	Yes	No	Yes	Ye s	SP	Ye s	Ye s	Ye s	Ye s	-
Hospitals	SP	SP	SP	Ye s	Yes	Ye s	Ye s	No	No	-
Non-Profit School	Yes	Yes	Yes	Ye s	Yes	Ye s	Ye s	No	No	-
Religious Facilities	Yes	Yes	Yes	Ye s	Yes	Ye s	Ye s	Ye s	Ye s	-

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	-
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	No	SP	SP	-
Kennel	No	No	No	No	SP	SP	SP	SP	SP	-
Marijuana Retailer	No	No	No	No	No	No	SP	SP	SP	SP
<b>Industrial Uses</b>										
Building Construction & Contracting	No	No	No	No	No	No	Yes	Yes	Yes	-
Manufacturing and Repair	No	No	No	No	No	No	Yes	Yes	Yes	-
Marina	No	No	No	No	No	No	No	Yes	Yes	-
Motor Vehicle Repair Shop	No	No	No	No	No	No	No	Yes	Yes	-
Warehouse	No	No	No	No	No	No	SP	SP	SP	-
Wholesale and Distribution	No	No	No	No	No	No	SP	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
<b>Other Uses</b>										
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	-



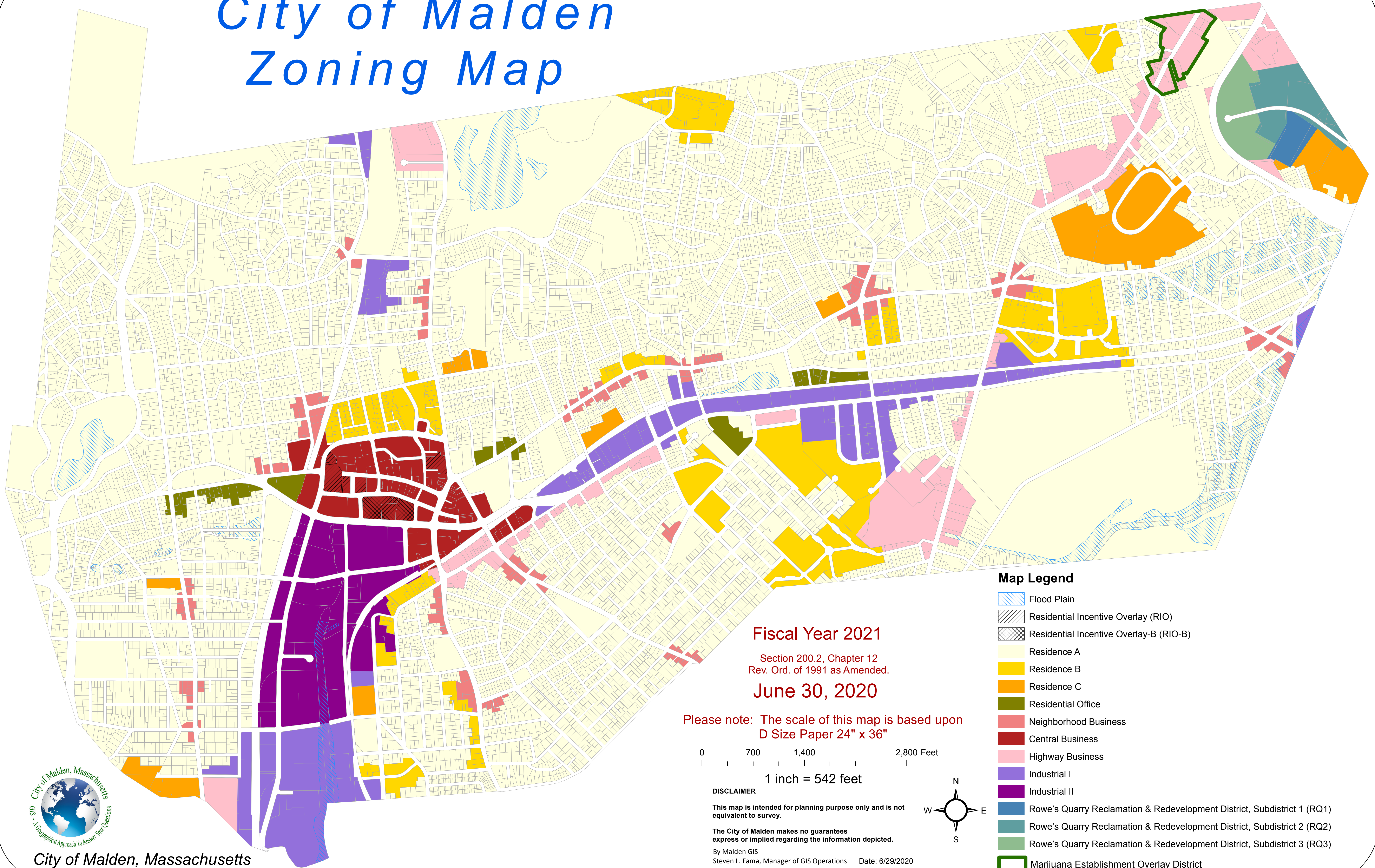
\* In the event of a situation as described in MCC 12.12.040 Paragraph A, the Building Inspector, at his discretion, may issue a temporary unrenovable occupancy permit not to exceed sixty (60) days, providing a Special Permit is applied for prior to issuance of said temporary occupancy permit.

\*\* For accessory uses, see MCC 12.16.070 Paragraph G

HISTORY

Amended by Ord. 261-20B Attachment on 4/27/2021

# City of Malden Zoning Map



**Fiscal Year 2021**

Section 200.2, Chapter 12  
Rev. Ord. of 1991 as Amended.

**June 30, 2020**

Please note: The scale of this map is based upon  
D Size Paper 24" x 36"

0 700 1,400 2,800 Feet

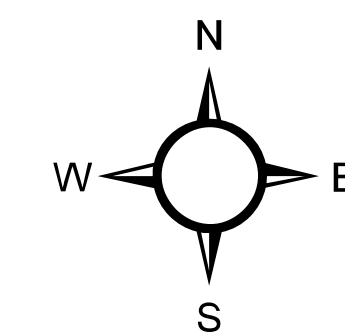
1 inch = 542 feet

**DISCLAIMER**

This map is intended for planning purpose only and is not  
equivalent to survey.

The City of Malden makes no guarantees  
express or implied regarding the information depicted.

By Malden GIS  
Steven L. Fama, Manager of GIS Operations Date: 6/29/2020



**Map Legend**

- Flood Plain
- Residential Incentive Overlay (RIO)
- Residential Incentive Overlay-B (RIO-B)
- Residence A
- Residence B
- Residence C
- Residential Office
- Neighborhood Business
- Central Business
- Highway Business
- Industrial I
- Industrial II
- Rowe's Quarry Reclamation & Redevelopment District, Subdistrict 1 (RQ1)
- Rowe's Quarry Reclamation & Redevelopment District, Subdistrict 2 (RQ2)
- Rowe's Quarry Reclamation & Redevelopment District, Subdistrict 3 (RQ3)
- Marijuana Establishment Overlay District



City of Malden, Massachusetts

ORDER:

Be it hereby ordained that Section 12 of the Revised Ordinances of 2020 effective 1/1/2020 be amended by adding Section 12.12.300 Site Plan Review

12.12.300 SITE PLAN REVIEW – OTHER

A. Purpose and Intent: To set forth the process to establish reasonable regulations consistent with MGL Chapter 40A Section 3 of the design and layout of new non-residential buildings allowed by right in any district, including religious and educational institutions.

B. Applicability.

No building, structure, or surface parking area exceeding 10,000 square feet, for a non-residential use that is allowed by right, including any charitable or philanthropic, religious or educational use or purpose, shall be constructed or extended, or established in an existing building, except in conformity with a site plan bearing an endorsement of approval by the Site Plan Review Committee.

This section shall not apply to properties subject to Special Permit or Site Plan Review otherwise under Section 12, including but not limited to Section 12.12.140 (Site Plan Review RIO), Section 12.12.200 (Malden River Site Plan Review) and Section 12.28.140 (Rowe’s Quarry Reclamation and Redevelopment District).

C. Relationship to the Building Permit and Occupancy Permit:

This section shall apply as a pre-condition of the issuance of any building permit, without regard to the date of the filing of an application for a building or demolition permit.

The Building Inspector shall not issue a building permit unless and until a Site Plan Review has been completed, and a letter with site plan conditions, if any, has been forwarded to the Building Inspector by the Site Plan Review Committee within the time frame noted in Paragraph F. If the site plan review

letter contains specific conditions, said conditions shall become conditions for the issuance of the building permit, among others, that the Building Inspector may require. Further, the Building Inspector shall not issue a final occupancy permit unless and until all site plan conditions as required by the SPRC have been implemented by the developer.

D. Site Plan Submission Criteria:

The applicant shall submit 10 copies of a site plan proposal drawn at a scale not to exceed one-inch equals 20 feet (1"=20'). The Site Plan Review materials shall be submitted to the City Planner; said office shall forward all materials to the Site Plan Review Committee. A registered Professional Surveyor or registered Professional Engineer must stamp the submitted site plan.

At a minimum, the submittal materials shall include the following items as applicable:

1. a cover letter generally describing the nature and location of the project;
2. parcel lot lines for the proposed project and abutting parcels; and all easements boundaries, if any;
3. locations of existing and proposed buildings and public/private ways on the project site;
4. an architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
5. a parking plan including the number of spaces to serve employees, the location of access and egress for employees and deliveries, loading bays, proposed pick-up and drop-off areas for building users (whether on or off-site), pedestrian walkways, bicycle parking and the location of snow storage areas.
6. If the parking plan proposes to use off-site areas for any purpose, the materials shall include a traffic study, walking routes from off-site areas to the site and proposed transportation measures designed to ensure that off-site impacts will be consistent with any proposed in the plans;
7. location of solid waste containers, if any;
8. location, material, and size of all signs.

9. Topography and drainage plan, which shall contain the existing and proposed final topography at two (2) foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.

10. Utility plan, which shall include the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.

11. Landscaping plan, prepared by a Massachusetts Registered Landscape Architect showing, but not limited to, the following information:

a. location of proposed open space, including playgrounds and recreational facilities, if any;

b. Location and type of proposed site and landscape lighting;

c. Provision for the site surface and sub-surface drainage;

d. Location, general type and quality of existing vegetation, including specimen trees;

e. Existing vegetation to be preserved;

f. Mitigation measures employed for protecting existing vegetation during construction and a sediment control plan;

g. Locations and labels for all proposed plants;

h. Plants lists or schedule with the botanical and common name, quantity and spacing and size of all proposed landscape material at the time of plantings; and

i. Location and description of other landscape improvements, such as landscaped earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights and courts or paved areas.

k. Other Required Information. The application shall also include the following reports and documents.

1. A written statement indicating the estimated time required to complete the proposed project and any and all phases thereof.

2. Drainage calculations by a registered professional engineer.

Stormwater management design must conform to DEP's Stormwater Management Policy or regulations.

3. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

4. Information specified in Section H, Performance Standards.

E. Site Plan Review Committee:

1. Composition.

The Site Plan Review Committee (SPRC) shall be comprised of 5 members:

- the Mayor or Mayor's designee;
- the President of the City Council or designee;
- the Ward Councillor representing the property or designee;
- the Executive Director or designee of the Office of Strategic Planning & Economic Development;
- One resident appointed by the Mayor and confirmed by the City Council.

The City Council President or his designee shall serve as the Chairman of the SPRC.

2. Operation.

The department head or designee from the following city departments or agencies may provide written recommendations to the SPRC a minimum of seven (7) days prior to a public project review meeting: Inspectional Services, Public Works, Fire Department, Police, Board of Health, Conservation Commission, City Engineer and City Planner.

The SPRC may request assistance of architects and engineers and other professionals during its deliberations and require that the applicant assist in paying for review costs consistent with Mass. Gen. Laws, Chapter §53G.

Only SPRC members may be party to any vote or agreement.

A majority of those present shall be required to approve any and all site plan review conditions applied to a development under review.

A quorum for conducting business shall be 100% of the members.

F. Review Schedule: The SPRC shall hold a public project review meeting with the applicant no later than 45 days after submitting the proposed site plan to the City Planner. The SPRC shall hold as many meetings as necessary within a 65-day review period to review the proposal. However, within 65 days of the submission of the plan to the City Planner the SPRC shall provide recommendations in writing to the Building Inspector. If no action is taken within 65 days, the application shall be deemed approved as submitted and the applicant may apply for a building permit without a Site Plan Review letter.

G. Notice: Notice of the public project review meeting shall be given in accordance with the provisions of this Ordinance. The public shall be given the opportunity to be heard at the public project review meeting.

H. Site Plan Review Criteria: The SPRC shall review all site plans and set reasonable conditions for the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage so as to:

1. Protect adjoining premises against detrimental or offensive uses on the site and impacts that would that could substantially undermine existing, allowed uses of such premises and pedestrian-orientated establishments
2. Ensure convenient and safe vehicular, pedestrian and bicycle movement within and around the site, including travel by public safety and transit vehicles
3. Require adequate methods for disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.
4. Provide adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment, and require any regular off-site loading and unloading of vehicles be in legally-established zones for such purpose and that the traffic and walking route plans show that those zones will limit adverse off-site traffic and parking impacts,
5. Lateral connections of utilities including, but not limited to electric, telephone, and fire alarm to buildings and other structures shall be

underground in all cases where the property to be served abuts any street where these utilities are installed underground.

6. Provision of on-site open space and recreational facilities to serve the needs of the establishment so as to avoid the over use of nearby public open space.

7. In pedestrian-orientated areas, safety improvements, building setbacks and curb cuts reasonably necessary for the continued walkability of people of all ages and abilities passing the site.

8. Near bus and transit stops and no parking areas established for public safety purposes, sufficient separation and counter measures to ensure access and efficient passage of transit and public safety vehicles.

I. Appeals: Applicants for a Site Plan Review may appeal any and all conditions approved by the SPRC to the Malden Board of Appeal. However, in no instance shall this administrative site plan approval process be construed as a special permit for the purpose of any appeal.

J. Expiration: A Site Plan Review approval will expire on the date that is one year from date of notice of Site Plan Approval to the Building Inspector unless a building permit has been issued or unless otherwise specified by the Site Plan Review Committee.