

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: April 14, 2021
Subject: Amendments of Ch.12, Rev. Ord. of 2020 (*Section numbers herein reference this Ordinance*)
Dimensional Controls in Industrial Districts (§12.16.050) (CCP 40/2021 and 42/2021)
Use Regulations, §12.12 (CCP 41/2021)
Floodplain District (§12.08.040), Use Regulations for Floodplain District (§12.12.110),
Table of Intensity Regulations (§12.16.010), Yard Requirements for All Districts
(§12.16.070), Usable Open Space Requirements for All Districts (§12.16.080) (CCP 42/2021)

PROCEDURAL: All three petitions were made by the City Council (§12.32.050):

- 1) Two petitions were filed by sponsor Councilor-at-Large Craig Spadafora, submitted for consideration by the Mayor. (For full text of amendments, see attached City Council Paper 40 and 41/2021 and accompanying correspondence from Mayor Christenson to City Council dated January 28, 2021).
- 2) One petition was filed by sponsor Ward 4 City Councilor Ryan O'Malley (For full text of amendments, see attached City Council Paper 42/2021 and accompanying information, undated).

SUMMARY of PROPOSED AMENDMENTS:

1) Dimensional Controls in Industrial Districts.

A. Current Zoning. The following provision is applicable to property in Industrial zoning districts:

The rear yard requirement for all allowed uses is waived in those cases where properties abut railroad or rapid transit rights-of-way, rivers or water courses, and associated properties or easements in public ownership (§12.16.050).

Note 1: "Associated properties or easement in public ownership" are a distinct category of land in this provision.

B. Proposed Zoning.

1. CCP 40/2021: The petition proposes an amendment that eliminates the waiver for properties that abut rivers or water courses.

2. CCP 42/2021: The petition proposes an amendment that eliminates the waiver for properties that abut rivers or water courses, and associated properties or easements in public ownership.

2) Use Regulations.

A. Current Zoning.

There are no regulations or requirements with exclusively specific applicability to property abutting the Malden River.

Floodplain regulations apply to all development in the Floodplain District and portions of some properties abutting the Malden River are located in the Floodplain District (§12.12, MZO).

B. Proposed Zoning.

1. CCP 41/2021: The petition proposes amendments to add use regulations that establish a Malden River Site Plan Review process for properties that abut the Malden River.

The proposed amendments include the following provisions (summary of highlights):

a) Applicability is based on:

- Location: property that abuts the Malden River wherever daylighted.

Note 2: See attached list and map of seventeen parcels that currently abut the daylighted Malden River.

- Scope/type of work involved:
 - any construction of a value that amounts to 5% or more of the City assessed value of the building; or
 - any reuse of an existing building.

Note 3: *As proposed in the amendment, “construction” would be work that requires a building permit and would exclude electrical or plumbing work.*

- b) Site Plan Review Committee comprised of these 7 individuals or designees: Mayor, City Council President, Ward City Councilor, MRA Director, City Planner, City Engineer, City Council Waterfront Access Committee Chair.
- c) Administration: Site Plan Submission Criteria, Review Schedule, Notice, Appeals, Expiration.
- d) Site Plan Review Criteria (summary/highlights of provisions):
 - Public Pedestrian Access: continuous; with two point of access; accessible for persons with physical disabilities in accordance with Architectural Access Board; signage.
 - Riverfront walkway: minimum width of 10 feet; surfacing; maintenance.
 - Buffer Area: planted with native, non-invasive species; rehabilitated to remove invasive species; designed to reduce stormwater runoff; canopy trees.
 - Setbacks: new construction set back is a minimum of 100 feet from the River.
 - Parking: no surface parking permitted within 75 feet of the River, unless the parking is needed to meet the parking requirements of the City zoning ordinance.
 - Optional Amenities: seating, lighting, trash receptacles.

Note 4: *In Massachusetts, the Americans with Disabilities Act regulations are codified by the Architectural Access Board (521 CMR).*

2. CCP 42/2021. The petition proposes amendments to establish use regulations that require a “Setback from Rivers, Channels and Watercourses.” The amendments include the following provisions (summary/highlights):

- a) Applicability: all parcels entirely or partially within, directly adjacent to, or within 500 feet of Zone AE of the Floodplains District, as per Middlesex County Flood Insurance Map issued by the Federal Emergency Management Agency.

Note 5: *There are several AE Zones in the City, near the Malden River, Spot Pond Brook and Town Line Brook, and it is unknown at this time which parcels would be subject to the amendments as proposed.*

- b) Watercourse, rivers and channels: defined to include, but not be limited, to the Malden River, a channelized waterway and Little Creek.

Note 6: *The Spot Pond Brook and Town Line Brook appear to meet criteria of the proposed amendments.*

- c) Requirements to maintain a “100 foot setback of publicly accessible open space:”
 - Location: 100 feet from the edge of any watercourse, river or channel.
 - Pathway: 10 feet minimum width; accessibility per American with Disabilities Act.
 - Plantings:
 - plants with certain “wetland indicator categories,” as per U.S. Fish and Wildlife Service’s National List of Plant Species that Occur in Wetlands: Massachusetts (Reed, 1988);
 - clearing of plants identified re: invasiveness, per the “The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts” (April 2005) by Massachusetts Invasive Plant Advisory Group.

Note 7: The feasibility of a 100 foot setback of publicly accessible open space is unknown for all parcels that may be subject to the proposed amendments (See Note 5).

d) Amendments of Flood Plain District, Establishment of Districts (§12.080) and Use Regulations (§12.12.110): To amend description and regulations to add provisions described in Sections 2(a), (b) and (c) above.

3) Dimensional Controls.

A. Current Zoning. Dimensional controls are applicable to properties, in general based on use; however, some dimensional controls are specific to properties in certain zoning districts, for example, in Industrial Districts (§12.16.050) (See Section 1 herein above).

B. Proposed Zoning.

1. CCP 42/2021. The petition proposes amendments of dimensional controls (§12.16) to establish a “Setback from Watercourse, River and Channel” by the following provisions:

- Table of Intensity Regulations (§12.16.010): to add a new regulation column, “Setback from Watercourse, River and Channel” for all use categories.
- Yard Requirements (§12.16.070, MZO): to add new subsection to require compliance with new Flood Plain regulations [Section 2(d) above].
- Useable Open Space Requirements for All Districts (§12.16.080): to add new subsection to require compliance with new Flood Plain regulations [Section 2(d) above].
- “Setback from Rivers, Channels and Watercourses.” (§12.16.140). To add new section that includes provisions described in Section 2 (a), (b) and (c) above.

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, MZO; the State Permit Extension Act (2012); 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 (March 5, 2021);

The following projects are exempt from the proposed amendments proposed in CCP 40/2021 and 41/2021, given issuance of a building permit and/or special permit before the first publication of hearing notice:

1. 195 Canal Street. Interior alterations (Building Permit CMID 036276-2021 issued January 28, 2021).
2. 326 Commercial Street. Change of use to wholesale & distribution and offsite parking facility (Special Permits Case #20-11 and Case #20-12, granted September 23, 2020) and interior alterations (Building Permit CMID 036388-2021 issued February 13, 2021).
3. 378 Commercial Street. New roof (Building Permit CMID 036556-2021, issued March 1, 2021).

The following projects would not be exempt from the amendments as proposed in CCP 40/2021 and 41/2021:

1. 219 Medford Street. (Permit ELEC 035924-2020 issued December 29, 2020).
2. 356 Commercial Street. (Permit ELEC 035418-2020 issued November 16, 2021).

Note 8: Projects on properties that may be exempt from amendments proposed in CCP 42/2021 are unknown at this time (See Note 5).

Note 9: 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 (March 5, 2021). There are no applications in the processing stage for properties subject to CCP 41/2021; and it unknown whether there are applications for properties subject to CCP 42/2021 (See Note 5).

Note 10: The effective date is the date of City Council's vote to ordain the amendment (§12.32.050.F, MZO).

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.*

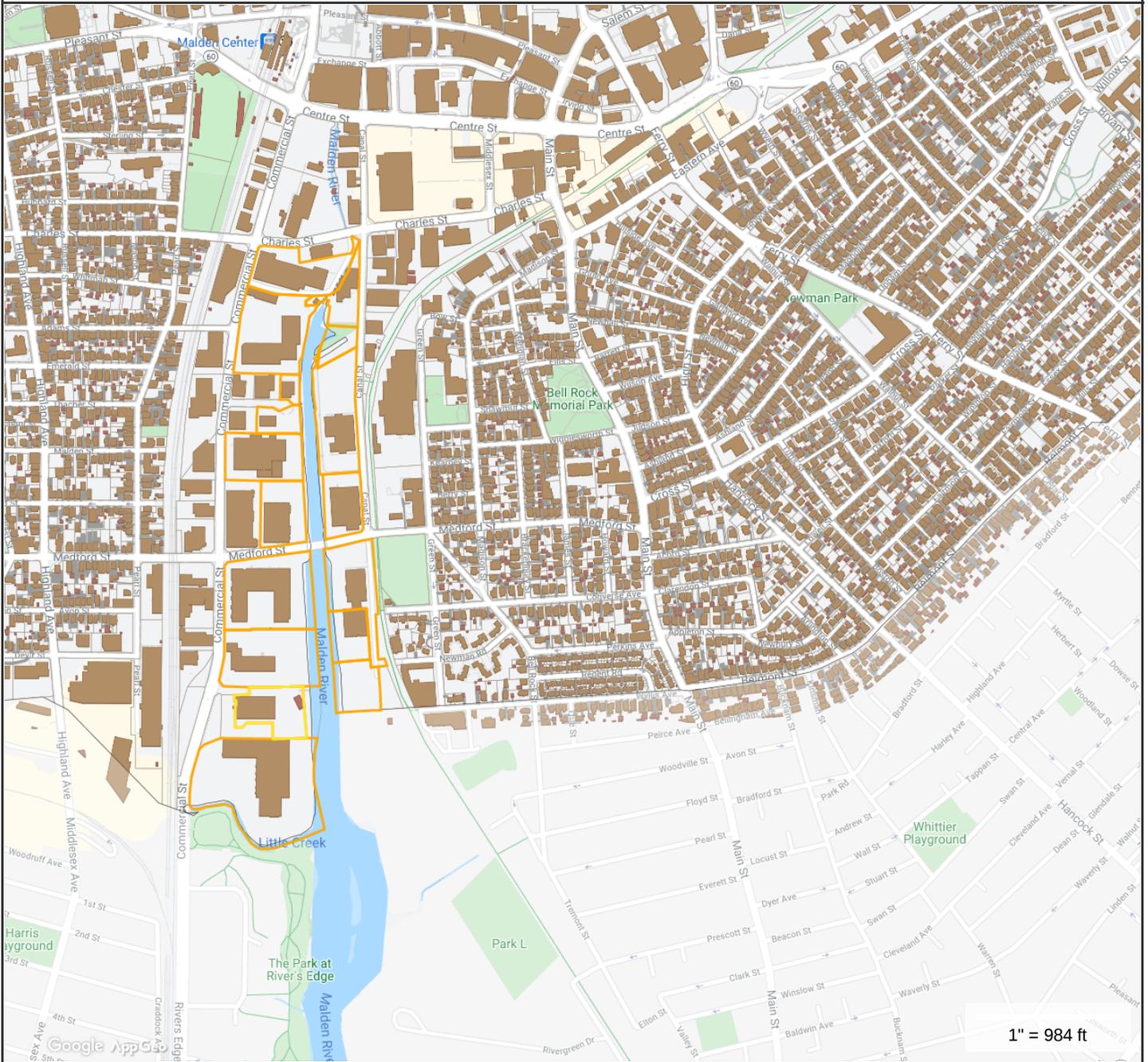
Those amendments with specific applicability to property adjacent to the Malden River promote the community goals to protect and conserve the Malden River while expanding public access and use; most goals and recommendations are identified in the following various plans and community initiatives:

1. Malden Vision (2008)
2. Malden Master Plan (2010)
3. Urban Land Institute-Technical Assistance Panel Report (2015)
4. Open Space & Recreation Plan (2017)
5. Commercial Street Corridor Framework Plan (2018)
6. Formation of the Friends of the Malden River (2012)
7. Malden River Route map and wayfinding project (2013)
8. Mystic Greenways Initiative Malden River Greenway Plan (2017)
9. Placemaking as a Catalyst for Change on the Malden River (MAPC 2020)
10. Malden River Works DPW Site project (2019- ongoing) (See Concept Design Report 2020)

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

1. Approval of the amendments in City Council Paper 40/2021 as submitted and with the following revisions:
Do not delete the words, "or water courses," and after the words, "or water courses," insert the phrase, "excluding the Malden River."
2. Approval of the amendments in City Council Paper 41/2021 as submitted and with the following revisions:
 - a) Revise proposed Section 12.12.200 B, Applicability, as follows:
 - i. Delete the word, "construction," and insert the phrase, "work requiring a permit."
 - ii. After the word "daylighted," insert the phrase, "at the time application is made under this Ordinance."
 - iii. Insert the following sentence at the end of this section: "Any permit for any work issued prior to the date of first publication of the notice of public hearing on this Ordinance shall be exempt from the provisions of this Ordinance."
 - b) Revise proposed Section 12.12.200.I.3(a), Buffer Area, to insert the following sentence at the end of this subsection:
"The most current versions of the following shall be used as guidelines to determine invasiveness of species to be planted and removed: U.S. Fish and Wildlife Service's National List of Plant Species that Occur in Wetlands: Massachusetts (Reed, 1988); and the "The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts" (April 2005) by Massachusetts Invasive Plant Advisory Group."
3. Disapproval of the amendments proposed in City Council Paper 42/2021 because overly broad and having unknown applicability to unidentified properties citywide.

ID	Site Address	Owner Name	Co-Owner Name	Owner Address	Owner City	Total Value	Last Sale D	Units	LUC	LUC Desc
1	060 245 504 VL CANAL ST	MASSACHUSETTS ELECTRIC CO	C/O PROPERTY TA	40 SYLVAN ROAD	WALTHAM	\$1131100		0	423	ELECROW
2	043 230 001 378 COMMERCIAL ST	WELL-COM ASSOCIATES	LIMITED PARTNER	295 CANAL ST SUITE 500	MALDEN	\$9951100	1996-11-26	5	401	IND WHS
3	055 232 206 180 CHARLES ST	HERSHBERG JONATHAN TRUSTEE	JONATHAN HERSH	184 CHARLES STREET	MALDEN	\$6486100	1940-12-31	1	400	FACTORY
4	055 232 211 184 COMMERCIAL ST	PLAZA 188 ASSOCIATES LLC		38 BRIGHTON AVENUE	BOSTON	\$12185300	2011-11-09	9	323	SHOPCTR
5	055 232 214 21 RIVERSIDE PK	WHEAT CORPORATION		240 COMMERCIAL STREET	MALDEN	\$1051200	1991-01-30	1	401	IND WHS
6	055 232 215 32 RIVERSIDE PK	LAMARCA CHARLES JR TRS	32 RIVERSIDE PAR	20 PAULSON DRIVE	BURLINGTON	\$1242400	2000-08-04	1	401	IND WHS
7	056 240 003 131 CANAL ST	COMM OF MASS	MDC	20 SOMERSET STREET	BOSTON	\$230500		0	901	COMMASS
8	056 240 004 105 CANAL ST	SPADAFORA ANTHONY W SR &ALBERT N TRS OF STERLIN	73 EMERALD ST		MALDEN	\$2134900	1995-08-02	1	326	RST/BAR
9	057 232 203 240 COMMERCIAL ST	PIANTEDOSI THOMAS TRUSTEE	OF 240 COMMERCIAL	240 COMMERCIAL STREET	MALDEN	\$6415800	1992-04-09	1	400	FACTORY
10	057 232 212 219 MEDFORD ST	STAG III MALDEN LLC	ATTN: STAG INDUS	ONE FEDERAL ST 23RD FL	BOSTON	\$4192200	2007-04-11	1	401	IND WHS
11	058 240 001 171 MEDFORD ST	SUFFOLK SQUARE ASSOC III LIMITED P	C/O COMBINED PR	295 CANAL ST SUITE 500	MALDEN	\$8337300	1983-06-01	0	342	PROF OF
12	058 240 002 195 CANAL ST	ONE-HUNDRED NINETY-FIVE CANAL ST	LIMITED PARTNER	295 CANAL ST SUITE 500	MALDEN	\$10024000	1999-04-29	1	342	PROF OF
13	059 230 010 230 MEDFORD ST	RIVERVIEW BUSINESS PARK ASC	C/O COMBINED PR	295 CANAL ST SUITE 500	MALDEN	\$11597900	1940-12-31	3	340	OFFICE
14	059 230 011 326 COMMERCIAL ST	326 COMMERCIAL STREET	ASSOCIATES LIMIT	295 CANAL ST SUITE 500	MALDEN	\$3532100	1996-11-25	2	314	TRK TRM
15	060 245 501 CANAL ST	MASSACHUSETTS ELECTRIC CO	C/O PROPERTY TA	40 SYLVAN ROAD	WALTHAM	\$1254800		0	423	ELECROW
16	060 245 502 170 MEDFORD ST	MASSACHUSETTS ELECTRIC CO	C/O PROPERTY TA	40 SYLVAN ROAD	WALTHAM	\$9189100	1940-12-31	1	400	FACTORY
17	061 230 004 356 COMMERCIAL ST	MALDEN REDEVELOPMENT AUTH		200 PLEASANT ST	MALDEN	\$4880100		1	903	MUNICPL



Committed Information

Property ID	061 230 004
Location	356 COMMERCIAL ST
Owner-1	MALDEN REDEVELOPMENT AUTH
Owner-2	
Land Use	MUNICPL
Total Value	\$4,880,100
Building Value	\$1,507,600
Land Value	\$3,272,800
Yard Item Value	\$99,700



**MAP FOR REFERENCE ONLY
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Geometry updated 08/07/2019
Data updated 08/07/2019