



City of Somerville

# PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Planning Board  
**FROM:** OSPCD Staff  
**SUBJECT:** 45 Mystic Avenue, P&Z 22-029  
**POSTED:** September 1, 2023

**RECOMMENDATION:** Deny (Special Permit)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from Planning, Preservation, & Zoning Staff to the Review Board members.

This memo summarizes the development review application submitted for 45 Mystic Avenue, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance (SZO), and provides related analysis or feedback as necessary. The application was deemed complete on June 27, 2023, and is scheduled for a public hearing on September 7, 2023. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

## LEGAL NOTICE

Mystic 45 Development LLC proposes a Master Plan for a Lab Building and a Pocket Plaza in the Assembly Square Mixed-Use District (ASMD), which requires a Special Permit.

## SUMMARY OF PROPOSAL

Mystic 45 Development LLC is proposing a Master Plan for a Lab Building and a Pocket Plaza (2,319 square feet). The proposed development will produce 23,004 square feet of office/lab/R&D space, 8,179 square feet of amenity space, and 2,044 square feet of Arts and Creative Enterprises (ACE) space.

## BACKGROUND

45 Mystic Avenue is located in the 0.50mi Transit Area Assembly Square Mixed-Use (ASMD) zoning district in the Assembly Square neighborhood represented by Ward 1 Councilor Matthew McLaughlin.

If the Master Plan Special Permit (MPSP) proposed here is approved by the Board, each building, thoroughfare, and civic space identified in this MPSP will individually require Site Plan Approval. Site Plan Approval is the administrative review and approval of conforming development to address any potential impacts as necessary. The Planning Board is the

decision-making authority for all (non-variance) discretionary or administrative permits required for the Assembly Square Mixed-Use (ASMD) zoning district.

## NEIGHBORHOOD MEETINGS

The required neighborhood meeting was hosted by Ward 1 Councilor Matthew McLaughlin and the applicant on September 13, 2022, via the Zoom meeting platform.

## ANALYSIS

The Applicant is proposing to develop an 8,640 square foot parcel of land into a 10-story Lab Building (51,120 gross square feet) and a Pocket Plaza (2,319 square feet). The proposed development will produce 23,004 square feet of office/lab/R&D space, 8,179 square feet of amenity space, and 2,044 square feet of community space on the ground floor proposed as an Arts and Creative Enterprises (ACE) space. The table below is from the narrative submitted as part of the application. The Applicant does not explain how the remaining 17,892 square feet are being allocated.

<b>Use/Element</b>	<b>Approximate Dimensions/Quantity</b>
Office/Lab/R&D	23,004 SF (45% of GSF)
Conference Rooms + Amenity	8,179 SF (16% of GSF)
Artisan/Maker/Gallery Space	2,044 SF (4% of GSF)
<b>Project Subtotal</b>	<b>33,228 SF (65% of GSF)</b>
<b>Project GSF</b>	<b>51,120 SF</b>
Floor Area Ratio (FAR)	5.9
Building Height	125'
<b>Sustainability Type</b>	<b>LEED Platinum Certifiable</b>

In efforts to coordinate with the Applicant in creating a project that is zoning compliant and meets the criteria for a Special Permit, Staff shared comments with the Applicant on August 4, 2023. The Applicant team responded with a rebuttal letter on August 15, 2023, which is attached at the end of this memo.

At this time, OSPCD Staff is generally not in support of this application due to the concerns outlined below.

On August 25, 2023, the Inspectional Services Department (ISD) determined the following in their compliance review of the submitted materials of the application:

- Per SZO 7.4.7.b.i, buildings may be setback up to five (5) feet from the front lot line, except in special circumstances where greater setbacks would enhance the pedestrian-friendly experience of the frontage. The proposed plans for the ground floor show a front setback of 6 ft 5/8 inches, while the zoning dimensional table states a front setback of 0 ft. Setbacks are measured at all points. Additionally, the plans or the narrative do not address any special circumstances.

- The proposed plans do not label all of the required dimensional standards from Table 7.4.8, although they are shown in the dimensional standards table. The stated FAR of 5.9 and the stated height of the structure of 125 ft cannot be increased.

## Loading

On March 3, 2023, the Inspectional Services Department (ISD) determined that the proposed loading configuration off Mystic Avenue satisfies SZO Article 7.4.10.f.i. OSPCD Staff notes that Mystic Avenue at this location is a one-way, multi-lane arterial that functions as a regional highway. The Mobility Division and the Engineering Department have determined it unsafe to allow vehicles to back in or back out of the loading zone onto this part of Mystic Avenue.

During the staff review process, the safety concerns related to the proposed loading configuration were reiterated to the Applicant. On August 15, 2023, the Applicant responded to staff comments with a rebuttal letter that includes the following:

*“The loading bay has been recessed further into the Site from the street, and the design vehicle for service access has been minimized to 23-foot panel truck or smaller.”*

OSPCD Staff notes that altering the dimensions of the loading bay does not address the unsafe conditions of the proposed loading configuration. Regardless of the truck size, all trucks will need to reverse onto or from Mystic Avenue for ingress or egress.

## Civic Space

On August 25, 2023, the Inspectional Services Department (ISD) determined that the proposed Pocket Plaza is **not compliant** with SZO Article 13.1.5.e.i.c, which requires the Pocket Plaza to have an average width of 40 ft.

The Public Space and Urban Forestry (PSUF) Division does not support a Pocket Plaza on this site. In various meetings during the process, PSUF Staff expressed their concerns to the Applicant. OSPCD Staff notes that feedback from the Assembly Square neighborhood consistently includes the request for civic spaces to include as much greenery (softscape and trees) as possible to combat air pollutants from I-93, as well as reverse what has historically been industrial, excessively paved uses into a greener space. PSUF Staff notes that a Pocket Park would be more suitable at this site because a Pocket Park must include 70-100% landscaped area, which means 70-100% of the space must be softscape inclusive of lawn, shrubs, perennials, and groundcovers. This differs greatly from the Pocket Plaza, which requires 10-30% landscaped area, meaning 70-90% of the Pocket Plaza is hardscape pavement.

PSUF Staff has drafted a letter outlining their concerns with the proposed Pocket Plaza. The letter is attached at the end of this memo.

## Potential Permitting Pathways

Alternative staff recommendations for each permitting pathway are provided below.

1. If the Applicant decides to pursue any Hardship Variances, the Board should continue the case date-uncertain until the Zoning Board of Appeals (ZBA) is able to issue a decision regarding the Hardship Variances. This would allow the Applicant to apply for whatever Hardship Variances ISD identifies as being required and allow the ZBA to issue a decision regarding the request. If the Variances are approved, the case before this Board could then be readvertised and continue moving forward; if the Variances are denied, the Applicant could withdraw this application and resubmit a design that is compliant with zoning.
2. If the Applicant decides to redesign to become compliant, the Board should encourage the Applicant to withdraw without prejudice and resubmit a compliant proposal. Withdrawing this application without prejudice would allow the Applicant time and flexibility to redesign the proposal and come back to the Board once they are ready.

## CONSIDERATIONS & FINDINGS

The Planning Board is required by the Somerville Zoning Ordinance to deliberate each of the following considerations at the public hearing. The Board must discuss and draw conclusions for each consideration, but may make additional findings beyond this minimum statutory requirement.

### Master Plan Special Permit Considerations

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. The proposed alignment and connectivity of the thoroughfare network.
4. The gross floor area allocated to different use categories.
5. Mitigation proposed to alleviate any adverse impacts on utility infrastructure.
6. Proposed development phasing.
7. Proposed on-street parking to address demand by customers of Retail Sales, Food & Beverage, or Commercial Services principal uses.
8. Civic spaces are subject to the provisions of SZO Article 13.

Information relative to the required considerations is provided below:

### Master Plan Special Permit Considerations

1. *The comprehensive plan and existing policy plans and standards established by the City.*

Relevant goals from SomerVision 2040, the City's Comprehensive Master Plan, include, but may not be limited to, the following:

- Invest in the growth of a resilient economic base that is centered around transit, generates a wide variety of job opportunities, creates an active daytime population, supports independent local businesses, and secures fiscal self-sufficiency.
- Promote a dynamic urban streetscape that embraces public transportation, reduces car dependence, and is accessible, inviting, and safe for all pedestrians, bicyclists, and transit riders.

*2. The intent of the zoning district where the property is located.*

The intent of the Assembly Square Mixed-Use District (ASMD) is, in part: "To redevelop underutilized areas within close walking distance to the Assembly Square T-station with mixed-use, mid-rise, and high-rise, transit-oriented development that will support the transformation of Assembly Square into an urban commerce center".

The intent of the SZO more generally includes, but is not limited to, the following:

- To ensure the development of a well-connected thoroughfare network, composed of direct and convenient routes that reinforce Somerville as a walkable, human-scaled urban environment.
- To discourage thoroughfares and intersections that limit connectivity, discourage walking, induce traffic congestion, and increase vehicular air pollutant emissions by reducing the number of possible routes of travel and adding unnecessary distance between destinations.
- To develop a comprehensive network of thoroughfares that accommodate multiple modes of transportation, organized in a hierarchy defined by the character of each type.
- To balance the supply of off-street parking with local thoroughfare network capacity.

*3. The proposed alignment and connectivity of the thoroughfare network.*

No thoroughfare is proposed as part of this application.

*4. The gross floor area allocated to different use categories.*

The proposed development will produce 23,004 square feet of office/lab/R&D space, 8,179 square feet of amenity space, and 2,044 square feet of Arts and Creative Enterprises (ACE) space. The Applicant does not explain how the remaining 17,893 square feet are being allocated.

*5. Mitigation proposed to alleviate any adverse impacts on utility infrastructure.*

Staff believes that the infrastructure improvements included in the proposed Master Plan do not create any adverse impacts on existing utilities.

**6. *Proposed development phasing.***

The Phasing Plan was submitted as part of this application and the following was included:

*Phase 1: Site Preparation and Demolition*  
*Phase 2: Excavation*  
*Phase 3: Foundation*  
*Phase 4: Structure Erection and MEP Roughs*  
*Phase 5: Interior Fit Out and Façade*  
*Phase 6: Final Conditions and Restorations*

Staff believes that the proposed development phasing plan is reasonable.

**7. *Proposed on-street parking to address demand by customers of Retail Sales, Food & Beverage, or Commercial Services principal uses.***

No on-street parking is proposed on-site as part of this application.

**8. *Civic spaces are subject to the provisions of SZO Article 13.***

Within the Assembly Square Mixed-Use District (ASMD), one of the Master Plan Standards is compliance with Article 13 for any civic space standards. Staff believes that this application does not satisfy this criterion. The Pocket Plaza, as proposed, is not compliant with SZO Article 13.

## **PERMIT CONDITIONS**

Staff does not recommend the approval of this Special Permit application. However, should the Board approve the required Special Permit for a Master Plan for a Lab Building and a Pocket Plaza in the Assembly Square Mixed-Use District (ASMD), Planning, Preservation & Zoning Staff recommends the following conditions:

### **Permit Validity**

- This Decision must be recorded with the Middlesex South Registry of Deeds.
- Applying for any discretionary or administrative permit necessary for any proposed thoroughfare, civic space, or building type identified in the approved Master Plan constitutes substantial use of the MPSP for the purpose of subsequent development entitlement.

### **Plan Revisions**

- Changes to the number or general configuration of lots; the types of thoroughfares, civic spaces, or building types; development phasing; the commercial GFA or ACE space GFA is a major amendment to the approved Master Plan.

**Public Record**

- A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.
- Digital copies of all development review submittal materials, permitted by the Planning Board, must be submitted to the Planning, Preservation & Zoning Division for the public record.

**Legal Agreements**

- The property owner(s) and all applicable future tenants must comply with the Master Mobility Management Plan dated October 17, 2022, as approved and conditioned by the Director of Mobility's Final Approval dated December 2, 2022.

**Utilities**

- Stormwater management systems must be located entirely under private property, and designed to not negatively impact utilities, infrastructure, and landscape elements in the public way.

**Mobility**

- Per the TIS Scope for this project, the Mystic 45 Development LLC must provide projected truck trip generation as a separate table. This includes quantifying projected truck trips by the time of day, vehicle type, and routes.

**Engineering**

- Mystic 45 Development LLC must submit a full stormwater report as part of the Foundation Permit submission. The Project's stormwater report must conform to Engineering Site Permit Rules and Regulations for a Large Project Review.
- Mystic 45 Development LLC must perform sidewalk improvements to ensure an ADA/MAAB-compliant transition from the new sidewalk to the existing sidewalks.
- Civic space design will be reviewed and approved under its own Civic Space Permit, a sub-type of the Engineering Site Construction Permit. The Civic Space will need a unique address separate from 45 Mystic Ave. Mystic 45 Development LLC must apply for an Address Modification Permit during the main Building Permit review.

**Conditions**

- A written narrative or descriptive checklist identifying the completion or compliance with these conditions must be submitted to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.