

October 24, 2023

**VIA FEDERAL EXPRESS &
ELECTRONIC FILING**

City of Somerville Planning Board
c/o Mayor's Office of Strategic Planning & Community Development
City Hall, 93 Highland Avenue
Somerville, MA 02143

Attention: Sarah A. Lewis, RA, LEED-AP, CNUa
Director of Planning, Preservation and Zoning
Raisa Saniat, Planner

**RE: Extension of the Master Plan Special Permit and Special Permits
Granted Therewith in Case No. MPSP 2020-0003, dated April 30, 2021 (collectively,
the "MPSP"), 120-132 Middlesex Avenue, Ward 1, Somerville, MA (the "Site")**

Dear Director Lewis and Ms. Saniat:

On behalf of DWCH Assembly Row, LLC (the "Applicant"), successor-in-interest by assignment to Brickyard at Assembly LLC (the "Original Applicant"), we hereby request that the City of Somerville Planning Board (the "Planning Board") grant an extension of the MPSP, including the Special Permits (defined below) granted therein, for the Project (defined below), pursuant to Sections 15.2.2.h.iii and 15.2.1.h.iii of the City of Somerville Zoning Ordinance (the "SZO"), to extend the exercise period for the MPSP for a period of two (2) years from May 5, 2024 to May 5, 2026. This extension is being requested to provide the Applicant with additional time to continue advancing permitting and architectural design of the Project at the Site.

I. Background

The Original Applicant submitted an MPSP application on November 30, 2020 for approval of a 19-story laboratory principal building of up to 596,000 square feet of floor area (the "Project"), with the following concurrent special permit applications: (a) waiver from the maximum building height to allow for 19 stories and up to a zoning height of 275 feet, (b) waiver from the Floor Area Ratio set by the SZO to allow the Project to exceed an FAR of 10.0, and (c) authorization of occupancy of commercial spaces over 10,000 sf by any permitted use (collectively, the "Special Permits"). On April 30, 2021, the Planning Board approved the MPSP, including the Special Permits, for the Project, which was filed with the Office of the City Clerk (the "City Clerk") on May 5, 2021. A copy of the MPSP is attached hereto as Exhibit A.

As detailed herein, since the issuance of the MPSP, the Applicant has acquired ownership of the Site, attended a series of pre-filing meetings with City staff, filed an application for Site Plan Approval, filed an application for an Amendment to the MPSP, conducted a Neighborhood Meeting on the same, and worked with the Mobility Division to update its mobility study,

Page 2

resulting in an updated, approved Mobility Management Plan (“MMP”) for the Project. The Applicant has additionally undertaken site preparation work and obtained other approvals to advance the Project.

II. Request for Extension of Time

Pursuant to Section 15.2.2.h.i of the SZO, the MPSP is valid for a period of “three (3) years from the date the decision is filed with [the City Clerk], excluding any time required awaiting the decision of an appeal, and remain[s] valid so long as progress is being made in accordance with the approved phasing of development.” Pursuant to Section 15.2.1.h.i of the SZO, the Special Permits “remain valid for three (3) years from the date the decision is filed with the [City Clerk], excluding any time required awaiting the decision of an appeal.” The MPSP, including the Special Permits, was filed with the City Clerk on May 5, 2021, and no appeals were filed with respect thereto. Accordingly, the MPSP remains valid until May 5, 2024.

Pursuant to Sections 15.2.2.h.iii and 15.2.1.h.iii of the SZO, the Planning Board has the authority to extend the duration of the validity for the MPSP, including the Special Permits, upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized thereby. As detailed below, owing to Project ownership changes and design refinements that have occurred since the Planning Board’s issuance of the MPSP, the Applicant has not been able to utilize the rights granted under the MPSP, including the Special Permits.

(a) Project Ownership

The Planning Board issued the MPSP to the Original Applicant in April 2021. Following that issuance, the Original Applicant assigned the MPSP and its right to acquire the Site to the Applicant, and the Applicant only acquired the Site on December 31, 2021 – almost nine months after MPSP issuance.

(b) Design Refinements

Since the issuance of the MPSP, the Applicant has been diligently pursuing the refinement of the architectural design for the Project, including attending pre-filing meetings with City staff, filing a Site Plan Approval application (P&Z 22-087) on June 13, 2022, filing an application for an Amendment to the MPSP (P&Z 22-100) on July 14, 2022, conducting a Neighborhood Meeting for the same on September 28, 2022 and working with Mobility Division staff to update its mobility study. As of the date hereof, the Director of Mobility has approved the Applicant’s updated MMP by Final Decision issued on September 22, 2023. However, the MPSP Amendment and Site Plan Approval processes are still underway, and the Applicant has, concurrent with this application, submitted an additional filing for the MPSP Amendment. We further understand from discussions with Planning Board staff that such review processes cannot proceed simultaneously. As the Applicant does not have final certainty over the design of the Project, and as a consequence will not be in a position to obtain a building permit by May 5, 2024, the date by which the MPSP will lapse, the Applicant has not been able to exercise the rights granted to it under the MPSP.

DWCH Assembly Row, LLC
120-132 Middlesex Avenue
Request for MPSP Extension

Page 3

III. Site Preparation and Other Approvals

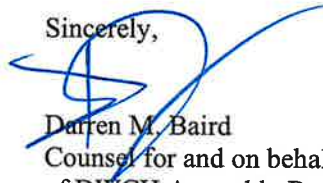
The Applicant has also worked to continuously advance the Project, to the extent it has been able, following the issuance of the MPSP. Specifically, to facilitate the Project as proposed, the Applicant applied for a hardship variance (P&Z 22-056) from the requirement to provide 25% onsite civic space on the Site, which was issued by the Zoning Board of Appeals (“ZBA”) on August 17, 2022, when extensions of the ZBA decision issued to the Original Applicant on November 25, 2020 were no longer possible; the Applicant also filed for an extension of the August 2022 hardship variance decision (P&Z 23-059) on May 25, 2023, which was issued by the ZBA on August 2, 2023. Additionally, in December 2022, the Applicant applied for a demolition permit, and after due notice to abutters, it undertook the demolition of the two (2) existing structures on the Site on March 6, 2023. The Site is currently vacant.

IV. Conclusion

As detailed above, owing to Project ownership changes and design refinements that have occurred since the Planning Board’s issuance of the MPSP, the Applicant has not been able to utilize the rights granted under the MPSP, including the Special Permits. The Applicant has nonetheless worked to continuously advance the Project to the extent it has been able by undertaking site preparation and obtaining other approvals. Accordingly, the Applicant respectfully requests that the Planning Board extend the exercise period for the MPSP for a period of two (2) years from May 5, 2024 to May 5, 2026, to allow the Applicant to continue to have certainty in the design for the Project, including the completion of the MPSP Amendment and Site Plan Approval processes.

Thank you for your time and consideration on this matter and please do not hesitate to contact me with any questions.

Sincerely,



Darren M. Baird
Counsel for and on behalf
of DWCH Assembly Row LLC

cc.: File

Enclosure

4873-4675-2873

EXHIBIT A

MPSP

[See attached].



City of Somerville

PLANNING BOARD

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143



2021 01883940

Bk: 01384 Pg: 11 Cert#: 246378

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cc
10

2021 MAY -5 A 8:24

DECISION

CITY CLERK'S OFFICE
SOMERVILLE, MA

PROPERTY ADDRESS: 120-132 Middlesex Avenue

CASE NUMBER: MPSP#2020-0003

OWNER: Grande Spaulding, LLC (owner 120 Middlesex)

OWNER ADDRESS: 27 Pleasant Street, North Reading, MA 01864

DECISION: Approved with Conditions

DECISION DATE: 30 April 2021

Christian Assembly Inc. (owner 132 Middlesex)

This decision summarizes the findings made by the Somerville Planning Board ("the Board") for the Master Plan Special Permit authorizing development in accordance with the Master Plan proposed by Brickyard at Assembly, LLC ("the Applicant") in the Assembly Square Mixed-Use (ASMD) special district.

LEGAL NOTICE

Brickyard at Assembly, LLC proposes a master plan to develop a 1.3 acre site in the Assembly Square Mixed-Use (ASMD) special district. The master plan includes an 18-story laboratory principal building with underground structured parking and was previously granted a Variance from the ASMD's civic space requirement. The Applicant also requests multiple Special Permits to waive the maximum Floor Area Ratio (FAR), the maximum permitted building height, and to authorize occupancy of commercial spaces over 10,000 square feet by any permitted use.

RECORD OF PROCEEDINGS

On 1 April 2021 the Somerville Planning Board held a virtual public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance via the GoToWebinar meeting platform pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, M.G.L. C. 30A, §18. Present and sitting at the public hearing were Board Members Chair Michael A. Capuano, Vice Chair Amelia Aboff, Clerk Sam Dinning, Jahan Habib, and Rob Buchanan. Following an overview presentation by the Applicant, the Board opened the hearing to comments, questions, or concerns from members of the public both in support of and opposition to the proposal. Chair Capuano left written testimony open until noon on 9 April 2021, and closed the in-person public comment portion of the hearing. The Board asked initial questions of Planning & Zoning Staff and the Applicant, and voted 5-0 to continue the hearing until 15 April 2021.

On 15 April 2021, the Board met virtually via the GoToWebinar meeting platform and, at the request of the Applicant, voted 5-0 to continue the hearing until 29 April 2021.

On 29 April 2021, the Board, met virtually via the GoToWebinar meeting platform, reopened the public hearing. Present and sitting were Board members Chair Michael A.

246378 - 120 middlesex ave - see doc
1384-11
225559 - 132 middlesex Ave - see doc
1258-9

Capuano, Vice Chair Amelia Aboff, Jahan Habib, and Rob Buchanan. The Applicant provided an update to respond to comments and questions from the public and the Board, including an overview of the recently finalized Development Covenant between the Applicant and the City of Somerville, a discussion of the current tenants on the development site, and updates to landscaping and bicycle infrastructure in the public realm. Vice Chair Aboff proposed an additional condition in keeping with the Board's approvals of other projects in the Assembly Square Mixed-Use District (ASMD), to require that the Applicant explore design adaptations to the parking to allow for future conversion to programmable area, in the event that the need for parking is reduced. The Board discussed the conditions with the Applicant and supported amending the list of proposed conditions for the Master Plan Special Permit, if approved.

FINDINGS

In accordance with the Somerville Zoning Ordinance, the Planning Board may approve or deny a master plan special permit upon making findings considering, at least, each of the following:

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

The Board finds that the proposed Master Plan will implement many of the objectives of SomerVision 2030, the comprehensive Master Plan for the City of Somerville, and the Assembly Square Neighborhood Plan, including, but not limited to, the following:

- To make Somerville a regional employment center with a mix of diverse and high-quality jobs.
- To link corridors, squares, and growth districts to support future development and economic activity.
- To transform key opportunity areas, such as Assembly Square, Inner Belt, Brickbottom, Boynton Yards and the southeastern portion of Union Square into dynamic, mixed-use and transit-oriented districts that serve as economic engines to compliment the neighborhoods of Somerville.
- To design and maintain a healthy and attractive public realm (e.g., streets, sidewalks, and other public spaces) that fosters community connection.
- To use technology and infrastructure improvements to balance the needs of pedestrians, bicyclists, private vehicles, and mass transit, reduce congestion and pollution, decrease road space dedicated to automobiles, and unlock economic development potential, while having a fiscally sound road maintenance program.

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

The Board finds that the proposed Master Plan is consistent with the intent of the Assembly Square Mixed Use District which is, in part, "To implement recommendations of SomerVision for transformational redevelopment, to implement the Assembly Square Plan (ASQ Plan), and 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 establishment of Assembly Square as an urban employment center and regional cluster for life-science and research activity.

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

The Board finds that streetscape and thoroughfare improvements proposed in this Master Plan will contribute toward implantation of the planned future street network of Assembly Square.

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

The Board finds the allocation of gross floor area to various uses above the ground level to be appropriate to the planned future development of Assembly Square as a regional employment center and biosciences cluster, and at the ground level, to contribute to an engaging street experience for pedestrians on Middlesex Avenue and Cummings Street.

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

The Board finds that the Applicant's commitments to infrastructure improvements alleviate any adverse impacts on existing utilities and that proposed improvements are in accordance with all City standards.

6. Proposed development phasing.

The Board finds that the proposal consists of a single building and that phasing considerations are not relevant to this approval.

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

The Board finds that, while the proposal will not provide for additional on-street parking, the amount of on-street parking in the area is sufficient and appropriate for the needs of the ground floor Bakery/Café/Coffee Shop use.

8. Compatibility with the intensity of activity associated with the surrounding land uses.

The Board finds that the Master Plan is in keeping with the scale and density of development envisioned for this area of the Assembly Square Neighborhood.

9. Capacity of the local thoroughfare network providing access to the site and the impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.

The Board finds that the proposed development can leverage connections to Mystic Avenue and McGrath Highway for motorists to access the site without substantially

impacting motor vehicle traffic and circulation patterns within the neighborhood, while the proximity of the Assembly Square Orange Line MBTA station, and subsequent development of the Middlesex Avenue streetscape will result in improvements to transit, pedestrian and bicycle access to the site. The Applicant will provide more detailed analysis and information regarding measures to reduce the percentage of trips made to the site by motor vehicles as part of the subsequent Building Site Plan Approval process.

Decision

Following public testimony, review of the submitted application materials, and discussion of the required considerations outlined by the Somerville Zoning Ordinance, Chair Capuano made a motion to approve the **Master Plan Special Permit**. The motion was seconded by Vice Chair Aboff. The Board voted unanimously (4-0) to approve the Master Plan Special Permit with the conditions included in the staff memo and proposed by the Board.

Perpetual:

1. Applying for subsequent development review for the proposed building type identified in the submitted Master Plan constitutes substantial use of this MPSP for the purpose of securing subsequent development entitlement.
2. Development must comply with the Development Covenant by agreement between the City of Somerville and Brickyard at Assembly, LLC dated 29 April 2021.
3. The property owner and applicable future tenants shall comply with the Mobility Management Plan as approved and conditioned by the Director of Mobility on 13 January 2021.
4. The design of all proposed new thoroughfares and improvements to existing thoroughfares must include measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters to every extent practicable.

Prior to Site Plan Approval:

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

Site Plan Approval:

1. The Applicant shall demonstrate that parking levels in the garage have been designed to allow for future conversion to habitable area, in the event that the need for parking is reduced. Additional detailed floor plans, including parking layouts, will be required during the Site Plan Approval processes.
2. The Applicant shall provide updated information to demonstrate LEED Platinum certifiability, detailing efforts to utilize building systems technology, to every

extent practicable, to reduce the building's energy use intensity and support a potential future transition to net zero capability.

3. The Applicant shall provide updated information detailing potential flood risk on the site (due to both sea level rise and as a result of precipitation) and documenting how the potential for flooding will be managed within the underground parking structure, including how electric vehicle charging equipment and other electrical infrastructure will be protected from damage.
4. To mitigate transportation impacts, the entire site frontage along Middlesex Avenue must be improved with a southbound curb separated protected bikeway or substantial equivalent. The final design must be approved by relevant City departments.
5. To mitigate transportation impacts, the intersection of Middlesex Avenue and Cummings Street must be improved with pedestrian and bicycle safety improvements that square off the intersection, reduce crossing distance, and slow turning vehicles. The final intersection design must be approved by relevant City departments.

Following public testimony, review of the submitted application materials, and discussion of the required considerations outlined by the Somerville Zoning Ordinance, Chair Capuano made a motion to approve the **Special Permit for a Dimensional Standards Waiver** from the maximum building height set by Table 7.4.6 of the SZO, to allow a building of 19 stories, and up to 257 feet. The motion was seconded by Vice Chair Aboff. The Board voted unanimously (4-0) to approve the Special Permit.

Following public testimony, review of the submitted application materials, and discussion of the required considerations outlined by the Somerville Zoning Ordinance, Chair Capuano made a motion to approve the **Special Permit for a Dimensional Standards Waiver** from the maximum Floor Area Ratio (FAR) set by Table 7.4.6 of the SZO, to allow a building exceeding 10.0 FAR. The motion was seconded by Vice Chair Aboff. The Board voted unanimously (4-0) to approve the Special Permit.

Following public testimony, review of the submitted application materials, and discussion of the required considerations outlined by the Somerville Zoning Ordinance, Chair Capuano made a motion to approve the **Special Permit for Commercial Space Occupancy** to authorize occupancy of commercial spaces over 10,000 square feet by any permitted use. The motion was seconded by Vice Chair Aboff. The Board voted unanimously (4-0) to approve the Special Permit with the conditions included in the staff memo.

Perpetual:

1. The Special Permit for Commercial Space Occupancy is not applicable to ground story commercial spaces.

Attest, by the Planning Board:

Michael Capuano, *Chair*
Amelia Aboff, *Vice Chair*
Jahan Habib
Rob Buchannan, *Alternate*



Attest, by the Planning Director:

Sarah Lewis

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on 5/5/2021 in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

there have been no appeals filed in the Office of the City Clerk, or
 any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

there have been no appeals filed in the Office of the City Clerk, or
 there has been an appeal filed.

FOR SITE PLAN APPROVAL(S) WITHIN

there have been no appeals filed in the Office of the City Clerk, or
 there has been an appeal filed.

Signed

John J Long

City Clerk

Date

6/7/2021



City of Somerville

PLANNING & ZONING DIVISION

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: John Long, City Clerk
FROM: Planning & Zoning Division Staff
DATE: 10 May 2021
RE: Correction of Scrivener's Errors
 MPSP#2020-0003

2021 MAY 11 A 11:56
 CITY CLERK'S OFFICE
 SOMERVILLE, MA

Project Address: 120-132 Middlesex Avenue
 Date of Decision: 30 April 2021
 Date Filed with City Clerk: 5 May 2021

The decision for this property, filed with the City Clerk's Office on 5 May 2021, contained two scrivener's errors:

On page 1 of the decision, the permitted height of the building was incorrectly recorded in the legal advertisement as 18 stories, rather than the approved 19 stories.

Also on page 1 of the decision, the owner of 132 Middlesex Avenue was omitted. The correct information for 132 Middlesex Avenue is Christian Assembly Inc, 616 Fellsway, Medford, MA 02155.

This memo serves as the correction of those scrivener's errors.



City of Somerville

PLANNING & ZONING DIVISIONCity Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

MAY -5 P 1: 21

TO: John Long, City Clerk
FROM: Planning & Zoning Division Staff
DATE: 5 May 2021
RE: Correction of Scrivener's Errors
MPSP#2020-0003

CITY CLERK'S OFFICE
SOMERVILLE, MA

Project Address: 120-132 Middlesex Avenue

Date of Decision: 30 April 2021

Date Filed with City Clerk: 5 May 2021

The decision for this property, filed with the City Clerk's Office on 5 May 2021, contained a scrivener's error:

On page 5 of the decision, the permitted height of the building was incorrectly recorded as 257 feet, rather than the approved 275 feet.

This memo serves as the correction of that scrivener's error.

Doc 01883940 ⁽²⁾

Southern Middlesex Land Court
Registry District

RECEIVED FOR REGISTRATION

On: Jun 22, 2021 at 01:35P

Document Fee 105.00

Receipt Total: \$220.00

NOTED ON: CERT 246378 BK 01384 PG 11

ALSO NOTED ON:

BK: 01268 Pg: 9 Cert#: 225559

Doc: DEOIS 06/22/2021 01:35 PM