



City of Somerville

ZONING BOARD OF APPEALS

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

TO: Zoning Board of Appeals
FROM: OSPCD Staff
SUBJECT: 299 Broadway, Comprehensive Permit (40B) Revision Application
P&Z 22-092-R4
POSTED: May 9, 2025

RECOMMENDATION: Insubstantial Change (Revision to Comprehensive 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.

SUMMARY OF PROPOSAL

The applicant team, including Mark Development, LLC, Beacon Communities, LLC, and RISE Together, LLC (hereafter the “Applicant”) is requesting a revision to their Comprehensive Permit, including the following modifications:

- Revised Subdivision Plan (Land Plat) that includes Sewall Park as a separate lot, to be approved by the Zoning Board of Appeals (hereafter the “Board”) rather than the Director of PPZ.
- Modifications to Building B, including the following:
 - Fenestration and elevation designs, including mechanical ventilation louvers
 - Unit mix, including revisions to studio and one-bedroom numbers
 - Courtyard elevation, program, and layout
- Design changes to the civic spaces, primarily the Civic Plaza

The Applicant has submitted an updated waiver list to address modifications, to request additional relief as necessary, and remove waivers where no longer needed.

In coordination with City Staff, the Applicant has submitted a request to modify conditions to address the proposed changes to the unit mix; allow for the approval of the revised Subdivision Plan; clarify procedures related to civic space use and maintenance; and allow for minor changes related to landscaping and housing unit layouts to be approved by City Staff.

No changes are proposed to the building massing or footprints, number of units, or broader site design.

BACKGROUND

A Comprehensive Permit under MGL Ch 40B was issued for 299 Broadway (P&Z 22-092) on February 14, 2023, with Insubstantial Changes approved on March 20, 2024,

November 6, 2024, and December 18, 2024.¹ The Applicant continues to move forward with the project. The Applicant applied for a fourth revision to their Comprehensive Permit, including modifications to the Subdivision Plan, Building B and the Civic Plaza on Lot 2, and revised waivers from specific sections of the Somerville Zoning Ordinance. No design changes are being proposed for Building A or Sewall Park.

The proposed changes to conditions of approval include updated conditions as recommended collaboratively by the Applicant and City Staff (to be reviewed in the Analysis section of this memo).

The process for modifying Comprehensive Permits is as follows:

1. The Applicant submits a request to change the permit.
2. The Board must consider the request within twenty (20) days and determine whether the change is “substantial” or “insubstantial.” In Somerville, this is typically done during a regularly scheduled public meeting of the Board.
 - a. If the Board determines that the change is “insubstantial,” the change is permitted with no additional necessary steps.
 - b. If the Board determines that the change is “substantial,” the Board must then schedule and hold a public hearing regarding the request, and then vote whether to approve the application.

This application was deemed complete on May 2, 2025 (with some revised materials being submitted since, dates noted below), and is scheduled to be discussed by the Board on May 14, 2025. If the Board determines that any of the proposed changes are substantial, a public hearing will be scheduled for a future date.

ANALYSIS

Due to the interconnectedness of the proposed changes, they are addressed summarily below, with topic areas called out as necessary. The Board may determine that all, some, or none of the proposed changes are insubstantial. Staff believe that all the proposed changes are insubstantial.

Document Summary

The documents submitted as part of this Comprehensive Permit Change application include the following:

1. Narrative: Design Modification Narrative (Case # P&Z 22-092-R4) from Utile, Inc. (dated May 1, 2025)
2. Updated Waiver List, redlining new waivers and changes to existing waivers (dated May 2, 2025)

¹ The Comprehensive Permit Decision (P&Z 22-092), related plans and documents, the approved Insubstantial Change Decisions (P&Z 22-092-R1, P&Z 22-092-R2, and P&Z 22-092-R3) and related plans and documents can be found at <https://www.somervillema.gov/departments/ospcd/planning-and-zoning/reports-and-decisions>

3. Conditions Modification Request, showing a redline of proposed revisions to certain Conditions of Approval² (dated May 8, 2025)
4. Building B Drawing Updates (submitted May 1, 2025)
5. Civic Plaza Drawing Updates (submitted May 1, 2025)
6. Subdivision Plat (submitted May 1, 2025)
7. Site Plans with Zoning Tables (submitted May 1, 2025)
8. Memo from Landscape Architect on Paver Selection (submitted May 2, 2025)
9. Building B Affordable Units plan (submitted May 6, 2025)

Subdivision Plan: Revised Land Platting

The Applicant has proposed an updated Subdivision Plan (plat) that divides the project site into five (5) lots. The original plan proposed dividing the site into four (4) lots, with Sewall Park and Building A both being included in Lot 1. The updated plan shows Sewall Park on a separate lot (“Lot 5”) from Building A (on “Lot 1”). This separation will allow the future conveyance of Sewall Park to the City or Somerville Redevelopment Authority. The Applicant and the City both support this change. A change to condition #33 is proposed to allow the Board to approve the Subdivision Plan as part of this Change Request, and to allow the Chair to endorse the Subdivision Plan following approval.

Building B: Design, Unit Mix, Courtyard

The Applicant has proposed updates to Building B, including design changes to the building, primarily related to fenestration and mechanical changes to support the Passive House design. To further facilitate a Passive House design, units will have individual mechanical ventilation louvers (vents) visible from the exterior of the building, which requires a revision to an existing condition of approval. Staff have added proposed language to ensure the vents are integrated into the building’s design, which the Applicant supports. The Applicant has also submitted a signage plan to demonstrate anticipated locations of residential and commercial signage.³ The Application document 4: Building B Drawing Updates plan set clouds changes. Please note that some of this clouding shows previously approved revisions.

The Applicant has also proposed changes to the residential unit mix, including revisions as recommended by Housing Staff. The final proposed unit mix is shown in Application document 9: Building B Affordable Units plan. The Conditions Modification Request provides matrices showing the unit number/mix breakdown, including affordability levels. The total number of units has not changed.

Additional changes are proposed to the courtyard of Building B (shown on pages 33 and 34 of the Building B Drawing Updates plan set). Changes include a reduced number of

² Different colored redlines are shown, as well as one comment. Different colors denote different staff who made redlines, but all staff and the Applicant are in agreement on proposed redlines and comment.

³ Sign plans are illustrative to demonstrate anticipated locations of residential and commercial signs. All such signs require building permits, at which time zoning compliance will be confirmed.

trees and increased amount of furniture, as well as decking and amenities. The courtyard remains an amenity space to both Building B and Building A. The Applicant's Narrative describes how changes to the courtyard were necessary to relocate a secondary means of egress and to match Building B's interior amenity area.

Civic Plaza and Mews

The Applicant has proposed a range of changes to the Civic Plaza, although the general layout remains the same. Changes are outlined in Application document 5: Civic Plaza Drawing Updates (plan set), on page 2. Proposed changes include (but are not limited to) changes to the number, type, and location of proposed trees; increased bike racks; changes to street furniture; changes to lighting; and changes to materials and products for landscape features and paving. Changes are clouded in the proposed plans.

Public Space and Urban Forestry (PSUF) Staff have identified where additional review of the proposed changes to the Civic Plaza may be needed prior to approval, including considerations related grading and drainage, lighting, seating, and planting plan and schedule. Staff and the Applicant are continuing to coordinate on these items and anticipate an update ahead of the Board's review on May 14th.

Engineering Staff have also expressed concern related to the use of unit pavers in the pedestrian mews that do not meet Engineering recommendation of a 5-foot-wide cementitious concrete path through the pedestrian mews, as previously recommended to meet best practices for accessibility. The Applicant has provided a response to this recommendation with a Memo from their Landscape Architect on Paver Selection (listed as document #8). Engineering Staff noted that in constructing the path, the developer must ensure that the pedestrian mews adheres to all applicable ADA/MAAB standards for pedestrian sidewalks/walkways, including tolerance for changes in level.

Zoning Compliance and Updated Waiver List

ISD completed zoning compliance review of the application materials and noted that some of the proposed design changes necessitated additional waivers from the Somerville Zoning Ordinance, and that some changes allow for the removal of waivers. Updates to the Waiver List are detailed below.

The Applicant has provided an update waiver list with modifications redlined. New and modified waivers are redlined and include the following:

1. For the existing waiver #10, for relief from SZO §4.4.8.d, additional relief is requested from SZO §4.2.8.d and §4.4.8 for reduced ground story fenestration requirements for Building B, specifically along the Civic Plaza.
2. Existing waiver #21, for relief from SZO §10.1.4.b to allow a through lot, is being removed, and subsequent waiver numbering is being changed. With the updated subdivision, the site no longer includes any through lots.
3. Existing waiver #38, for relief from SZO §4.4.11.j to allow bay windows wider than typically permitted, is being removed, and subsequent waiver numbering is

being changed. Bay windows are no longer being proposed on the Broadway façade of Building B.

4. A new waiver (#41) from SZO §13.1.2 to allow a civic space on a lot that only has one north-facing front lot line, due to the creation of Lot 5 for Sewall Park.

Updated Conditions of Approval

Non-Substantive Changes

The Applicant has proposed multiple minor revisions to conditions of approval, adjusting waiver references, the number of units, timing and allowances for Certificates of Occupancy, and civic space maintenance. They do not have a substantive impact on the Comprehensive Permit.

Substantive Changes and New Conditions

Minor but substantive changes to certain conditions, as well as some new conditions, have been proposed to confirm the subdivision plans; public space easements and maintenance plans; and review of architectural details and materials.

Staff have also recommended (as shown in the Applicant's Conditions Modification Request) two new conditions and one updated condition to allow for Staff review and approval of minor changes to landscaping, internal layout of housing units, and Mobility Management Plan programming and conditions. These conditions are further described below.

Detailed List of Conditions Changes

Conditions that allow levels of Staff approval for certain changes have been underlined. These conditions are proposed by Staff to allow for flexibility related to very minor changes that may not require a return to the Board for review.

- Condition #1 has been amended to allow for five (5) separate lots, separating Sewall Park into its own lot ("Lot 5").
- Conditions #14 and 50 have been amended to adjust residential unit numbers.
- Conditions #15 and 84 have been amended to allow for flexibility on timing of construction and Certificates of Occupancy.
- Condition #23 has been amended to allow the Director of Mobility to amend, condition, and approve changes to the Mobility Management Plan.
- Conditions #24, 25, and 26 have been amended to accurately reference other Conditions of Approval.
- Conditions #29A and 29B are new conditions proposed to permit the Director of PSUF to review and approve minor changes to the landscaping and plantings, and to allow the Director of Housing to review and approve minor changes to the internal organization and layout of housing units (but not changes to the number and mix of housing units).

- Condition #33 has been amended to allow the Board to approve the Subdivision Plan and to allow the Chair of the Board to endorse that plan for the Board.
- Condition #53(f) has been amended to permit vents on Building B, albeit with specific requirements related to design and Staff review.
- Conditions #44, 45, 46, 78, 79, 82, and 85 have been amended to clarify construction, maintenance, and public access requirements for the civic spaces including the Civic Plaza, Sewall Park and the Mews.

Please note the comment attached to Condition #46. The condition is under review by Staff and the Applicant, and revisions to this condition may be recommended prior to approval.

CONSIDERATIONS & FINDINGS

The Zoning Board of Appeals is required to determine whether the proposed changes are substantial or insubstantial. If a change is deemed *insubstantial*, it is permitted and is to be approved (with conditions, if applicable). If a change is deemed *substantial*, the Board must hold a public hearing regarding the change prior to approving or denying it.

760 CMR 56.07(4)(c) and (d) provide guidance that the Board must consider when determining whether a change is substantial or insubstantial:

(c) The following matters generally will be substantial changes:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

(d) The following matters generally will not be substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. **A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10% [emphasis added];**
4. **A change in the color or style of materials used [emphasis added];** or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

760 CMR 56.07(4)(c) and (d) do not provide guidance on whether other changes, including those that require additional waivers from zoning or other local ordinances, should generally be substantial or insubstantial changes.