



## CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

May 31, 2017  
REPORT OF THE LAND USE COMMITTEE

Attendee Name	Title	Status	Arrived
Lance L. Davis	Chair	Present	
Mark Niedergang	Vice Chair	Present	
William A. White Jr.	Alderman At Large	Present	
Matthew McLaughlin	Ward One Alderman	Present	
Maryann M. Heuston	Ward Two Alderman	Present	
Robert J. McWatters	Ward Three Alderman	Present	
Tony Lafuente	Ward Four Alderman	Absent	
Katjana Ballantyne	Ward Seven Alderman	Present	
John M. Connolly	Alderman At Large	Present	
Mary Jo Rossetti	Alderman at Large	Present	
Dennis M. Sullivan	Alderman At Large	Present	

Others present: Michael Glavin - OSPCD, George Proakis - OSPCD, Tom Galligani - OSPCD, Frank Wright - Law, Tim Snyder - Mayor's Office, Greg Karczewski - US2, Charles Sillari - Clerk of Committees.

The meeting took place in the Committee Room and was called to order at 6:20 PM by Alderman Davis and adjourned at 11:03 PM.

This meeting was recorded and is available for viewing online at [www.somervillema.gov/unionsquare](http://www.somervillema.gov/unionsquare) along with the materials presented.

### **202853: Requesting an updated amendment to the Zoning Ordinance to create new CCD-55 and CCD-45 Commercial subdistricts, a new Coordinated Development Special Permit, a new Union Square Overlay District, and related changes to Article 5 and the Zoning Map.**

Mr. Proakis told the committee that he would have answers to some of the questions from last night back to the committee by next Tuesday and then went on to discuss some things that may be grandfathered in the zoning.

Alderman McWatters would like a legal opinion as to phasing built into the zoning. Mr. Wright stated that incorporating a CBA into zoning is a delegation of a government function which is not allowed and cannot be incorporated into zoning. The special permit granting authority cannot delegate. Alderman Rossetti mentioned a Gloucester case and the Sugar Law Center that

disagrees with Mr. Wright's opinion. Mr. Wright said that Alderman Rossetti's reference relates to a different legal issue, adding that his staff has reviewed this matter. Alderman White agrees with Alderman Rossetti in that it is a good question, but went on to say that it is not a zoning matter. Alderman McLaughlin asked if other cases were looked at and Mr. Wright cited a Supreme Court case. Alderman McLaughlin asked what the consequences would be if the city violated the law and was sued, and Mr. Wright said he doesn't like to deal in hypotheticals. Alderman White asked if there were any CBA cases that were reviewed and Chairman Davis discussed working on a CBA outside of zoning.

Alderman McLaughlin said the order of this process is frustrating because a developer was chosen before the priorities of the community. Alderman White would have liked a community process first and said that it is a reason that the BOA is in this situation. He said proposing amendments to zoning requires publishing. Alderman Ballantyne said that she doesn't understand the process of giving a certificate of occupancy with respect to phasing. Mr. Proakis said there is a difference when someone uses an optional subset of the zoning. The D1 parcel was discussed and the possibility of some future phasing. Mr. Proakis said CCD 45 and CCD-55 can only be for commercial development and that its intent is to accommodate mid-rise commercial development. He went on to discuss mid-rise and high-rise districts. Chairman Davis said the 5% bonus for 3 bedroom units appears to be allowed in mid-rise podium towers.

The committee reviewed the document that was handed out at last night's meeting. Alderman Heuston asked if there was a reference to stories in feet and was told that the story heights are listed, giving the total building heights. Mr. Proakis discussed the 6 types of buildings that can be built, as well as ground story heights and upper story heights. Mr. Proakis explained why the building height was not used in the zoning. Developers try to push the first floor height down to allow for more stories. Alderman Heuston expressed concern about not being able to easily know that a building will never be taller than "X". Mr. Proakis will provide the BOA with a summary table of heights and he explained why using maximum heights is not the best for commercial development. Chairman Davis asked about a ground story maximum and Mr. Proakis will look into the subject. He told the committee that there is less development space under the underlying zoning and that there are roadblocks to prevent the underlying zoning from being attractive. Alderman McWatters said there are 2 parcels in Union Square, owned by another developer, which could be problematic. Mr. Proakis went over how mechanical equipment relates to height requirements and Mr. Karczewski discussed what type of mechanicals may need to be higher than 85 feet. Alderman Rossetti pointed out that mechanicals can also go into a basement level and Mr. Karczewski explained why some mechanicals must be on a roof. Alderman Heuston asked who makes the decision to allow the additional feet that may be needed and Chairman Davis said that the language about the additional 5 feet is not clear and he would like the Planning staff to come back with alternative language.

Mr. Proakis spoke about proposed roadways, alleys, thoroughfares and their relation to lot lines. Alderman Niedergang is concerned that if the committee reviews the alleyways, it may run out of time. He suggested a way to move along faster, rather than going line by line through the document, adding that some aldermen have left the room because they are not interested. Chairman Davis cautioned that the devil is in the details and if the committee doesn't take a close look now, it could be problematic.

Civic space and required sunlight were discussed, as well as publicly accessible open space, and members debated the opening and closing times for publicly accessible open space. Sidewalk width, irrigation and drainage were discussed and Alderman Heuston asked if the city encourages the re-use of water for irrigation while Chairman Davis asked why the city would allow water runoff to go into the sewer system. Alderman Rossetti asked if LEED also governs civic space. Questions were raised about permeable surfaces and Mr. Proakis explained that it is difficult to require permeable surfaces where the building takes up the entire lot. Buildings shaped as Ls and Us may have space for a permeable area and many lots will be surrounded by civic space. Alderman Ballantyne would like square footage requirements for when LEED kicks in.

Other topics discussed were the neighborhood meeting process, site design process, outdoor seating for restaurants in civic space and pocket parks. Alderman Heuston would like to insert park uses for adults such as chess tables, bocce courts, etc., and Mr. Proakis explained why trees will be overseen by Director of Transportation and Infrastructure. Design guidelines of playgrounds were discussed and Alderman Niedergang asked why wooden play structures are prohibited. Mr. Proakis will find out why the landscape team put that in. Alderman Rossetti discussed the minimum size of dog parks and Alderman Ballantyne's motion *to prohibit artificial turf in dog parks* was approved. Community gardens and farm stands were discussed and Chairman Davis inquired about the rationale behind a prohibition. Alderman Ballantyne said the backlog of community gardens has been high in the past and she mentioned allowing pop-up community gardens.

Mr. Snyder handed out a draft of the Development Covenant and discussed the GLX contribution and the way that the city could receive a refund. Chairman Davis suggested certain language in the document and Alderman McLaughlin suggested putting the BOA President in the negotiation process and asked if there is a judicial remedy. Mr. Snyder said commercial development is a priority to US2 and he discussed the phasing of development agreed to by US2. Commencement of residential construction on certain blocks will not happen until office/lab construction is complete.

The committee discussed various ways paragraph 29 of the covenant would come into effect and it was clarified that it is triggered by zoning changes. Chairman Davis would like language changed in section 29 to add the word "material". Alderman Niedergang asked for clarification on how section 29 works. Mr. Proakis discussed certain special permits a developer can apply for simultaneously. Alderman Ballantyne asked about the date that determines when they calculate the changes in costs according to paragraph 29. Alderman Niedergang clarified that any changes made now, would not trigger Article 29.

Alderman Ballantyne asked some questions that she received from people watching the live broadcast of this meeting on T. V. Alderman Niedergang stated that he would never "lock the hands" of his successors. Alderman White explained his understanding of the ability of future Boards to change zoning. Mr. Proakis will put something together to explain what is trying to be accomplished. Alderman McWatters wants jobs and hiring of Somerville residents and would like to compromise on housing and jobs, especially family housing. Alderman Heuston would like to invite Vanessa Boukili to the next meeting.

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**Handouts:**

- Best Practice Chart (with 202853)
- Comments - S Inglima (with 202853)
- Description of Disposition Parcels (with 202853)
- Development Covenant (with 202853)
- LEED Chart (with 202853)