

Madalyn Letellier

From: Jameson Brown [REDACTED]
Sent: Thursday, June 15, 2023 12:22 PM
To: City Clerk Contact
Subject: FW: One Union Square 5/18/23 Letters of Support
Attachments: 1 Union Square Letter of Support Brennan.pdf; Hamilton support letter - Eduardo Sastre .pdf; Letter of Support 10 Webster.pdf; Support Letter Hamilton Grossman Signed.pdf; Union Sq Letter-Hamilton Co DAlelio.pdf

Follow Up Flag: Follow up
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To whom it may concern,

I am forwarding an email sent to the city council on May 18th regarding a proposed zoning amendment for our One Union Square project.

Regards,
Jameson Brown

From: Jameson Brown
Sent: Thursday, May 18, 2023 9:56 AM
To: CityCouncil@SomervilleMA.gov
Subject: One Union Square 5/18/23 Letters of Support

To whom it may concern,

Attached are all the letters of support collected to date for our One Union Square project. Our hearing date is scheduled for tonight, 5/18/2023. We continue to have productive discussions with other tenants and neighbors, and we expect to collect more letters of support.

Regards,
Jameson Brown
The Hamilton Company/Union Square One Development LLC

To:
Somerville Planning Board
planning@somervillema.gov
93 Highland Avenue Somerville, MA 02143
Attn: Sarah Lewis, Director of Planning


To:
Somerville City Council
93 Highland Avenue Somerville, MA 02143
Attn: Land Use Committee

I, signed below, wish to go on record to support the proposal at 1 Union Square by the Hamilton Company.

This proposal will be a transformational project that will behoove and add vibrancy our Union Square community. This exciting opportunity will add vitality and life to our neighborhood – via job creation, public benefits, civic space and exciting new retail. The improvements made possible by allowing a single building on the site instead of two buildings, including continuous retail frontage along Somerville Ave as well as the enlarged and improved open space at the corner of Somerville Ave and Prospect Street, will benefit the character of the existing community.

I believe Hamilton Company should be granted the needed zoning amendment and any subsequent zoning approvals to achieve their innovative and exciting goals here.

I urge the City of Somerville and our elected officials to **support** this endeavor as well.

Name/Signed: 

Address:

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93 Highland Avenue Somerville, MA 02143
Attn: Sarah Lewis, Director of Planning

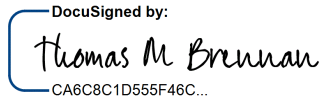
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Name/Signed: 
CA6C8C1D555F46C...
Thomas Brennan, TJ Realty Trust

Address: , MA 01730


To:
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planning@somervillema.gov
93 Highland Avenue Somerville, MA 02143
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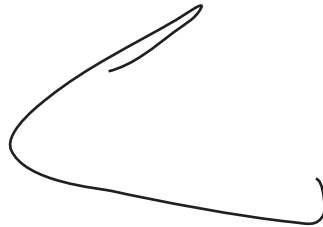
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I urge the City of Somerville and our elected officials to **support** this endeavor as well.

Name/Signed: Eduardo Sastre

A handwritten signature in black ink, appearing to read 'Eduardo Sastre', written in a cursive style.

Address: [REDACTED] Somerville Ma 02143

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planning@somervillema.gov
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I believe Hamilton Company should be granted the needed zoning amendment and any subsequent zoning approvals to achieve their innovative and exciting goals here.

I urge the City of Somerville and our elected officials to **support** this endeavor as well.

Name/Signed:



Address:

Emanuel Tsiantoulas
Manager





The Grossman Companies, Inc.
Innovations in Real Estate

Somerville Planning Board
93 Highland Avenue
Somerville, MA 02143
Attn: Sarah Lewis, Director of
Planning

Somerville City Council
93 Highland Avenue
Somerville, MA 02143
Attn: Land Use Committee

March 17, 2023

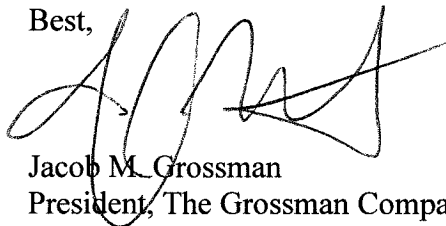
To Whom It May Concern:

First and foremost, thank you for your hard work during a challenging time for public officials but also a difficult timeframe for real estate development. We own several properties in Somerville including in the Union Square neighborhood.

I write to support the proposal at 1 Union Square by The Hamilton Company. This proposal will be a transformational project which will add vibrancy to the Union Square community. This exciting opportunity will add vitality and life to the neighborhood via job creation, public benefits, civic space and exciting new retail. The improvements made possible by allowing a single building on the site instead of two buildings including continuous retail frontage along Somerville Avenue as well as the enlarged and improved open space at the corner of Somerville Avenue and Prospect Street will benefit the character of the existing infrastructure.

We support Hamilton Company's proposal and hope that they will be granted the needed zoning amendment and any subsequent zoning approvals to start this exciting project during a difficult development cycle. I hope that the City of Somerville and the elected officials will join us in supporting this project.

Best,



Jacob M. Grossman
President, The Grossman Companies, Inc.

To:

Somerville Planning Board

planning@somervillema.gov

93 Highland Avenue Somerville, MA 02143

Attn: Sarah Lewis, Director of Planning

To:

Somerville City Council

93 Highland Avenue Somerville, MA 02143

Attn: Land Use Committee

I, Michele Lawlor, wish to go on record to support the proposal at 1 Union Square by the Hamilton Company.

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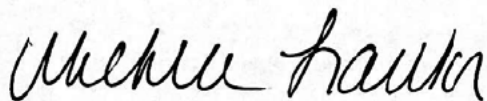
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I urge the City of Somerville and our elected officials to **support** this endeavor as well.

Name/Signed:

Michele Lawlor

D'Alelio Family LLC



Address: [REDACTED] Somerville MA

To:
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planning@somervillema.gov
93 Highland Avenue Somerville, MA 02143
Attn: Sarah Lewis, Director of Planning

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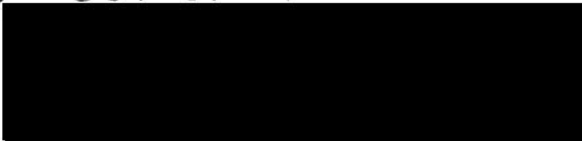
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Name/Signed:

Ocunelle McPherson / ~~Daniel~~ McPherson

Address:



Somerville 02145

To:
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Name/Signed:

Eddie McPherson / Eddie McPherson

Address:



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Name/Signed: **JAMES MUCCI** 
Address: 
SOMERVILLE, MA 02143



UNION SQUARE
USNC
NEIGHBORHOOD COUNCIL

8 June 2023

Somerville Planning Board
City Council Land Use Committee
93 Highland Avenue
Somerville, MA 02143

Re: Section 8.17.g.iii zoning text amendment

Dear Neighbors,

As the elected representatives of Union Square's residents, small businesses, and workers we write to express both support and concerns for the proposed 1 Union Square project, the approval for which would require the above-referenced zoning amendment.

This amendment would permit the Planning Board, at your discretion, to allow variations from width and floor-plate requirements *if* such allowances would improve a building's design and impacts, *and* if it is, "providing enhanced Civic Space, enhanced open space, additional space for Arts and Creative Enterprises, or space for a Community Center, Library, or Museum, or a combination of the foregoing."

The Hamilton Company's proposal does both. The proposed site is in the Square's center and at its most important intersection. As such, it offers the potential to redeem some of the damage to the neighborhood done by US2's D2 block development, and that which is anticipated on the D1 block in the Coordinated Development Plan (CDP), which the Coordinated Development Special Permit (CDSP) approved.

In most aspects the proposed design is superior to that shown in the Union Square Neighborhood Plan, which was further degraded in the CDP to accommodate US2. And our experience with the Hamilton Company and US2 obligates our conclusion that the former would be more responsive to the needs of those who live, work, and own property in Union Square.

2023 JUN -9 A 11:57
CITY CLERK'S OFFICE
SOMERVILLE, MA

We create plans to accomplish shared goals, and the proposed development would better accomplish the open-space, employment, daytime population, sustainability, mobility, and design goals of both the Union Square Neighborhood Plan and SomerVision 2040.

Somerville has the lowest proportion of green and open space in the Commonwealth, and this is particularly evident in Union Square. The proposed development would increase both the amount and functionality of our Square's outdoor civic space, while increasing tree canopy, expanding pollinator habitat, and providing a Miyawaki forest. It would provide much-needed indoor civic space designed to complement and synergize with the outdoor civic space.

The CDP specified a smaller amount of outdoor civic space. It was to be located on the south side of the development where it would be both less accessible and less usable. And the CDP's two-building scheme would require both buildings to have loading docks. This would require trucks to cross through that civic space—as well as the walkway between the proposed inter-building passageway and Everett Street—to reach the western building's dock.

The Hamilton Company has committed to building to LEED Platinum standards and building an intensive vegetative roof (biosolar). They are also receptive to exploring installation of solar panels above the green roof. By contrast, the Coordinated Development Special Permit that the City executed with US2 obligates the *City* to pay for any sustainability improvements beyond LEED Gold requirements.

The proposed development's total area and footprint, both, would be smaller than those specified in the CDP. It would have wider sidewalks on its north, east, and west sides. And its shadow impacts would be significantly less.

During the public hearing, Amelia Aboff questioned the proposed project's deviation from the Neighborhood Plan. It is important to us for you to understand that the Neighborhood Plan was a betrayal of what hundreds of Somerville residents, giving thousands of hours, told planners that they needed and wanted for Union Square. And the CDP/CDSP added insult to injury.

Among our neighbors' expressed desires was a built environment that, at the Square's center, was of a human scale and design that encouraged lingering, interacting, and a sense of community. But after the City's capitulation to US2, the resulting CDP substantially worsened the Neighborhood Plan's problems, as the following images demonstrate.



The Neighborhood Plan specified a plaza on the corner of the proposed site. The CDP permits US2 to build right up to the (narrower) sidewalks, as they have done with the “Darth Vader building” across Prospect Street from the site. And the absence of that building in these images makes the “after” views appear less oppressive than the lived experience.

The Hamilton Company’s proposal would preserve the opportunity for a built environment that engages in and enhances pedestrians’ experience, encouraging them to linger. The CDP’s implementation would constrain pedestrians’ experience, instilling an urge to flee.

The Hamilton proposal would preserve a welcoming northern view corridor, providing Prospect-Street travelers with a vista of the Prospect Hill Monument and the Union Square Plaza. CDP implementation would create a tunnel that obscures those views.

These differences provide a visual metaphor for our dealings with the two developers. US2 has been a zero-sum negotiator, resistant to and resentful of, almost every request that would improve their project’s design and benefit stakeholders other than themselves. The Hamilton company has been responsive to expressed concerns and willing to collaborate on innovative design that benefits all stakeholders.

While we are pleased with what we have seen from the Hamilton Company, we also have certain concerns and questions.

We would like reassurance that they will be the developer that pursues entitlement and then builds and operates the project—rather than flipping it—after obtaining entitlement.

We would very much like to see a ground-floor passage or arcade that allows pedestrians to pass between Somerville Avenue and Everett Street—at least during working hours, if not 24 hours per day.

We would like to understand if and how this developer's plan to construct one building instead of two would change obligations required by a Master Plan Special Permit from those in the base zoning.

We would like assurance as to the Hamilton Company's attention to the wellbeing of existing tenants, either as supportive relocation assistance or as providing retail space in the future development on terms that those tenants can afford. One place to begin would be the requirements specified in our Community Benefits Agreement with US2, which specify

US2 will propose and negotiate in good faith a plan to identify space for their business within the redevelopment, to relocate said businesses within the redevelopment and execute a lease memorializing the same, all subject to the business owner's mutual agreement. Businesses that are relocated within the redevelopment will receive a relocation payment of \$25 per square foot of existing building area that the business can utilize to start up their business in the new location. If a relocation plan cannot be reached between US2 and an Existing Business, US2 will work in good faith to negotiate a lease release with said business.

And our support for the proposed amendment and for this project comes with the assurance from the Hamilton Company that they will negotiate a CBA with us in good faith.

At the May 25th public hearing, residents from neighborhoods across the city told the City Council about rituals of public participation over the past decade where they poured out their hopes and needs, only to see resulting plans that betrayed their aspirations while appeasing developers. We ask that, this time, you listen.

For the Union Square Neighborhood Council,

Victoria Antonino, Chair

Andy Greenspon, Chair

2023 JUN -9 P 12: 25

June 8, 2023

CITY CLERK'S OFFICE
SOMERVILLE, MA

Ben Ewen-Campen, President
City Council
City of Somerville
93 High Street
Somerville, Massachusetts 02143
Attn: Land Use Committee

Re: Zoning Text Amendment, Zoning Ordinance Section 8.17.g.iii.a) and b)
May 18, 2023 Joint Public Hearing

Dear Honorable President Ewen-Campen and Honorable Members of the City Council:

During the noted joint public hearing, and in newspaper articles, letters and other public fora, mistaken or incomplete was circulated regarding the Union Square Urban Renewal framework, and its relationship to the captioned Zoning Text Amendment. One tale focuses on the property rights of Union Square landowners whose properties have not been acquired under the Urban Renewal process. Another questions the City Council's express and exclusive legislative authority to enact or amend zoning regulations.

It is also helpful to apply some perspective to the over-heated rhetoric characterizing the Zoning Text Amendment as a grave threat, and predicting dire consequences, and irreparable damage if enacted. The Zoning Text Amendment is no such thing. Any objective reading of the Amendment shows that it is compatible with the intent of applicable public regulations and development goals because the Amendment simply enables the consideration, at the Planning Board's discretion, of certain innovative designs that must advance the City's planning objectives and vision. Moreover, the community benefits package that can be expected for development in the City on any parcel can be expected to be comparable, no matter the identity of the developer. Assertions to the contrary are groundless.

To clarify the material issues, please consider the following.

A. Urban Renewal Framework

Any credible discussion of this topic must acknowledge that private-property rights are paramount and are expressly protected by federal and state assurances.¹

¹ Article X, Constitution of the Commonwealth of Massachusetts. Fifth Amendment, United States Constitution

Ben Ewen-Campen, President
June 8, 2023

Imagine a Union Square property where a pipe begins to leak into a tenant space, or the property's roof is damaged by a storm. Can the owner be prevented from repairing the pipe or the roof? What if a tenant moves out? Can the owner be prevented from remodeling the vacant space for a new tenant, or prevented from placing a new tenant in that space? The answer to these questions is, "no." The right to improve and lease property, among other recognized rights, are fundamental property rights afforded to all landowners.

That a Union Square property has been included in the Union Square Urban Renewal plan does not alter those basic, private property rights and protections.²

Under the Massachusetts Urban Renewal Statute (UR Law)³ there are two principal models of Urban Renewal Projects. The first we call the Single Developer model, the other the Landowner Developer model.

In the coercive Single Developer model, the redevelopment authority cuts out all the landowners and names a Single Developer, which has the right to develop the included land, but only after such land lawfully is acquired by the redevelopment authority. The UR Law is very clear on this sequence.⁴ The Single Developer model does not provide a legal mechanism to bind or control existing landowners. All agreements, obligations and requirements, including the often-noted Union Square Master Land Disposition Agreement (MLDA), are by definition between the only two parties involved in the Single Developer model – the redevelopment authority and the Single Developer. No other landowners, or City bodies or agencies, appear to be parties to, or subject to the MLDA or any of the contracts between the Single Developer and the redevelopment authority.

Because the redevelopment authority selected this model for the Union Square Urban Renewal project, it has certain authority and obligations relative to the Single Developer under the MLDA, but it has no authority over any existing landowner, or any control over, or interest in, private land. Nor does it have any authority over any other City body or agency, especially the City Council, the sovereign legislature of the City. Notably, no legal authorities for claims the City Council does not have the authority to adopt the Zoning Text Amendment have been provided.

The MLDA is publicly available. Even a cursory review of that document exposes as false claims that the MLDA requires existing landowners to obtain approval pursuant to the MLDA before exercising their basic property rights. In fact, under the UR Law and the Single Developer model, the MLDA cannot and does not affect the rights of existing landowners regarding the operation and management of their properties.

² In an urban renewal or precondemnation setting like here, these guaranteed property rights are especially vulnerable to improper infringement or improper acts that impose negative constraints on a landowner's rights. Jensen v. City of New York, 369 N.E.2d 1179 (1977). Foster v. City of Detroit, 405 F.2d 138 (6th Cir. 1968). Amen v. City of Dearborn, 718 F.2d 789 (6th Cir. 1983).

³ M.G.L. c. 121B.

⁴ M.G.L. c. 121B, § 11.

Ben Ewen-Campen, President
June 8, 2023

By contrast, the Landowner Developer model contemplates collaborative engagement among the redevelopment authority and existing landowners to implement an Urban Renewal project. In that model, existing landowners would be party to, and bound by, agreements with the redevelopment authority. As this model was not selected for the Union Square Urban Renewal project, the existing landowners possess their traditional property rights until their land is acquired lawfully by the redevelopment authority. Plainly, those landowners are not subject to the MLDA, or any other enforceable aspect of the Union Square Urban Renewal framework.

In this context, it is also worth noting that the Somerville Zoning Ordinance (SZO), pursuant to the Massachusetts Zoning Act⁵, provides that the City Council alone is authorized to hear and decide amendments to the SZO. A redevelopment authority has no statutory authority in the zoning-amendment process. Nor does the MLDA or the Single Developer model constrain the City Council's plenary authority to adopt zoning amendments. Again, no legal authorities for claims that adoption of the Zoning Text Amendment would violate the MLDA, or any other contract enforceable against the City Council, have been provided. The truth is that under our law, the legislative zoning power cannot be contracted away.⁶

Absent an eminent domain taking, the landowner of any property included in the Union Square Urban Renewal plan may exercise its protected property rights fully and freely, without the need to seek the permission or approval of any entity, subject only to typical zoning and building regulations, which as discussed are not altered by the UR Law or Urban Renewal framework. More to the point, nothing in the MLDA, the UR Law or the Urban Renewal framework constrains or diminishes the City Council's exclusive legislative authority to consider and adopt zoning amendments pursuant to the Massachusetts Zoning Act.

B. Zoning Amendment

1. Spot Zoning

As described above, the SZO and the Massachusetts Zoning Act provide that zoning, as a legislative function, is the exclusive orbit of the City Council, and such legislative decisions by the City Council are afforded the utmost deference.⁷ Moreover, so long as a zoning amendment provides a general public benefit, or promotes a public purpose, and thereby is not clearly arbitrary and unreasonable, it is a proper legislative act.

Regarding the Zoning Text Amendment, because it requires an applicant to provide explicit public goods to qualify for the desired zoning relief, it is a valid zoning amendment

⁵ M.G.L. c. 40A, § 5.

⁶ Notwithstanding, certain testimony at the May 18 public hearing, and certain written material provided, appears to be making the case that under the MLDA, and other ancillary documents, the City has contracted away its police power to enact lawful zoning amendments. MacLean Hospital Corp. v. Town of Belmont, 56 Mass. App. Ct. 540 (2002).

⁷ Caires v. Bldg. Commr. of Hingham, 323 Mass 589 (1949).

Ben Ewen-Campen, President
June 8, 2023

unlikely to be reversed.⁸ Myriad additional other public benefits that may flow from the adoption of Zoning Text Amendment were detailed for the record during the May 18 public presentation, reinforcing the legitimacy of the Zoning Text Amendment.

2. Exempt Rights; USQ Sub-Area

The Massachusetts Zoning Act provides that a zoning ordinance shall not apply to a building permit or a special permit validly issued before the first publication of notice of the public hearing on that zoning ordinance.⁹ Here that means that any building permit or special permit validly issued before the publication of the notice of the May 18 public hearing would not be affected by the adoption of the Zoning Text Amendment. That is, a landowner's rights under a validly and timely issued building permit or special permit are exempt from the Zoning Text Amendment.

Further, please recall that the Zoning Text Amendment preserves and does not alter or reduce the existing rights of landowners owning land in the USQ Sub-Area. On the contrary, the Zoning Text Amendment simply, and only, provides a new special permit option for landowners in the USQ Sub-Area that wish to consider that option. No landowner is compelled to elect that option, nor does any landowner lose any valid exempt rights. Any claim that the Zoning Text Amendment would diminish existing landowner rights, whether related to a timely issued building permit or special permit, or otherwise, is inaccurate.

In this legal reality, the argument that the Zoning Text Amendment would somehow alter the positions of the parties to the MLDA is also baseless. Under the MLDA, the redevelopment authority has the power to acquire any land included in the Union Square Urban Renewal plan and convey that land to the Single Developer. The Zoning Text Amendment does not affect that structure.

3. USQ Sub-Area Master Plan Special Permit

By its terms, it appears the main purpose of SZO Section 17 (Section 17) is to attempt to implement and enforce the Union Square Urban Renewal plan, even against landowners whose land has not been acquired by the redevelopment authority.¹⁰ Given the discussion in Section 1 above, that attempted purpose appears to conflict with those landowners' protected rights.

Similarly, Section 17.d. appears to forbid Development of an individual Lot in the USQ Sub-Area without all the other landowners first joining in a Master Plan Special Permit

⁸ W.R. Grace v. Cambridge, 56 Mass. App. Ct. 559 (2002). Raymond v. Building Inspector of Brimfield, 3 Mass. App. Ct. 38 (1975). Crall v. City of Leominster, 364 Mass. 95 (1972). HRPT Medical Buildings Realty Trust v. Boston Zoning Commission, 20 LCR 94 (2012).

⁹ M.G.L. c. 40A, § 6. See SZO Section 17.c.iii, which appears to be attempting to create a similar type of exemption.

¹⁰ SZO Section 17.a.iv. See Footnotes 1 and 2. Under Article X, Massachusetts Constitution, absent a formal eminent domain taking, no property can be "applied to public uses", like urban renewal, without the property owner's consent.

Ben Ewen-Campen, President
June 8, 2023

encompassing all the Lots in the USQ Sub-Area. If that is how Section 17.d. is implemented - unless the multiple landowners agree to pursue a Master Plan Special Permit, or until all the land is owned by one entity that will pursue the Master Plan Special Permit - an individual landowner would be deprived improperly of its protected right to improve its land.¹¹

C. Summary

For the foregoing reasons, there is no merit to the assertions that (i) the City Council contractually is forbidden by the MLDA, or any related document, from adopting the Zoning Text Amendment, (ii) the UR Law modifies or limits the City Council's supreme legislative authority regarding the amendment of the City's zoning regulations, or (iii) the Zoning Text Amendment is improper spot zoning.

As demonstrated at the May 18 hearing, adoption of the Zoning Text Amendment would allow full and open public consideration of an exceptional project – a project that would foster new economic activity, create new civic and community spaces, and help the City realize the vision for Union Square as both a neighborhood and commercial center. A process and vision that has attracted robust community support.

We hope the City Council finds this analysis helpful as it undertakes to legislate for the general interest. Thank you for your consideration.

Respectfully,



William J. Proia

cc: Somerville Planning Board
Somerville Redevelopment Authority

3433859.3

¹¹ It is axiomatic that the SZO and the Massachusetts Zoning Act provide that only landowners, or a party duly and expressly authorized by the landowner, has standing to seek a special permit respecting that landowner's land. No special permit that was granted without landowner participation or consent could limit lawfully that landowner's continuing right to pursue its own permits to improve its land.