



## CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

June 7, 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	Present	
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: Joe Curtatone - Mayor, Michael Glavin - OSPCD, Tom Galligani - OSPCD, George Proakis, Eileen McGettigan - Law, Frank Wright - Law, Tom Bent, Wig Zamore, Tim Snyder - Mayor's Office, Charles Sillari - Clerk of Committees.

The meeting took place in the Aldermen's Chamber and was called to order at 6:08 PM by Alderman Davis and adjourned at 11:54 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.

#### Approval of the May 17, 2017 Minutes

<b>RESULT:</b>	<b>ACCEPTED</b>
----------------	-----------------

**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.**

Alderman Rossetti asked about the accessory use of a carriage house and when and how that use is allowed. Mr. Proakis replied that he doesn't expect any carriage houses to be built. The committee discussed the types of fences that will be allowed and Chairman Davis suggested not

allowing chain link fences. A change was made to allow metal and wood, but no chain link fencing. Alderman McWatters asked about ADA compliance. Alderman Heuston asked about parking being utilized by people who need it and Mr. Proakis discussed ways in which associations can be created for parking, as is done in Cambridge. Alderman McWatters asked if the mobility plan took Union Square traffic concerns into consideration and Alderman McLaughlin mentioned an example in Ward 1 where a developer didn't carry out a mobility plan.

Mr. Proakis said "green space" and "planting bed" are now defined. Proposed civic space sites, civic space regulations, landscape area requirements, tree canopy requirements, conveyance of property after approval, commercial/residential split, allowed types of commercial uses were discussed, incentive for 3 bedroom units, off-site compliance, various activities in parks, dark sky regulations being worked into the ordinance, sustainability requirements, items allowed on roofs, lab building possibilities on the D6 lot, tenants' need for space, the LEED process, an increase in required open space, parking standards, labs, hotels and restaurants were discussed.

The on-site affordable housing requirement has been changed from 25% to 50%. Various ways to guaranty the completion of affordable housing were discussed along with the use of bonds, letters of credit and certificates of occupancy as ways to accomplish the goals.

Ms. McGettigan spoke about her legal research on requiring phasing in zoning and she advised the committee to exercise caution, saying that it's a gray area and may be constitutionally invalid and may be viewed as "taking". She also explained how MLDA requirements are enforced and discussed the need for a certificate of compliance. The BOA can set additional conditions for the land under the public safety building. Alderman Niedergang said he is concerned some vested rights haven't been considered. The committee discussed the neighborhood closest to the development and how to make their lives easier.

Alderman Rossetti asked if inclusionary housing on D2 and D7 would be graded LEED silver or gold and Mr. Proakis said he believes the LEED qualities should be equal between the two sites.

Flower market was added to the list of allowable uses so Ricky's can remain in Union Square. Mr. Proakis said he added a section showing the building heights and a section showing how to calculate building heights.

The Mayor said a new covenant will be executed tomorrow and he discussed ways the BOA's concerns were dealt with. He also discussed how mediators will be helpful if needed to bring both parties to agreement. Alderman Heuston would like to make sure the document reads "professional" mediators. Enforcement of the covenant, which is tied to the MLDA, was discussed. Alderman McLaughlin expressed his concern that the BOA is not signing the covenant. The Mayor said he would be happy to include the BOA president in the mediation process. Chairman Davis would like to see the covenant read "shall" so it is not ambiguous. Alderman Ballantyne feels the language in the covenant is misleading, noting that she asked if the document called for commercial office and she got a "yes" in reply. Mayor Curtatone apologized and stated nothing was meant to be misleading. Mr. Glavin said the map and graphic showed parcel 1 as a new standard by which the phasing would be held and noted that the trigger parcel is consistent with the drawing shown. The Mayor went through the changes made to the covenant. Ms. McGettigan spoke about increased costs to the developer, caused by the city changing the zoning, and how it would be handled.

Alderman McLaughlin said he requested language about the prevailing wage, veterans and local hiring and jobs after construction and he doesn't see the change in the document, adding that he wants more than job fairs. Solicitor Wright said that in his opinion, the city is not in the position to require a private party to do these things. Alderman McLaughlin said the language was in the Maxwell's Green covenant. The Mayor said the city can't impose wages based on zoning, although he appreciates the idea. Alderman McLaughlin said he is aware of the Boston case going on, but he feels this request is a different situation. The committee and the mayor discussed hypotheticals about the mayor not enforcing provisions regarding mediation, as well as an analysis that was done regarding tax revenue.

US2 plans on developing the D2 block buildings simultaneously, but they will be financed separately. Progress with proposed tenants is being made, but the details cannot be discussed due to a non-disclosure agreement. Alderman Ballantyne said there is a pattern of big developers getting what they want. Mr. Proakis explained the vested rights rule in Assembly Square.

The committee continued to go over the changes incorporated into the zoning amendment.

Alderman Ballantyne would like to regulate the amount of mulch allowed and Mr. Bartman said uncovered earth is the #1 contributor to dust in the air and mulch is important. Mr. Proakis said the intention is to have beds with plants and not just mulch. Alderman Ballantyne wants multiple options for open and civic spaces, adding that the people she's heard from are not happy with the designs submitted thus far. Mr. Proakis would prefer one plan submitted in accordance with SomerVision and pointed out that the community led the open space process and that the neighborhood plan was the process and the residents were involved. Alderman McLaughlin supports Alderman Ballantyne and Alderman Sullivan would like to see the community input. Alderman Heuston said it is important to have pre-plan options for open space. Alderman Ballantyne stated she wants meaningful engagement on design. Alderman McLaughlin said he has been involved in park designs before and he has always seen multiple options.

Alderman Ballantyne made a motion to insert the following language in Section 6.7.5 C(3)(b), in an appropriate place, as determined by Dan Bartman of OSPCD: "Substantive engagement between community and development team, including designers, regarding the district and design and placement of major land uses inclusive of buildings and civic and open spaces. This obligation is intended to require meaningful engagement on form and design, but is not intended to limit gross square footage of land uses and buildings already decided." The motion was approved.

The committee discussed landscaped area and green space percentages. Chairman Davis said he is inclined to give the developer some leeway to accomplish the goals and increase green space. Mr. Bartman spoke about the different types of parks and Alderman Niedergang said the amount of open space will never be ideal in an urban area. Chairman Davis said that perhaps relying on the neighborhood process is best to advocate for open space.

Alderman Ballantyne discussed the proposed plan and said that she feels the hotel is early on in the phase. She said hotel owners will market to a work center and that people staying at the hotel won't be contributing to the Somerville community. She feels that Somerville hasn't been marketed as a work center. Alderman Ballantyne said that she doesn't think she can support it. She said that office and R/D is needed and suggested making D6 a biotech area. Alderman Ballantyne spoke about the phone calls she receives from renters who can't afford to live here

and said that now she is getting calls from property owners who say their taxes are going up \$1,000 per year.

Alderman Ballantyne ***made a motion to change the percentage listed in Section 6.7.6 (b)(2) from 40% to 50%.***

Mr. Proakis explained how commercial absorption works and said that he is concerned that losing the hotel will be detrimental and will lead to a loss of commercial.

Alderman White said he drafted the original 60/40 split and said that the GLX is very important to the plan and he requested details on tax differentials. Alderman Heuston asked about taxes generated from certain commercial uses. Alderman Davis wants to make sure that the jobs being created are for everyone and not just white collar jobs. He is uncomfortable increasing to 50%.

Alderman Connolly feels a hotel will be an important part of the Union Square economy. Alderman Niedergang is concerned about tying the developers hands and said he can't support the increase to 50%. Alderman McLaughlin would hate to lose affordable units and doesn't think losing 30 units of affordable housing is worth the change to 50%, therefore, he can't support it. Alderman Ballantyne said the city has done no financial planning for the new high school, taxes on housing are going up and the Planning Department is talking about design, not numbers. Alderman White said it is important to note that property values don't mean taxes have to go up. Alderman Ballantyne said that it is about people now and she is disappointed that the development starts off with residential.

Alderman McLaughlin asked for the tax difference between hotel and R/D, saying that he is torn between affordability and gaining a tax base. Chairman Davis said a hotel will get the city a tax base sooner while waiting for a lab to be built. Mr. Proakis discussed tax benefits of office, hotel and lab. Alderman White said the tax differential on this vote is miniscule. Alderman Lafuente said the equipment in hotels and labs are both taxed. He said equipment will depreciate but meals taxes will continue to come in.

Alderman Ballantyne's ***motion to change the percentage listed in Section 6.7.6 (b)(2) from 40% to 50%,*** failed.

There was a Roll Call vote to close discussion on Alderman McLaughlin's motion to change the civil space requirement in Section 6.7.6 (a)(1) from 25% to 30%. All eleven aldermen voted in favor of closing the discussion.

Alderman McLaughlin made a ***motion to change the civil space requirement in Section 6.7.6 (a)(1) from 25% to 30%.*** Motion failed on a Roll Call vote of 9-2 against. (Yeas - Aldermen McLaughlin and Ballantyne. Nays - Aldermen Connolly, Niedergang, Rossetti, Sullivan, Davis, McWatters, Heuston, Lafuente and White.)

Alderman Niedergang made a motion ***to change the percentage listed in Section 6.7.6 (d)(1) from 10% to 30%.***

Mr. Proakis said the difference will be 40 units and he explained the challenge to this request and how the bonus works. He discussed the covenant and said the developer wants to use the bonus and build more 3 bedroom units. Alderman Niedergang feels the developer will make a fortune and he feels the buildings are too big and said that, in his opinion, the developer doesn't need a bonus and he doesn't want to give them a huge windfall on the top 3 floors. Alderman Connolly feels the bonus is a win/win situation. Alderman McLaughlin asked if the city is getting more

units with the proposed zoning as opposed to the existing bonus and Mr. Proakis replied that the city is getting less units because of the 60/40 split. Alderman Rossetti will support the increase to 30%. Alderman Niedergang asked for the number of units in the entire development.

The motion was tabled and it will be made part of the agenda for the next Land Use Committee meeting on June 8, 2017.

<b>RESULT:</b>
----------------

<b>KEPT IN COMMITTEE</b>
--------------------------

**Handouts:**

- USOD as of 6-7-17 (with 202853)
- USQ Zoning Updates Memo (with 202853)