

UNION SQUARE NEIGHBORS

November 29, 2016

Somerville Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Dear Aldermen,

We have reviewed the revised zoning proposal (dated November 3, 2016) for a Union Square Overlay District, and we wish to offer suggestions for improving the zoning amendment. The revised zoning amendment makes several important modifications, which reflect real progress in advancing new zoning in Union Square that will serve as a catalyst for the development and growth we all seek. However, the revised amendment also fails to address most of our most pressing concerns, and we urge the Board of Aldermen to give these concerns continued consideration before adopting new zoning for Union Square.

We summarize our comments below, and we have included a detailed analysis of our suggested revisions as an attachment.

- **Land Area Requirements:** The revised amendment increases minimum land area to apply for a Coordinated Development Special Permit from 200,000 square feet to 675,000 square feet, which is effectively all of the Union Square Revitalization Plan development parcels (“D blocks”) combined. The implication is that US2 (and the Somerville Redevelopment Authority (SRA) as co-applicant) would be the only eligible applicant for a single Coordinated Development Special Permit, and it would cover all of the D blocks.
- **Enforceability:** Like the previous version of the amendment, the new draft does not contain any enforcement mechanisms to require or incentivize a developer, in this case, US2, to complete all of the project phases included under a Coordinated Development Special Permit. We raised concerns about the lack of enforcement mechanisms in our previous comments and they remain unaddressed. Our concern is that the most profitable uses could be built first, and civic space, arts and creative space, commercial development, and affordable housing could be planned in a later phase but never delivered. With the threshold for a Coordinated Development Special Permit increased by over three-times in size, issues of enforcement become even more important. (See Attachment A for our analysis and suggested remedies, including linkage between uses via occupancy permitting, requiring a surety bond, deed restrictions, etc.). Moreover, the proposal would allow US2 to propose development on Union Square Revitalization Plan parcels that it does not own if the Somerville Redevelopment Authority is listed as co-applicant.
- **Density:** Similar to the previous draft, the zoning amendment would enable construction of “Podium Tower Building” up to 20 stories on the D1.2 lot (currently the Public Safety Building). This is in conflict with the Union Square Neighborhood Plan. See Attachment A for our suggested remedies.
- **Civic/Open Space:** The revised version of the zoning amendment sets a minimum 15 percent set-aside for new civic space as it relates to all of the land area in Coordinated Development land area rather than on a lot-specific basis. We strongly urge increasing this figure from 15 percent to 20 percent in order to meet the goals of SomerVision. (See Attachment A for our analysis.) The revised amendment also removes a requirement to create new civic space or make payments in-lieu for USOD parcels not included in a

Coordinated Development Plan; this merits correction. Moreover, civic space created on publicly owned land (including land subject to SRA eminent domain) should be returned to public ownership or oversight.

- **Offsite Compliance for Affordable Housing:** As written, the zoning amendment would allow that all affordable housing units mandated by Somerville’s 20 percent inclusionary zoning requirement could be built offsite and concentrated on one or more “Receiving Sites.” Our concern is that this has the potential to result in excessive concentration and marginalization of low- and moderate-income residents. Moreover, there does not appear to be an assurance that quality of the buildings and amenities for individuals living in affordable units will be equal in value to market-rate housing. Lastly, if affordable units are to be concentrated in one or more locations, we believe there should be some assurance that a significant percentage of the affordable units will be large enough for families (i.e. 2 and 3 bedroom units). See Attachment A for our suggested remedies.
- **Neighborhood Meeting prior to Approval of Coordinated Development Special Permit:** The revised zoning amendment includes a Preliminary Review phase that includes a requirement for a Neighborhood Meeting before the applicant/developer may submit a Coordinated Development Special Permit application. (See 6.7.5.C.3.b, p. 12-13 of the revised zoning amendment.) We support this change.
- **Administrative Review: Criteria and Public Input:** Under the zoning amendment, the Planning Board has discretionary review for Coordinated Development Special Permits but only Administrative Review powers for Design and Site Plan approval. In the previous draft, it was not sufficiently clear what review criteria may be considered as part of an Administrative Review process, and our concern was that community concerns would not be sufficiently addressed. The revised zoning amendment requires additional Neighborhood Meetings as part of the Design and Site Plan Review process. It also includes review criteria that describe the Planning Board’s decision-making authority under the Administrative Review process. (See 6.7.5.D.5, p. 17 of the revised zoning amendment.) We support these changes.

Thank you again for the opportunity to provide written feedback on the proposed Union Square Overlay District zoning amendment. If we can be helpful to the Board of Aldermen in any way, please feel free to reach out to us. We would be happy to expand upon our comments and/or provide suggested language for motions for the Board’s consideration.

Sincerely,

Rob Buchanan, Chairperson
Union Square Neighbors

*Union Square Neighbors Steering Committee:
Rob Buchanan (chair), Suzanne Bremer, Stuart Dash, Sam Engelstad, Andy Greenspon, Stephanie Hirsch, Jim McGinnis, Annette McGloin, Philip Parsons, JT Scott, Tim Talun, Shu Talun, Bonnie Tominack*

CC:
Joseph A. Curtatone, Mayor, City of Somerville
Somerville Board of Alderman

Attachment: Analysis and Concerns Regarding Union Square Zoning Amendment (draft dated November 3, 2016)

Attachment A

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Reference	Topic Area	Concerns	Suggested Remedies
N/A	Enforcement	<p>Project Phasing: The zoning amendment does not include any enforcement mechanisms to require or incentivize a developer to complete all of the project phases included under a Coordinated Development Special Permit.</p> <p><i>Questions:</i> What prevents a developer from building the portion of the development with the highest financial return (i.e. residential) and delay building commercial, arts and enterprise, civic space, affordable housing—perhaps indefinitely?</p>	<p>We recommend that enforcement mechanisms be added to the Coordinated Development Special Permit process to incentivize completion of building phases. These mechanisms could include:</p> <ul style="list-style-type: none"> • Link to Occupancy Permit: Require that applicant/developer meet pre-determined milestone(s) for construction of commercial space, civic space, and off-site compliance benefits (e.g. affordable housing units) prior to issuing a certificate of occupancy for residential units; the linkage between these uses is important to titrate. Cambridge uses such an approach to ensure developers deliver on residential projects in areas that are experiencing high demand for commercial space. • Require a Surety Bond: Require applicant/developer to place funds in escrow to be repaid upon completion of all phases of Coordinated Development Plan. • Nullify Base Zoning: Disallow the applicant/developer from subsequently developing Coordinated Development Plan lots under base zoning rules • Require Phasing Plan: As part of the enforcement mechanisms, the developer should submit a Phasing Plan for the Coordinated Development.
6.7.5.C.4.a (p. 13)	Enforcement	<p>Applicant Eligibility/ Lot Ownership: The zoning amendment would allow an applicant/developer to propose development on Union Square Revitalization Plan parcels that are not under the applicant’s ownership if the Somerville Redevelopment Authority is listed as co-applicant.</p> <p><i>Questions:</i> What implications does this have for land owners whose property is involuntarily included in a Coordinated Development Plan?</p>	<p>Require Lot Ownership: Specify that lots included in a Coordinated Development Special Permit application must be owned or under a Purchase and Sale Agreement by the Coordinated Development Special Permit applicant(s).</p> <p>Note: One of the primary reasons for procuring a Union Square Master Developer was to identify a development partner with sufficient capital to develop the Revitalization Plan parcels in a comprehensive fashion, not based on promises of future land acquisition absent enforcement of the Master Developer’s commitments.</p>

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N/A	Enforcement	<p>Sale of Lots after an approved Coordinated Development Special Permit: In the event that a developer sells a lot under his/her ownership that is subject to an approved Coordinated Development Special Permit, the draft zoning amendment does not have a mechanism to transfer lot-specific Special Permit requirements to a new owner.</p> <p>Questions: What happens if a developer builds only the residential portion of a Coordinated Development and sells the remaining lots to new owner? Must the new owner abide by the elements of Coordinated Development Special Permit that were applicable to the lot?</p>	<p>Require deed restriction to ensure that the elements of the Coordinated Development remain intact in the event of land sale: Currently deed restrictions are used in Somerville to guarantee affordable housing units (into perpetuity), enforce historic preservation rules for listed properties, and enforce memoranda of agreement between the city and developers. We recommend that such an enforcement mechanism be added to ensure that the elements of an approved Coordinated Development Special Permit remain intact in the event a developer sells some or all of the land within an approved Coordinated Development Special Permit area.</p>
USOD map	Density	<p>D1 / "Civic Center Block": The proposed zoning amendment would enable construction of "Podium Tower Building" up to 20 stories on the D1.2 lot (currently the Public Safety Building) on the Civic Center Block. This is in conflict with the Union Square Neighborhood Plan.</p>	<p>Align D1 Zoning with Neighborhood Plan: We recommend aligning the zoning of D1.2 lot with page 181 of the Neighborhood Plan, which shows a 10-story building along Somerville Avenue and a 5-6 story building on D1.2 along Washington Street. This could be accomplished by creating multiple sub-districts on D1.2 lot. For example, instead of zoning D1.2 for High Rise 20 (HR-20), the portion of the lot fronting Somerville Avenue could be zoned High-Rise 10 (HR-10) and the portion fronting Washington Street could be zoned Commercial Core 6 or a Mid-Rise designation.</p>
6.7.6.A.1 (p. 19)	Open Space	<p>Insufficient open space: Under the revised zoning amendment, 15% of the land area under a Coordinated Development Special Permit must be designed as 2 or more civic spaces (i.e., parks, plaza, playground, etc.). This is insufficient. The Neighborhood Plan notes (p. 47-48) that even if 15% open space was provided on every single development in Union Square and Boynton Yards, and if every other opportunity to create open space outside of private development was accomplished, Union Square would still fall short of contributing its part to meet the SomerVision goal of 125 acres of new open space.</p>	<p>Increase Civic Space requirement from 15% to 20%: With a 20% open space requirement, Union Square would have a way to meet its part of the 125 acre SomerVision goal. The Neighborhood Plan (p. 47-48) notes that Union Square needs to contribute 15.25 acres of open space to meet the SomerVision goal of 125 acres of new open space. There are opportunities identified in the Neighborhood Plan where 4.64 acres of new open space could be created outside of land slated for development. That means the rest needs to be created on land slated for development. With a 15% requirement, 7.7 acres of open space would be created across the Plan area. With a 20% requirement, 10.25 acres of open space would be created. With a 15% requirement, we fall almost 3 acres short of the goal. But with a 20% open space requirement for development properties, 14.9 total acres would be created, which is nearly the 15.25 acre goal and about 26% total open space across the Plan area.</p>

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Reference	Topic Area	Concerns	Suggested Remedies
N/A	Open Space	<p>"Public" spaces created as part of private development are going to be privately owned: Open space created under the requirements of this ordinance will likely be privately owned public space, which allows for private owners to control how the space is used. The public should have control of as much of the public realm as possible, not just permission to use it. Some new civic space should be publicly-owned public space, not privately owned public space.</p>	<p>Require public ownership of new civic space on publicly owned land: D1 and D2 are already publicly owned. In coordination with US2, the City should retain ownership of the portion of each site that is to become civic space. The civic space could still be designed and built by US2 as part of their project, however the civic space would be true public space.</p> <p>For privately owned public space, require easements, deed restrictions, private covenants or other comparable legal instruments to ensure public access and use of the space. (See page 181 of the Neighborhood Plan, which specifically identifies this as a priority.)</p>

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<p>6.7.6.E (p. 20)</p>	<p>Off-Site Compliance</p>	<p>Offsite Compliance of Affordable Housing As written, the zoning amendment would allow that all affordable housing units mandated by the 20% inclusionary zoning requirement could be built offsite and concentrated on one or more “Receiving Sites.” Our concern is that this has the potential to result in excessive concentration and marginalization of low- and moderate-income residents. Moreover, there does not appear to be an assurance that quality of the buildings and amenities for individuals living in affordable units will be equal in value to market rate housing. Lastly, if affordable units are to be concentrated in one or more locations, <u>we believe there should be some assurance that a significant percentage of the affordable units will be large enough for families</u> (i.e. 2 and 3 bedroom units).</p> <p><i>(See also: enforcement concerns pertaining to the phasing and delivery of community benefits off-site.)</i></p>	<p>Minimum Onsite Compliance Requirements: We recommend consideration of a requirement that a minimum of a Generating Site’s affordable dwelling units must be provided onsite. For example, a proposed building of 100 dwelling units would be required to build 20 (20%) affordable units under the inclusionary zoning law. A Minimum Onsite Compliance Requirement could mandate that 20% (4 units) of the 20 units be provided onsite while 80% (16 units) could be provided offsite (within the Coordinated Development Special Permit area).</p> <p>Minimum Geographic Separation of Buildings with Majority Affordable Housing Units: Similar to the proposed requirement in the zoning amendment for a minimum distance of 80 feet between high-rise towers (p. 46), we suggest a minimum geographic separation between Coordinated Development buildings with a majority of affordable units. For example, a requirement could be added that buildings with more than 50% affordable units should be separated by 100 feet (excluding the perpendicular width of a public way).</p> <p>Require the creation of multi-bedroom affordable units in larger redevelopment projects through Inclusionary Zoning: The Union Square Neighborhood Plan (p. 98) specifically recommends requiring the creation of multi-bedroom affordable units in larger redevelopment projects. The Neighborhood Plan also recommends minimum floor space requirements for units with 3 or more bedrooms (p. 99). However, no such requirements are included in the proposed Union Square zoning. We recommend this be corrected. For affordable housing units constructed offsite (on a Receiving Site), for example, the zoning could specify minimum standards to accommodate families of different sizes. For example, 40% of the “Receiving” dwelling units could be mandated to be at least 3 bedrooms, and 30% of the “Receiving” units could be mandated to be at least 2 bedrooms. Minimum floor space requirements per unit should be included with the potential for adjustments if shared common space is provided with direct sight lines to units.</p> <p>Require that that quality of the buildings and amenities for individuals living in affordable units will be equal in value to market rate housing. While residents of market rate housing may value concierge and doorman services, families typically desire amenities such as ground level access, play spaces visible from common areas, family units clustered on the same floors of multi-level buildings, and appliances for washing clothes and dishes (see p. 98 of the Neighborhood Plan). We recommend this be addressed in the zoning.</p>
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Reference	Topic Area	Concerns	Suggested Remedies
6.7.10.C (p. 35-40)	Building Massing	Façade Build Out: The revised zoning amendment includes primary and secondary “façade build out” standards in the tables describing building types. There is ambiguity in how these are defined. Section 6.7.10.A.3.b (p. 31-32) describes “façade build out” as the “percentage of the width of a lot,” which would suggest that façade build out cannot exceed 100% of the lot width; however, the sum of primary and secondary façade build out minimum requirements (typically 80% and 65% respectively) exceeds 100%.	Clarify definitions of primary and secondary “façade build out” requirements and method of calculation.
N/A	Building set-backs	Building set-backs: Some building setbacks (side and rear) appear to be reduced in the proposed zoning compared to current zoning.	We suggest that Board of Aldermen request OSPCD to produce a chart with current and proposed setbacks including reasons for any changes so a clear comparison can be made.
6.7.10.D.H 1.f.iv (p. 49)	Mechanical Spaces	Regulation of mechanical spaces: We are concerned about the apparent lack of regulation of mechanical spaces, with no limits other than a requirement for visual screening. These mechanical spaces can be sizable and loud on large commercial and lab buildings.	Include regulation for size and noise level of mechanical spaces.