



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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ALEX MELLO, *PLANNER*

**Case #:** PB 2019-17  
**Date:** August 8 **22**, 2019  
**Recommendation:** Conditional approval

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**UPDATED PLANNING STAFF REPORT**

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**Site: 9 Sanborn Court**

**Applicant Name:** Sara Markey  
**Applicant Address:** 9 Sanborn Court, Somerville, MA 02143  
**Owner Name:** EJM Realty LLC c/o Edward Kepnes  
**Owner Address:** 10 Nouvelle Way, Unit S1208, Natick, MA 01760  
**City Councilor:** Ben Ewen-Campen

*This staff report has been updated. Items which no longer apply have been ~~struck~~ and updated information has been highlighted in yellow.*

Legal Notice: Applicant, Sara Markey, and Owner, EJM Realty LLC c/o Edward Kepnes, seeks a special permit under SZO §6.1.22.D.6 to conduct a portion of the business outdoors by installing a patio. CCD-55\*/Arts Overlay Zone. Ward 3.

*\*The subject property is actually in the CCD-45Zone.*

Dates of Public Hearing: Planning Board – August 8 **22**, 2019

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property consists of one parcel totaling 13,461 square feet. The site contains one single story commercial building with tenants oriented toward Washington Street and Sanborn Court. The tenant space in question is a restaurant that is oriented toward Sanborn Court, which is a private way.



In May 2011, this particular space within the building received a special permit to expand the current eating and drinking use to what it is today.

2. Proposal: The proposal is to conduct a portion of the business outdoors by installing a patio along the building in Sanborn Court.

3. Green Building Practices: None listed on the application form.
4. Comments:

*Fire Prevention:* ~~The Fire Prevention Bureau has been informed of this proposal and has yet to comment as of the publication of this report.~~ Given that the proposed patio takes up less width of the way, Deputy Chief Wallace Forrest has no objections to the proposal.

*City Councilor:* Councilor Ewen-Campen has been informed of this proposal and has yet to comment as of the publication of this report.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §6.1.22.D.6):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

### 1. Information Supplied:

The Staff finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

### 2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

Under SZO §6.1.22.D.6, certain accessory uses may be conducted outdoors through a Special Permit (SP) without requiring additional parking. Such a permit may only be granted for outdoor display or operation during approved business hours, for Use Clusters B (Small Retail and Service (less than 1,500 net square feet)), C (Medium Retail and Service (1,500 to 10,000 net square feet)), D (Eating and Drinking), and G (Educational/Recreational Services)..

### 3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the CCD district, which is, "to promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares. The district recognizes that such corridors present opportunities for an active mix of uses while also addressing development challenges posed by smaller lots and nearby existing residential development and the need to be accessible by multiple modes of transportation. The major objectives of the districts are to:

1. Encourage active mid-rise commercial and residential uses that contribute to a multi-modal-friendly

street;

2. Increase commercial investment in high-profile, accessible areas including retail that is largely neighborhood-serving in multi-tenant, mixed use buildings;
3. Preserve and complement historic structures;
4. Discourage inappropriate auto-oriented, significant trip-generating uses along transit corridors; and,
5. Promote pedestrian and bicycle activity.

The CCD has two sub-districts, which are distinguished solely by their respective height and density regulations. These regulations are shown in Section 8.5 Table of Dimensional Requirements.

•CCD-45. This sub-district shall provide for mixed-use or commercial development at a small to mid-rise scale.

The proposal is also consistent with the purpose of the Arts Overlay District (AOD), which was established in order to encourage the preservation and enhancement of Arts-Related Uses, particularly within Union Square. The district is also intended to preserve and enhance the area as a center for a variety of retail, business services, housing, and office uses and to promote a strong pedestrian character and scale throughout the district.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

*Surrounding Neighborhood*: The property is located in the heart of Union Square and there are many restaurants and other businesses in the area. An adjacent restaurant (Bronwyn) also has a patio along this side of the building in Sanborn Court.

*Impacts of Proposal (Design and Compatibility)*: The proposed patio will be located on Sanborn Court, which is a private way. The area that the patio will occupy will be where two cars are currently parking and will take up less width of the private way than the current parking spaces. Staff believes that the proposed patio will not unreasonable impact others' access through the private way. It is conditioned that the Applicant must make best efforts to ensure that their employees and vendors do not obstruct others' access through the private way.

The current hours of operation listed on their liquor license allows indoor food and alcohol service until 1am. The Applicant will be seeking a license to serve food and liquor outdoors until 9pm.

The establishment of a seasonal outdoor seating area in Union Square is viewed as a net benefit for the neighborhood by Planning Staff. The proposal is compatible with the built surrounding area. The location is adjacent to Union Square Plaza, a significant public space that plays host to seasonal events and other outdoor seating areas for nearby businesses.

5. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.
6. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods.

**III. RECOMMENDATION**  
**Special Permit under §6.1.22.D.6**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes	
1	Approval is for the installation of an outdoor patio. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.		
	<b>Date (Stamp Date)</b>				<b>Submission</b>
	June 13, 2019				Initial application submitted to the City Clerk’s Office
	April 24, 2019				Exterior Patio Seating (A1.0)
	June 4, 2019				Plot Plans
Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.					
<b>Construction Impacts</b>					
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.		
<b>Design</b>					
3	Applicant shall provide details of final fencing materials to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.		
<b>Miscellaneous</b>					
4	Outdoor food and liquor service shall cease by 9pm seven days a week.	Perpetual	Plng.		
5	The Applicant must make best efforts to ensure that their employees and vendors do not obstruct others’ access through the private way.	Perpetual	Plng.		
<b>Public Safety</b>					
6	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP		
7	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.		
<b>Final Sign-Off</b>					

8	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
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