



City of Somerville

PLANNING BOARD

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Planning Board
FROM: Planning & Zoning Staff
DATE: March 22, 2021
RE: 71-72 Union Square, CZC#2020-00039

RECOMMENDATION: Approve with Conditions (Cannabis Retail Sales Special Permit)
Approve with Conditions (Site Plan Approval)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 71-72 Union Square, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was received on December 4, 2020 and deemed complete on February 25, 2020 and is scheduled for a public hearing on April 1, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

SUMMARY OF PROPOSAL

Laxmi N. Pradhan, Trustee of Everest Realty Trust, is proposing to construct a Commercial Building building type. The proposed ground floor commercial space is a Cannabis Retail store and the second and third floors are labeled as ancillary educational and office space. The proposed development will produce approximately 3,000 square feet of commercial space, provide 123 square feet of open space (7% out of the required 25%), provide payment-in-lieu for 316 square feet of open space, provide 8 long-term bicycle parking spaces, 4 short-term bicycle parking spaces, and the proposed landscape will earn a Green Score of 0.27.

LEGAL NOTICE

Laxmi Pradhan, Trustee of Everest Realty Trust, proposes to construct a 3-story commercial building in the Commercial Core district which requires Site Plan Approval and to establish a Cannabis Retail Sales use which requires a Use Special Permit.

ADDITIONAL REVIEW NECESSARY

71-72 Union Square is located on a Pedestrian Street, within the 0.25mi Transit Area, and in the Commercial Core 4 (CC-4) zoning district in the Union Square neighborhood represented by Ward 3 Councilor Ben Ewen-Campen. The proposed Commercial

Building requires Site Plan Approval and the Applicant is seeking a Special Permit to establish a Cannabis Retail Sales use. Site Plan Approval is the administrative review and approval of conforming development to address any potential impacts as necessary. The Planning Board is the decision-making authority for all (non-variance) discretionary or administrative permits required for the CC4 zoning district. The proposed signage requires Minor Site Plan Approval, approval of which the Planning Board has delegated to the Director of Planning & Zoning.

DESIGN REVIEW

The proposal was reviewed by the Somerville Urban Design Commission (UDC) during virtual meetings on July 22, 2020 and August 27, 2020. The Commission voted on August 25, 2020 and provided its official recommendation on October 8, 2020.

NEIGHBORHOOD MEETINGS

The first neighborhood meeting was held at the Union Square Public Safety Building on October 9, 2019. Fifteen to twenty residents attended and heard a presentation from the applicant team.

The second neighborhood meeting was held virtually on September 9, 2020 at 7:30pm. The applicant team presented on the project and members of the public asked questions. The primary concerns expressed at the meeting were about the potential construction impacts on the surrounding buildings and area. The development review application was submitted within 120 days of this meeting, as required by the Ordinance.

BACKGROUND

A version of this proposal was first presented in 2019 to the Mayor's Marijuana Advisory Committee (MAC) as part of Union Leaf's request for a recreational retail cannabis Host Community Agreement. Union Leaf, owned 95% by Laxmi Pradhan, proposed two scenarios for occupying the site: "utilizing the existing one-story structure or [] demolishing the existing structure and constructing a new, three-story commercial building."¹ In their recommendation identifying which applicants the MAC believed should be granted Host Community Agreements, the MAC stated that they "liked the idea of incorporating the proposed retailer into a three-story redevelopment scenario. The MAC does not support the single-story scenario." Then-President Ballantyne granted Union Leaf a Host Community Agreement for 71-72 Union Square in October 2019.

In November 2019, Union Leaf requested approval from the Somerville Licensing Commission for a retail cannabis license. The Licensing Commission granted the

¹ The MAC's Round 1 Recommendation in which Union Leaf is addressed can be found here: <https://www.somervillezoning.com/wp-content/uploads/sites/2/2019/09/Round-1-Review.pdf>

license with the condition that it be appointment only for 6 months after commencement of operations.

ANALYSIS

While the proposed building and cannabis retail use have been conceptualized and often presented as one package throughout the development review process, they are distinct requests to the Board and will be discussed separately.

Additionally, only the physical structure and the proposed cannabis retail use have been evaluated for zoning compliance in this staff memo. Proposed uses on the upper floors have not been evaluated for zoning compliance, as they are not within the purview of either Site Plan Approval or the Cannabis Retail Sales Special Permit. Each specific use proposed within the building will be evaluated for zoning compliance when the Applicant applies for a Certificate of Zoning Compliance.

Proposed 3-story building

The 1,757sf parcel is abutted on the north, west, and east sides by the Somerville Police Station and The Independent; on the south side it fronts directly onto the Union Square Plaza, a City-owned and -maintained civic space. The proposal will replace an existing one-story building with a three-story building in the same footprint.

In general, neighbors have expressed support for the proposal, and any concerns regarding the building's design or impacts once constructed have been addressed by the applicant team. The Applicant has proposed installing a mural on the east side of the building which will be visible above The Independent's roof. Utilities on the roof will be visually and acoustically screened, as is required by the Ordinance.

The only significant concern expressed by the community that has not yet been addressed is regarding possible construction impacts. In the past concerns related to construction activities may have been addressed through detailed conditions applied during the permitting process. However, with the passage of the Ordinance in December 2019 Staff have made an effort to not recommend conditions that duplicate other existing requirements. As part of the building permit application the Applicant must submit a Construction Management Plan which addresses the standards and requirements for construction of a project; this plan must then be reviewed and approved by the relevant City Divisions. Any concerns related to the impacts of construction on neighboring buildings are best addressed at that time. The City also has several ongoing and planned construction activities in this area (including the Union Square Plaza and Streetscape project and the Somerville Ave Utility and Streetscape Improvement project) that are likely to affect the Applicant's construction plans and timeline and will be considered during the various Departments' review of the Construction Management Plan.

The Applicant will also need to apply for and receive approval from the City to implement any elements of their Transportation Access Plan that affect public property. Converting public parking spaces in the Union Square Lot into a commercial loading area will require review and approval by the Somerville Traffic Commission. Similarly, installing short-term bicycle parking within the Union Square Plaza will require collaboration with and approval by the relevant City Divisions. Staff have recommended a condition that permits the Applicant to either provide the proposed short-term bicycle parking spaces themselves, or permits them to provide the City with the “substantial equivalent” of the proposed bicycle parking spaces so the City may place and install the racks themselves. In either case, the relevant City Divisions will review the design and placement of the bike racks to ensure compliance with the Ordinance and compatibility with other changes anticipated in the Plaza.

As noted earlier, Site Plan Approval is not generally concerned with the uses that may later be established within a building. Individual uses will be reviewed for zoning compliance at a later date, once sufficient information has been submitted regarding them as part of the application for a Certificate of Zoning Compliance.

Similarly, compliance with a number of performance standards set out by the Zoning Ordinance are best confirmed closer to the time of construction. These standards include the minimum Visible Light Transmittance (VLT) and maximum Visible Light Reflectance (VLR) ratings of fenestration glazing and compliance with Article 10.7 Outdoor Lighting. Staff have recommended conditions requiring compliance with these standards be confirmed when construction documents are submitted. Staff have also included a condition requiring that the Applicant provide the necessary information for Staff to confirm that all aspects (including access, signage, layout, etc.) of Article 11.1 Bicycle Parking are being met for the eight long-term bicycle parking spaces proposed in the basement.

Proposed cannabis retail sales use

Cannabis Retail Sales is permitted by Special Permit in the CC4 district and in commercial spaces fronting on Pedestrian Streets. The Applicant is eligible to apply for a Special Permit for Cannabis Retail Sales because Union Leaf (which is also owned by Laxmi Pradhan) has received a Host Community Agreement for a recreational cannabis retail establishment at 71-72 Union Square.

A special permit is required to enable review boards to address concerns related to the suitability of the site for this use. Throughout the various neighborhood meetings and public hearings this application has been discussed at, Staff have not heard any significant or proposal-specific concerns regarding the proposed cannabis retail use from the public.

The Mobility Division has reviewed the submitted Transportation Impact Statement (TIAS) and Transportation Access Plan (TAP) and has recommended that the Board impose a condition requiring that all sales be appointment only to begin. Should the

Applicant wish to permit walk-in customers at a later date, they may request removal of the condition prohibiting walk-in customers and submit a new TIAS to the Board for review of how that change is expected to impact traffic and circulation patterns in the area.

This condition would be in line with the MAC's recommendation regarding Union Leaf where they noted that "[] the proposal lacks a queuing area but that shouldn't be a problem as the retailer intends on operating on an appointment-only basis. The MAC would recommend to the SPGA [] that there be no queueing onto public ways." Beginning operations on an appointment-only basis will allow the Applicant to prevent queuing within the Union Square Plaza, as they will have total control over how many customers are scheduled at any given time.

In addition to traffic and circulation patterns, the review criteria also consider the design of the principal entrance. While the exterior design of the building has been reviewed by the UDC and found to meet the standards and guidelines for the district, Staff is ambivalent about the proposal for one-way glass separating the retail sales floor and the waiting area. One-way glass often reads as a mirror so, as currently designed, the rear wall of the waiting area may read to pedestrians outside the building as a large mirror. While Staff understands the need to comply with Cannabis Control Commission regulations regarding the public's ability to see onto the sales floor, this requirement could also be satisfied by utilizing a non-reflective material such as artistically designed opaque film or. Staff has not included a condition restricting the use of highly reflective one-way glass but wanted to highlight this design item for the Board's review and comment.

CONSIDERATIONS & FINDINGS

The Planning Board is required by the Somerville Zoning Ordinance to deliberate each of the following considerations at the public hearing. The Board must discuss and draw conclusions for each consideration, but may make additional findings beyond this minimum statutory requirement.

Site Plan Approval Considerations

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. Mitigation proposed to alleviate any impacts attributable to the proposed development.

Special Permit Considerations

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.

3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
4. Location, visibility, and design of the principal entrance.

Information relevant to the required considerations is provided below:

Site Plan Approval and Special Permit

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The proposal will help to achieve the following goals from SomerVision, the comprehensive Master Plan of the City of Somerville:

- Promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees.
 - Utilize land use planning and zoning to increase the commercial tax base.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs.
- Support a business-friendly environment to attract and retain a diverse mix of businesses that can start here, grow here and stay here.

The proposal will also help to achieve the following from the Union Square Neighborhood Plan:

- To develop 4.2 million square feet of new commercial development within the Union Square plan area.
- To provide 15,000 new jobs within the Union Square plan area.

2. *The intent of the zoning district where the property is located.*

The proposal is consistent with the intent of the CC zoning district which is, in part, “To create, maintain, and enhance areas appropriate for moderately-scaled single- and multi-use commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities.”

Site Plan Approval Specific

3. *Mitigation proposed to alleviate any impacts attributable to the proposed development.*

There are no negative impacts directly attributable to the proposed development.

Cannabis Retail Use Special Permit Specific

4. *Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.*

The location is within a Transit Area (it is less than 0.25 miles from the Union Square Green Line Station) and is not providing any motor vehicle parking. However, the Applicant has proposed to install 8 long-term bicycle parking spaces in the basement of the building, and 4 short-term bicycle parking spaces in Union Square Plaza in close proximity to the site. The proposal includes converting two public parking spaces in the Union Square Lot into a commercial loading zone to provide an off-street loading area. It will be appointment-only, so no queuing within Union Square Plaza or public rights-of-way is anticipated.

5. *Location, visibility, and design of the principal entrance.*

The building fronts directly onto Union Square Plaza, and so will be highly visible to pedestrians. The building will have two entrances, one into a waiting area for the cannabis retail sales floor and one into a vestibule that provides access to only the upper stories. The building will provide unrestricted views into the entry ways along the entirety of the front façade as required by zoning, and the sales floor will be shielded from public view.

PERMIT CONDITIONS

Should the Board approve the necessary *Site Plan Approval for a 3-story commercial building*, Staff recommends the following conditions:

Validity

- This Decision must be recorded with the Middlesex South Registry of Deeds.
- Construction documents must be substantially equivalent to the approved plans and other materials submitted for development review.

Open Space

- The Applicant is authorized to make a payment in-lieu for 316 square feet of open space.

Design

- The Applicant shall submit a material palate and cornice details for the UDC to review and comment.

Construction Documents

- Utility meters are not permitted on any facade or within the frontage area of the lot.
- Material specifications from suppliers must be submitted to confirm fenestration glazing is compliant with the VLT and VLR ratings required by the Somerville Zoning Ordinance.

- An outdoor lighting plan and supplier cut sheet specifications of chosen lighting fixtures must be submitted to confirm compliance with Section 10.7 Outdoor Lighting of the Somerville Zoning Ordinance. The site photometric plan must include a keyed site plan identifying the location of all luminaires; total site lumen limit table (calculations from the SZO); lighting fixture schedule indicating the fixture type, description, lamp type, lumens, color temperature, color rendering index, BUG rating, mounting height, and wattage of all luminaires; and notation of any timing devices used to control the hours set for illumination.

Public Record

- Physical copies of all development review submittal materials, as permitted by the Planning Board, must be submitted to the Planning & Zoning Division for the public record.
- A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning & Zoning Division for the public record.

Mobility

- Product details and design specifications for the eight (8) long-term bicycle parking spaces in the basement must be submitted to confirm compliance with Section 11.1 Bicycle Parking of the Somerville Zoning Ordinance.
- The Applicant shall provide four (4) compliant short-term bicycle parking spaces or their substantial equivalent within the boundaries of Union Square Plaza.

Should the Board approve the required *Special Permit to establish a Cannabis Retail Sales use*, Staff recommends the following conditions:

General

- Approval is limited to the Union Leaf, Corp, and is not transferable to any other party in interest.
- The Applicant must comply with the Development Covenant by and between the City of Somerville and (developer) dated Month XX, 2021, as amended.

Validity

- This permit is valid subject to Union Leaf, Corp. having a fully executed and active Host Community Agreement with the City of Somerville.

Mobility

- If loading is not permitted as identified on the submitted Transportation Access Plan, the Applicant shall file for a Plan Revision subject to Section 15.2.4 of the Somerville Zoning Ordinance.
- Union Leaf, Corp., shall participate in any comprehensive loading plan developed for business fronting on the Union Square Plaza by the City of Somerville.
- Retail sales to walk-in customers are prohibited. Customer visits must be by appointment only.

- Any change to the means of sales requires a new Transportation Impact and Access Study (TIAS). The scope of the TIAS must be approved by the Director of Mobility.