



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

STAFF

GEORGE PROAKIS, *DIRECTOR OF PLANNING*

LORI MASSA, *SENIOR PLANNER*

DAN BARTMAN, *SENIOR PLANNER*

ADAM DUCHESNEAU, *PLANNER*

DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: PB 2012-06

Date: March 29, 2012

Recommendation: Conditional Approval

UPDATED PLANNING STAFF REPORT¹

Site: 73-75 Union Square

Applicant Name: The Independent

Applicant Address: 73 Union Square, Somerville MA 02143

Property Owner Name: Independent Realty Trust

Property Owner Address: 73 Union Square, Somerville, MA 02143

Agent Name: n/a

Agent Address: n/a

Alderman: Thomas Taylor

Legal Notice: Applicant and Owner Independent Realty Trust of the Independent restaurant, seeks a special permit under SZO §6.1.22.D.6 to establish an outdoor seating area. CCD 55 zone. Ward 3.

Zoning District/Ward: CCD55

Zoning Approval Sought: Special Permit under §6.1.22.D.6.

Date of Application: March 8, 2012

Dates of Public Hearing: Planning Board 4/5/2012

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 3260 sf parcel located in the heart of Union Square. There is a two story brick building on the property. The Independent Restaurant is located on the first floor and there is office space on the second floor. The Union Square municipal parking lot is located in front of the property and a thirty-foot private way, Sanborn Court, is located to the right of the structure.

¹ Update through April 5, 2012 reflects modified comments by city departments and modified conditions resulting from negotiations between city departments. Additions made to the Staff Report are underlined and text that was removed is ~~crossed out~~.



In 2000, the Zoning Board of Appeals granted a special permit to alter and replace an existing door and windows and make other changes to the dimensionally non-conforming building.

In 2010, the Planning Board granted a special permit to replace an existing door with a window and convert a window on the Sanborn Court side of the building to an emergency exit. Alterations approved for the 2010 Special Permit have yet to be carried out. The 2010 Special Permit expires on May 20, 2012.

2. Proposal: The proposal is to use three metered parking spaces and two loading zone spaces from the Union Square municipal parking lot in front of the Independent restaurant to create a seasonal outdoor seating platform (49 feet wide by 18 feet deep). During the week, the platform is proposed to occupy the three metered parking spaces and on weekends and special events, such as the Fluff Festival and Cinco-de-Mayo, the platform, as proposed, will be expanded to include the two loading zone spaces. The semi-permanent platform will feature 14 tables on a regular basis with an additional 6 tables in the weekend/special event expanded area.

Under this proposal, access and seating at the platform will be exclusive to customers of the Independent restaurant. Table service will be provided and the applicant is seeking a license to serve alcohol.



3. Nature of Application: Under SZO §6.1.22.D.6, outdoor accessory uses may be conducted through Special Permit approval from the Planning Board. The addition of accessory uses conducted outdoors in the CCD district does not require any additional parking spaces to be provided.

This proposal is conceptually based on the many successful “Parklets” created as part of the San Francisco Pavement to Parks program (<http://sfpavementtoparks.sfplanning.org/index.htm>) and “Pop-Up Cafes” deployed in New York City (<http://www.nyc.gov/html/dot/html/sidewalks/curbside-seating.shtml>).

From the Pavement to Parks website:

Parklets repurpose two to three parking stalls along a block as a space for people to relax, drink a cup of coffee, and enjoy the city around them. Parklets do this by building out a platform into the parking lane so that the grade of the sidewalk gets carried out into the parking lane. On the platform, benches, planters, landscaping, bike parking, and café tables and chairs (in certain locations) all come together to provide a welcoming new public space.

From NYC DOT:

Curbside public seating platforms offer well-designed seasonal, outdoor public open spaces and seating at places where sidewalk seating is not available. Curbside seating platforms are designed, installed and maintained by the adjacent sponsoring business. The seating is open to the public, not restricted to patrons of any particular establishment. Waiter service or commercial activity at the tables is strictly prohibited, as is smoking and alcohol consumption.

This proposal differs from the formal programs established in San Francisco and New York where these types of installations are considered public space, all seating on the platform is open to the public, waiter service or commercial activity at the tables is strictly prohibited, and smoking and alcohol consumption are not permitted.

Research conducted by Planning Staff and the City Solicitors Office also found examples of sidewalk extension platforms in Seattle and Montreal that did *not* restrict table service or the consumption of alcohol and where the operating establishment maintained exclusivity over the platform or sidewalk café rather than the area functioning as public space. In an ordinance establishing policy concerning sidewalk cafes, Seattle City Council found that:

Sidewalk cafes can compliment available open space resources by activating sidewalks in areas of [the city] where commercial activity is allowed; “eyes on the street” from patrons and responsible proprietors can enhance neighborhood safety and public perception of safety; and enjoyable public spaces advance [the City’s] character and quality of life.



Enclosed Sidewalk Extension Platform, Montreal, Quebec, Canada

4. Surrounding Neighborhood:

The property is located in the heart of Union Square and there are many restaurants and other businesses in the area.

5. Impacts of Proposal:

The establishment of a seasonal outdoor seating area in the Union Square municipal parking area is viewed as a net benefit for the neighborhood by Planning Staff.

6. Green Building Practices:

None

7. Comments:

- Fire Prevention:* Has been contacted but has not provided comments.
- Ward Alderman:* Alderman Taylor has been contacted and replied with his support “If all requirements are met with ISD”.
- Traffic & Parking:* Has been contacted and is currently researching the costs associated with utilization of the parking and loading spaces recommends payment of \$12/day/meter by the Applicant for use of the three (3) metered parking spaces in the Union Square municipal parking lot.
- Lights and Lines:* Has been contacted but has not provided comments.
- Engineering:* Has been contacted but has not provided comments.
- City Solicitor:* Has been contacted and recommends determination of any applicable fees be assessed and levied by the Board of Aldermen as part of the required permit approval for use of the right-of-way required by Sec. 12-14 of the Somerville Code of Ordinances.

II. FINDINGS FOR SPECIAL PERMIT (SZO §6.1.22):

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."

The majority of the dimensional standards for the CCD district do not apply to this proposal; however, the intent of the following design guidelines for the CCD district is being met:

6.1.22.H.8 Retail, restaurant, and pedestrian-oriented uses are encouraged, especially on the Ground Floor.

Planning Staff is developing a formal policy for dealing with this and other similar projects for the future. In lieu of a formal policy for Curbside Cafes, Staff has negotiated with the Applicant to meet the following guidelines for the proposed platform, as applicable. The guidelines below are modeled off of the design and operation guidelines for the San Francisco Parklet and New York Pop-Up Café programs:

Design Guidelines:

- The platform shall be flush with the curb/sidewalk, with no more than a ½ inch gap between the platform and the curb/sidewalk
- Curbside drainage shall not be impeded. Access must be maintained to the space beneath the platform.
- The platform shall be load-bearing: at least 750lbs per square foot.
- Vertical elements along the perimeter and/or umbrellas are required to increase visibility of the platform from vehicles.
- Platforms must be constructed and finished with quality materials.
- Plantings may be included.
- Where table service of alcohol is provided, the platform shall be enclosed by a fence, rope, or other means to prevent patrons or members of the public from wandering in and out.
- Platforms shall include a continuous physical barrier along the perimeter of the platform facing any street or parking area. This physical barrier must be visually permeable while providing a sense of security from vehicles.
- **Traffic and Parking** may require the installation of traffic safety improvements by **DPW**, including but not limited to, traffic markings, flexible reflective bollards, and wheel stops at the applicant's expense.

Operational Requirements:

- Any movable items, such as tables and chairs, must either be locked down at night or taken inside. Unsecured furniture is not permitted after business hours.
- A maintenance agreement to keep all plants in good health and the platform free of debris and grime may be required. The surface of the platform shall be maintained on a daily basis and the space beneath the platform rinsed out weekly.
- **The Health Department** may require pest abatement beneath the platform at the applicant's expense.

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 "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 purposes of the district, which includes, but is not limited to "Increase commercial investment in high-profile, accessible areas including retail []; and promote pedestrian [] activity".

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."

The proposal is compatible with the built surrounding area. The Union Square municipal parking lot is adjacent to Union Square Plaza, a significant public space that plays host to seasonal events and other outdoor seating areas for nearby businesses. The establishment of the outdoor seating platform will read as an extension of the sidewalk in front of the Independent and visually expand the size of the plaza.

5. Vehicular and pedestrian circulation:

The Applicant has to ensure that the circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The existing width of the sidewalk will not be diminished as a result of installation of the platform as proposed.

III. RECOMMENDATION

Special Permit under §6.1.22

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 | <p>Approval is to use three metered parking spaces and two loading zone spaces from the Union Square municipal parking lot in front of the Independent restaurant to create a seasonal outdoor seating platform (49 feet wide by 18 feet deep). This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 8, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 27, 2012</td> <td>Plans submitted to OSPCD</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p> | Date (Stamp Date) | Submission | March 8, 2012 | Initial application submitted to the City Clerk's Office | March 27, 2012 | Plans submitted to OSPCD | Cont. | Planning | |
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|---------|--|--------------------------------------|---------------------------------|--|
| 2 | Approval is limited to April 1, 2012 – November 1, 2012, at which time the Special Permit shall expire. The Applicant must apply for this Special Permit annually to use the Curbside Café platform. | Cont. | Planning ISD | |
| 3 | Approval is contingent upon the issuance of any and all licenses required by the Somerville Licensing Commission and the Massachusetts Alcoholic Beverages Control Commission for extension of the premises to outdoor areas shall be obtained before the issuance of a Building Permit. | BP <u>Prior to final sign off</u> | ISD Planning | |
| 4 3 | Approval is contingent upon the granting of a permit approval with applicable fees by the Somerville Board of Aldermen to establish the Curbside Café within the Union Square municipal parking lot according to Sec. 12-14 of the Somerville Code of Ordinances outdoor seating area on any street or sidewalk shall be obtained before the issuance of a Building Permit. | BP <u>Prior to construction</u> | ISD BoA | |
| 4 | <u>The Applicant shall submit a certificate verifying the structural integrity of the Curbside Café platform.</u> | <u>Prior to construction</u> | <u>ISD</u> | |
| 5 | The applicant shall pay for any and all costs for the installation of <u>install</u> any traffic safety improvements, including but not limited to, flexible reflective delineators and wheel stops, shall be obtained from as required by Traffic and Parking before the issuance of a Building Permit. | BP <u>Prior to final sign off</u> | Traffic & Parking DPW ISD | |
| 6 | If required by Traffic and Parking, the Applicant shall pay for use of the parking spaces before the issuance of a Building Permit. | BP | Traffic & Parking ISD | |
| 8 6 | The perimeter fencing for the Curbside Café platform shall be 42" high on all sides and shall be maintained at all times whether the platform occupies the three parking spaces during the weekdays or, additionally, the two loading spaces on the weekends and over the course of special events | Cont. | ISD | |
| 9 7 | The Applicant shall be responsible for maintenance of the Curbside Café platform, including landscaping, fencing, lighting, and storm water systems, ensuring they are clean, well kept and in good and safe working order. | Cont. | ISD | |
| 10 8 | Any moveable items, such as tables and chairs, shall either be locked down at night or taken inside the Independent. | Cont. | ISD | |
| 11 9 | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by <u>Inspectional Services of the Curbside Café platform</u> to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this Special Permit. | Final sign off | Planning | |

