



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

PLANNING DIVISION

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JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
ELIZABETH MORONEY

Case #: PB 2012-01
Site: 230 Somerville Avenue
Date of Decision: March 15, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 19, 2012

PLANNING BOARD DECISION

Applicant Name:	George Moussallem
Applicant Address:	18 Stults Road, Belmont, MA 02478
Property Owner Name:	Tyr Two Realty Trust
Property Owner Address:	18 Stults Road, Belmont, MA 02478
Agent Name:	N/A

Legal Notice: Applicant George Moussallem and Owner TYR TWO Realty Trust, seek a Special Permit under SZO §7.13. Use Cluster A to establish a research and development use of approximately 11,000 square feet.

<u>Zoning District/Ward:</u>	CCD 55/Ward 2
<u>Zoning Approval Sought:</u>	§7.13
<u>Date of Application:</u>	December 29, 2011
<u>Date(s) of Public Hearing:</u>	2/2, 2/16 & 3/15/12
<u>Date of Decision:</u>	March 15, 2012
<u>Vote:</u>	5-0

Appeal #PB 2012-01 was opened before the Planning Board at Somerville City Hall on February 2, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Planning Board took a vote.



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DESCRIPTION:

The building located at the subject property takes up almost the entire lot. Currently, the approximately 11,000 square foot space at the rear of the first floor of the building is vacant and the Applicant would like to establish a research and development use for this space, potentially for MIT graduates and also for use as an incubator space for start-up companies. The Applicant is not proposing to make any changes to the exterior of the structure at this time.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §7.13):

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 Board 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."

In considering a Special Permit under §7.13. Use Cluster A of the SZO, the Board finds that the proposed use would not be substantially more detrimental to the neighborhood. The Board also finds that the proposal will allow viable office, research, experimental, or testing activities to operate in this location. This proposed use fits into the characteristics of the existing neighborhood as the majority of the space inside the building is already used for office and research activities. There is a concern that uses permitted under this Office/R&D use category would become incompatible with the neighborhood, and therefore the Board has included conditions to address this situation. The property will remain a two-story commercial building which is consistent with the surrounding neighborhood and therefore, there are no anticipated negative impacts from the proposal

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 promoting "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 conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City."

The proposal is also consistent with the purpose of the CCD district (6.1.22. Corridor Commercial Districts (CCDs)), 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."



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The proposal will help to increase commercial investment by taking a vacant commercial space along Somerville Avenue and allow for the establishment of viable office, research, experimental, or testing activities. Additionally, this proposal will help to encourage active mid-rise commercial uses.

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.”

No exterior changes to the building are planned at this time. The owner, in the past, upgraded the front façade, and this is an improvement over the way the building has looked in the past. The proposed activity to occur in the building is compatible with the characteristics of the surrounding area and the majority of the space inside of the building is already used for office and research activities. There is a concern that uses permitted under this particular use category would become incompatible with the neighborhood and therefore the Board has included conditions to address this situation. The proposal is also designed to be consistent with the design guidelines in the CCD as laid out in SZO §6.1.22.H because there are not any exterior alterations proposed for the building as part of the establishment of this use category for office/research and development.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

At this time, no adverse environmental impacts are anticipated from this proposal. No new noise, illumination, glare, dust, smoke, vibration, nor emissions of noxious or hazardous materials or substances nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project. However, because there is no specific tenant, use, business, or entity applying to establish this particular use and these impacts could potentially become an issue in the future at a later time, the Board has included conditions to address this situation.. The property will remain a two-story, commercial building which is consistent with the surrounding neighborhood.



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DECISION:

Present and sitting were Members Kevin Prior, Joseph Favaloro, James Kirylo, Elizabeth Moroney and Michael Capuano. Upon making the above findings, Kevin Prior made a motion to approve the request for a special permit. Elizabeth Moroney seconded the motion. Wherefore the Planning Board voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the establishment of a research and development use of approximately 11,000 square feet under SZO §7.13. Use Cluster A. 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>(December 29, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 28, 2002 (January 9, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>September 30, 2010 (January 9, 2012)</td> <td>1st Floor Plan (A 1.01)</td> </tr> </tbody> </table> <p>Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.</p>	Date (Stamp Date)	Submission	(December 29, 2011)	Initial application submitted to the City Clerk's Office	June 28, 2002 (January 9, 2012)	Plot Plan	September 30, 2010 (January 9, 2012)	1 st Floor Plan (A 1.01)	BP/CO	ISD/Plng.	
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June 28, 2002 (January 9, 2012)	Plot Plan											
September 30, 2010 (January 9, 2012)	1 st Floor Plan (A 1.01)											
2	A code compliant fire alarm system and a code compliant sprinkler system shall be in place.	CO	FP									
3	The use Special Permit establishes a use for the 11,000 square feet of space in the rear of the structure as indicated on the submitted 1 st Floor Plan, with shared access to the loading dock area. This decision does not impact or establish any allowed use in the remainder of the structure.	Cont.	ISD									
4	The use Special Permit is limited to a laboratory engaged in research, experimental and testing activities which may include the development of mockups and prototypes but not the manufacture of finished products. Therefore, any use that creates any noise, glare, dust, vibration, fumes, odors, gases, smoke, vapors, emissions of noxious or hazardous materials or substances outside of the structure, or creates any pollution of water ways or ground water, or transmission of signals that interfere with radio or television reception, or creates hazards to safety or health are not permitted under this Special Permit.	Cont.	ISD									



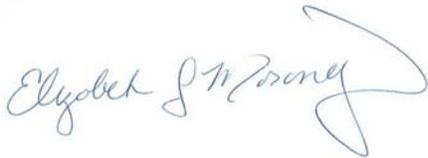
5	Parking shall not be permitted on the sidewalk, and the Applicant shall delineate a parking space or spaces in the front of the building that allows for parking but does not impact the sidewalk. The Applicant shall submit to the Planning Staff a plan that shows the parking spaces that have been identified, and shall work with Planning Staff on placing landscaping in planters in any area in front of the building that is not used for parking. The location and design of these planters shall be delineated on a plan and reviewed and approved by Planning Staff.	Final Sign Off	Plng.	
6	By exercising this Special Permit, the Applicant and any Tenant shall agree to submit to an inspection by the Inspectional Services Division (ISD) upon approval of the permit and for additional inspections over the 24 month period after the approval of the permit, to ensure that all conditions and code issues have been met. The Applicant shall abide by all building and safety code concerns including but not limited to updating gas service if required by ISD.	At Sign Off and 24 Months After	ISD	
7	Applicant shall ensure that heating, air conditioning, and ventilation units do not violate city noise regulations.	Cont.	ISD	
8	Garage door/loading docks shall not be used between the hours of 8:00 PM and 7:00 AM.	Cont.	ISD	
9	The Applicant or Owner shall install signage on the façade of the building to clearly indicate where the entrances are located for each entity that is occupying space inside the building. Signage shall be subject to review and approval by Planning Staff.	CO	Plng.	
10	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.	
11	The entity occupying the rear space shall use the Merriam Street door and the door on the west side of the building as their means of egress. The loading dock entrance/area shall only be used for loading/unloading or as a tertiary/emergency egress.	Cont.	ISD	



Attest, by the Planning Board:



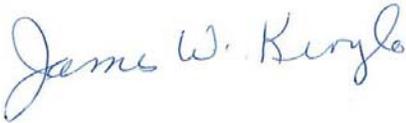
Kevin Prior, Chairman



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.



CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____



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