



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

PLANNING DIVISION

***PLANNING BOARD MEMBERS***

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ELIZABETH MORONEY  
JAMES KIRYLO  
MICHAEL A. CAPUANO, ESQ.  
ELIZABETH MORONEY

**Case #: PB 2012-06**  
**Site: 73-75 Union Square**  
**Date of Decision: April 5, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 6, 2012**

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**PLANNING BOARD DECISION**

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<b>Applicant Name:</b>	The Independent
<b>Applicant Address:</b>	73 Union Square, Somerville, MA 02143
<b>Property Owner Name:</b>	Independent Realty Trust
<b>Property Owner Address:</b>	73 Union Square, Somerville, MA 02143
<b>Agent Name:</b>	N/A

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.

<u>Zoning District/Ward:</u>	CCD 55 zone/Ward 3
<u>Zoning Approval Sought:</u>	§6.1.22.D.6
<u>Date of Application:</u>	March 8, 2012
<u>Date(s) of Public Hearing:</u>	April 5, 2012
<u>Date of Decision:</u>	April 5, 2012
<u>Vote:</u>	5-0

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Appeal #PB 2012-06 was opened before the Planning Board at Somerville City Hall on April 5, 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 one hearing of deliberation, the Planning Board took a vote.



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## **DESCRIPTION:**

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.

## **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.



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- 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.



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**DECISION:**

Present and sitting were Members Kevin Prior, Elizabeth Moroney, Joseph Favaloro, James Kirylo and Michael Capuano. Upon making the above findings, Kevin Prior made a motion to approve the request for a special permit. Michael Capuano 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	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:	Cont.	Planning							
	<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>				Date (Stamp Date)	Submission	March 8, 2012	Initial application submitted to the City Clerk's Office	March 27, 2012	Plans submitted to OSPCD
	Date (Stamp Date)				Submission					
March 8, 2012	Initial application submitted to the City Clerk's Office									
March 27, 2012	Plans submitted to OSPCD									
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	Approval is limited to April 1, 2012 – November 1, 2012, at which time the Special Permit shall expire.	Cont.	Planning ISD							
3	Approval is contingent upon the granting of a permit 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.	Prior to construction	BoA							
4	The Applicant shall submit a certificate verifying the structural integrity of the Curbside Café platform.	Prior to construction	ISD							
5	The applicant shall install any traffic safety improvements, including but not limited to, flexible reflective delineators and wheel stops, as required by Traffic and Parking.	Prior to final sign off	Traffic & Parking							
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							
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							



8	Any moveable items, such as tables and chairs, shall either be locked down at night or taken inside the Independent.	Cont.	ISD	
9	The Applicant shall contact Planning Staff for a final inspection of the Curbside Café platform 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	



Attest, by the Planning Board:



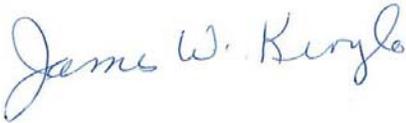
Kevin Prior, Chairman



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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