



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: PB 2010-20 and PB 2011-03

Date: UPDATED for May 5, 2011

Recommendation: Conditional Approval

UPDATED: PLANNING STAFF REPORT¹

Site: 230 SOMERVILLE AVENUE

Applicant Name: George Moussallem

Applicant Address: 18 Stults Road, Belmont MA 02478

Property Owner Name: Tyr Two Realty Trust

Property Owner Address: same

Alderman: Heuston

Legal Notice (2010-20): Applicant and Owner TYR Realty 2 Trust seek a Special Permit under SZO §4.5.1 to change from one non-conforming use to another non-conforming use to establish a light manufacturing use (SZO §7.13.h) for a product assembly business (Cue Acoustics) in an existing structure.

Legal Notice (2011-03): Applicant George Moussallem and owner Tyr Two Realty Trust seek a special permit under SZO 6.1.22.D.5 to legalize recent alterations to the facade of the structure, in the form of new larger windows. CCD-55 district. Ward 2.

Zoning District/Ward: CCD-55 / Ward 2

Zoning Approval Sought: Special Permit under SZO §4.5.1

Date of Application: 11/8/2010

Date(s) of Public Meeting/Hearing: PB 1/6/2011 continued to 4/21/11

Date of Decision: N/A

Vote: N/A

¹ This report is updated through April 27, 2011.

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is an approximately 18,844 sf lot with a 18,600 nsf commercial building located near Union Square. The building is divided into two areas, with a shared loading area. One of the areas is vacant. The other is being used by a company called Cue Acoustics. Cue is occupying 3,800 square feet of space on the first floor and 3,600 square feet on the second floor. The first floor also has a loading dock that is used by Cue but is also available for a future tenant of the rear area of the building.

2. Proposal: Cue Acoustics has been operating in the space for a few months. Cue is a company that assembles radios, speakers and software. Most are sold on-line, and there is not regular customer activity at the site. The space that they use includes a research and development area, office area, and a small assembly area. A small display area is in the second floor office area. The owner of the building is seeking to legalize this use and establish a certificate of occupancy for the tenant. The owner is also seeking to legalize the window work completed prior to the arrival of Cue Acoustics.

3. Nature of Application: The 'use clusters' under Section 7.13 of the Zoning Ordinance apply in the CCD-55 district. The use is a manufacturing activity which falls under Section 7.13h of the Ordinance (Manufacturing and fabrication, assembly, finishing work without limit to category or product, provided dust, fumes, gases, odors, smoke or vapors, noise or vibration are effectively confined to the enclosed building). Uses under 7.13h are not allowed in the CCD-55 district. The applicant previously rented the building to a business that was storing materials in the structure (wholesale business and storage). This use is not allowed in the CCD-55 district. The wholesale use under CCD-55 is only allowed under the same cluster 7.13h, and only when it is an accessory use. Therefore, the previous use in the building became non-conforming when the Union Square zoning amendment was passed. At this time, the applicant is seeking to use the provisions of Section 4.5.1 of the Zoning Ordinance to change from one non-conforming use to another non-conforming use. This requires a Special Permit from the SPGA. The SPGA in the CCD-55 district is the Planning Board.

The applicant also recently changed windows in the structure. The applicant has produced copies of building permits indicating that the applicant was permitted to replace existing windows within the same sill. Photographic evidence established that window openings were changed in the building when this work was done. While the applicant believes that ISD provided permission to do this sort of work, the permits indicate the work was limited to existing sills. Planning and ISD staff indicated to the owner that the window work requires a Special Permit from the Planning Board per SZO 6.1.22.D.5, and the applicant applied for this special permit.

Per the regulations of the CCD-55 district, any change in use that does not add additional floor area does not trigger additional parking requirements.

4. Surrounding Neighborhood: This property is located in the CCD-55 zoning district. The area is predominantly mixed-use. There is a residential neighborhood in the RB zoning district directly behind the structure.

5. Green Building Practices: None

6. Comments:

Alderman: Alderman Heuston has been contacted and has set up a meeting with the neighborhood on March 8, 2011 to receive comments and discuss neighborhood concerns.

Fire Prevention: Fire Department has been contacted but has not yet provided comments.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):

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 Permit.

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 Staff finds that the proposal will allow a viable business to continue to operate in this location. That business conducts light assembly work, but this type of work is not incompatible with the standards of the ordinance. Staff is concerned that this work should not expand from the existing location nor should it expand in noise, scope or neighborhood impact. Staff has recommended conditions to address these concerns. The exterior design changes are a net improvement to the building, although they should have applied for the appropriate special permit prior to construction. Since meeting with the owner, he has been making progress towards bringing the entire building into compliance with zoning regulations.

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."

Staff finds this use to be consistent with the purposes of the ordinance. This use was not allowed in the CCD-55 zoning district, because of a concern that manufacturing activities could be incompatible with the vision for the future of these areas. Nonetheless, since the CCD-55 zoning has passed, a number of small businesses that would provide high-quality jobs doing research combined with unique craft manufacturing have been interested in working in the CCD zoning districts. Cue Acoustics is using the site for light assembly of a high-technology project which has been developed in Somerville. The majority of the space inside of the building is used for office and research activities, yet the primary activity of the company is the assembly of radio components, speakers and software. Therefore, while the work must be classified in the industrial use cluster, this work essentially involves one employee with a screwdriver. There is no adverse impact of the activity on the neighborhood, the company operates no differently than an office or research use on the site, and they are providing local employment at a location in close proximity to Union Square. For these reasons, despite not meeting the use requirements of the CCD-55 district, the application is consistent with the purpose of both the general purpose of the ordinance, and the specific purpose of the CCD-55 zoning 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."

No additional exterior changes are planned at this time. The owner, in the past, upgraded the front façade, and this is an improvement over the way it has looked in the past. The activity to occur in the building is compatible with the surrounding area, as it is confined to the portion of the building furthest from residential neighbors, and it has minimal exterior impacts. There is a concern that any expansion or change in this activity would become incompatible, and therefore staff recommends conditions to address this situation.



III. RECOMMENDATION**Special Permit under §4.5.1**

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the establishment of a light manufacturing use for small craft manufacturing of radios, speakers and software products and the updated windows on the façade of the structure:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(11/8/10)</td><td>Initial application submitted to OSPCD</td></tr><tr><td>Updated 9/30/10</td><td>Plans and elevations submitted to OSPCD (A1.01 and A1.02)</td></tr><tr><td>January 2011</td><td>Application and information about completed window designs</td></tr></table>				Date (Stamp Date)	Submission	(11/8/10)	Initial application submitted to OSPCD	Updated 9/30/10	Plans and elevations submitted to OSPCD (A1.01 and A1.02)	January 2011	Application and information about completed window designs
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January 2011	Application and information about completed window designs											
Any changes to the approved use that is not <i>de minimis</i> must receive ZBA approval.												
2	The use Special Permit is granted only for the craft manufacturing of radio equipment, speakers and software products and for associated research and office space. Other uses under SZO 7.11h shall require modification of this special permit by the Planning Board.	Cont.	ISD									
3	The use Special Permit is granted only for the existing establishment (Cue Acoustics), and shall not be transferrable to other individuals or businesses that may operate in or lease the space. The use Special Permit shall expire if Cue vacates the structure, and further uses under 7.11h of the SZO shall require re-establishment by special permit by the Planning Board.	Cont.	ISD									
4	The use Special Permit establishes a use for the 7,600 square feet of space leased to Cue as indicated on the submitted 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									

5	The use Special Permit is limited to craft manufacturing and therefore any change in the manufacturing process for Cue Acoustics that creates any noise, dust, vibration, fumes, odors, gases, smoke, vapors outside of the structure or creates any hazards to safety or health are not permitted under this special permit	Cont.	ISD	
6	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 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.	
7	By exercising this special permit, the applicant and tenant shall agree to submit to an inspection by the Inspectional Services Division (ISD) upon approval of the permit and four 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	
8	Applicant shall secure all required permits for air conditioning units, correct any design deficiencies noted by ISD and pay appropriate fees. Applicant shall provide the required noise barrier around the air conditioning and heating units on the roof and pay triple building permit fees. Applicant may be granted a 45 day temporary Certificate of Occupancy upon approval of this application, but cannot receive a final Certificate of Occupancy until this work is complete, and fees are paid.	Prior to issuance of final certificate of occupancy	ISD	
9	Manufacturing activity within the building shall be limited to the business hours of the occupants. Garage door/loading docks shall not be used between the hours of 8pm and 7am.	Cont	ISD	
10	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal has been completed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	

