



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2015-38  
**Date:** August 19, 2015  
**Recommendation:** Conditional Approval

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***Updated* PLANNING STAFF REPORT\***

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**Site:** 260 Elm Street

**Applicant Name:** Xue Zhen Cao  
**Applicant Address:** 22 Hillside Ave, Quincy, MA 02170  
**Owner Name:** Urban Equity Development, Attn: Leo Roy  
**Owner Address:** 3 Crenshaw Lane, Andover, MA 01810  
**Agent Name:** Paul Yu  
**Agent Address:** 128 Lincoln St, Suite 110, Boston, MA 02111  
**Alderman:** Rebecka Gewirtz

Legal Notice: Applicant, Xue Zhen Cao, & Owner, Urban Equity Development, seek a Special Permit to provide parking for a restaurant on a separate lot and for shared parking at 55 Day St. CBD zone. Ward 6.

Dates of Public Hearing: July 15, 2015

\*Updated condition of approval from July 9, 2015 staff report due to additional information. Updated location of tenant space from July 9 and July 30, 2015 reports. Additions are underlined and deletions are ~~struck~~.

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is the mixed use building in the heart of Davis Square. A 2,316 square foot space that was previously used as a medical office will be occupied by a restaurant. There is 1,087 square feet for storage in the basement for a total of 3,403 gross square feet. The use is allowed by-right in this district. There will be 58 seats and up to 10 employees. The hours of operation will be 11am to 11pm.



2. Proposal: To establish the by-right restaurant use a Special Permit for parking is required. The proposal is to use the lot at 55 Dover Street for shared off-site parking. Two parking spaces will also be provided at 7 Herbert Street numbered 71 and 74 that are on the same block as the restaurant. These spaces will be available for the restaurant employees to use.

The lot at 55 Day Street is owned by Day/Dover, LLC with a general partner who is also the general partner of Urban Equity Development Company who owns 260 Elm Street, where the restaurant will be located. The lot at 55 Day Street is shared by the tenants of Urban Equity Development Company. The tenants that use the lot consist of businesses with daytime operations and there are no other restaurants that are permitted to use the lot. It is a 23,000 square foot lot with approximately 67 parking spaces. Urban Equity Development will allow Soba Ya LLC access to use this lot after 6pm daily. The general manager submitted a letter stating that the off-site parking is permitted. At least 14 spaces will be made available on a regular basis.

The restaurant will post on their website and menus to let patrons know that parking is available in this lot on a first come, first serve basis. The restaurant will distribute parking passes to customers to place on their dashboards. They will request that customers leave their keys so that the restaurant has control over the number parking in the lot. They are also considering a valet service on weekends.



3. Green Building Practices: The following green technologies and materials will be used: LED lighting as much as possible, low VOC paint, and recycled and reclaimed wood for some of the furnishings.

4. Comments:

*Fire Prevention*: Has not yet provided comments.

*Traffic & Parking*: Has not yet provided comments.

*Ward Alderman*: Has not yet provided comments.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §9.13):**

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 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 restaurant requires 10 parking spaces. The proposed use has a higher parking requirement when considering the gross square footage of the restaurant (31 spaces) versus the requirement using the number of employees and seats (22 spaces). Somerville Zoning Ordinance (SZO) §9.4 allows a nonconforming site for parking to consider the parking requirement for the last use and take half of this number. The last use was a medical office that required 7 parking spaces. There is also a 20 percent reduction in parking required per §9.6.3 due to the proximity to the Davis Square Red Line Station for the old and the new use. Considering these calculations the requirement is for 10 spaces and 14 will be provided off-site for patrons and 2 will be off-site for employees.

One bicycle parking space is required. A condition of approval is that the applicant purchase a bike rack and deliver it to the City to install on a nearby sidewalk to fulfill the requirement.

SZO §9.13.d allows for parking on a separate lot. In any commercial district required parking may be located on a separate lot within the zoning district in which the principal use served by the remote parking is a permitted use provided that: (1) the parking spaces are less than 500 feet walking distance of an entrance to the building which they serve and (2) where such lot is not in the same ownership a lease and/or easement guaranteeing long term use of such lot, and satisfactory in form to the SPGA and the City Solicitor, is executed and filed in the Registry of Deeds of Middlesex County.

This lot is approximately 170 feet from the front door of the restaurant. The parking lot and restaurant are owned by different entities; however, the same General Partner is the same for both. There is a signed agreement from the general manager, who is writing on behalf of the ownership of 260 Elm Street and the lot at 55 Day Street, detailing the parking agreement. ~~A condition of approval is that this agreement will be filed in the Registry of Deeds of Middlesex County.~~ Since the same parties are involved in both

entities the Zoning Ordinance does not require that the agreement is recorded. Future restaurant tenants will have to provide proof of being able to continue this parking arrangement or seek parking relief as applicable.

The lot at 55 Davis Square is shared among other uses; however, staff cannot find a record of this being required parking for other buildings. Nevertheless, shared parking is allowed under 9.13.e. The parking lot owner is stating that other users of the space primarily use the lot during the day and there are a number of open spaces at night. No other restaurants use the lot. The peak times of the proposed restaurant are in the evenings when there is sufficient parking in the lot. Businesses with different peak parking demand times sharing parking spaces is the most efficient use of the parking resource.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The Applicants have arranged to provide the required number of parking spaces in a lot that is approximately .03 miles from the restaurant. New customers will either see the parking availability on the restaurant's website or learn of the parking by looking on the menu and know that it exists for a return trip.

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 lessening congestion in the streets and facilitating the adequate provision of transportation.

The proposal is consistent with the purpose of the CBD district, which is, "[t]o preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses."

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposed off-site, shared parking will effectively utilize the existing parking lot and not cause harm to pedestrians or the built environment.

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."*

Shared parking with businesses with different peak parking demand times is the most efficient use of the parking resource. This proposal has been designed to be compatible with the surrounding land uses of Davis Square.

7. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

This proposal does not involve housing.

8. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The proposal will retain the existing commercial spaces as a restaurant in place of a medical office. The number of jobs for the restaurant will be 10. The number of jobs for the medical office is not known. The use of the property is not under review in the Special Permit. The shared, off-site parking is under review and is supported by SomerVision goals.

| <i>SomerVision Summary</i>   | <i>Existing</i> | <i>Proposed</i>                     |
|------------------------------|-----------------|-------------------------------------|
| <i>Commercial Sq. Ft.:</i>   | 3403            | 3403                                |
| <i>Estimated Employment:</i> | ?               | 10                                  |
| <i>Parking Spaces:</i>       | 0               | Offsite: 14 shared, 2 for employees |

### III. RECOMMENDATION

#### Special Permit under §9.13

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   | Approval is for the shared, offsite parking at 55 Day Street and 7 Herbert Street for a total of at least 10 spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:  | BP/CO                    | ISD/Plng.          |       |                   |            |              |  |                |  |
|   | <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Jun 18, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(July 2, 2015)</td> <td>Plans submitted to OSPCD (A1.0 Site Plans, A-1.2 Floor Plan)</td> </tr> </tbody> </table>   |                          |                    |       | Date (Stamp Date) | Submission | Jun 18, 2015 | Initial application submitted to the City Clerk's Office | (July 2, 2015) | Plans submitted to OSPCD (A1.0 Site Plans, A-1.2 Floor Plan) |
|   | Date (Stamp Date)   |                          |                    |       | Submission        |            |              |  |                |  |
| Jun 18, 2015  | Initial application submitted to the City Clerk's Office  |                          |                    |       |                   |            |              |  |                |  |
| (July 2, 2015)  | Plans submitted to OSPCD (A1.0 Site Plans, A-1.2 Floor Plan)  |                          |                    |       |                   |            |              |  |                |  |
| Any changes to the approved off-site parking that are not <i>de minimis</i> must receive SPGA approval. |   |                          |                    |       |                   |            |              |  |                |  |
| 2   | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.  | CO                       | FP                 |       |                   |            |              |  |                |  |
| 3   | The operator of the restaurant shall post information about the offsite parking regarding location and procedure for use on the business' website and menus.  | CO                       | Plng.              |       |                   |            |              |  |                |  |
| 4   | <del>The parking agreement for the off-site parking shall be filed with the Registry of Deed of Middlesex County.</del>   | <del>CO</del>            | <del>Plng.</del>   |       |                   |            |              |  |                |  |
| 4   | Future tenants of this space seeking to use the number of parking spaces for which this spaces is grandfathered, shall provide Planning and Traffic and Parking Staff with a parking agreement that complies with the requirements of the SZO to use an off-site lot for the business/operation for at least 10 parking spaces. If the agreement cannot be produced, the future tenant will have to apply for the appropriate parking relief. | BP/CO for future tenants | Plng/T&P           |       |                   |            |              |  |                |  |
| 5   | The Applicant shall purchase a U- or circular bike rack to City standards and deliver it to the City. The City will install the rack in the vicinity of the subject site.   | CO                       | Plng/T&P           |       |                   |            |              |  |                |  |
| 6   | 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.              |       |                   |            |              |  |                |  |

