



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

**STAFF**

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LORI MASSA, *PLANNER/ZONING ADMINISTRATOR*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #: ZBA2005-70-R2-0409**  
**Date: May 20, 2009**  
**Recommendation: Conditional Approval**

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**PLANNING STAFF REPORT**

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<b>Site:</b>	191 Highland Avenue
<b>Applicant Name:</b>	The Center for Arts at the Armory
<b>Applicant Address:</b>	191 Highland Avenue, Ste. 1-A Somerville, MA 02143
<b>Property Owner Name:</b>	Joseph Sater
<b>Property Owner Address:</b>	472 Massachusetts Avenue, Cambridge, MA 02138
<b>Alderman:</b>	Sean O'Donovan

Legal Notice: Applicant Center for the Arts at the Armory & Owner Joseph Sater seek revisions to a special permit (SZO §5.3.8) to revise a condition to allow overlapping events under certain circumstances. RA/RC zones. Ward 5.

<u>Zoning District/Ward:</u>	RA/RC/5
<u>Zoning Approval Sought:</u>	Revision to Permit
<u>Date of Application:</u>	4/28/09
<u>Date(s) of Public Hearing:</u>	5/20/09
<u>Date of Decision:</u>	N/A
<u>Vote:</u>	N/A

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is an approximately 40,244 s.f. lot located on the north side of Highland Avenue, between Central and Lowell Streets. Located on the property is the former Somerville Armory, a three-story masonry building built in 1903 as a modern rendition of a medieval castle. The property is bound to the north by Hudson Street and to the south by Highland Avenue. The Armory building is located entirely within the RC district, and the associated parking for the building is located within the RA district.

On November 22, 2004 the Zoning Board of Appeals granted conditional approval for a mixed-use project within the Armory building, consisting of artist housing, craft studios, office space, gallery space,

a non-profit dance studio, and a café. The 2005 approval changed the proposed gross floor area of the building from 39,040 gross s.f. to 33,422 gross s.f. Other alterations included the relocation of the elevator penthouse; enlargement of an egress door; relocation of the café from the eastern to the western half of the first floor; various changes to the floor plans; a reduction in the number of artist live/work units from four to two; the replacement of the dance studio with a smaller mezzanine level; and expansion of the general assembly use into the drill hall space; and modifications to a number of conditions attached to the 2004 special permit. In 2007, the owner sought to modify the 2005 permit in order to allow the café to have a full kitchen, to approve office use as an alternative to the café if a tenant could not be found, and to modify the floor plans in response to elevator and egress concerns; the ZBA did not grant the request for a full kitchen but did permit the other requested changes. In March 2009, the ZBA granted a revision to Condition 20 of the original permit to expand the hours of operation.

2. Proposal: The Applicant, The Center for Arts at the Armory, is a non-profit arts organization, which is one tenant of the building. They program arts, cultural, and community events within the auditorium space and may facilitate event planning in the café space.

The current request is to modify condition 24 from the 2005 permit, which states that “The Owner/Applicant must work with his/her tenants to ensure that there will be no multiple events held at the Armory and that scheduled events will not overlap.” The Applicant is seeking to modify this condition to allow events to occur simultaneously in both spaces, provided that start and end times of events in the two spaces are staggered and that other efforts are made to avoid congestion. The Applicant states that limiting the use of the café based on the use of the auditorium has presented a significant hindrance to leasing the café space (particularly in addition to the restriction prohibiting cooking on site). The Applicant states that it is difficult to anticipate which auditorium events will reach the 325 or 395 limit, until tickets are actually taken; when the limit is reached, people are turned away. Therefore it would be impossible for a café operator to reliably plan their events based on when auditorium events might reach capacity, risking having to stop an event if the auditorium event were more successful than anticipated.

However, the Applicant has proposed efforts that could be taken to minimize any impacts of having simultaneous events. It is important to note that the café is itself subject to a 52 person occupancy limit.

The current request was made in March 2009 and withdrawn in order to allow other time-sensitive conditions to be approved expeditiously.

3. Nature of Application: The site is presently occupied under a Temporary Certificate of Occupancy, pending satisfaction of all conditions of approval. According to the Inspectional Services Division, life safety conditions have been met. Planning Staff have visited the site and concluded that the building has been constructed in accordance with approved plans. There are certain outstanding conditions related to exterior site work. No final certificate of occupancy may be issued until all permit conditions have been met. As the site is not under a final certificate of occupancy and work on some spaces of the building remains underway, the Applicant may seek a revision to the permit under SZO §5.3.8.

4. Impacts of Proposal: Staff have reviewed early drafts of staff reports and draft conditions, and have found that the conditions sought to be modified and clarified appear not to have changed throughout the public meeting and hearing processes. Staff surmise that the conditions were crafted outside of the public hearing process, perhaps during the many community meetings that accompanied the 2004 and 2005 permit requests. It is difficult to say from reviewing the record whether the Board’s (or even the

community's intent in prohibiting overlapping events was meant simply to prevent overcrowding and resultant parking problems, or whether some other impact had been anticipated. However, staff have sought input from participants in that early process, including City employees, current members of the Armory's Neighborhood Advisory Committee (which includes abutters), and abutters who have been in contact with staff. It appears from these conversations that the original intent of this condition was to prevent overcrowding of the building and the parking facilities.

In considering concerns about the impact of having simultaneous events in the auditorium and the café, it is important to note the vastly different scale of the two spaces, which is further described below. The auditorium's capacity is nearly eight times that of the café. So long as the combined occupancy of both spaces did not exceed the maximum allowance of the larger space (as provided in Condition 36), allowing a smaller event in the smaller space to occur at the same time appears to be completely benign. This limitation might be reinforced by requiring the Applicant to post the maximum capacity of events (for City and abutter review) or by instituting a regular reporting requirement.

5. Clarification of Occupancy Question: At the March 2009 hearing regarding the request to permit overlapping events, a number of questions were posed about the relationship of the maximum capacity of the building to the limits imposed by Condition 36, which limits attendance at "at capacity" and "other" events. Condition 36 is more restrictive than the code requirements of the facility; furthermore, it does not pertain to the building overall but only to a portion of the building. In the 2005 approval, the applicant's architect prepared calculations that were adopted by the ZBA of the proposed changes to floor area, capacity, and parking requirements.

The original **occupancy of the auditorium** (a.k.a. "drill hall") when the structure was still used as an Armory was 467; the reconfiguration of the assembly space, with the introduction of bathrooms and the gallery space, reduced the auditorium's capacity to 395.

The **occupancy of the building overall**, with the addition of the live/work units and the changes of use, increased from a maximum capacity of 550 to 555 persons.

The **parking requirement** for the prior combination of uses was 95 spaces, and the site had been nonconforming with respect to that requirement, having only 39 spaces on site; with the reconfigured combination of uses, five additional parking spaces were required for a total of 44. 44 spaces are now provided on site; in addition, Condition 37 requires the applicant to maintain 40 additional spaces at a satellite parking lot.

Based on this analysis, allowing overlapping events would not impact the building's occupancy limits or parking requirements, provided that maximum *combined* 325/395 limits were respected for both event spaces—the auditorium and the café. As noted above, this would not mean that the café could exceed its 52-person maximum capacity in any case.

6. Clarification of "Events": As provided in the definitions attached to earlier approvals, "events" might generally be described as activities that take place before an audience or the general public. This is distinct from other activities between a service provider and a client/customer or a teacher and a class, which may take place elsewhere in the Armory facility; these types of activities, which are in the building as-of-right, would not be subject to the "event" capacity limitations but rather to code limits for their respective spaces.

7. Comments from Ward Alderman: Ward 5 Alderman Sean O'Donovan has stated that he supports this request.

## **II. FINDINGS FOR REVISION TO SPECIAL PERMITS & SPECIAL PERMITS WITH SITE PLAN REVIEW (SZO §5.3.8):**

There are not specific required findings for a revision to a special permit. Rather, staff review the original findings for the specific zoning relief requested and identify any findings that have changed as a result of the proposed revision. Below, staff have reviewed the four central findings required of all special permit applications under SZO §5.1.4.

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." With a condition requiring monitoring of combined event capacity, the requested modification to the permits is found to be consistent with the granting of the original permit and compliant with the standards of the ordinance.

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 that the proposal would remain consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to The purposes of the Ordinance are to provide for and maintain the uniquely integrated structure of uses in the City; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality. Furthermore, staff finds that the proposal would remain consistent with the purposes of the RA and RC districts, which are, respectively: To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts; and to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.

Staff finds that the development would remain subject to a multitude of conditions that would mitigate adverse impacts to the residential community. Furthermore, staff finds that, with mitigation of potential impacts as conditioned, the development is in fact an enhancement of the neighboring community, and that the requested revisions are critical to the success and even survival of this burgeoning cultural center.

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 changes are proposed to the built form or the site plan as approved. The land use would not change from the prior approval, and the operations of the use would only change minimally, with little if any impact as conditioned.

### III. RECOMMENDATION

#### Revision to Permit (SZO §5.3.8)

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **REVISION TO PRIOR PERMITS**.

Changes from the existing condition are shown below, with additions marked in underline, deletions in ~~strikethrough~~.

Condition	Timeframe for Compliance	Verified (initial)	Notes
<p>The site has previously received a Special Permit to alter a non-conforming structure to build an addition to the top of the existing Armory building; a Special Permit with Design Review and a Special Permit to establish a restaurant/public performance space within the building, accompanied by as-of-right uses including two units of artists' housing, craft studios, offices, an art gallery, and a non-profit dance studio; a special permit to alter a non-conforming structure to relocate an elevator and enlarge an existing egress door; a special permit for shared parking to use parking spaces located on three other lots; addition of skylights; and other revisions to the 2004 special permit. Subsequent revisions in 2009 have modified conditions of approval.</p> <p>With this application, the applicant is granted modifications to Condition 24 as shown hereunder.</p>			
<p>24. <u>The Owner/Building Manager shall work with tenants of the café and auditorium to ensure that if there are overlapping events in the two spaces, starting and ending times are staggered. Where possible, event schedules should be coordinated to encourage smaller-scale or pass-through (instead of ticketed or sit-down) events in the café when an auditorium event is anticipated to approach capacity.</u> <del>The Owner/Applicant must work with his/her tenants to ensure that there will be no multiple events held at the Armory and that scheduled events will not overlap.</del></p>	Cont.	PLNG	