



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-117

Date: March 10, 2016

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 14 Tyler Street & 30 Park Street

Applicant Name: TBD Brewing LLC
Applicant Address: 14 Tyler Street, Somerville, MA
Owner Name: JWF, LLC
Owner Address: 21 Properzi Way, Somerville, MA
Agent Name: Sean O'Donovan
Agent Address: 741 Broadway, Somerville MA 02144
Alderman: Maryann Heuston

Legal Notice: Applicant, TBD Brewing LLC, and Owner, JWF, LLC, seek a Special Permit to establish an approx. 4,400 sf Drinking Establishment under SZO §7.11.10.6.b, a Special Permit for parking on a separate lot per §9.13.d and shared parking under §9.13.e. IA zone. Ward 2.

Dates of Public Hearing: March 16, 2016

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 12,066 square foot space in the complex previously occupied by the Ames Safety Envelope Company. The subject property includes first floor space in the buildings at 14 Tyler Street and 30 Park Street. The spaces in each building are internally connected.

The subject space contains the following uses:

30 Park Street



At 30 Park Street the zoning use is general industrial. The industrial business within the space is Aeronaut Brewery. They manufacture beer with a farmer-brewer pouring license. This is a new type of “pouring permit” for farmer-breweries that became effective in the state on July 11, 2013. The permit allows the licensee to sell and allows sampling of the alcoholic beverages it manufactures on its premises. The permit follows the same process as all retail licenses. The applicant must be approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission to get a farmer-pouring permit.

The certificate of occupancy for 30 Park Street is for a brewery with a maximum of 120 seats that was issued on June 4, 2014. The special conditions on the certificate indicate that the address is 30 Park Street/AKA 14 Tyler Street.

Aeronaut is open from 9 am to midnight, Monday through Friday, 2pm to 2am on Saturdays and 2pm to 8pm on Sundays. The business is licensed to operate between 9am and 12:30am all days of the week.

14 Tyler Street

At 14 Tyler Street the zoning uses are a restaurant, farmers market, and general industrial. The Tasting Counter is the name of the restaurant. The industrial businesses within the space are Somerville Chocolate, Something Gud and Barismo. These businesses have limited counter service for patrons to purchase food and drink and the area outside of these industrial spaces is considered the farmers market or Food Hub.

The certificates of occupancy for 14 Tyler Street include a restaurant (issued July 14, 2015), chocolate manufacturing and sales (issued June 26, 2014), coffee roaster manufacturing and sales (issued June 26, 2014) and food hub/tap room with a maximum of 120 person occupancy (issued June 4, 2014 and includes the 30 Park Street address).



Location of parking and approximate location of Aeronaut, Somerville Chocolate, Something Gud and Barismo

2. Proposal: The general industrial - brewery use at 30 Park Street for Aeronaut Brewery has since grown from the use identified when the certificate of occupancy was issued.

The use of the space expanded from the manufacturing and sampling of beer to also include another primary use of a drinking establishment because of the frequency and floor area devoted to the drinking of beer onsite. The Applicant and Owner received a letter from Inspectional Services stating the use of a bar, tavern, drinking establishment, nightclub, and entertainment facility that are all included in SZO §7.11.10.6.b requires a Special Permit with Site Plan Review in the IA zone. The area devoted to this use is less than 5,000 square feet and therefore requires a Special Permit and not a Special Permit with Site Plan Review as stated in the letter. The Applicant has applied for a Special Permit to establish this use.

The proposal also includes providing parking in separate lots at 30 Dane Street and sharing parking in this lot with other uses of the Ames Complex that have different peak times. There is an upper and lower deck to the parking garage. The entrance to the upper lot is from Dane Street and the entrance to the lower lot is from Tyler Street. There are 96 spaces in the upper lot and 45 spaces in the lower lot.

No signage is being proposed.

3. Green Building Practices: None listed on the application form.

4. Comments:

Fire Prevention:

- The Architect shall submit the life safety requirements for the proposed use and how the building meets these requirements or plans for meeting the requirements.
- The architect shall submit an address plan and door identification for each tenant space.

Inspectional Services:

- The Architect shall submit an IEBC analysis for all of the uses and floor area shown on page A-1 Plan of Uses Types and Seating Plan dated 2/9/16 including how the area fits into the overall building.
- In terms of the number of temporary food permits that will be allowed, it is the interpretation of ISD that food may be served as an accessory use limited to 25 percent of the gross floor area. ISD will request a floor plan showing the square footage and location within the principal use for the temporary food license applications.

Traffic & Parking: Traffic and Parking has reviewed the revised Transportation Study for Aeronaut Brewery. Provided the additional parking spaces required for the Aeronaut Brewery are provided by the Ames Business Complex, Traffic and Parking has no objections to the revised Transportation Study.

Ward Alderman: Alderman Heuston is aware of the proposal.

II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.6.b, 9.13.d & 9.13.e):

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."*

Uses

Aeronauts' space would be divided up into drinking establishment and general industrial use. The establishment of a 4,421 square foot Drinking Establishment requires a Special Permit under SZO §7.11.10.6.b.

Within the subject space at 14 Tyler Street and 30 Park Street the following uses would be present:

<i>Use</i>	<i>Section of the SZO</i>	<i>Size</i>
<i>30 Park Street</i>		
Drinking Establishment (Aeronaut)	§7.11.10.6.b	1800 sf
General Industrial (Aeronaut)	§7.11.14.b	2320 sf
<i>14 Tyler Street</i>		
Drinking Establishment (Aeronaut)	§7.11.10.6.b	2621 sf
General Industrial (Aeronaut)	§7.11.14.b	832 sf
General Industrial (Somerville Chocolate, Something Gud, Barismo)	§7.11.14.b	2,335 sf
Restaurant (Tasting Counter)	§7.11.10.1.a	1,116 sf
Common Access Way	-	717 sf
<i>Totals for all uses at 14 Tyler Street & 30 Park Street</i>		
Drinking Establishment	§7.11.10.6.b	4,421 sf
General Industrial	§7.11.14.b	5,487 sf
Restaurant (Tasting Counter)	§7.11.10.1.a	1,116 sf
Circulation, Toilet Rooms, Closet	-	1,052 sf

The general industrial use was the prior use of the space when used by Ames Envelop and therefore when Aeronaut, Somerville Chocolate, Something Gud and Barismo established themselves in the building there was not a change in use and a Special Permit was not required.

The Tasting Counter, which is a restaurant, is a by-right use up to 10,000 square feet in the Industrial-A zoning district and did not require a Special Permit to establish in this space.

Parking

A Special Permit is being sought for parking on a separate lot per §9.13.d. In any industrial district, required parking spaces may be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use served by the remote parking is a permitted use, provided that: 1) All such parking spaces are within 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. The off-site parking is within 500 feet and is owned by the same entity as Aeronaut's space.

A Special Permit is being sought for shared parking under §9.13.e. Where two or more activities or uses provide the required parking in a common parking facility, the number of parking spaces ordinarily required may be reduced below the sum of the spaces required for the separate activities or uses, if it can be demonstrated that the hours, days, or peak parking demand for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking facility, and that the location of the parking facility in relation to the uses proposed to be served by it is appropriate. A special permit authorizing such deviation from the normal standard shall only be granted upon the submission of calculated parking demand for combined land uses based on methodologies and indices of the Institute of Transportation Engineers, Urban Land Institute, or other recognized methodology approved in writing by the Director of Traffic and Parking.

The parking requirements for the uses in the subject space total 65. The breakdown of uses is in the table below. The number of required bicycle parking spaces is 7.

<i>Use</i>	<i>Specifications</i>	<i>Parking Requirement</i>	<i># of Required Parking Spaces</i>
Drinking Establishment	4,421 sf / 4 employees at peak / 240 seats	0.75 per employee + 1 per 4 seats for bar without a stage (floor plans show tables will occupy space where tables are located)	63
General Industrial	5,487 sf / 0 business vehicles	1 per 1,000 sf, plus 1 per business vehicle stored on-site	5
Restaurant	1,116 sf / 22 seats / 4 employees at peak	1 per 110 gsf	10
Total			78

The applicant submitted information on the other uses in the building and their parking requirements (see Appendix A). The other uses in the Ames Complex have parking requirements that total 156 parking spaces for uses that have peak hours during the day and 90 parking spaces for uses that have peak hours at night. Adding the subject property's parking requirement increases the number of spaces to 161 during the day and 163 at night.

	<i>Total Requirement Daytime Peak Use</i>	<i>Total Requirement Nighttime Peak Use</i>
Other uses in Ames	156	90
Drinking Establishment	-	63
General Industrial	5	-
Restaurant	-	10
Total	161	163

There are 141 parking spaces in the upper and lower parking lots that will be used by Aeronaut and some of the other businesses in the Ames Complex. With the exception of two parking spaces, the upper and lower lots are not marked for specific users, although tenants do rent a certain number of spaces for their businesses. There are an additional 46 parking spaces for the Complex in other small lots and alleys for a total number of parking spaces of 187. When considering shared parking for uses at have different peak

parking demand times, there are a sufficient number of parking spaces in the complex to meet the Zoning Ordinance requirement.

Permitting shared parking in these lots has been approved in the past. In 2012 the ZBA approved shared parking for the rock climbing gym at 10 Tyler Street/28 Park Street which is in the Ames Complex and its patrons use the same parking areas as Aeronaut mostly in the evening as noted in the table above. In that same year the ZBA approved 7 shared parking spaces in the parking areas for Demoulas Supermarket employees from 5-8pm on weekdays and all day on weekends. This parking agreement was valid for two years.

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.

In considering a Special Permit under §9.13.d. and 9.13.e of the SZO, Staff finds that the modifications to the parking standards to implement shared parking spaces on a separate lot would not be substantially more detrimental to the neighborhood than the existing parking layout. Parking demand and utilization data was submitted with the application materials for this project and both indicated that there will not be issues in these areas with regard to the proposed use. The parking demand indicates that less parking spaces than those required are needed. A survey of the patrons of Aeronaut on the evenings of January 29, 30, 31 and February 4 as they entered the establishment was conducted to determine the demand. The parking study states that almost half of the patrons reach the brewery on foot, bicycle or transit (47%). Almost one fifth arrived by taxi, Uber or Lyft (chauffeured vehicle). Only 18 percent of patrons brought cars, while the remaining patrons were passengers in those cars. At full capacity 42 parking spaces are required to meet the parking need. Parking demand varies greatly by time of day and week. Average occupancy based on sales data demonstrates that on most week nights and Saturdays the need is a total of 35 to 38 spaces. Aeronaut currently has 17 deeded night time spaces and will need another 21 spaces to meet normal peak period parking needs.

The parking study also includes utilization data that supports that there are spaces available in the lots. The parking lot during peak business days and hours on Friday, Saturday, and Sunday had a minimum of 47 parking spaces available.

The utilization data indicates that the proposed shared parking strategy for the uses at the complex will work due to the peak times of the Applicant's use which coincides with the peak parking availability in the complex's lots. The excess number of spaces in the upper and lower lots could easily absorb the surplus as the drinking establishment's peak time is opposite that of many of the other uses within the complex. Additionally, the Applicant provides 27 bicycle parking spaces and there are 160 bicycle parking spaces in the complex. Combined with the patrons' modes choices that the data shows this business attracts, the bike parking will encourage patrons of the business to bike to this location instead of driving.

The traffic data shows that given the facility does not open until 5PM it generates only 9 extra motor vehicle trips during afternoon peak hours. This is a little over 1 vehicle every 6 minutes, which is negligible considering the number of vehicles traveling in this urban location.

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 providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal is consistent with the purpose of the Industrial A district, which is, "[t]o establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like." The drinking establishment is tied to the industrial use of the brewery. A condition of approval will be that the establishment can only serve alcohol that is made on-site to hold this use to the purpose of the industrial district.

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 §9.1 which establishes standards ensuring the availability and safe use of parking areas within the City. The proposal is consistent with those purposes which are:

"To establish standards ensuring the availability and safe use of parking areas within the City of Somerville. It is intended that any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, be designed and operated to:

- a. *promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;*
- b. *increase the traffic-carrying capacity of streets and highways in the City and obtain a more efficient utilization of on-street curbside parking;*
- c. *reduce hazards to pedestrians;*
- d. *protect adjoining lots and the general public from nuisances and hazards such as:*
 - 1) *noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles,*
 - 2) *glare and heat from parking lots,*
 - 3) *lack of visual relief from expanses of paving,*
 - 4) *accelerated run-off of surface water from land covered by impervious materials;*
and
- e. *increase the number of locations bicycles can be safely secured in order to:*
 - 1) *promote bicycle use throughout the City as a means to reduce motor vehicle traffic congestion, and*
 - 2) *encourage more active lifestyles as a means to improve public health and welfare, and*
 - 3) *prevent theft and vandalism of bicycles."*

The traffic and parking data outlined in Finding 2 show that the proposal for shared parking in the upper and lower lots at the corner of Dane and Tyler Street is consistent with the standards in §9.1. The proposal will provide sufficient parking for the establishment, will not present a noticeable increase in traffic, cause hazards to pedestrians, increase nuisances and hazards that would be created by building more parking lots, and the facility provides bicycle parking.

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."*

Aeronaut is a successful, innovative, local business that is compatible with the types of businesses that are filling the Ames Complex.

Aeronaut has grown to become a drinking establishment and has been operating as such. There have been no noise complaints from neighbors. Since there are residential properties close by, a condition is proposed to restrict the operation from having outdoor operations.

The establishment has been using the City's temporary food license to provide food at the establishment. This license is intended to provide businesses with an opportunity to offer food at special events that are advertised to the public. The license was not intended to be sought with the frequency that Aeronaut has been using it. From the zoning perspective, providing food must not exceed the accessory definition or the primary use of the establishment would change. An accessory use per §2.2.3.a states that except for required parking and areas devoted exclusively to storage necessary to the operation of the principal use, the use shall not occupy more than 25% of the gross floor area. A condition of approval will require that a floor plan showing the square footage and location of where food will be served is submitted with the temporary food license application. The area will be limited to 25 percent of the gross floor area of the drinking establishment. Also, the frequency of providing food at the site will be limited.

The shared and off-site parking spaces as part of this proposal is consistent with the built and unbuilt surrounding area. The Applicant's proposed parking plan will take advantage of the existing parking lots provided by the Ames Complex, eliminating the need for the creation of any new parking areas or the construction of a parking garage in the neighborhood.

6. Vehicular and pedestrian circulation: *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 traffic flow and parking situation for the project are not anticipated to negatively impact the neighborhood. Both a parking study and the traffic generation for the use were submitted with the application materials for this project and both indicated that there will not be issues in these areas with regard to the proposed use. The parking study indicates that the proposed shared parking strategy for the uses at the complex will work due to the peak times of the Applicant's use which coincides with the peak parking availability in the complex's lots.

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

The 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 complies with the applicable goals, policies and actions of SomerVision. The local business found existing industrial space and is using underutilized parking spaces to continue to grow and flourish. The space will be partially a drinking establishment but it will remain connected to the manufacturing nature of the Ames Complex because the alcohol served is made on-site. Allowing independent businesses the space and opportunity to grow in Somerville is connected with many of the goals, policies and action in the Comprehensive Plan.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Commercial Sq. Ft.:</i>	12,000	12,000
<i>Estimated Employment:</i>	?	25

9. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

The proposal does not involve housing.

III. RECOMMENDATION**Special Permit under §7.11.10.6.b, 9.13.d & 9.13.e**

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 PERMITS**.

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 a 4,421 sf drinking establishment with shared parking at the upper and lower lots at Dane and Tyler Streets. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD / Plng.		
	Date (Stamp Date)				Submission
	Dec 23, 2015				Initial application submitted to the City Clerk's Office
	Feb 9, 2016				Modified plans submitted to OSPCD (A1 - Plan of Use Types and Seating)
	Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.				
2	Approval is for the drinking establishment use for the Applicant, TBD Brewing LLC. A future tenant of this space for the drinking establishment use would have to come back to the ZBA for special permit approval in order to operate in this location.	Cont.	Plng.		
3	The applicant shall apply for and be granted a building permit prior to applying for a Certificate of Occupancy for the Drinking Establishment use. As part of the building permit applicant, an IEBC analysis, including life safety and accessibility requirements, stamped by a registered architect, for all of the uses and floor area shown on page A-1 Plan of Uses Types and Seating Plan dated 2/9/16 shall be submitted including areas that are outside of the space that are required to meet all aspects of the building code.	Prior to establish Drinking Establishment	ISD / Police		
4	The entire area as shown on page A-1 Plan of Uses Types and Seating Plan dated 2/9/16 shall remain open for access if any of the businesses within this space are open.	Cont.	ISD / Police		

5	Prior to a Certificate of Occupancy being issued for the Drinking Establishment, patrons cannot bring alcohol from the 30 Park Street space to the 14 Tyler Street space.	Prior to establish Drinking Establishment	ISD / Police	
6	The alcohol served at the Drinking Establishment must be made onsite.	Cont.	ISD	
7	A stage is not permitted in the drinking establishment.	Cont.	ISD	
8	If there is live music in the drinking establishment it shall be limited to 25 % of the gross floor area of the drinking establishment. The frequency shall not exceed any restrictions on the entertainment license.	Cont.	ISD Health	
9	Temporary food permits will not be issued by the ISD Health Division for more than 6 events per year in this drinking establishment. The application for a temporary food permit shall include a floor plan showing the square footage and location of where food will be served. The area shall be limited to 25 % of the gross floor area of the drinking establishment.	Cont.	ISD Health	
10	A registered architect shall submit an address plan and door identification for each tenant space to Inspectional Services, Fire Prevention and Engineering for review and approval.	BP	Engineering	
11	The drinking establishment shall be limited to the space within the building. The use is not permitted to extend outdoors.	Cont.	ISD	
12	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
Traffic & Parking				
13	Applicant will supply at least 7 bicycle parking spaces, which can be satisfied with U-type bicycle racks.	CO	Plng.	
14	The Applicant shall secure at least 38 parking spaces in the upper and lower lots at the corner of Dane and Tyler Streets.	BP & CO for Drinking Establishment & Cont.	Plng.	
Miscellaneous				
15	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				

16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Signage				
18	If signage is posted it must comply with the SZO regulations and be submitted to Planning Staff for review and approval.	CO/Cont.	Plng.	
Final Sign-Off				
19	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.	

