



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2010-01
Date: February 17, 2010
Recommendation: Conditional Approval

PLANNING BOARD REPORT

Site: 44-48 Third Avenue

Applicant Name: APCA Third Avenue LLC, c/o Paradigm Properties

Applicant Address: 200 State Street, 3rd floor, Boston, MA 02109

Property Owner Name: APCA Third Avenue LLC

Property Owner Address: 20 Custom House Street, Suite 800, Boston, MA 02110

Agent Name: Michele Mulvaney, Wilmer Hale LLP

Alderman: Roche

Legal Notice: Applicant, and Owner, APCA Third Avenue LLC, seeks a Special Permit with Site Plan Review under SZO §7.11.11.10.b in order to establish an indoor parking/storage facility for federally confiscated vehicles.

Zoning District/Ward: Industrial A / 6

Zoning Approval Sought: Special Permit under SZO §7.11.11.10.b

Date of Application: 1/12/10

Date(s) of Public Meeting/Hearing: PB 2/4/10 - ZBA 2/17/10

Date of Decision: N/A

Vote: N/A

Dear ZBA members:

At its regular meeting on February 4, 2010 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0) with Kevin Prior and James Kirylo absent, to recommend **conditional approval** of the requested **Special Permit**.

In conducting its analysis, the Planning Board found:



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I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 121,539 s.f. lot in the Inner Belt area. On the property is a two-story industrial building containing 81,201 rentable square feet, consisting of a 28,408 n.s.f. office and a 52,793 n.s.f. warehouse. The property is adjacent to the rail tracks owned by the consolidated rail corporation and an MBTA maintenance facility. This property is one of two lots that the City is proposing for the location of a future Green Line maintenance facility.
2. Proposal: The applicant is proposing to convert approximately 15,120 n.s.f. of existing warehouse space into a parking/storage facility for used or seized vehicles by the General Services Administration/Drug Enforcement Agency. The proposed maximum number of vehicles in the facility at any time would be 42. There would be no auctions, sales, service or any other actions beyond storage of vehicles at the facility. The facility would be unmanned and approximately ten vehicles would be entering or leaving the facility per week. Access to the facility will be direct from Third Avenue onto the property and existing loading dock area. Pedestrians to the building would continue to enter from the front of the building on the west side of the structure.
3. Nature of Application: For structured motor vehicle parking larger than 5,000 g.s.f. where the parking spaces are not accessory to a principal use on the same lot and where no sales or service take place, the applicant is required to apply for a Special Permit with Site Plan Review (SPSR) under §7.11.11.10.b of the Somerville Zoning Ordinance (SZO) to establish the use.
4. Surrounding Neighborhood: The site is located within the Inner Belt industrial district and the surrounding area contains predominantly one and two story industrial structures and uses. This area also features a variety of rail lines which circle the Inner Belt area.
5. Green Building Practices: none indicated
6. Comments:

Fire Prevention: Comments are pending receipt of vehicle layout on floor. From discussions with Fire Prevention, access corridors, proper emergency access and other fire prevention measures will be required.

Comments from Aldermen: Ward Alderman Roche has been contacted and has not yet provided comments.

Traffic and Parking: Terry Smith has reviewed the proposal and has no concerns with the proposal.

II. Findings and Determinations for Special Permit with Site Plan Review

In considering the requested special permits with site plan review the Planning Board must consider and make findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in more detail.

1. Information Supplied: The Applicant must comply "with the information requirements in Section §5.2.3". The information provided by the Applicant allows for a comprehensive review of the proposed development and is in general compliance with the requirements set forth under §5.2.3 of the SZO. Additional information regarding drainage systems will be necessary before any building permits are issued.

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 site plan review". As conditioned the proposal will comply with these standards.
3. Purpose of the District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6". The project site is located within an Industrial A District. The IA zone seeks, "to 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 Board finds that the proposal is consistent with the purpose of the IA zone. A parking facility would be typical of an industrial use and compatible with the other industrial uses in the area.

4. Site and Area Compatibility: The Applicant has to ensure that the project "Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area."

Since the lot has previously been developed, prior natural features have been significantly altered. The site has most recently been used as a warehouse and office. The site and surrounding area are industrial in design and since there are no alterations proposed for the exterior, the building would remain in character with its surroundings. While the proposed use approval would be for a structured motor vehicle parking, conditions would be placed on this approval that the facility would not be available to the public for use as a commercial parking facility. Due to the proposed operation of the facility as a DEA vehicle storage lot, there would be a limited number of vehicles entering and leaving this facility and would therefore have minimal effect on the character of the surrounding area.

This site is one of two parcels that the Commonwealth needs for the future Green Line maintenance facility. The City and the applicant have reached a verbal agreement that if this site is chosen for the maintenance facility that they will vacate the building and that the special permit will become void. This will be a condition of approval in this report and a legal agreement shall be drafted as well.

5. Functional Design: The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."

Based upon the comments received from the various City Departments any necessary mitigation or minor design changes have been incorporated into the recommended conditions section of this report.

6. Impact on Public Systems: The project will "not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic."

It is not anticipated that this proposal will create any adverse impacts on the public services and facilities serving the development. However, the application for building permit will require review by DPW and any adverse impacts on public systems that may result from the development will need to be addressed.

7. Environmental Impacts: "The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception."

Because of the nature of the proposed use and the industrial nature of the area in which it is projected to be established, adverse environmental impacts are not anticipated. In addition, it is not expected that this facility will produce a level of emissions that would be higher than are now experienced in the area due to any increased traffic generated by the proposed use.

8. Consistency with Purposes: "Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including Purpose, Interpretation and Scope, and of Article 6, as already described, the Planning Board finds the proposal to be consistent with the purposes of the SZO.

9. Emergency Access: There is easy access to buildings, and the grounds adjoining them for operations by fire, police, medical and other emergency personnel and equipment.

Planning Staff, ISD and Fire Prevention have had discussions with the applicant regarding emergency access to the building. It is understood that the floor plans/parking layout for the 41 vehicles will be reviewed by the Fire Department prior to issuance of any building permit/CO.

III. RECOMMENDATION

Special Permit with Site Plan Review (SPSR) SZO §7.11.11.10.b

Based on the above findings, the Planning Board recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT with SITE PLAN REVIEW**.

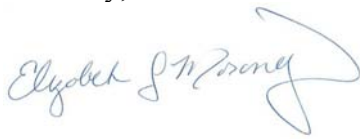
Although Planning Staff is recommending approval of the requested Special Permit with Site Plan Review, the following conditions should be added to the permits:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the establishment of a 15,120 s.f. structured motor vehicle parking facility for the General Services Administration/Drug Enforcement Agency. This facility shall not allow or become a revenue producing commercial parking facility for the general public. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its Agent:		Plng.	

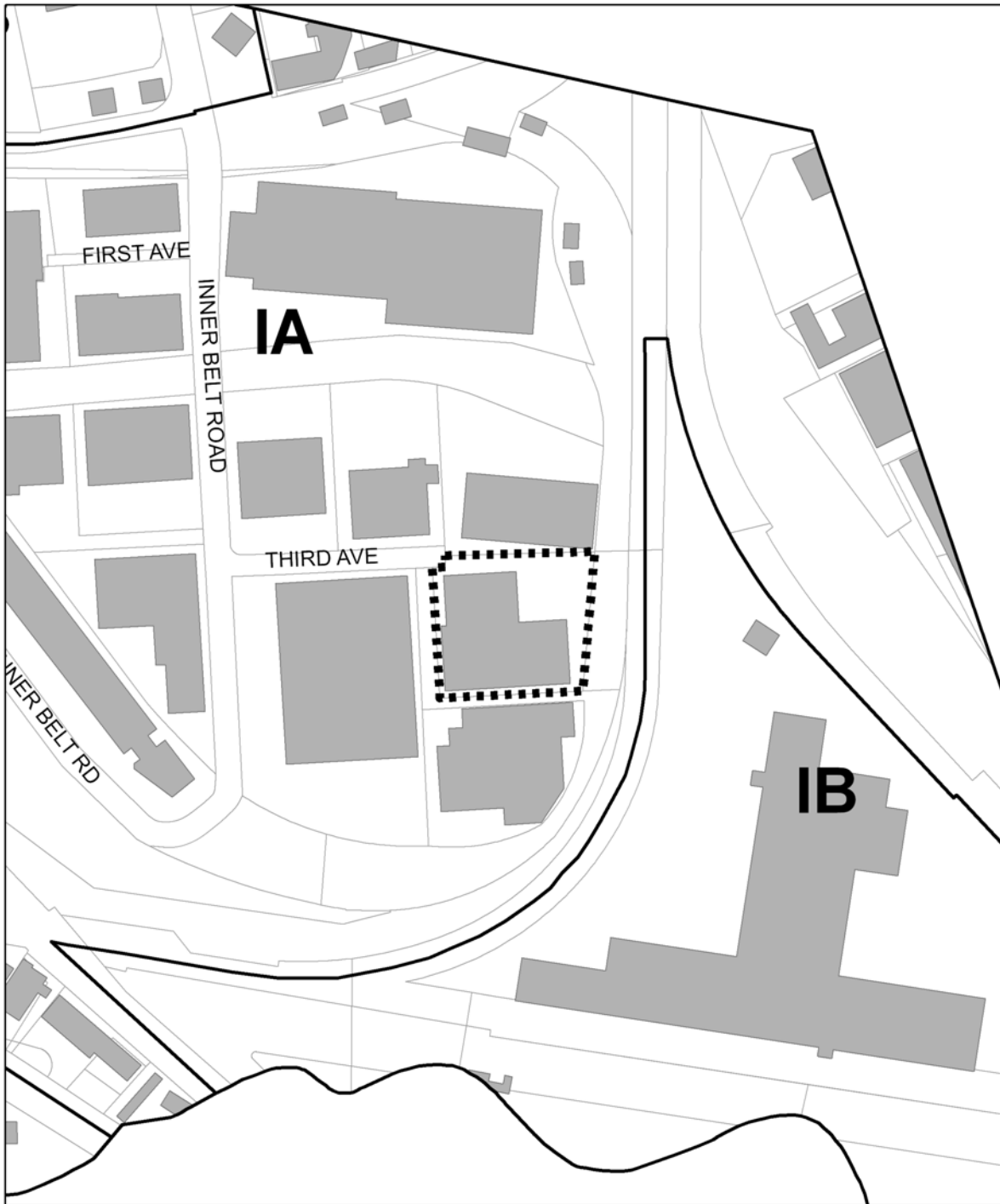
	Date (Stamp)	Submission			
	(1/12/10)	Initial application submitted to the City Clerks Office			
	5/30/08	Site Plan			
	2/4/10	Parking Plan			
	Any changes to the approved site plan that are not <i>de minimis</i> must receive ZBA approval.				
2	The tenant shall vacate the premises on the later to occur of a) the date that is 6 months after notice of lease termination, and b) the occurrence of the following two events: i) the filing of a notice of eminent domain taking by the Commonwealth of Massachusetts or another governmental agency or authority with the Registry of Deeds; and ii) written notice to Landlord and Tenant from the Commonwealth or such agency or authority that the Commonwealth or such agency or authority is ready to demolish the building.		Continuous	ISD/Plng	
3	The applicant shall put similar language from Condition #2 binding the tenant in any lease or tenancy agreement for the premises. A draft of the lease shall be submitted to Planning Staff prior to the issuance of a building permit and an executed copy of the lease shall be submitted to the Planning Staff prior to issuance of a Certificate of Occupancy.		BP/CO	ISD/Plng	
4	This special permit will terminate 6 months after the later to occur of i) the filing of a notice of eminent domain taking by the Commonwealth of Massachusetts or another governmental agency or authority with the Registry of Deeds; and ii) written notice to Landlord and Tenant from the Commonwealth or such agency or authority that the Commonwealth or such agency or authority is ready to demolish the building. An agreement between the parties to that effect shall be recorded with the Middlesex Registry of Deeds.		Agreement prior to CO	Legal /ISD /Plng	
5	No auctions or vehicle sales to individuals shall occur onsite.		Continuous	ISD	
6	The structure and internal vehicle layout shall meet all codes and any additional requirements set by Inspectional Services, Fire Prevention or any other City Department.		BP	ISD	
7	Parking of stored vehicles shall only be allowed within the structure.		Continuous	ISD	
8	Any signage shall be approved by Planning Staff.		Continuous	Plng	
9	Planning Staff may approve minor modifications made		BP	Plng	

	to the exterior of the structure that are required in response to Fire Prevention concerns. Elevations shall be required for Planning Staff approval if exterior modifications are proposed.			
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 was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng	

Sincerely,



Elizabeth Moroney
Acting Chair



44-48 THIRD AVENUE