



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**MAYOR**

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

**Case #: ZBA # 2011-39**  
**Site: 21 Third Avenue**  
**Date of Decision: June 8, 2011**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: June 16, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Inner Belt Industrial Center Realty Trust/Devens H. Hamlen Trustee
<b>Applicant Address:</b>	c/o Hamlen & Co., Inc., 54 Canal Street, Boston, MA 02144
<b>Property Owner Name:</b>	Inner Belt Industrial Center Realty Trust/Devens H. Hamlen Trustee
<b>Property Owner Address:</b>	c/o Hamlen & Co., Inc., 54 Canal Street, Boston, MA 02144
<b>Agent Name:</b>	Charles J. McKenzie, Esq.
<b>Agent Address:</b>	c/o Hamlen & Co., Inc., 54 Canal Street, Boston, MA 02144

<b><u>Legal Notice:</u></b>	Applicant and Owner, Inner Belt Industrial Center Realty Trust, Devens H. Hamlen Trustee, seeks a Special Permit with Site Plan Review per SZO Section 7.11.11.12.2.b to establish a bus and taxi rental, storage and servicing use greater than 5,000 square feet in an IA zoning district.
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<b><u>Zoning District/Ward:</u></b>	IA zone/Ward 1
<b><u>Zoning Approval Sought:</u></b>	§7.11.11.12.2.b
<b><u>Date of Application:</u></b>	May 11, 2011
<b><u>Date(s) of Public Hearing:</u></b>	June 8, 2011
<b><u>Date of Decision:</u></b>	June 8, 2011
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2011-39 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on June 8, 2011. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

The Applicant is proposing to make numerous upgrades to the existing building and some site upgrades in order to make the property ready to allow a “bus and taxi rental, storage and servicing” use (Somerville Zoning Ordinance (SZO) §7.11.11.12.2.b) to be situated at the site. In essence, PHCS will be relocating their operations from 121 Inner Belt Road to 21 Third Avenue. The use would include the operation, storage, and dispatch of buses and vans for PHCS, including some accessory vehicle repair and washing (not open to the public) on-site. The current fleet of approximately 75 vehicles is comprised of 34 shuttle buses and 41 vans that serve the transportation needs of PHCS facilities. The facility would be open Monday through Friday from 4:00 AM to midnight and Saturday from 8:00 AM to 7:00 PM. Approximately 119 drivers would be divided among several shifts throughout the day and will park their personal vehicles on-site while they are on shift. An additional 3-5 employees will be located within the building providing dispatch, administrative, and maintenance/cleaning services. The vehicles would leave between 4:45 AM and 8:00 AM on a staggered basis and the vehicles would return between 3:30 PM and 9:00 PM.

**FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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.”

In considering a special permit under §7.11.11.12.2.b of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

3. Purpose of 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 proposal is consistent with the purpose of the district, 6.1.8. IA - Industrial Districts which is, “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.”

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s 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 the buildings are compatible with those prevalent in the surrounding area”.

The proposed use would be compatible with the surrounding commercial and industrial uses. The changes to the exterior of the building would include the repair of the wall on the east elevation where the canopy was removed, the replacing of three doors and frames that are rusted, the painting of all eight exterior personal doors and the overhead doors, replacing corroded roof ducts, priming and painting all window security grilles, and replacing the roof covering the office area. The site changes would include the repair of all paved surfaces at the site, seal coating and repairing the parking lot and driveways, the removal of skids and all drums, and the replacing of the fencing and barbed wire on the north side of the property.

The Board feels that this project can coexist with an improved Inner Belt area, but the hope is that the use will transition at some point in the future. In the long-term, the Green Line extension project, along with the potential future “Urban Ring” bus rapid transit route and the expansion of the Community Path will offer new opportunities to improve access and potentially transform the area into a dynamic transit oriented community. The ongoing Inner Belt Planning Study will create a clear vision for the area together with appropriate land use policies



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and targeted public investment to help to reduce barriers in the area, improve roadway connections, and increase the area's economic viability.

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

The site would meet standards for a functional design. The parking spaces will be reorganized to allow for storage of all vehicles inside, at the rear, and on the east side of the building. There will still be ample room on both sides of the building for vehicles to enter and exit the site and to maneuver to the rear of the property.

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."

The renovated structure will not have an adverse impact on the public services and facilities serving the development. The proposed bus and taxi rental, storage and servicing use is likely similar to that of the existing office, yard and storage facilities use in terms of vehicular and pedestrian trips to the site. There are already public utilities serving the subject property and there will be no need to increase their capacity to serve the new use. The Applicant stated that the property has a proper oil, gas, and water separator servicing the garage which will capture any material from entering the public sewer/storm drain system. The separator was inspected and approved by the Massachusetts Water Resources Authority in 2005-2006. Furthermore, the Applicant also indicated that various upgrades to the building's electrical and plumbing supply are aimed to improve service, safety and energy conservation. The Applicant submitted a work list and improvement memo for the site laying out these items which includes replacing the broken natural gas fired heaters with new ones, replacing corroded roof ducts, replacing air filters, insulating domestic hot and cold water piping, and testing the floor drains serving the vehicle storage bays to ensure that they are clear and in fact lead to the exterior interceptor.

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."

The proposed use of the site is consistent with industrial uses that are already occurring in the surrounding area. The Applicant stated that the property has a proper oil, gas, and water separator servicing the garage which will capture any material from entering the public sewer/storm drain system. Excessive noise, level of illumination, glare, dust, smoke, and vibration are not anticipated to be higher than levels now emitted.

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."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving "the value of land and buildings; to adequately protect the natural environment; and to encourage the most appropriate use of land throughout the City."

9. Preservation of Landform and Open Space: The Applicant has to ensure that "the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood."



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There is currently minimal landscaping on the site, along the lines of 4.56 percent of the total lot area. Most of this landscaping is concentrated along Third Avenue at the front of the site. The Applicant is not proposing to make any additions or reductions with regard to the amount of landscaping at the site.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The existing building will be reused and the Applicant is proposing no external changes to the existing structure with regard to height, form, or scale. The only alterations to the existing structure the Applicant is proposing are replacements, upgrades, and repairs of existing features of the building. These would include the repair of the wall on the east elevation where the canopy was removed, the replacing of three doors and frames that are rusted, the painting of all eight exterior personal doors and the overhead doors, replacing corroded roof ducts, priming and painting all window security grilles, and replacing the roof covering the office area.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”

The Applicant is not proposing to make any changes with regard to site surface drainage or the removal of surface water. The property contains a grease/oil trap as well as a proper oil, gas, and water separator servicing the garage which will capture any material from entering the public sewer/storm drain system. No adverse stormwater drainage impacts are anticipated from the proposal.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

The existing structure is not of historical significance and the proposed renovations to the structure and the site improvements will not be a detriment to the surrounding neighborhood.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The Applicant is proposing to make numerous upgrades to the existing structure and the on-site conditions which will help to improve the property. The changes to the exterior of the building would include the



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repair of the wall on the east elevation where the canopy was removed, the replacing of three doors and frames that are rusted, the painting of all eight exterior personal doors and the overhead doors, replacing corroded roof ducts, priming and painting all window security grilles, and replacing the roof covering the office area. The site changes would include the repair of all paved surfaces at the site, seal coating and repairing the parking lot and driveways, the removal of skids and all drums, and replacing the fencing and barbed wire on the north side of the property.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

Lighting at the site is currently adequate with ten exterior light poles at the site. However, the Board has included a condition that, 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 or the night sky.

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

There is sufficient access for emergency vehicles from paved areas on all four sides of the building of the building. The Board has not received any comments or concerns from Fire Prevention at this time.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

PHCS will be relocating their facilities from 121 Inner Belt Road to 21 Third Avenue. Third Avenue and Inner Belt Drive are located within the same business park. The vehicles (buses and vans) of PHCS will be housed inside the existing building and/or the securely fenced yard of 21 Third Avenue. The submitted Traffic Memorandum clearly demonstrates that the change of location will not only have no adverse impact in the business park, but will render an improvement for this neighborhood in terms of reduced vehicle miles traveled. Traffic and Parking concurs with this analysis. Traffic and Parking has no objection to this application. The site has two curb cuts and access points for vehicles along Third Avenue. These two access points could both be used to reach the rear area of the property where the majority of the PHCS vehicles will be stored.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

The Applicant is not proposing to install any new utilities at the subject property.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

There is currently minimal landscaping on the site, along the lines of 4.56 percent of the total lot area. Most of this landscaping is concentrated along Third Avenue at the front of the site. The Applicant is not proposing to make any additions or reductions with regard to the amount of landscaping at the site. The proposed use will not include machinery which emits heat, vapor, light or fumes in excess of what is already occurring in the area. Excessive noise, level of illumination, glare, dust, smoke, and vibration are not anticipated to be higher than levels now emitted and will be typical of the other industrial uses currently in the neighborhood.

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”



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The sign design for the building was not submitted as part of this application. Any proposed sign must comply with the SZO regulations.

20. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

The site plan does not contain a dumpster or transformer. The Board included conditions to require these utilities to be screened if they are located outside the building and has included conditions pertaining to these items.

21. Screening of Parking: Vehicles parked on the site will either be located inside the existing structure, behind the existing structure, or on the east side of the building according to the proposed parking plan. The existing building, along with the close proximity of the structures on the lots to either side of the subject property, will act to shield these vehicles from the Third Avenue right-of-way. Additionally, the rear of the property backs up onto the railroad right-of-way and this portion of the rail tracks are elevated by a large berm. This berm would block all views of the rear parking area from the north.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is to establish a bus and taxi rental, storage and servicing use greater than 5,000 square feet in an IA zoning district. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(May 11, 2011)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>December 21, 2004 (May 19, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>June 2, 2011 (June 2, 2011)</td> <td>Partners Bus Facility Parking Plan</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or use that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(May 11, 2011)	Initial application submitted to the City Clerk’s Office	December 21, 2004 (May 19, 2011)	Plot Plan	June 2, 2011 (June 2, 2011)	Partners Bus Facility Parking Plan	CO / BP	Plng.	
Date (Stamp Date)	Submission											
(May 11, 2011)	Initial application submitted to the City Clerk’s Office											
December 21, 2004 (May 19, 2011)	Plot Plan											
June 2, 2011 (June 2, 2011)	Partners Bus Facility Parking Plan											
2	The property shall get final approval for fire protection systems.	CO	FP									



3	The Applicant shall complete the 36 items listed in the Landlord Work List and Improvement Memorandum that was submitted to Planning Staff with a stamp date of May 31, 2011.	CO	Plng.	
4	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 or the night sky.	CO	Plng.	
5	Any transformers should be located as not to impact the landscaped area and shall be fully screened. Transformer screening shall be indicated on an updated site plan or landscape plan and submitted to Planning Staff for review and approval.	CO	Plng.	
6	If a dumpster is required and it is to be located outside of the existing structure, the Applicant will screen the dumpster with fencing or landscaping that blocks any view of the dumpster itself. Dumpster screening shall be indicated on an updated site plan or landscape plan and submitted to Planning Staff for review and approval.	CO	Plng.	
7	The Applicant shall use either 'inverted-u' or 'post and ring' style bicycle racks in the secured bicycle parking area.	CO	Plng.	
8	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	
9	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.	
10	Traffic exiting from the site shall not travel through the residential neighborhood. Vehicles shall use Washington Street to Cambridge Street to I-93 or Washington Street to McGrath Highway but not travel into the neighborhood.	Cont.	ISD	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_



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