



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

PLANNING DIVISION

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Case #: ZBA # 2011-73
Site: 373 Highland Avenue
Date of Decision: October 19, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 25, 2011

ZBA DECISION

Applicant Name:	Zipcar, Inc.
Applicant Address:	18 Tremont Street, Suite 605, Boston, MA 02108
Property Owner Name:	Highland Commons Realty Trust
Property Owner Address:	P.O. Box 281, Somerville, MA 02143
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Zipcar, Inc. and Owner, Highland Commons Realty Trust, seek a Special Permit in order to establish a total of 7 parking spaces for car-sharing or flex-car spaces (SZO §7.11.11.14.b). The number of parking spaces will not be reduced below the required number for the residential use on the site with the allowed reduction in spaces for proximity to rapid transit (§9.6.3).

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.11.14.b & §9.6.3
<u>Date of Application:</u>	September 19, 2011
<u>Date(s) of Public Hearing:</u>	October 19, 2011
<u>Date of Decision:</u>	October 19, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-73 was opened before the Zoning Board of Appeals at Somerville City Hall on October 19, 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 proposal is to increase the number of car-share parking spaces on the site from 3 to a total of 7. The car-share spaces currently occupy space numbers 1, 2, 3 on the site plan, which are at grade. The 7 car-share spaces will occupy space numbers 1, 2, 3, 4, 5, 6 and 7, which are all at grade and adjacent to each other.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

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 Board 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 application complies with the standards for issuing a special permit. Section 9.3 allows for off-street parking spaces to be converted from their current use to car-sharing spaces. Section 9.6.3 allows for a 20% reduction in the number of parking spaces for uses within 1,000 feet of rapid transit. This site is approximately 950 feet from the Davis Square Red Line Station via the Community Path. The resulting requirement is 71 parking spaces for the residential building, leaving 19 spaces as non-required parking spaces. The utilization data of spaces on the site shows that there are 14 parking spaces are not currently used by residents. Therefore, the seven requested car-sharing spaces would not utilize required or currently utilized parking spaces for the residences.

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 car-share spaces are also compatible with the purpose of the Central Business district where many different users will have access to the vehicles, which will provide more transportation options to businesses and residents.

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."

The spaces are set back from Highland Avenue and are located behind a gas station's parking area. They will be visible from Highland Avenue and the Community Path but will not abut either right of way. Car-share spaces are a compatible use in a Central Business District where many types of users will be able to access the cars in a location where parking can be in high demand in certain situations. Staff find that the car-share spaces would have minimal affects on the physical character of the area and the spaces hold the potential to reduce car ownership and the need for parking in the neighborhood.

5. Adverse 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 car-share spaces should have a positive impact on the environment. Zipcar data shows that car-sharing services



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reduce the need for single-owner vehicles and therefore reduce traffic congestion in the streets and increase the transportation amenities of the municipality.

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 car-share spaces will not change the circulation pattern at the site because they are existing parking spaces. The spaces are the most easily accessible spaces from Highland Avenue.

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	Approval is to establish 7 car-share spaces on-site in spaces indicated 1-7 on the site plan. 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>Sept 19, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Apr 16, 1998 (Oct 13, 2011)</td> <td>Plans submitted to OSPCD (Site Plan, Interior Layout of Floors 1-3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Sept 19, 2011	Initial application submitted to the City Clerk's Office	Apr 16, 1998 (Oct 13, 2011)	Plans submitted to OSPCD (Site Plan, Interior Layout of Floors 1-3)
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Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
2	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.							



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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