



**Boston Air Pollution Control Commission
Public Hearing Minutes: October 26, 2005
Room 801 from 2:00 pm – 5:00 pm**

Commissioners present: Thomas Tinlin (BTD/ Chair), Jalal Ghaemghani (BPHC), Martin Nee, Bart Mitchell, Virginia Tisei. Staff represented by Carl Spector, Laura Bickel.

Decisions taken

SOUTH BOSTON PARKING FREEZE APPLICATIONS:

344 Congress Street: Request for four (4) South Boston Parking Freeze Bank spaces. Represented by Raoul Vincent, Boston Sparks Association on behalf of Boston Fire Museum.

The representative requested four (4) additional parking spaces to be located on Farnsworth Street across from the Boston Fire Museum. There are already four (4) permitted parking spaces (APCC ID # 13.00) along the Boston Fire Museum which are used by Boston Fire Museum patrons and Boston Sparks Association members to use on Saturdays, evenings and by appointment.

The Boston Fire Museum is listed as a tourist destination on the Seaport TMA's "Access Seaport" map. Farnsworth Street is a private way, owned and maintained by Berkeley Investments, which supports the Boston Fire Museum's application for largely off-peak parking on their private way. The Boston Sparks Association, which runs the museum, has also made substantial efforts to protect the private ways they own from illegal parking in violation of the South Boston Parking Freeze.

Motion to approve: Motion -- Comm. Tisei, 2nd -- Comm. Mitchell, vote unanimous.

253 Summer Street/ Necco Court: Request for nineteen (19) South Boston Parking Freeze Bank spaces. Represented by Matt Kiefer, Goulston & Storrs; Douglas Mitchell, Beacon Capital Partners; and Bill Musto, Beacon Capital Partners.

The representatives requested nineteen (19) additional parking spaces. There are currently twenty-four (24) surface spaces inventoried for the property (APCC ID # 14.27b – f and 14.40), which have been displaced by the construction of a new section of Harborwalk. The surface spaces will be located along one side of Necco Court and the representatives would like to add three more surface spaces. The remaining spaces requested will be constructed as a sixteen-space sub-grade parking garage. The building at 253 Summer Street is an office building with a small ground-floor retail unit. The parking garage would be one level. The entrance and exit to the parking garage and surface spaces would be from Necco Court, which connects with Necco Street. All parking spaces would be used exclusively by office tenants during peak hours, with the exception of six spaces which may be used by Harborwalk patrons during off-peak hours. The representatives also requested relief from the 20% off-peak set-aside.

The building is located immediately along the Fort Point Channel and is well-served by transit during peak hours. The representatives do not have a transportation or traffic plan in place for the building, but they have similar plans for all of their buildings and intend to develop a plan here.

The section of Harborwalk that crosses the property is not currently accessible to all potential users, and patrons currently have to go around the building, a distance of approximately 250 to 300 feet. While the representatives are willing to create a new sidewalk at an ADA-approved width of 5 feet along Necco Court, there is not currently a sidewalk there. Also, Necco Street and Melcher Street are not under the representatives' care and control, and some coordination with other parties would be required to complete such a sidewalk.

The following draft special permit conditions were reviewed:

1. Having the representatives consult with the City of Boston's Office of Civil Rights for one calendar year from the date of issuance of this permit to develop a long-term plan for making the section of Harborwalk on this property accessible to all potential users. This long-term plan shall involve the development of a design that meets the standards of the Americans with Disabilities Act. This permit shall not be renewed until such a design is successfully completed.
2. Development of a travel demand management (TDM) plan for the building at 253 Summer Street/ Necco Court within thirty (30) days of the issuance of this permit.
3. Meeting the APCC guidelines on structured parking facilities.

Motion to approve a permit including the special conditions: Motion -- Comm. Nee, 2nd -- Comm. Tisei, vote unanimous.

DOWNTOWN PARKING FREEZE APPLICATIONS :

40 Cross Street: Request for forty-six (46) Downtown Freeze Bank spaces. Represented by Joseph Ruocco on behalf of himself and Joseph Pace, J & A Realty Trust. (No APCC Map#)

Representative requested a continuance on this application to continue conferring with the Boston Transportation Department (BTD), the Boston Redevelopment Authority (BRA) and various other city departments on a plan for the property.

Motion to approve a continuance: Motion -- Comm. Mitchell, 2nd -- Comm. Tisei, vote unanimous.

100 Clarendon Street/ John Hancock Garage: Request to modify the terms of an existing Downtown Parking Freeze Permit and exemption. Represented by Matt Kiefer, Goulston & Storrs; Douglas Mitchell, Beacon Capital Partners; and Bill Musto, Beacon Capital Partners.

The representatives requested several modifications to the terms of their existing permit and exemption (APCC Map# 242A, 242B). The garage is located on air rights over the Massachusetts Turnpike. The garage was acquired in March 2003 along with three other buildings formerly owned by John Hancock Life Insurance Company. The representatives have made substantial capital investments in structural, practical and cosmetic improvements to the garage, including making it safer and more pedestrian- and user-friendly. The original 1,437-space exemption was granted by the APCC in 1985 for John Hancock employees, but the company has been sold and the employees are being consolidated and relocated. These transitions have resulted in excess capacity within the 2,013-space parking garage, and the representatives seek to modify their permit and exemption to restore the garage to capacity. The representatives did not seek a change to the overall allocations between exempt spaces and Freeze

Bank spaces. The existing permit and exemption require the employee and public parking spaces to be allocated on a floor-by-floor basis and maintain separate points of access. The representatives suggest that technology improvements can ensure accuracy of parking space allocations without floor-by-floor allocations and allow all users the benefit of access to the garage via both “drums” on Clarendon Street and Trinity Place. Also, the representatives have been approached by area businesses and residents who are interested in having access to these spaces. They would like to expand their exemption to include additional users such as: employees of area businesses, construction workers from area projects, and area residents. This would comply with existing zoning requirements and the requirements of the Planned Development Area (PDA). Additionally, the representatives would like to make 55 of the 576 Freeze Bank spaces available to a rental car company for vehicles, and 10 Freeze Bank spaces available to a car-share service.

The staff informed the Commission that comment letters from the City of Boston Environment Department regularly state that travel demand management (TDM) of construction workers for area development projects is the responsibility of the developer, who should not rely on area parking facilities. Also, the staff supported making parking spaces available to area residents on a full- or restricted-access basis, but encouraged the representatives to work with the BTM on the terms of such an arrangement and provide parking for area residents during snow emergencies. Other facilities with excess capacity have been required to prove reasonable efforts to market spaces to qualifying employees—efforts which have been unsuccessful—before an exemption is expanded to include other employees. Until such proof was presented, the staff would not support an expansion of qualifying exempt employees. When such expansions have been granted, they have been for a limited number of spaces. Also, rate structures have been imposed to favor short-term and off-peak users, promote trip reduction and not encourage additional single-occupant peak-hour trips. The staff wanted to know about TDM measures, existing and proposed, such as weather-protected bike racks, carpool spaces, vanpool spaces and car-share spaces. Finally, the staff supported the presence of rental car spaces, as it would replace public parking spaces and reduce the number of trips to Logan airport for rental cars.

The representatives withdrew their request to make exempt spaces available to construction workers, consented to working with the BTM on making spaces available to area residents and requested the opportunity to supply evidence of their marketing efforts to date. They estimate that the average weekday occupancy is currently slightly less than 900 employee spaces, and would seek to make approximately 500 spaces available to area businesses.

The following draft special permit conditions were reviewed:

1. Elimination of the floor-by-floor allocation of employee and Bank spaces, as long as appropriate technology or methods are employed to ensure that the facility remains in compliance;
2. Of the 576 Bank spaces, 55 spaces shall be made available to a rental car company at 200 Clarendon Street and 10 spaces shall be made available to a car-share service;
3. Up to 1,437 exempt spaces may be made available to employees of 197 Clarendon Street, 200 Clarendon Street and 200 Berkeley Street;
4. Limited expansion of the exemption to include employees of area businesses for up to 500 spaces, after acceptable evidence is supplied to the APCC and subject to conditions;

5. Working with the BTB on the terms of an agreement to make parking spaces available to area residents, at which time, the permit shall incorporate by reference the terms of the agreement;
6. The permittee may provide access to employee and public parking spaces from Clarendon Street and Trinity Place, and utilize both parking garage “drums” if CO monitors with a direct-read meter and visual and audible alarms are installed.
7. Travel demand management (TDM) measures in place at 100 Clarendon Street shall include provisions for: weather-protected bicycle racks; free spaces for carpool, vanpool and high-occupancy vehicles (HOVs); free parking for area residents during a snow emergency and until two hours after a snow emergency has officially ended; and
8. Provisions for the garage to meet APCC guidelines on structured parking.

Motion to approve a permit including the special conditions: Motion -- Comm. Tinlin, 2nd -- Comm. Tisei, vote unanimous. Commissioner Mitchell abstained from the vote.

600 – 620 Albany Street (BioSquare Phase II): Request for 1,400-space exemption from the Downtown Parking Freeze. Represented by James Greene, Rubin & Rudman; Jane Howard, Howard/Stein-Hudson; Andrew Getz, Caymen Design; and Dick Walsh, R.F. Walsh

The representatives requested a 1,400-space exemption for a parking garage that is included in the second campus of the BioSquare development, known as BioSquare Phase II. It is part of a Master Development Plan for a medical research facility, Boston University and Boston Medical Center. If Massachusetts Highway Department approves it, the facility will have highway access via Albany Street. The garage will use transponders to limit parking to employees only.

Concerns were expressed about the representatives’ ability to restrict parking to employees, patients and visitors of the BioSquare facility and exclude the general public. The representatives made various responses. First, BioSquare Phase II will convert existing employee surface parking lots into a consolidated garage, and parking is already in high demand among employees which provides no incentive for the operator to make it available to the general public. Rate structures have been and will be imposed to favor short-term and off-peak users, promote trip reduction and not encourage additional single-occupant peak-hour trips. For example, the fee for visitor/patron parking in the first garage has risen from \$10/day to \$30/day. In terms of TDM measures, these facilities are founding members of the local TMA (TranSComm) which was the first TMA in Boston. Transit pass subsidies and shuttles will continue and bike racks with locker rooms and showers are provided. Also, the net increase of parking spaces for both BioSquare phases from pre-development conditions is 200 spaces. The facility is designed as an open-ventilation, above-grade parking facility with panic buttons. The APCC would like to see signage indicating that the facility is not available for public parking.

A representative of the Boston Flower Exchange, an abutter to the property, did not object to the application. He stated his support of an application that requests only one access point to the development area, which he believes will not impact the Boston Flower Exchange.

The following draft special permit conditions were reviewed:

1. Incorporation by reference of the BioSquare Phase II project’s Transportation Access Plan Agreement (TAPA);

2. Employment of appropriate methods and/or technology to ensure the facility remains in compliance with the terms of this permit, as determined by the APCC;
3. A rate structure that favors short-term and “off-peak” users;
4. Preserving the existing travel demand management (TDM) measures in place;
5. Preserving the elements of the garage that meet the APCC Guidelines on Structured Parking and posting signage warning the public that the facility is not for public parking.

Motion to approve a permit including the special conditions: Motion -- Comm. Nee, 2nd -- Comm. Mitchell, vote unanimous.

One Nassau Street (The Metropolitan): Request to modify the terms of an existing Downtown Parking Freeze exemption. Represented by Karen Fish-Will, Peabody Properties; Daniel Hart, Parcel C; and Bernadette Kenny, Peabody Properties.

The representatives sought to modify the terms of their existing exemption (APCC Map # 204). The existing 2-level 283-space garage was constructed underneath a 23-level mixed-use, mixed-income tower in Chinatown owned by Parcel C, LLC. The garage, which is 100% valet-operated and also contains vehicle stacker devices, was permitted in 2002 and construction was completed in early 2004. Of the 283 spaces, 185 spaces are residential (The Metropolitan, Oak Terrace and valid Chinatown/South Cove sticker-holders) and 98 spaces are exempt for Tufts New England Medical Center employees. Today, the garage has excess capacity of 80 to 100 spaces, and area businesses have approached the owners about permission to park within the garage. The representatives are also currently negotiating the amendment of their TAPA to broaden the exemption for up to 25 of their 98 exempt non-residential spaces to include area businesses.

The building is located in Chinatown where there is a shortage of non-residential parking, both on-street and off-street. The representatives have begun working with the BTM on amending their TAPA to provide for up to 25 spaces of its 98 spaces to be used by area businesses. They have satisfied the BTM that they have made reasonable efforts to market the spaces to qualifying employees—efforts which have been unsuccessful—and the garage has excess capacity.

Three representatives of Chinatown businesses testified in support of the application.

The following draft special permit conditions were reviewed:

1. Making up to 25 of the 98 exempt spaces available to area businesses, as provided in the property’s TAPA.
2. Imposing a rate structure on the exempt spaces that favors short-term and “off-peak” users.
3. Making the excess residential parking spaces available to holders of valid Resident parking stickers for Chinatown/South Cove, Leather District, Back Bay, and South End, as provided in the property’s TAPA.
4. Preserving the existing travel demand management (TDM) measures in place.

5. Preserving the elements of the garage that meet the APCC Guidelines on Structured Parking.

Motion to approve a permit including the special conditions: Motion – Comm. Tisei, 2nd -- Comm. Nee, vote unanimous.

210 Columbus Avenue (Columbus Center): Request to modify the terms of an existing Downtown Parking Freeze Permit for 45 Bank spaces and add 10 Bank spaces, as well as to request an exemption for 862 spaces, for a total of 917 parking spaces. Represented by Christopher Fleming, WDC Associates; Adam Huntley, Goulston & Storrs; Jane Howard, Howard/ Stein-Hudson; and Ruth-Ann Swenson, Columbus Center Associates.

The representatives sought to modify the terms of their existing Parking Freeze Permit for 45 Bank spaces and add 10 Bank spaces (APCC Map # 101). The project will contain three garages among its four parcels, which total approximately seven acres, largely located on air rights over the Massachusetts Turnpike. It has been the subject of extensive design review and public process with the BRA and the BTDA. The 186-space Parcel 16 garage will be 100% valet-operated and exclusively for the use of project residents and hotel guests, with access from Clarendon Street. The 98-space Parcel 17 garage will be 100% valet-operated and exclusively for the use of project residents, with access from Columbus Avenue. The 633-space Parcel 18 garage will contain 55 Bank spaces for commercial parking and 578 exempt spaces, with access from Berkeley Street and Arlington Street. The 633 spaces in the Parcel 18 garage will be distributed in the following way: 479 spaces will be for residents of the project and qualified residents, 10 spaces will be for use by shared car services and the local fire station; 15 spaces will be used for daycare drop-off/pick-up; 74 spaces will be for the use of hotel guests from Parcel 16; and 55 spaces will be used for commercial parking to restore pre-construction conditions. Among the 479 residential spaces in the Parcel 18 garage, 100 monthly spaces will be for holders of valid South End Resident Parking stickers, and the balance of spaces will be for residents of the project. Also, residents of the project will not be able to seek new South End Resident Parking stickers so that the project will satisfy its own need for parking as well as the needs of the neighborhood.

The total 917 parking spaces will be used during both “peak” and “off-peak” hours. The project is primarily residential but the Columbus Center project has committed in four individual TAPAs to various TDM measures. This will be the first project in Boston to provide each new household within the project with free monthly transit passes for the first year. Additionally, improvements will be made to the adjacent MBTA station, monthly transit passes will be made available on-site to the employees of the project, and daily and weekly transit passes will be made available on-site to hotel guests. All of the other TDM measures typically recommended by the APCC will be put in place. For example, the project will: join the local TMA; designate transportation coordinators at each site; provide secure, weather-protected bicycle storage as well as shared bike services to the hotel; and the parking will be offered at market-rate. The project will also pay continuous attention to TDM measures. Additionally, the project will be realigning and improving the adjacent streets, sidewalks and crosswalks and installing traffic signals and PTZ cameras.

Construction will begin in early 2006 with the construction of decks for each parcel over the Turnpike. The decks will take one year, and the timeline for construction of all parcels and buildings is approximately three years. The garages on Parcel 16 and 17 will be mechanically ventilated and the garage on Parcel 18 will be naturally ventilated. On advice from the APCC, the

project will ensure that negative pressure exists at all sites to protect the occupied areas of the building, and especially the daycare, from carbon monoxide.

The following draft special conditions were reviewed:

1. Making only up to 862 exempt spaces available to residents, hotel patrons, visitors and guests of the project, as provided in the property's TAPA.
2. Making only up to 55 Freeze Bank spaces available to the general public for a fee, as provided in the property's TAPA.
3. Making the 186 exempt spaces in the Parcel 16 garage available to 160 residents and 26 hotel guests.
4. Making the 98 exempt spaces in the Parcel 17 garage available exclusively to residents.
5. Using the 578 exempt spaces and 55 Freeze Bank spaces in the Parcel 18 garage in the following manner, as provided in the property's TAPA:
 - a. 479 spaces for project residents and qualified residents;
 - b. 25 spaces for shared car services, the local fire station, and daycare drop-off/pick-up;
 - c. 74 spaces for the hotel on Parcel 16; and
 - d. 55 spaces for commercial parking.
6. Employing appropriate methods and/or technology to ensure the facility remains in compliance with the terms of this permit. "Appropriate" methods and/or technology shall be as determined by the APCC and must be capable of calculating the number of Freeze Bank and exempt spaces in use at any time.
7. Imposing a rate structure for non-residential parking spaces that favors short-term and "off-peak" users.
8. Preserving the proposed travel demand management (TDM) measures agreed upon with the BTM.
9. Preserving the proposed elements of each garage which meet the APCC Guidelines on Structured Parking.

Representatives of the Boston Redevelopment Authority and the Boston Transportation Department testified in support of the application, and stated that 126 public meetings had been held over three and a half years to review various aspects of the project. Additionally, the BRA has been working with the Albert A. Pope Condominium and the local CDC to reach agreement on all outstanding issues presented by the project.

A representative from Tent City Board of Directors testified against the application, asserting that traffic impacts had been woefully underestimated by the project, and that the project was unlikely to follow through on its traffic mitigation and TDM commitments.

A private citizen testified that she was concerned about the effects of increasing air pollution on the surrounding area and that the project would contribute to air pollution.

Representatives from 75 Clarendon Street Condominium and Albert A. Pope Condominium submitted letters, dated October 26, 2005, testifying against the application. The Chair entered these letters into the hearing record. The Chair also directed the APCC staff to review the recommendations in these letters and investigate any past and future compliance issues involving this property. Among the specific concerns contained in the Pope Condominium letter were the plans for a garage and a loading dock entrance and exit, a narrow public way adjacent to the Pope Condominium building.

The representatives responded that air quality studies had been submitted as a part of the project's MEPA review. They also believed that the residents of the project were less likely to contribute to local traffic and air pollution during peak hours because of the project's proximity to transit and the provision of free transit passes to residents for the first year. The peak hour traffic generators contained within the project will most likely be the grocery store and the daycare. Also, discussions have been held to amend the design and relocate the garage and loading dock entrance and exit to Clarendon Street to mitigate the impact on the Pope building and the representatives are optimistic about the direction of those discussions.

Motion to approve a permit including the special conditions: Motion -- Comm. Tisei, 2nd -- Comm. Mitchell, vote unanimous.

131 Dartmouth Street: Request for 100 Bank spaces, and to modify the terms of an existing Downtown Parking Freeze exemption for 730 spaces converting 100 spaces to commercial public parking. Represented by Robert Prendergast, Heritage Realty; John Young, Heritage Realty; and James Greene, Rubin & Rudman.

The representatives sought to modify the terms of their existing 730-space employee exemption (APCC Map # 278A, 278B). The existing 730-space garage was constructed underneath a 350,000 SF office space with some ground-floor retail space in the Back Bay area of Downtown. The APCC granted the garage an exemption to the Downtown Parking Freeze in 1998, and construction was completed in early 1999. All 730 spaces are designated for non-residential employee parking. Prior to 1998, the facility was a 4-level, 491-space stand-alone parking garage used by New England Financial (NEF) employees. In 1998, the garage was demolished and replaced by the 131 Dartmouth Street project, consisting of 353,000 SF of office space and 4,000 SF of retail space. The proponents requested a 150-space increase in their 491-space exemption for the project's accompanying 730-space garage, continued use of 90 spaces during off-peak hours for valet parking serving local restaurants and hotels, and that a portion of spaces be made available for holders of South End Resident Parking stickers. No parking spaces were to be made available to the general public for a fee. Also, various TDM measures were to continue.

In 1999, NEF requested confirmation that up to 491 parking spaces at 131 Dartmouth Street (spaces that pre-date the 1999 exemption) could be used by NEF employees working at locations other than 131 Dartmouth Street, including 501 Boylston Street and 287 Dartmouth Street, even if NEF neither owned nor occupied office space at 131 Dartmouth Street. The APCC agreed. In 2002, NEF requested confirmation that up to 491 spaces at 131 Dartmouth Street could be used by employees working at 131 Dartmouth Street, 501 Boylston Street and 287 Columbus Avenue, even if NEF no longer owned or occupied any of those properties. The APCC agreed.

Today, the building and garage at 131 Dartmouth Street are approximately 50 percent occupied. The representatives sought to convert 100 exempt employee spaces in 100 commercial public parking spaces. Their request was for 100 Freeze Bank spaces. In conjunction with the request,

the representatives of 131 Dartmouth Street are willing to undertake various TDM measures and make additional spaces available to residents. They have been working with the BTB and the Ellis Neighborhood Association to amend their TAPA and accommodate these goals.

The following draft special conditions were reviewed:

1. Making up to 100 of the 730 exempt spaces available to the general public for a fee, as provided in the property's TAPA. The need for these spaces would be reviewed annually.
2. Imposing a rate structure that favors short-term and "off-peak" users.
3. Making up to 50 full-access (24-hour) and 250 restricted-access (overnight) parking spaces available to holders of valid South End Resident parking stickers, as will be provided in the property's TAPA.
4. Preserving and expanding TDM measures such as:
 - a. Parking spaces provided free of charge to carpool and vanpool vehicles;
 - b. Secure, weather-protected bike racks;
 - c. Membership in the local TMA;
 - d. Discounted and/or preferential parking spaces available to car-share services or HOVs; and
 - e. Showers, changing rooms and lockers for bicycle riders and walkers.
5. Preserving elements of the APCC Guidelines on Structured Parking, including:
 - a. CO monitors;
 - b. Exhaust fans with variable drive speed motors;
 - c. "No Idling" signage;
 - d. Panic buttons; and
 - e. Pedestrian warning systems.

A representative of the Boston Redevelopment Authority testified in support of the application. Also, the BRA has worked with the Ellis Neighborhood Association to reach agreement on outstanding traffic issues posed by the application, the garage and the neighborhood.

A representative from Tent City Board of Directors testified against the application, asserting that the project had not been following through on TDM commitments in its TAPA. He cited the absence of: bicycle racks; 50% subsidized MBTA passes for employees; appropriate traffic signage; free parking for vanpool; and a kiosk to sell MBTA passes to the public. He also asserted that delivery vehicles are often double-parked in front of this building, which contributes to the serious traffic issues that exist on Dartmouth Street.

The Chair directed APCC and BTB staff to: review the TAPA for compliance; investigate the traffic and TDM concerns mentioned on-site; and improve the signage and traffic situation on Dartmouth Street.

Motion to approve a permit including the special conditions: Motion – Comm. Tisei 2nd -- Comm. Nee, vote unanimous.