

Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
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TOWN OF SCITUATE

Decision of the Scituate Zoning Board of Appeals on the Request of Stockbridge II Realty Trust to amend the Comprehensive Permit for the project located off Stockbridge Road, which was granted on February 10, 2003, and has been granted a number of modifications since. The current request for modification was received May 9, 2016. After a number of continuances, a public hearing was duly held on July 21, 2016 with the following members of the Zoning Board of Appeals hearing the request:

Sara J. Trezise, Chair
John Hallin
Edward C. Tibbetts
Francis M. Lynch
Anthony Bucchere

The applicant seeks certain changes to the Comprehensive Permit related to the impending sale of the project to a new entity.

After due consideration, including review of the requests by various town departments, including the Fire Department, the Department of Public Works, the Building Department, Conservation and the Planning Board, the Board found that the requests were insubstantial. Pursuant to the applicable regulations and by virtue of the foregoing finding, the Comprehensive Permit is hereby modified as follows:

FIRST CHANGE: Replace certain terms in original condition #7:

EXISTING CONDITION:

7. The Applicant shall not receive any building permit until the Applicant has executed and delivered a Regulatory Agreement in the form approved by the subsidizing agency, Massachusetts Housing Financing Agency (Mass Housing) and/or Massachusetts Department of Housing and Community Development.

NEW CONDITION:

7. The Applicant shall not receive any occupancy permit for any unit in the project until the Applicant has executed the delivered a Regulatory Agreement as approved by subsidizing agency, Massachusetts Housing Financing Agency (Mass Housing) and/or the Massachusetts Department of Housing and Community Development.

SECOND CHANGE: Replace the second sentence of Condition 14 with a new sentence:

EXISTING CONDITION:

14. All affordable rental units shall remain affordable in accordance with the rules and regulations of the subsidizing agency relating to low and moderate income rental units. Applicant shall not receive a building permit until a copy of the Regulatory Agreement has been provided to the Board.

NEW CONDITION:

14. All affordable rental units shall remain affordable in accordance with the rules and regulations of the subsidizing agency relating to low and moderate income rental units. The Applicant shall not receive an occupancy permit until a copy of the approved Regulatory Agreement has been provided to the Board.

THIRD CHANGE: Replace the third sentence of Condition 9 with the following sentence:

EXISTING CONDITION:

9. All lighting for the Project shall be installed and maintained in such a way that lights shall be shielded and directed so as to avoid the direct emission of light onto nearby residential properties. No exterior lighting shall be located higher than an elevation of twenty feet from ground level. A lighting plan shall be submitted to the Building Inspector for his approval prior to issuance of any building permit.

NEW CONDITION:

9. All lighting for the Project shall be installed and maintained in such a way that lights shall be shielded and directed so as to avoid the direct emission of light onto nearby residential properties. No exterior lighting shall be located higher than an elevation of twenty feet from ground level. A lighting plan shall be submitted to the Building Inspector for his approval prior to the issuance of any occupancy permit.

FOURTH CHANGE: Replace the second through fourth sentences of Condition 11.

EXISTING CONDITION:

11. All utility work which is to be located in or adjacent to a public way or which will be maintained by the Town shall be performed and conducted in conformance with regulations of the Town. All such work shall be performed in accordance with current engineering and construction standards. All construction shall be done to best management standards. Final design of storm water management system shall comply with Department of Environmental Protection Storm Water Management Regulations and shall be reviewed and approved as complying with said Storm Water Management Regulations by the Board's consulting engineer at Applicant's expense.

NEW CONDITION:

11. All utility work which is to be located in or adjacent to a public way or which will be maintained by the Town shall be performed and conducted in conformance with regulations of the Town. All such site and stormwater management work shall be performed in accordance with the approved site plans dated May 5, 2015 which were approved by the Board on May 21, 2015 and all building construction shall be performed in accordance with the most current version of the Massachusetts State Building Code in effect at the issuance of the building permit.

FIFTH CHANGE: Replace Condition 26 with the following sentence:

EXISTING CONDITION:

26. This comprehensive permit shall issue to Stockbridge II Realty Trust or to Stockbridge Woods, LLC, an entity to be formed to take title to the project and construct it.

NEW CONDITION:

26. This comprehensive permit shall issue to Stockbridge II Realty Trust but may be transferred as a part of the conveyance of the property without further written approval of the Board to Scituate Stockbridge Woods, LLC, an entity which the Board has approved as a successor and/or assign.

SIXTH CHANGE: Replace Condition 28 with the following:

EXISTING CONDITION:

28. The entire Project shall be constructed in two phases. In each phase, all infrastructure (utilities, roads, drainage, etc.) to service the Property shall be constructed as shown on the final development plans prior to the construction of any building in that phase, with the exception that the roadway need only be completed to binder course prior to the issuance of a building permit.

NEW CONDITION:

28. The Project may be constructed in Phases in accordance with the Phasing Plan proposed as an Addendum hereto. (See Phasing Narrative and Phasing Diagram dated June 13, 2016, attached hereto and expressly made a part of this decision.) In each phase, prior to the issuance of any occupancy permit in such development phase, the infrastructure, including utilities, roadways, drainage shall be completed in accordance with the approved plans to allow safe access and egress to and from the proposed buildings and units in a like manner to that required with dwelling units in a conventional subdivision. The roadway shall be deemed sufficiently completed in each phase when the binder coat of asphalt is completed with drainage and utilities installed.

SEVENTH CHANGE: Replace last sentence of Condition 45 with the following sentence:

EXISTING CONDITION:

45. Within 60 days of completion of the Project, the Applicant shall submit to the ZBA a written request for As-Built approval accompanied by two sets of As-Built Plans for all infrastructure improvements and, if applicable, proof of compliance with the permits and/or conditions of the DPW and Fire Department. As-Built approval shall not be considered complete until the As-Built vote of the ZBA and all surviving conditions have been filed at the Plymouth Registry of Deeds and/or Land Court. Proof of the filing of As-Built approval shall be provided to the ZBA prior to the issuance of any temporary or permanent Certificate of Occupancy by the Building Department.

NEW CONDITION:

45. Within 60 days of completion of the Project, the Applicant shall submit to the ZBA a written request for As-Built approval accompanied by two sets of As-Built Plans for all infrastructure improvements and, if applicable, proof of compliance with the permits and/or conditions of the DPW and Fire Department. As-Built approval shall not be considered complete until the As-Built vote of the ZBA and all surviving conditions have been filed at the Plymouth Registry of Deeds and/or Land Court. The Applicant shall submit foundation as-built plans or interim as-built plans for each building prior to

the issuance of any occupancy permit in each building housing any apartment units.

EIGHTH CONDITION: In addition to the above, the Applicant has agreed to the following new condition.

“The applicant shall provide a surety bond in an amount to be determined by the Board's peer review engineer to ensure the completion of the project infrastructure in each phase. The amount of bond shall be determined in each phase on a phase by phase basis. The posting of a surety bond shall enable the Building Department to issue occupancy permits for units in each phase prior to the completion of each phase. The applicant also agrees to execute any and all necessary easements or other documents which may be required to ensure completion of the infrastructure in each phase.”

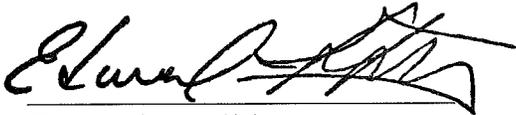
ZONING BOARD OF APPEALS



Sara J. Trezise, Chair



John Hallin



Edward C. Tibbetts

Filed with the Town Clerk and the Town Planning Board on Sept. 16, 2016.