



**FINDINGS AND DECISION ON REQUEST FOR AMENDMENT TO
COMPREHENSIVE PERMIT PURSUANT TO G.L. c. 40B**

PERMITTEE: Stockbridge II Realty Trust

PROPERTY: 96-100 Stockbridge Road; Assessor's Map and Parcels 054-2-28; 54-2-28A (the Property).

I. PROCEDURAL HISTORY AND JURISDICTIONAL FINDINGS.

1. A decision granting a comprehensive permit for Stockbridge II Realty Trust (SRT) was issued by the Scituate Zoning Board of Appeals (the Board) on February 10, 2003.
2. In January of 2006, the applicant requested an extension of the comprehensive permit. This was essentially a modification of condition number 19, which provided that the permit would expire in three years if construction was not completed.
3. On May 16, 2007, the applicant requested a number of changes to the permit, resulting from the approval of a superseding order of conditions for the project under the Wetlands Protection Act, including a reduction of units from 69 to 68 and various plan changes.
4. On April 30, 2008, the applicant requested additional modifications, including changing the approved multi-unit building into two separate buildings; amend condition number 19 to extend the permit to three years from the date of the approval of the modifications; amend condition number 32 to specify two condominium buildings and to revise the last sentence to provide: "The foundation and underground utilities for at least one Condominium Building shall be complete prior to the single family homes being completed"; add a new condition number 61: "Designate Dakota Partners, Inc. or its designee as the new Permittee upon its purchase of the project property. SRT and Dakota Partners, Inc. shall jointly notify the ZBA of the purchase and shall submit proof of the conveyance and that Dakota Partners, Inc. or its designee is a qualified entity within 48 hours of such event."
5. All of the above modifications were approved by the Board by virtue of the Board's determinations that the modifications were not substantial, and further, extended the permit to three years from the date of approval. On or about June 20, 2008, the Board issued a decision incorporating the described modifications.

6. On October 29, 2008, the applicant submitted a request for a further modification of the comprehensive permit. The applicant requested the following modifications:
 - A. Allow the two multi-family buildings to be rental property, without any change to the site design, number or styles of units.
 - B. Allow the re-allocation of four of the affordable units from the single-family homes to the multi-family buildings, giving the latter 16 affordable units.
 - C. Amend Condition 12 of the permit as follows: "A minimum of 25% of the units within the Project shall be low or moderate income as defined in M.G.L. c. 40B and the regulations promulgated thereunder (herein the "affordable units"). Two single family homes and 16 multifamily rental units shall be designated as affordable. The affordable units shall be randomly placed throughout the site and/or multifamily buildings and shall be indistinguishable from the market rate units."
 - D. Amend Condition 13 of the Permit to require that the two affordable unit, to be constructed within the single family component of the project, are constructed on a schedule that provides for the construction of at least one affordable unit for every eight market rate dwellings constructed.
 - E. Delete Condition 15 of the Permit.
 - F. Amend Conditions 12, 32, 36, 41 and 44 by deleting "condominium building" and inserting "multifamily building".
6. On November 6, 2008, the Board voted at a duly posted meeting to find that the proposed modifications were substantial under 760 CMR 56.05(11), thereby requiring a public hearing.
7. The Board then duly published notice of a public hearing to be held on the proposed modification. The public hearing was opened on December 1, 2008, and continued with the consent of the applicant to January 15, 2009, March 19, 2009, and April 16, 2009, at which time the Board voted to close the public hearing. On April 16, 2009, the Board voted two in favor and one opposed to grant the requested modification, with certain conditions and limitations as outlined herein.
8. On May 4, 2009, the Board issued a decision approving the requested modifications, with certain conditions and limitations, as set forth therein.
9. By way of letter dated May 6, 2011, the applicant requested a further extension of the comprehensive permit. As explained in this letter, the permit was most recently amended on May 4, 2009. However, this amendment does not address an expiration date. The previous amendment, dated June 20, 2008, extends the Permit to three (3) years from the date of the approval of the modifications. Thus, the expiration date of the permit is June 20, 2011.

10. On May 18, 2011, the Board voted unanimously at a duly posted meeting to extend the permit expiration date to June 20, 2014.

II. FINDINGS

During the May 18, 2011 hearing, the Board recognized that under 760 CMR 56.05(12)(c), it may extend the expiration date of a Comprehensive Permit, which provides, in part:

The Board or the Committee may set a later date for lapse of the permit, and it may extend any such date. An extension may not be unreasonably denied or denied due to other Projects built or approved in the interim. Extension of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4).

The Board also recognized during the May 18, 2011 hearing that, as also set forth in 760 CMR 56.05(12)(c), extension of a permit, by itself, does not constitute a substantial change pursuant to 760 CMR 56.07(4).

As the applicant seeks no other amendments to the permit other than extension of the expiration date, the Board finds that the applicant's request does not constitute a substantial change.

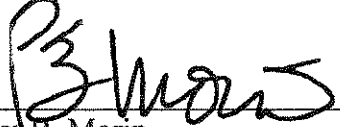
III. DECISION

Upon motion, duly seconded, the Board unanimously voted to approve the requested permit extension, with the following conditions and limitations:

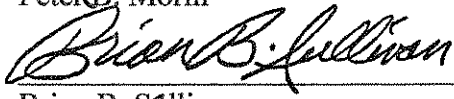
1. The expiration date of the comprehensive permit shall be extended to June 20, 2014.
2. The comprehensive permit may be transferred to a person or entity other than the applicant, upon written confirmation from the Subsidizing Agency that the transferee meets the requirements of 760 CMR 56.04(1)(a) and (b), and upon written notice to the Board. Transfer of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4).
3. Except as explicitly modified by this decision or previous modifications approved by this Board, the Decision of the Board and all conditions therein remains in full force and effect.

Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by G.L. c. 40A §17.


SCITUATE ZONING BOARD OF APPEALS



Peter B. Morin



Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: June 14, 2011