

Doc #7848 19

BOARD APPROVED

MEMORANDUM

NOVEMBER 14, 2019

TO: **BOSTON REDEVELOPMENT AUTHORITY**
D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY (BPDA)*
AND BRIAN P. GOLDEN, DIRECTOR

FROM: JONATHAN GREELEY, DIRECTOR OF DEVELOPMENT REVIEW
MICHAEL CHRISTOPHER, DEPUTY DIRECTOR FOR DEVELOPMENT
REVIEW/GOVERNMENT AFFAIRS
AISLING KERR, PROJECT MANAGER

SUBJECT: 21 – 35 WEST SECOND STREET, SOUTH BOSTON
DEMONSTRATION PROJECT PLAN

SUMMARY: This Memorandum requests that the Boston Redevelopment Authority (“BRA”) d/b/a Boston Planning & Development Agency (“BPDA”) take the following actions related to the 21 – 35 West Second Street project, located in South Boston: (1) adopt a Demonstration Project Plan under M.G.L. c. 121B, Section 46(f), as amended, for the acquisition and disposition as described herein of certain air rights in West Second Street (the “Taking Areas”) located adjacent to Zero Athens, LLC’s proposed six-story mixed-use building at 21 – 35 West Second Street (a/k/a 0 Athens Street) in South Boston (the “Project”); (2) adopt certain findings relating to the Demonstration Project Plan; (3) authorize the Director to co-petition the Public Improvement Commission of the City of Boston (“PIC”) for the discontinuance of the Taking Areas; (4) adopt an Order of Taking (“Taking”); and (5) authorize the Director to execute a deed conveying the Taking Areas to Zero Athens, LLC and to execute any and all other documents deemed necessary or appropriate in connection with such conveyance, which the Director in his sole discretion deems appropriate and necessary, and upon terms and conditions determined to be in the best interest of the BPDA.

* Effective October 20, 2016, the BRA commenced doing business as BPDA.

PROJECT SITE AND PROJECT

The site of the Project (the "Project Site") is an approximately 10,183 square foot triangular surface parking lot located at the intersection of West Second Street and Athens Street near Dorchester Avenue in the West Broadway neighborhood of South Boston.

The Project consists of the construction of a six (6)-story building totaling approximately 49,928 square feet of gross floor area, and containing approximately fifty-five (55) residential rental units, approximately 2,600 square feet of ground-floor retail space, and two (2) on-site parking spaces to support a building-managed car share service for residents (the "Project"). The Project's car share parking and loading area will be entered and exited via Athens Street.

BACKGROUND

The Project was approved by the BPDA on January 17, 2019 and approved by the City of Boston Zoning Board of Appeal ("ZBA") on February 26th, 2019. The Project will result in a number of public benefits to the South Boston neighborhood and the City of Boston as a whole, including: the creation of fifty-five (55) new residential units, including seven (7) Inclusionary Development Policy ("IDP") units and a partial unit IDP contribution of Forty-Five Thousand Dollars (\$45,000) to the IDP Special Revenue Fund; the creation of over 1,600 square feet of outdoor seating, public space, street lighting, and streetscape improvements; the allocation of up to Fifteen Thousand Dollars (\$15,000) for the study, design, and creation of up to twelve (12) new on-street parking spaces for visitor and/or South Boston resident parking along West Second Street and Athens Street; and a Twenty Thousand Dollar (\$20,000) contribution to transportation improvements in the vicinity of the Project Site, as suggested in the PLAN South Boston Dorchester Avenue and to be implemented by the BPDA and Boston Transportation Department ("BTD").

TAKING

Successful completion of the Project, including the design of the building as approved by design review staff of the BPDA, requires that Zero Athens, LLC (the "Applicant") acquire air rights in West Second Street ("Taking Areas"). Accordingly, in connection with the undertaking of the Project, a Demonstration Project Plan must be adopted pursuant to G.L. c. 121B, Section 46(f), as amended. Implementation of the Demonstration Project Plan will require the BPDA to: (i) co-petition the PIC to

obtain the discontinuance of the Taking Areas, (ii) take by eminent domain the Taking Areas, and (iii) transfer the Taking Areas to the Applicant.

The BPDA has received a Demonstration Project Application from the Applicant. If the BPDA does not facilitate the acquisition and discontinuance of the Taking Areas through the adoption and implementation of the Demonstration Project Plan, the successful completion and operation of the Project would be significantly and adversely affected. The Applicant requests that the BPDA approve the Demonstration Project Plan in accordance with the provisions of M.G.L. c. 121B, Section 46(f), as amended, including approving the taking and subsequent conveyance of the Taking Areas to the Applicant, and authorize the Director to co-petition the PIC for the discontinuance of the Taking Areas.

RECOMMENDATION

It is recommended that the BPDA: (1) adopt a Demonstration Project Plan under M.G.L. c. 121B, Section 46(f), as amended, for the acquisition and disposition as described herein of certain air rights in the Taking Areas located adjacent to the Applicant's proposed six-story mixed-use building at the Project; (2) adopt certain findings relating to the Demonstration Project Plan; (3) authorize the Director to co-petition the PIC for the discontinuance of the Taking Areas; (4) adopt an Order of Taking; and (5) authorize the Director to execute a deed conveying the Taking Areas to the Applicant and to execute any and all other documents deemed necessary or appropriate in connection with such conveyance, which the Director in his sole discretion deems appropriate and necessary, and upon terms and conditions determined to be in the best interest of the BPDA.

Appropriate votes follow:

VOTED: That the Boston Redevelopment Authority ("BRA") hereby finds and declares as follows: (a) in order to prevent urban blight by the undertaking of the proposed 21 - 35 West Second Street project (the "Project"), it is in the public interest of both the BRA and the City of Boston to assist Zero Athens, LLC (the "Applicant") in the acquisition of air rights in West Second Street; (b) that in accordance with the Massachusetts General Laws Chapter 30, Section 61, a finding and/or determination is hereby made that the Project will not result in significant damage to the environment and further, that with the implementation of mitigation measures, that all practicable and

feasible means and measures will have been taken to avoid or minimize potential damage to the environment; (c) the undertaking of the Project by the Applicant requires the assistance of the BRA; and (d) based on (a), (b) and (c) above, the Project constitutes a "Demonstration Project" under Massachusetts General Laws Chapter 121B, section 46(f), as amended;

**FURTHER
VOTED:**

That the Boston Redevelopment Authority ("BRA") hereby adopts the following "Demonstration Project Plan" in connection with the Project: the BRA shall acquire title to air rights in West Second Street, located at 21 - 35 West Second Street (the "Taking Areas") and convey the Taking Areas to Zero Athens, LLC (the "Applicant"). The Director is hereby authorized on behalf of the BRA to execute such instruments or agreements with the Applicant and other entities, to effectuate the foregoing Demonstration Project Plan pursuant to Massachusetts General Laws Chapter 121B, section 46(f), as amended, and the BRA's role in the Project. The terms and conditions of all instruments and agreements shall be at the sole discretion of the Director;

**FURTHER
VOTED:**

That the Boston Redevelopment Authority ("BRA") hereby adopts the Resolution entitled, "BE IT RESOLVED by the Boston Redevelopment Authority that an ORDER OF TAKING, dated November 14th, 2019, relating to portions of West Second Street in Boston, Suffolk County, Commonwealth of Massachusetts, be executed and made a permanent part of these proceedings, a copy of which the Secretary shall cause to be recorded in the Office of the Registry of Deeds for the County of Suffolk";

**FURTHER
VOTED:**

That the Boston Redevelopment Authority ("BRA") authorize the co-petition to the City of Boston Public Improvements Commission ("PIC") for the discontinuance of air rights in West Second Street, located at 21 - 35 West Second Street ("Taking Areas") executed by the Director; and

**FURTHER
VOTED:**

That the Director be, and hereby is, authorized to execute a deed and any and all other documents deemed necessary and appropriate by the Director in connection with the Project in connection with the transfer of the Taking Areas to Zero Athens, LLC.

McDERMOTT
QUILTY &
MILLER LLP

28 STATE STREET, SUITE 802
BOSTON, MA 02109

VIA HAND DELIVERY & ELECTRONIC MAIL (aisling.kerr@boston.gov)

October 31, 2019

Brian P. Golden, Director
Boston Redevelopment Authority
Boston City Hall, 9th Floor
One City Hall Square
Boston, MA 02201-1007
Attn: Aisling Kerr, Project Manager

**Re: Vertical Discontinuance above Four (4) Portions of West Second Street, South
Boston: Application for Adoption of a Demonstration Project under M.G.L. c.121B,
§46(f), as amended**

Dear Director Golden:

This letter is submitted to the Boston Redevelopment Authority (the "Authority") as an application on behalf of Zero Athens, LLC (the "Applicant"), a Delaware limited liability company, with an address of 527 Albany Street, Suite 100, Boston, Massachusetts 02118, requesting: (i) the adoption by the Authority of a Demonstration Project Plan under M.G.L. c. 121B, §46(f), as amended, for the acquisition and disposition as described herein of certain public air rights (the "Taking Areas") located adjacent to the Applicant's proposed new six (6) story mixed-use building at 21-35 West Second Street in the lower end section of South Boston (the "Project"); (ii) the Authority's authorization to permit the Director of the Authority to petition the Public Improvement Commission of the City of Boston ("PIC") for the vertical discontinuance of the Taking Areas; (iii) the approval of Orders of Taking for the acquisition by the Authority of the Taking Areas; and (iv) the Authority's authorization to permit the Director of the Authority to subsequently convey the Taking Areas to the Applicant or its nominee, including, without limitation, by executing a deed and any and all other documents deemed necessary or appropriate in connection with such conveyance (such requests (i)-(iv), collectively, the "Plan"). See enclosed Plan hereto.

Project Site and Project

The site of the Project is an approximately 10,183 square-foot triangular-shaped parcel of land located at 21-35 West Second Street in the lower end section of South Boston, and the adjacent sidewalk on West Second Street (collectively, the "Project Site"). The Project Site is

bounded to the north by West Second Street, to the south by Athens Street, to the west by the convergence of West Second Street and Athens Street and to the east by the abutting 41 West Second Street parcel.

The Project consists of the construction of a new six (6) story mixed-use building of approximately 49,928 square feet of gross floor area with 55 residential units, approximately 2,327 square feet of ground-floor retail/commercial space, and an innovative building-managed car share service for residents with two (2) on-site parking spaces, in an appropriately-designed building with related improvements in site design, open space and pedestrian access.

The Project was approved by the Authority on January 17, 2019, and approved by the Zoning Board of Appeal on February 26, 2019. The Project will result in a number of public benefits to the South Boston neighborhood and the City of Boston as a whole, including replacing and transforming a private surface parking lot into a transit oriented mixed-use development with much-needed high-quality housing of which seven (7) will be affordable in accordance with the City's Inclusionary Development Policy ("IDP") (in addition to a partial unit IDP contribution of \$45,000 to the IDP Special Revenue Fund), along with related improvements in site, landscaping and pedestrian and vehicular access; contribution by the Applicant of \$20,000 to support transportation improvements in the Project Site vicinity, as suggested in the PLAN South Boston Dorchester Avenue, for implementation by the Authority and the Boston Transportation Department; introducing new neighborhood residents who will provide support to the local community and utilize local businesses; including a project scope and scale that is intended to further the residential policy goals of Boston Mayor Martin J. Walsh's 2030 Housing Plan; providing over 1,600 square feet of additional outdoor seating, public space, street lighting and associated streetscape improvements contributing to the beauty and safety of the neighborhood; encouraging alternative modes of transportation through the use of bicycling, walking, and public transportation due to the walkable proximity of the MBTA Broadway Redline Subway Station; generating hundreds of thousands of dollars in new property tax revenue annually to the City, as well as providing new revenues related to the retail space; and, estimating the creation of approximately 70 new temporary construction jobs and 15 permanent jobs as a result of the Proposed Project.

Successful completion of the Project, including the design of the building as approved by design review staff of the Authority, requires that the Applicant acquire rights in the Taking Areas by virtue of the requested Taking, and the subsequent conveyance of the Taking Areas to the Applicant or its nominee. In connection therewith, the Applicant or its nominee also intends with the Authority to co-petition PIC to obtain the vertical discontinuance of the Taking Areas. If the Authority does not facilitate the acquisition and discontinuance of the Taking Areas through the adoption and implementation of the Plan, the successful completion and operation of the Project would be significantly and adversely affected. Accordingly, the Applicant requests that the Authority approve this Plan as a demonstration project in accordance with the provisions of M.G.L. c. 121B, Section 46(f), as amended, including approving the Taking and subsequent conveyance of the Taking Areas to the Applicant or its nominee, and authorizing the Director to petition the PIC for the vertical discontinuance of the Taking Areas.

Taking Areas Description

The Taking Areas consist of:

VERTICAL DISCONTINUANCE "A"

A CERTAIN PORTION OF WEST SECOND STREET TO BE DISCONTINUED, SITUATED IN THE CITY OF BOSTON, SUFFOLK COUNTY, COMMONWEALTH OF MASSACHUSETTS, BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EASTERLY SIDELINE OF ATHENS STREET AND THE SOUTHERLY SIDELINE OF WEST SECOND STREET, THENCE RUNNING S72°42'24"E ALONG THE SAID SIDELINE OF WEST SECOND STREET, A DISTANCE OF 43.63 FEET TO THE POINT OF BEGINNING; THENCE,

N40°31'06"E A DISTANCE OF 3.05 FEET TO A POINT; THENCE,
S49°28'54"E A DISTANCE OF 7.10 FEET TO A POINT, THENCE,
N72°42'24"W A DISTANCE OF 7.72 FEET TO THE POINT OF BEGINNING;

EXTENDING VERTICALLY FROM ELEVATION 31.5 TO ELEVATION 99.0, BOSTON CITY BASE;

CONTAINING AN AREA OF 11± SQUARE FEET.

VERTICAL DISCONTINUANCE "B"

A CERTAIN PORTION OF WEST SECOND STREET TO BE DISCONTINUED, SITUATED IN THE CITY OF BOSTON, SUFFOLK COUNTY, COMMONWEALTH OF MASSACHUSETTS, BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EASTERLY SIDELINE OF ATHENS STREET AND THE SOUTHERLY SIDELINE OF WEST SECOND STREET, THENCE RUNNING S72°42'24"E ALONG THE SAID SIDELINE OF WEST SECOND STREET, A DISTANCE OF 67.88 FEET TO THE POINT OF BEGINNING; THENCE,

N40°31'06"E A DISTANCE OF 3.15 FEET TO A POINT; THENCE,
S49°28'54"E A DISTANCE OF 7.33 FEET TO A POINT, THENCE,
N72°42'24"W A DISTANCE OF 7.98 FEET TO THE POINT OF BEGINNING;

EXTENDING VERTICALLY FROM ELEVATION 30.0 TO ELEVATION 99.0, BOSTON CITY BASE;

CONTAINING AN AREA OF 12± SQUARE FEET.