

June 11, 2021

VIA EMAIL

David R. Consigli, Chairman
Zoning Board of Appeals
Town of Milford
Town Hall
52 Main Street
Milford, Massachusetts 01757

Re: Comprehensive Permit Decision, dated July 17, 2018, as amended by Amended
Decision, dated January 8, 2020
Property: Lot 1, Birch Street
Applicant: 88 Corp.

Request for Extension/Notice of Project Change Under 760 CMR 56.11

Dear Chairman Consigli and Other Board Members:

This firm represents the Applicant, 88 Corp. (“88 Corp.” or “Applicant”), holder of a July 17, 2018 Comprehensive Permit Decision, as amended by an Amendment to Comprehensive Permit Decision, dated January 8, 2020 (collectively, the “40B Decision”) issued by the Zoning Board of Appeals (“Board”) to allow the creation of a 162-unit multifamily rental community along with associated improvements (the “Project”) proposed on approximately 20.95 acres of land known as Lot 1, Birch Street (the “Property”).

This request for Notice of Project Change is provided pursuant to the provisions of the Chapter 40B Regulations, under 760 CMR 56.05(11)(a); 760 CMR 56.05(12)(c); and 760 CMR 56.07(4), and 88 Corp. requests that the Board determine that the change requested, which is simply a three-year extension of the 40B Decision, is deemed insubstantial and is approved by the Board, in accordance with those provisions. We note that under Section 760 CMR 56.05(12)(c), if construction authorized by a Comprehensive Permit has not begun within three years of the date on which the permit becomes final except for good cause, the permit shall lapse. We note that good cause exists for the delay in construction commencement as the pandemic has created a high degree of uncertainty in market conditions, financing alternatives, and construction costs and procedures. As such, good cause exists for the extension of the 40B Decision. We also note that Section 760 CMR 56.05(12)(c) states that ...”the extension of a permit shall not, by itself, constitute a substantial change ...”

As the Board is aware, under 760 CMR 56.05(11)(a), the Board is required to determine within twenty (20) days of receipt of this Notice of Project Change request

SMOLAK & VAUGHAN LLP

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whether the proposed changes are insubstantial in nature; and, if the Board determines that the changes are insubstantial (or if notice is not provided by the Board to the contrary within the twenty (20) day period), the Comprehensive Permit shall be deemed modified to incorporate the proposed changes. This determination process does *not* require a public hearing. A public hearing is only required if the Board were to determine that the changes are substantial and then the public hearing must be within thirty (30) days of a timely determination that the changes are substantial; however, we assert that the change is insubstantial for the reasons set forth above.

Since none of the standards for a substantial change as set forth in the above referenced guidelines are triggered by the proposed modifications, we respectfully request that the Board apply the above guidelines and vote to determine that the proposed modification, which simply constitutes a three-year extension, is insubstantial. I have taken the liberty of attaching a draft form of vote for your consideration.

We thank the Board for its time and consideration of this matter.

Very truly yours,



John T. Smolak

Enc.

cc: Kevin Lobisser, President, 88 Corp.