



CITY OF CAMBRIDGE, MASSACHUSETTS

# PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

## NOTICE OF DECISION

Permit No: PB#235

Address: 112, 114-116 Mount Auburn and 15 Bennett Street

Owner: Conductor's Building, LLC (with respect to 112 Mount Auburn Street and 15 Bennett Street) and Mount Auburn Management, LLC as Trustee of 114-116 Mount Auburn Realty Trust (with respect to 114-116 Mount Auburn Street)

Applicants: Conductor's Building, LLC and Mount Auburn Management, LLC as Trustee of 114 -116 Mount Auburn Realty Trust

Zoning District: Business B / Harvard Square Overlay and Harvard Square Historic Overlay District

Planning Board Decision: September 9, 2008

Date of Filing Decision: November 10, 2008

The proponent, Robert Schlager, CPM, President of The Bulfinch Companies, Inc., requests an extension of time to commence the construction of the approved mixed use development for an additional year as outlined in the email to the Planning Board staff dated October 6, 2010. At the regularly scheduled Planning Board meeting of October 19, 2010, the Planning Board voted to grant a year extension of time to **November 10, 2011** for good cause as set forth in Section 10.46.

Voting in the Affirmative to GRANT the extension were H. Russell, P. Winters, W. Tibbs, S. Winter, T. Anninger and C. Studen, and A. Nur, Associate Members appointed by the Chair, constituting at least two thirds of the members of the Planning Board necessary.

For the Planning Board,

Hugh Russell, Chair

2010 OCT 21 P 1:38  
OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

**Paden, Liza**

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**From:** Robert Schlager [RAS@Bulfinch.com]  
**Sent:** Wednesday, October 06, 2010 6:01 PM  
**To:** Paden, Liza  
**Cc:** Richard Friedman; Eric Schlager; pdiana@carpenterholdings.com; Mark DiOrio; Healy, Martin R  
**Subject:** Conductor's Building Restoration Project PB #235 - 112, 114, 116 Mount Auburn Street - Request for Permit Extension at October 19 PB Hearing

Liza:

As we discussed over the telephone yesterday, Conductor's Building, LLC and Mount Auburn Management, LLC as Trustee of 114-116 Mount Auburn Realty Trust (collectively, the "Applicants") hereby request the extension and reissuance of the special permits issued for construction of the proposed new seven-story office building with retail/restaurant uses at 112, 114-116 Mount Auburn Street and 15 Bennett Street, (the "Project") by the decision of the Planning Board in Case # 235 filed with the Cambridge City Clerk on November 10, 2008 (the "Decision"). The special permits were issued by the Planning Board pursuant to Cambridge Zoning Ordinance ("CZO") Section 19.20, Section 19.30, Section 6.35.1, Section 20.54.2, and Section 20.54.4 (the "Special Permits").

The Massachusetts Zoning Act, General Laws Chapter 40A, Section 9, provides that "except for good cause" a special permit authorizing construction shall lapse within a specified time period not more than two years "if construction has not begun by such date." Section 10.46 of the CZO likewise provides that:

A special permit granted under this section shall lapse within two years, not including such time required to pursue or await the determination of an appeal to the Superior Court or to the Land Court as provided in Section 10.22 from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction was not begun by such date except for good cause.

As explained below, as a result of "good cause," the Applicants are unable to begin construction of the Project by November 10, 2010, when the two year period described above will expire. The Project is unusually complex for its size because it represents reconstruction on several aggregated parcels under separate ownership. Furthermore, the existing Massachusetts Bay Transportation Authority structures, uses, and reserved rights affecting the aggregated parcels add significantly to the complexity of the Project. In addition, during the past two years, the Applicants have continued to pursue planning and marketing efforts in furtherance of the Project, but as a result of the unprecedented economic downturn during this time, have not yet finalized any leases.

The Massachusetts Legislature in effect recognized that the unprecedented economic downturn over the past two years constitutes "good cause" for extension of special permits. Under Section 173 of Chapter 240 of the Massachusetts Acts of 2010 (the "Permit Extension Act"), municipal permits such as the Special Permits which were in effect or in existence during the period beginning on August 15, 2008, and ending on August 15, 2010, "shall be extended for a period of 2 years, in addition to the lawful term of the approval." 2010 Mass. Acts. c. 240, § 173(b)(1). Therefore, as a result of the Permit Extension Act, the period during which the Special Permits may be exercised was extended by operation of law from November 10, 2010, until November 10, 2012.

For purposes of clarity and consistency with the Permit Extension Act, we are writing respectfully to request the Planning Board to determine that commencement of construction of the Project has not occurred as the result of "good cause" and, based upon that determination of good cause, to reissue the Special Permits for two years, so that they may be exercised until November 10, 2012.

Accordingly, please place this matter on the Planning Board agenda for discussion at the regular Planning Board meeting scheduled for October 19, 2010.

Thank you for your attention to this request.

Best,

Robert