

DRAFT CONDITIONS

**Findings & Notice of Decision – Modification of Comprehensive Permit
21 Crown, LLC
Zoning Board of Appeals #2015-0057**

Applicant: 21 Crown, LLC

Property Owner: 21 Crown, LLC

Property Location: Assessor's Atlas Map Sheet 6, Block 027, Lots 38 and 39, known and numbered as 0 and 21 Crowninshield Road, Brookline, Massachusetts

Modification Request Submitted: March 10, 2021

Public Hearing Dates: April 29, 2021, May 24, 2021

Board of Appeals Vote: Modification Decision: X-X-X to Approve/Deny (members in favor, members opposed).

Modification Decision Filed with Town Clerk: _____

Appeal Period Ends: _____
(20 days after filed with Town Clerk)

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A. PROJECT SUMMARY

On April 12, 2016, the Brookline Zoning Board of Appeals (the “Board”) granted a comprehensive permit to the Applicant 21 Crown, LLC (the “Applicant”) for the development of an eight (8) unit rental development at property known and numbered as 0 and 21 Crowninshield Road (the “Property”). On March 10, 2021, the Applicant submitted a request to modify the Board’s decision to change the development from an eight (8) unit rental development to an eight (8) unit home-ownership development. No other aspects of the project were proposed to be changed.

B. FINDINGS

1. The Board hereby incorporates by reference the Original Decision and finds that the Applicant is responsible for all requirements in those decisions not specifically modified in writing by this Modification Decision.
2. The Applicant proposes to construct eight (8) homeownership condominium units. The affordable component of the project consists of two (2) units which is twenty-five percent of the total (hereinafter “Affordable Units”) and shall be marketed to eligible households subject to approval by DHCD. The Affordable Units shall be and shall remain eligible to be included in the Town’s Subsidized Housing Inventory, as maintained by DHCD. As conditioned within this Decision, the Affordable Units shall be affordable in perpetuity, to the extent allowed by law. The conversion of the Project from rental units to home ownership units will have a small impact on the housing needs of the Town, as only two (2) of the units will be eligible to be counted on the Town’s Subsidized Housing Inventory (“SHI”). Development will have negligible impact on the housing need of the town, which is very near the 10% presumptive level.
3. The Applicant submitted sufficient information to show that the Project as approved by the Board would result in a Return on Total Cost (“ROTC”) of 3.55%, which is 2.15% below the uneconomic threshold for rental developments of 5.70%.
4. The Applicant also submitted sufficient information to show that the Project would have a ROTC of 15% as a home ownership project, which exceeds the minimum economic threshold of 15% for home ownership projects.
- 4.5. The Town’s Housing Production Plan approved by DHCD in 2016 supports a range of affordable housing types, including both rental and home ownership.

Commented [MM1]: These findings are not within ZBA’s purview—delete?

C. REVISED CONDITIONS

After consideration and deliberation, the Board voted on the requested Modified Conditions as listed below. All conditions not noted herein and listed in the Original Decision approved or denied, are not modified and are still applicable:

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1. The Project shall include no more than eight (8) units of ~~home-ownership~~rental housing in no more than two (2) buildings, which buildings are shown on the Site Plans and Architectural Plans, and no more than eight (8) garaged parking spaces and eight (8) individual driveway parking spaces as shown on the parking layout plan on Sheet A-4 listed under Item 4 under Procedural History.

2. Unchanged.

3. Unchanged.

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13. Unchanged.

14. Unchanged.

15. Unchanged.

16. Unchanged.

Housing

17. Unchanged.

18. The Affordable Units shall be dispersed throughout the Project and shall have the same bedroom “ratio” or “mix” as the other units in the Project. ~~The specific units in the Project designated as the Affordable Units may change from time to time, provided that there shall be no fewer than two (2) units in the Project which are Affordable Units.~~

19. Unchanged.

Commented [PH2]: This should be deleted, as the specific affordable units does not change for an ownership project, unlike a rental development.

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20. ~~If any of the home ownership units are leased, all leases~~ for the units in the Project shall include language stating that tenants may not use living rooms or dining rooms as bedrooms. Lease and occupancy agreements shall be for a term of not less than six (6) months. Nightly rentals shall not be permitted.

Commented [MM3]: Is leasing an affordable unit not permitted by State?

21. Unchanged.

22. Unchanged.

23. Unchanged.

Commented [PH4]: Since these will be ownership units, this condition should not be necessary. The change is to address the potential rental of ownership units.

24. For the period in which the project is being monitored by the Subsidizing Agency, upon the Town's request, the owner shall share all monitoring reports with the Director of Community Development ~~including annual rent increases and information verifying income eligibility for affordable units.~~

25. Two units in the Project shall in perpetuity be Affordable Units. ~~The Applicant shall execute an Affordable Housing Restriction, in the form proscribed by the Subsidizing Agency, to ensure that the two Affordable Units remain affordable in perpetuity. After the Subsidizing Agency has given written notice to the Town, as set forth in 760 CMR 56.05(13), that the Subsidy, as defined in 760 CMR 56.02, will expire and prior to the expiration of the Subsidy, the Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town (the "Town Regulatory Agreement"), which the Applicant shall record with the Norfolk County Registry of Deeds. The Town Regulatory Agreement shall require that (i) the Project shall remain a rental project in perpetuity, (ii) there shall be two Affordable Units in perpetuity as set forth in Condition 17, (iii) all of the units shall be eligible for inclusion in the SHI in perpetuity. An outline of the terms of the Town Regulatory Agreement is attached as Exhibit 2.~~

Commented [MM5]: Exhibit 2 would be deleted

26. When the Town Regulatory Agreement takes effect, the affordability requirements set forth in this Decision shall be monitored and enforceable by the Town. From and after such time as the Town becomes responsible for monitoring the affordability requirements, the Applicant shall provide the Town with a reasonable fee to cover the costs of such monitoring and enforcement.

27. **Deleted.**

28. Unchanged.

29. Unchanged.

Fire Safety

30. Unchanged.

31. Unchanged.

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Infrastructure

32. Unchanged.

33. Unchanged.

34. Unchanged.

Pre-Building Permit Review

35. Unchanged.

Construction

36. Unchanged.

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General

42. Unchanged.

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50. Unchanged.

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- 51. Unchanged.
- 52. Unchanged.
- 53. Unchanged.
- 54. Unchanged.

RECORD OF VOTE

The Board of Appeals voted _____ to grant a Modification to the Comprehensive Permit, pursuant to 760 CMR 56.05(11), subject to the above-stated conditions, and subject to the conditions contained in the Original Decision, except as modified herein:

_____ Jesse Geller, Chair, Brookline Board of Appeals

Wherefore a Modified Comprehensive Permit, consistent with the conditions of this Decision, is granted to the Applicant.

File with the Town Clerk on _____, 2021

ATTEST:

Patrick J. Ward
Clerk, Board of Appeals