I. Call to Order. Chairman Charles Ioven called the meeting to order at 7:00 p.m.

II. Roll Call.
Planning Board Members in attendance:
Antonucci, Ken
Chuha, Diane
Ferguson, Charlie
Gebreselassie, Tewedaj
Gray, Resa
Hayes, Patrick
Henry, Eric
Soucy, Henri
Ioven, Charles, Chair

Planning Board members absent: Patrick Fitzpatrick, Eric MacCuish
Planning Staff in attendance: Michelle Romero, City Planner, Linda Yarasitis, Clerk

III. PUBLIC HEARINGS:
A. Zoning: Special Permits, Ch. 12, Rev. Ord. of 1991, as Amended, City of Malden.
   1) 109-121 Madison Street (Parcel ID # 063 307 702A) /§700.1.3.2/ To amend special permit (Case #19-01) that allows extension and structural change of preexisting nonconforming property in Industrial 2 zoning district (Permit Application # CMID-028517-2019).

The notice of public hearing was read into the record by Planning Board clerk Antonucci.

Petitioner submitted the following documentation and information:
None (no changes are proposed to the plans approved with the special permit granted in Case #19-01, except where the plans identify use of the addition is light manufacturing).

Presentation made by petitioner:
   1. Louis Barreto Jr., 10 Parker Street, Woburn, MA for owner, Caycort Realty LLC, 11 Canal Street, Malden, MA.

The proposal is to amend the special permit granted on April 10, 2019 in Case #19-01 (that allows construction of an addition, subject to nine conditions) to eliminate Condition 9, which restricts use of the addition to light manufacturing or manufacturing, to allow use of the proposed addition for any use that is allowed “by right” in the Industrial 2 zoning district.

The Board opened the public hearing and received the following testimony during the public hearing:
In favor:
   1. Peg Crowe, 9 Hancock Street, Malden, MA, Ward 1 City Councillor.

In opposition:
   1. Eileen Fontana, 116-118 Madison Street, Malden, MA.
The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

2. Special permit decision (Case #19-01).

Decision: The Planning Board modified the special permit granted in Case #19-01 and granted a new special permit subject to the following nine (9) conditions: 1) All development shall be as per plans, which are incorporated herein by reference, except as modified by these conditions; 2) Install and maintain pavement markings as per site plan, except eliminate space #1 and #47; 3) Maintain driveway located between 89 Madison Street and 97-99 Madison Street closed and gated for emergency access only or abutting residential access; maintain driveway on Green Street (at southwestern corner) closed and gated for emergency and transformer access only; maintain center driveway on Green Street closed and gated for emergency access only; 4) At the Green Street and Bell Rock Street intersection, remove faded STOP Lines at the former approaches to Medford Street and install a ONE-WAY sign that will ensure visibility for westbound Medford Street traffic; 5) Install and maintain privacy fencing along all property lines abutting the park and all residential dwellings, except along length of driveway between 89 and 97-99 Madison Street; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Install and maintain landscaping of yard areas on Madison Street and Green Street; 8) Plant four trees on Madison Street with approximate value of $2,000.00 (total), location to be determined by Ward City Councilor; and 9) Use of the addition is restricted to only light manufacturing; manufacturing; building, construction & contracting; or research and development.

The decision is described in Case #20-05 (attached).

Record of Votes: The vote on the motion was nine in favor, none opposed, and the motion passed (9-0).

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Motion by Antonucci, seconded by Chuha. Absent: Fitzgerald, MacCuish.

2) 333-435 Eastern Avenue (Parcel ID # 095 419 903)/§700.1.3.2/To amend special permit (Case #88-40) and to allow extension and structural change of preexisting nonconforming property in Industrial 1 zoning district/To construct new convenience store and erect new canopy for existing gasoline filling station (Permit Application # CMID 032034-2019).

The notice of public hearing was read into the record by Planning Board clerk Antonucci.
Petitioner submitted the following documentation and information:

1. Set of plans, “Filling Station Renovation Wash Depot 333 Eastern Ave, Malden, MA 02148,” dated November 27, 2019, prepared by Mark G. Smith, P.E., CMG, Sturbridge, MA that contain:
2. Traffic Impact Study, dated October 2019, prepared by Howard Stein Hudson, Boston, MA.

Presentation made by the petitioner:
1. Thomas Callahan, Jr. Attorney for the petitioner, One Centre Street, Malden, MA.
2. Chris Riley, Developer for the site, 18 Autumn Lane, Wayland, MA.
3. Mark G. Smith, Civil Engineer, 53 Eddy Road, Barkhamsted, CT.

The proposal is to amend the special permit granted on August 1, 1988 in Case #88-40 regarding the parking for the bank ATM and for a special permit to construct a new convenience store and erect a new canopy for the existing gasoline filling station.

The Board received the following testimony during the public hearing.

In favor:
1. Neal Anderson, 56 Mills Street, Malden, MA, Ward 7 City Councillor.

In Opposition: None

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

1. Determination of the Malden Historical Commission per City Demolition and Altercation Delay Ordinance, stated in correspondence dated November 12, 2019 from M. Romero, City Planner to Nelson Miller, Building Commissioner.

Decision: The Planning Board modified the special permit granted in Case #88-40 and granted a new special permit subject to the following fifteen (15) conditions:
1) All development shall be as per plans, which are incorporated herein by reference and except where modified by these conditions; 2) Any sale of alcoholic beverages is prohibited; 3) No display or sale of any merchandise outside the convenience store building; 4) Install minimum of two trash/litter and one cigarette/ash receptacles on site at either side of main entrance to store; empty all receptacles and perform litter control throughout entire site a minimum of three (3) times daily; 5) Line all parking spaces (maintain); designate “no parking” areas with pavement markings and signage; 6) Install and maintain curbing and landscaping along northern property line to separate sidewalk from adjacent gasoline filling station pumping area; and install low landscaping at northwestern corner of site, subject to review and approval of Ward City Councilor and remove or repair broken signage; 7) Screen all abutting residential
properties on entire site with vinyl privacy fencing (install and maintain); and maintain 3-foot landscaped area along the Almont Street property line; 8) Enclose dumpster with gated privacy fence; 9) Maintain security lighting of property at all times; 10) Direct all lighting away from surrounding residential properties; 11) No self-service car wash bays are allowed; 12) Hours of operation of gas station shall be limited to 6:00 am to 10:00 pm; 13) Repair or replace sidewalks, driveways and perform necessary incidental work, around the perimeter of the property, to the satisfaction of the DPW Director; 14) As stated in correspondence dated February 12, 2020 from Howard Stein Hudson, make a voluntary contribution to the City of Malden of $3,500.00 to be used for the purpose of installing traffic safety mitigation, namely, signage and pavement makings on site and adjacent to the site at Franklin Street and Eastern Avenue, as recommended by City peer review report dated November 22, 2019; and 15) No sublease or license of any portion of the convenience store.

The decision is described in Case #20-07 (attached).

Record of Votes: The vote on the motion was eight in favor, one opposed, and the motion passed (8-1).

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Motion by Antonucci, seconded by Soucy. Absent: Fitzgerald, MacCuish.

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3) **43-45 Seaview Avenue** (Parcel ID # 116 715 514)/To amend special permit (Case #18-07) that allow extension and change of use of preexisting nonconforming property in Residence A zoning district (Permit Application # RES-031424-2019).

The notice of public hearing was read into the record by Planning Board clerk Antonucci.

Petitioner submitted the following documentation and information:


Presentation made by the petitioner:
1. Martin Murphy, 68 Sheridan Lane, Tewksbury, MA for owner, Voultig Realty II, LLC.
2. Tamara Mossey, 68 Sheridan Lane, Tewksbury, MA for owner, Voultig Realty II, LLC.

The proposal is to amend the special permit granted on June 13, 2018 in Case #18-07 (that allows renovation and conversion of the property from a four-family dwelling to multifamily dwelling with six dwelling units, subject to twelve conditions) to amend the plans approved per Condition 1, to allow changes that arose during the renovation process, namely: reconstruct the interior main staircase to comply with the Building Code, which takes up additional space; enclose part of the existing front porch to create a vestibule with an interior insulated door and the original Victorian double doors on the exterior, which is within the existing footprint; extend the new front vestibule to the third floor for aesthetic/decorative purpose only and creating no additional usable living space; change the roof on the third floor Mansard windows from flat to gable; add ¾ bath to two units, units 5 and 6 on the third floor, through renovation of existing space in the rear hallway; reconstruct the existing first floor deck on the southwestern side and expand to wrap around to connect to the new rear deck, which will have access only via the rear of one dwelling unit and no access via the ground; reconstruct the existing front exterior staircase to comply with the Building Code; eliminate the common staircase from the three-story addition at the rear of the building containing decks/balconies, which eliminates access to the ground; and make minor modifications to the floor plans, including enlarging bedrooms and altering kitchen and bathroom layouts.

The Board opened the public hearing and received the following testimony during the public hearing.

In favor:
1. Barbara Murphy, 28 Forest Street, Malden, MA, Ward 5 City Councillor.

In opposition: None

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:


Decision: The Planning Board modified the special permit granted in Case #18-07 and granted a new special permit subject to the following fifteen (15) conditions: 1) All development shall be as per plans, which are incorporated herein by reference, except as modified by these conditions; 2) Excluding routine utility work, all ledge removal by any means shall require a special permit in accordance with Section 700.13 of the Ordinance; 3) Each unit shall have a maximum of one bedroom; 4) The porches/decks/balconies at the rear of each dwelling may not be enclosed; 5) Install and maintain stormwater management system onsite, as per plans, and subject to requirement that subsurface infiltration systems drain within 72 hour period; 6) Parking lot grade along retaining wall, running east-west orientation, shall be level; final grades of parking lot and retaining wall shall not result in single point of discharge of drainage runoff; 7) The maximum height of the retaining wall shall be 8 ½ feet (exposed/above-grade); retaining wall base blocks shall be minimum of 2 feet below grade along retaining wall toe; the wall construction shall include a detail for geo-fabric soil reinforcement, for any gravity wall sections over 5 feet in height; provide City Engineer with geotechnical data, soil friction angle, retaining wall overturning and sliding failure analysis; 8) Obtain construction/Temporary Easement in order to construct retaining wall (north-south orientation) abutting #484 Salem Street property; if no
easement is provided, then the proposed wall shall be constructed 2 feet within property line; 9) Obtain approval from DPW Commission for proposed curb-cut; 10) Repair/replace sidewalks and curbing adjacent to property, to satisfaction of DPW Director, including any damage during construction; 11) Prior to issuance of a building permit, contractor shall provide City Engineer with construction schedule and set up site meeting with Engineering Department; 12) A temporary construction dumpster may be allowed; no permanent dumpster is allowed at the property; 13) The western side porch/deck may not be enclosed; its dimensions may be less than proposed; 14) Landscaping plan may be modified around side deck; and 15) Mechanicals shall be located in each unit. The decision is described in Case #20-06 (attached).

**Record of Votes:** The vote on the motion was nine in favor, none opposed, and the motion passed (9-0).

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*Motion by Antonucci, seconded by Chuha. Absent: Fitzgerald, MacCuish.*

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**IV. PUBLIC MEETINGS:**

A. Status update items.

1) Master Plan Steering Committee. No update at this time.
2) Community Preservation Committee. Antonucci provided an update.
3) Housing Production Plan Advisory Committee. Romero provided an update.
4) Broadway Corridor Plan/Study. Romero provided an update.
7) Rowe’s Quarry Site Plan Review Committee. Romero provided an update.

B. Old and New Business. Ioven introduced and welcomed new Board member, Resa Gray.

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**V. Next Meeting:** March 11, 2020.

**VI. Adjournment.** The meeting adjourned at 10:39 pm.

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*Approved by: Charles Ioven  
Chairman, Malden Planning Board*
CASE NUMBER 20-05
LOCATION of SUBJECT PROPERTY 109-121 Madison Street, Malden, MA
NAME of PETITIONER and OWNER Caycort Realty LLC
DATE of PUBLIC HEARING February 12, 2020
DATE of DECISION February 12, 2020
DATE of FILING DECISION with CITY CLERK February 24, 2020
DATE of NOTIFICATION to BUILDING INSPECTOR February 24, 2020
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 16, 2020

FINDINGS of FACT (Case #20-05):
The City of Malden Planning Board finds the following facts:
1. The subject property is known as and numbered 109-121 Madison Street and by City Assessor’s Parcel Identification #063307702A.
2. Petitioner is the property owner, Caycort Realty LLC, 11 Canal Street, Malden, MA, c/o Louis Barretto Jr., 10 Parker Street, Woburn, MA, who represented himself at the public hearing.
3. The petition seeks to amend the special permit granted on April 10, 2019 in Case #19-01 under §700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the “Ordinance”) that allows construction of an addition to the preexisting nonconforming building at the subject property, subject to those nine conditions specified therein; and specifically, to eliminate Condition 9, which restricts use of the addition to light manufacturing or manufacturing.
4. No new plans were submitted with the current petition, and no changes are proposed to the following plans approved with the special permit granted in Case #19-01, except where the plans identify use of the addition is light manufacturing: Set of plans, “December 17, 2018 Wearhouse (sp) Addition 109-121 Madison St Malden, Massachusetts 02148 prepared for Caycort Realty LLC 11 Canal St Malden, MA 02148,” with site plan, “Parking Plan of Land Located at 109 Madison Street Malden, MA (Middlesex County), dated October 8, 2018, revised January 23, 2019 (stamped/signet October 25, 2018), prepared by Richard J. Mede Jr., P.L.S., Medford Engineering & Survey, Medford, MA; floor plans, “Existing & Proposed First Floor Plan,” “Existing & Proposed Second Floor Plan,” “Proposed First and Second Floor Plan,” and “Existing & Proposed Elevations,” dated December 17, 2018, prepared by Frank Pitts Curtis, Architect, Curtis DiBenedetto and Associates, Winchester, MA; and “109-121 Madison St Malden, MA Occupancy Gross Square Footage Description Diagram,” dated April 9, 2019, prepared by Curtis DiBenedetto and Associates, Winchester, MA.
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. All facts found in the special permit granted in Case #19-01, except as modified herein.
7. As presented at the public hearing in April 2019 for the special permit granted in Case #19-01, and as indicated on the plans approved with that special permit, petitioner expected the proposed addition would be occupied for light manufacturing use.
8. The revised proposal seeks to allow use of the proposed addition for any use that is allowed “by right” in the Industrial 2 zoning district.
9. The property remains as currently occupied as when the special permit was granted in Case#19-01, namely: 11,403 square feet of the existing building for manufacturing use by tenant, Top Flight Technologies, an aerospace company; 14,363 square feet of the existing building for retail sales in conjunction with on-site warehousing by tenant, Sid Harvey, an HVAC company; and 10,334 square feet of the outside yard area for building, construction & contracting by petitioner, L & L Services, a trucking, excavation & demolition, dirt & concrete removal, snow removal, equipment sales & rental, landscaping business.
10. As approved by the special permit granted in Case #19-01, the addition increases the total gross floor area of the existing building by 33% from 25,767 to 38,318 square feet; and the revised proposal does not change the size of the addition.
11. As approved by special permit granted in Case #19-01, the proposed addition will be constructed at the southern end of the existing building, in the location of the paved, fenced area of the lot, currently used for parking of large trucks, construction vehicles and equipment by petitioner’s building, construction & contracting business, and also the site of six storage containers and outdoor storage of signage; and the revised proposal does not change the location of the addition.
12. To date, the approved addition has not been constructed.
13. At the public hearing, petitioner stated his interest in using the property for industrial use; however, to date, petitioner has not identified a tenant or begun marketing.
14. The property has been classified as part of the Industrial 2 zoning district since 2015.
15. The following uses are allowed “by right” in the Industrial 2 zoning district: club/lodge; daycare center; religious facilities; general offices; recreation for gainful business; retail sales with less than 5,000 square feet of gross floor area; retail services; building, construction & contracting; manufacturing & repair; research & development; light manufacturing; and public service corporation, per §300.3 of the Ordinance.
16. Other uses that may be allowed by special permit in the Industrial 2 zoning district are motel-hotel; medical center; restaurant; retail sales with greater than 5,000 square feet of gross floor area; adult uses; body art; convenience store;
RECORD of VOTES (Case #19-01):
The vote on the motion to modify the special permit granted in Case #19-01 and grant a new special permit subject to nine (9) conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chula, yes; Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by Chula. Absent: Fitzgerald, MacCuish.

I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: ____________________________

Michelle A. Romero, City Planner
PROCEDURAL HISTORY (Case #20-07):
1. The subject property is known as and numbered 333-435 Eastern Avenue and by City Assessor’s Parcel Identification #095 419 903.
2. Owner is Wash Depot I, Inc., 14 Summer Street, #302, Malden, MA, which is petitioner’s parent company; and petitioner is Wash Depot Holdings I.
3. At the public hearing, petitioner was represented by its attorney, Thomas P. Callaghan, Jr., One Centre Street, Malden, MA; its development consultant, Chris Riley, 18 Autumn Lane, Wayland, MA; and its civil engineer, Mark G. Smith, 53 Eddy Road, Barkhamsted, CT.
4. The petition seeks to amend the special permit granted on August 1, 1988 in Case #88-40 and seeks a special permit under §700.1.3.2 of Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the “Ordinance”) to allow the extension and structural change of a preexisting nonconforming property in the Highway Business zoning district, namely, to construct a new convenience store and erect a new canopy for the existing gasoline filling station.
6. In accordance with the City Demolition and Alteration Delay Ordinance, the Malden Historical Commission made the determination dated November 12, 2019, that the convenience store building is not significant and the demolition permit will not be delayed.
7. The notice of public hearing incorrectly referenced the property is located in the Industrial 1 zoning district.
8. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-07):
The City of Malden Planning Board finds the following facts:
1. The property has a lot area of approximately 88,129 square feet, and is currently the site of three single-story principal buildings, namely, a car wash, 18,655 square feet in size; a convenience store, 660 square feet in size; and a bank automated teller machine (ATM) kiosk, 200 square feet in size; and several accessory structures, namely, a canopy, 2,632 square feet in size; five gasoline pumping stations; vacuum cleaner stations; free standing signs; and an empty payphone kiosk.
2. The proposal is to demolish the existing convenience store and the existing canopy over the gasoline pumps and to construct a new, larger convenience store, with 1,000 square feet of gross floor area and to erect a new, smaller and lower height canopy over the gas pumps, 1,560 square feet in size.
3. The proposal includes replacing the existing five gasoline pumping stations with three, two-sided pumping stations; however, the gas tanks were replaced 10 to 15 years ago and will not be replaced under this proposal.
4. The proposal is to reconfigure the parking layout near the convenience store and ATM, and the proposal seeks to amend the special permit granted in Case #88-40 that allows the bank ATM, and specifically, to eliminate Condition 2, which provides: “Four (4) parking spaces be established easterly of and adjacent to the ATM kiosk for use by ATM patrons.”

5. Under the proposal, the car wash building and ATM building will not be changed, and the empty payphone kiosk will be removed.

6. The property is located in the Highway Business zoning district.

7. Direct abutters to the south are residential dwellings, namely, one, two and three-family dwellings, a multifamily dwelling and townhouses; abutters to the west, on the other side of Franklin Street, are a multifamily residential dwelling; to the north, on the other side of Eastern Avenue, business and industrial uses; and to the east, on the other side of Bryant Street, business and residential dwellings.

8. The Residence A zoning district abuts to the south and the Industrial 1 zoning district abuts to the north.

9. The gasoline filling station use is allowed by special permit, predates the current Ordinance and is considered preexisting nonconforming, per §§300.3.4.4 and 700.1 of the Ordinance; the convenience retail sales of food in combination with the gasoline filling station was allowed by special permit granted in Case #87-15; and the car wash and bank ATM are retail services uses that are allowed by right, per §300.3.4.15 of the Ordinance.

10. The property is the subject of special permits with conditions, granted by the Planning Board in Case #82-20, to allow the extension of the car wash use to self-service and construction of an addition; Case #83-7, to modify the hours of operation and traffic regulation for the self-service car wash; Case #85-11, to allow further extension of the car wash use and construction of another addition; Case #86-46, to allow reconstruction of the gasoline filling station islands and canopy and enlargement of the sales kiosk; Case #87-15, to allow the sale of food; Case #88-40, to allow construction of the ATM kiosk; and Case #04-28, to allow installation of temporary remediation equipment to remove gasoline contamination.

11. The existing buildings and structures on the subject property violate dimensional controls for front, side and rear yard setbacks, per §§400.1.4.4, 400.1.4.13, 400.1.4.16, 400.2 and 400.4 of the Ordinance.

12. There are three principal buildings on the lot and the property is preexisting nonconforming, per §700.1.7 of the Ordinance.

13. Current uses of the existing buildings require a total of 43 parking spaces and three loading bays/spaces, per §500 of the Ordinance.

14. The required parking is not provided on site currently.

15. Under the proposal, a total of 45 parking spaces and three loading bays/spaces are required, namely, 37 spaces for the car wash; six spaces for the proposed gasoline filling station convenience store; and two for the bank ATM, per §§500.1.4.4, 500.1.4.7, 500.1.4.17 and 500.2.18 of the Ordinance.

16. Under the proposal, a total of seventeen parking spaces are provided on site: nine in the area at the southeastern corner of the site, on the southern side of the car wash building; six between the ATM and convenience store; and two adjacent to the convenience store, to the north.

17. Cars routinely park onsite in any available open paved areas, including, partially on the sidewalk near the pumps along Eastern Avenue; near the ATM, near Franklin Street; near the freestanding sign, at the corner of Eastern Avenue and Franklin Street; and in the southeastern corner of the lot, near Bryant Street.

18. There is an exclusive line-up area for the drive-thru car wash, as required by §500.2.4 of the Ordinance.

19. Yard areas not paved for parking or access are depicted as landscaped on the site plan, as required, by §500.2.13 of the Ordinance; however, there is no detailed landscaping plan.

20. The proposed dumpster at the northeastern corner of the convenience store and ATM must be visually screened from the abutting residences, as required by §500.3.8 of the Ordinance.

21. The wooden fencing that screens the southern property lines from adjoining residential uses, as required by §500.4 of the Ordinance, is in generally poor condition, and petitioner intends to install new privacy fencing.

22. The City’s peer review of petitioner’s Traffic Impact Study and its follow-up responses are described in correspondence dated November 22, 2019 and February 10, 2020 from Kenneth Petraglia, P.E., P.T.O.E, which includes recommendations regarding safety mitigation.

23. The proposal will improve and modernize the gasoline filling station area layout and circulation pattern.

24. The proposal will upgrade and modernize the convenience store layout.

25. The convenience store currently sells lottery and this will continue; currently does not sell alcoholic beverages and does not intend to; will sell only prepackaged foods; and will have a coffee area with dispensers and does not intend to sublease the area to a coffee shop.

26. According to petitioner, the proposal does not add to the existing amount of impervious surface, and the proposal does not include a stormwater management system or changes to the existing drainage system.
27. The property was previously classified as a Tier Classification Site by the Massachusetts Department of Environmental Protection (RTN 3-19137), the remediation case is closed and the equipment has been removed.

28. Petitioner and the Ward 7 City Councilor held a neighborhood meeting attended by several residents who had no objections to the proposal and supported the proposed upgrades to the property.

29. The Ward 7 City Councilor is in favor of the proposal.

30. There is no public opposition to the proposal.

31. Some conditions of prior special permits are no longer applicable or historically were not complied with; some proposed conditions of this special permit are the same as or revised conditions of previous special permits.

32. As modified by the proposed conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

33. Petitioner consents to all proposed conditions of the special permit.

DECISION (Case #20-07):
On February 12, 2020, pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #88-40 and granted a new special permit subject to the following fifteen (15) conditions:

1) All development shall be as per plans, which are incorporated herein by reference and except where modified by these conditions; 2) Any sale of alcoholic beverages is prohibited; 3) No display or sale of any merchandise outside the convenience store building; 4) Install minimum of two trash/litter and one cigarette/ash receptacles on site at either side of main entrance to store; empty all receptacles and perform litter control throughout entire site a minimum of three (3) times daily; 5) Line all parking spaces (maintain); designate “no parking” areas with pavement markings and signage; 6) Install and maintain curbing and landscaping along northern property line to separate sidewalk from adjacent gasoline filling station pumping area; and install low landscaping at northwestern corner of site, subject to review and approval of Ward City Councilor and remove or repair broken signage; 7) Screen all abutting residential properties on entire site with vinyl privacy fencing (install and maintain); and maintain 3-foot landscaped area along the Almont Street property line; 8) Enclose dumpster with gated privacy fence; 9) Maintain security lighting of property at all times; 10) Direct all lighting away from surrounding residential properties; 11) No self-service car wash bays are allowed; 12) Hours of operation of gas station shall be limited to 6:00 am to 10:00 pm; 13) Repair or replace sidewalks, driveways and perform necessary incidental work, around the perimeter of the property, to the satisfaction of the DPW Director; 14) As stated in correspondence dated February 12, 2020 from Howard Stein Hudson, make a voluntary contribution to the City of Malden of $3,500.00 to be used for the purpose of installing traffic safety mitigation, namely, signage and pavement makings on site and adjacent to the site at Franklin Street and Eastern Avenue, as recommended by City peer review report dated November 22, 2019; and 15) No sublease or license of any portion of the convenience store.

RECORD of VOTES (Case #20-07):
The vote on the motion to modify the special permit granted in Case #88-40 and grant a new special permit subject to fifteen (15) conditions was eight in favor, one opposed, and the motion passed (8-1):

Antonucci, yes; Chuha, yes; Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, no; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by Soucy. Absent: Fitzgerald, MacCuish.

I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: ___________________________________
Michelle A. Romero, City Planner
CASE NUMBER 20-06
LOCATION of SUBJECT PROPERTY 43-45 Seaview Avenue, Malden, MA
NAME of PETITIONER Voultig Realty II, LLC
NAME of OWNER Tamara Mossey
DATE of PUBLIC HEARING February 12, 2020
DATE of DECISION February 12, 2020
DATE of FILING DECISION with CITY CLERK February 24, 2020
DATE of NOTIFICATION to BUILDING INSPECTOR February 24, 2020
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 16, 2020
[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]

PROCEDURAL HISTORY (Case #20-06):
1. The subject property is known as and numbered 43-45 Seaview Avenue and by City Assessor’s Parcel Identification #116715514.
2. Petitioner is Voultig Realty II, LLC, c/o Martin Murphy and Tamara Mossey, 159 Salem Street, Unit Office, Malden, MA 02148, and owner is Tamara Mossey, 68 Sheridan Lane, Tewksbury, MA 01876.
3. At the public hearing, petitioner was represented by Martin Murphy and Tamara Mossey, 68 Sheridan Lane, Tewksbury, MA.
4. The petition seeks to amend the special permit granted on June 13, 2018 in Case #18-07 under §700.1.3.1, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the “Ordinance”) that allows renovation and conversion of the property from a four-family dwelling to multifamily dwelling with six dwelling units, subject to those twelve conditions specified therein; and, specifically, seeks to amend the plans approved per Condition 1 of that special permit, which provides that all development shall be as per plans, except as modified by the conditions.
6. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-06):
The City of Malden Planning Board finds the following facts:
1. All facts found in the special permit granted in Case #18-07, except as modified herein.
2. The proposal is to amend the plans approved with the special permit granted in Case #18-07 to allow the following changes: reconstruct the interior main staircase to comply with the Building Code, which takes up additional space; enclose part of the existing front porch to create a vestibule with an interior insulated door and the original Victorian double doors on the exterior, which is within the existing footprint; extend the new front vestibule to the third floor for aesthetic/decorative purpose only and creating no additional usable living space; change the roof on the third floor Mansard windows from flat to gable; add ¾ bath to two units, units 5 and 6 on the third floor, through renovation of existing space in the rear hallway; reconstruct the existing first floor deck on the southwestern side and expand to wrap around to connect to the new rear deck, which will have access only via the rear of one dwelling unit and no access via the ground; reconstruct the existing front exterior staircase to comply with the Building Code; eliminate the common staircase from the three-story addition at the rear of the building containing decks/balconies, which eliminates access to the ground; and make minor modifications to the floor plans, including enlarging bedrooms and altering kitchen and bathroom layouts.
3. The property is currently under renovation, and the proposed changes arose during the renovation process.
4. As approved by the special permit granted in Case #18-07, there are six dwelling units, each with one bedroom, and the revised proposal does not change the number of dwelling units or number of bedrooms.
5. As approved by special permit granted in Case #18-07, there are two dwelling units on each floor, and the revised proposal does not change the number or location of the dwelling units on each floor.

6. Regarding the project approved by special permit granted in Case #18-07, the revised proposal reduces the total square footage of all six dwelling units by 286 square feet, from 5,266 to 4,978 square feet, and reduces the size and size range of the units from 842 to 927 square feet to 800 to 849 square feet.

7. Direct abutters and surrounding land uses are residential dwellings and the same as when the special permit was granted in Case #18-07.

8. The revised proposal does not change compliance with dimensional controls, affect nonconformities allowed by the special permit granted in Case #18-07, or create new nonconformities, per §§400.1 and 700.1.1 of the Ordinance.

9. The revised proposal does not change compliance with parking requirements, affect nonconformities allowed by the special permit granted in Case #18-07, or create new nonconformities.

10. Under the revised proposal, the washer and dryer and mechanicals for each unit are located in the closet in the room known as the study.

11. The Ward 5 City Councilor and several residential abutters are in favor of the revised proposal.

12. There is no public opposition to the revised proposal.

13. As modified by proposed conditions of the special permit, the revised proposal is in the interest of the common good.

DECISION (Case #20-06):
On February 12, 2020, pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #18-07 and granted a new special permit subject to the following fifteen (15) conditions: 1) All development shall be as per plans, which are incorporated herein by reference, except as modified by these conditions; 2) Excluding routine utility work, all ledge removal by any means shall require a special permit in accordance with Section 700.13 of the Ordinance; 3) Each unit shall have a maximum of one bedroom; 4) The porches/decks/balconies at the rear of each dwelling may not be enclosed; 5) Install and maintain stormwater management system onsite, as per plans, and subject to requirement that subsurface infiltration systems drain within 72 hour period; 6) Parking lot grade along retaining wall, running east-west orientation, shall be level; final grades of parking lot and retaining wall shall not result in single point of discharge of drainage runoff; 7) The maximum height of the retaining wall shall be 8 ½ feet (exposed/above-grade); retaining wall base blocks shall be minimum of 2 feet below grade along retaining wall toe; the wall construction shall include a detail for geo-fabric soil reinforcement, for any gravity wall sections over 5 feet in height; provide City Engineer with geotechnical data, soil friction angle, retaining wall overturning and sliding failure analysis; 8) Obtain construction/Temporary Easement in order to construct retaining wall (north-south orientation) abutting #484 Salem Street property; if no easement is provided, then the proposed wall shall be constructed 2 feet within property line; 9) Obtain approval from DPW Commission for proposed curb-cut; 10) Repair/replace sidewalks and curbing adjacent to property, to satisfaction of DPW Director, including any damage during construction; 11) Prior to issuance of a building permit, contractor shall provide City Engineer with construction schedule and set up site meeting with Engineering Department; 12) A temporary construction dumpster may be allowed; no permanent dumpster is allowed at the property; 13) The western side porch/deck may not be enclosed; its dimensions may be less than proposed; 14) Landscaping plan may be modified around side deck; and 15) Mechanicals shall be located in each unit.

RECORD of VOTES (Case #20-06):
The vote on the motion to modify the special permit granted in Case #18-07 and grant a new special permit subject to fifteen (15) conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by Chuha.  Absent: Fitzgerald, MacCuish.

I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: ____________________________  Michelle A. Romero, City Planner