



**CITY of MALDEN PLANNING BOARD
NOTICE of DECISION**

CASE NUMBER 19-04

LOCATION of SUBJECT PROPERTY 368 Pleasant Street, Malden, MA

NAME of PETITIONER and OWNER Bay State Commons LLC

DATE of PUBLIC HEARING August 14, 2019

DATE of DECISION August 14, 2019

DATE of FILING DECISION with CITY CLERK August 28, 2019

DATE of NOTIFICATION to BUILDING INSPECTOR August 28, 2019

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT September 17, 2019

[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 #19-04):

1. Petitioner is the property owner, Bay State Commons LLC, 55 Park Street, Charlestown, MA 02129.
2. Petitioner was represented at the public hearing by its attorney, Roberto DiMarco, 350 Main Street, Malden, MA 02148; and its architect, Anda French, French 2D Architecture, 5 Monument Square, Charlestown, MA 02129.
3. The petition seeks a special permit under §300.3.2.13, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow cohousing dwelling use in the Residential Office zoning district.
4. The following plans and information were submitted in support of the petition:
 - a) Set of plans (sheet #), "368 Pleasant Street Malden, MA," dated June 20, 2019, prepared by Anthony Donato, P.E., H.W. Moore Associates, Boston, MA, with Site Layout & Materials Plan (C-100); Site Utility Plan (C-101); Site Grading, Drainage & Erosion Control Plan (C-102); Site Details Plans (C-103 & C-104).
 - b) Set of plans (sheet #), "368 Pleasant Street Malden, MA," dated June 21, 2019, prepared by Neshamkin French Architects, Inc., Charlestown, MA, with Site Plan (A-100), Garage Plan (A-101), First Floor Plan (A-102), Second Floor Plan (A-103), Third Floor Plan (A-104), Renderings (A-106), Exterior Elevations (A-401 & A-402).
 - c) "Existing Conditions Plan 368 Pleasant Street Malden, Mass.," dated August 18, 2017 (stamped/signed September 8, 2017), prepared by Karl A. McCarthy, P.L.S., Feldman Land Surveyors, Boston, MA.
 - d) "Traffic Impact Study 368 Pleasant Street Malden, MA," dated October 2017, revised October 2018, prepared for Bay State Commons Urban Cohousing Associates, Inc., Langley, WA, prepared by BSC Group, Boston, MA; and memoranda dated August 8, 2019 and August 12, 2019 from Sam Offei-Addo, BSC Group, with responses to City peer review comments.
 - e) "Geotechnical Due Diligence Memorandum, Recipient: Urban Cohousing Associates, Inc., Project: Baystate Commons, 368 Pleasant Street, Malden, Massachusetts," dated February 16, 2017, prepared by Gary M. O'Neil, P.E., McPhail Associates, LLC, Cambridge, MA.
 - f) "Storm RunOff Analysis and Operation & Maintenance Plan, 368 Pleasant Street, Malden, Massachusetts, Apartment Building," dated October 24, 2017, revised June 20, 2019, prepared for Bay State Commons, LLC, by Anthony Donato, P.E., H.W. Moore Associates, Boston, MA.
 - g) "368 Pleasant Street, Malden Additional Requested Information: Shared Space Breakdown," dated August 13, 2019, unsigned, prepared by petitioner's architect, that itemizes the gross floor areas of spaces depicted on the floor plans.
5. The Ordinance was amended on April 30, 2019 to create a definition, use regulations, dimensional controls and parking requirements for Dwelling, Cohousing use, per City Council Paper 554/2018.
6. The petition is properly before the Planning Board, notwithstanding the fact that petitioner currently has on-going litigation against the City in the form of its appeal of the Board of Appeal's decision on November 28, 2018 to deny a petition for variances of dimensional controls and parking requirements for a proposed multifamily dwelling at the property, given that, according to the City Solicitor, this appeal is temporarily on hold while this petition for a special permit to allow a cohousing dwelling at the property is considered.
7. The City's Demolition and Alteration Delay Ordinance was ordained on June 11, 2018; all demolition is subject to that Ordinance; on July 17, 2019 petitioner filed a Notice of Intent to Demolish/Application for Review by the Malden Historical Commission pursuant to the Demolition and Alteration Delay Ordinance; and the Malden Historical Commission is scheduled to hold a public hearing on August 20, 2019 to determine whether the existing building at the subject property is a Preferably Preserved Building and its demolition may be delayed up to twelve months for the purpose of considering alternatives to the demolition, per that Ordinance.
8. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #19-04):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½ -story building that is currently vacant and was most recently occupied by the American Legion Post #69.
2. The proposal is to demolish the existing building and construct a new building containing three-stories and thirty dwelling units with a total of 50 bedrooms, comprised of five studio units, 390 to 494 square feet in size; ten one-bedroom units, 620 to 903 square feet in size; eleven two-bedroom units, 867 to 1134 square feet in size; and four three-bedroom units, 1081 to 1166 square feet in size.
3. The proposal includes the following interior common areas, which are depicted on the floor plans with net areas: music room (281 square feet), three common spaces (151 to 159 square feet) and yoga/fitness (254 square feet) in the basement; common living room (372 square feet), common dining room (1090 square feet), common kitchen (440 square feet), pantry (72 square feet), art space (198 square feet), pub/lounge (281 square feet), kids space (386 square feet) and laundry (126 square floor) on the first floor; and common space (225 square feet), common meeting/flex room (445 square feet) and lounge nook (29 square feet) on the second floor; and a common nook (45 square feet) on the third floor.
4. The proposal includes the following exterior common areas: landscaped plaza with planting bed and rear lawn (3950 square feet), lower landscaped terrace (735 square feet), west and front lawn areas (2333 square feet and 1563 square feet) and garden on the ground level/first floor; common deck/landscaped terrace (544 to 560 square feet) on the second floor; and three landscaped terraces (317 to 562 square feet) on the third floor.
5. The proposal complies with the requirements for Dwelling, Cohousing regarding the number of dwelling units, , as follows: the proposed building contains 30 units, which is more than the required minimum of 10 dwelling units and less than the required maximum of 35 units, as per the definition in §800.6.2 of the Ordinance.
6. The proposal complies with the requirements for Dwelling, Cohousing regarding the number of bedrooms per dwelling unit, as per the definition in §800.6.2 of the Ordinance, as follows: each proposed dwelling unit contains no more than three (3) bedrooms, which is the maximum allowed.
7. The proposal complies with the requirements for Dwelling, Cohousing regarding size of shared kitchen and dining facilities, as per the definition in §800.6.2 of the Ordinance, as follows: the proposal provides shared kitchen and dining facilities, namely, a common dining room and common kitchen with a total 1530 square feet; and provides continuous indoor areas, namely, a common living room and common dining room with a total 1462 square feet, and continuous open space areas, namely, a landscaped common plaza and lawn with 3950 square feet, which are of sufficient size to accommodate assembly of a majority of the residents.
8. The proposal complies with the requirements for Dwelling, Cohousing that all interior shared spaces combined must comprise a minimum total of fifteen percent (15%) of the entire gross floor area of the building, exclusive of corridors and parking, as per the definition in §800.6.2 of the Ordinance, as follows: combined shared areas comprise a minimum of 5134 square feet, which is 15% of the building's total gross floor area of 33,521 square feet, as described by petitioner's breakdown of the locations and sizes of the common spaces depicted on the plans that are being used to calculate this total, including bathrooms and laundry rooms.
9. The proposal will comply with the requirements for Dwelling, Cohousing, as per the definition in §800.6.2 of the Ordinance, that the building must be used and occupied by an association of residents, which association shall be established and maintained in accordance with a legally binding written agreement, a copy of which shall be submitted to the Building Commissioner, as follows: according to petitioner, the property will be owned and occupied by a group of residents as a condominium association and the condominium documentation will be submitted to the City.
10. The property is located in the Residential Office zoning district.
11. The proposed cohousing dwelling use is allowed by special permit, per §300.3.2.13 of the Ordinance.
12. The direct abutters to the west and east are general and medical/dental offices; to the south, a single and two, two- family dwellings; and to the north, on the other side of Pleasant Street, a religious facility.
13. Surrounding land uses are single, two and three-family residential dwellings, the public K-8 Beebe School and the Malden Central Fire Station; and the Residence A zoning district abuts to the north and south.
14. The proposal complies with the dimensional controls for cohousing dwellings, per §400.1.2.10 of the Ordinance.
15. According to petitioner, there are several typographical and clerical errors on the plans submitted, and, in fact, none of the proposed retaining walls will exceed the maximum height allowed, which is six feet, per §400.7.8 of the Ordinance.
16. The proposal provides the required fifty (50) parking spaces onsite, namely, one parking space per bedroom, per §500.1.2.9 of the Ordinance, as follows: thirty-nine (39) parking spaces located in a garage below the building

and eleven (11) parking spaces located in three surface parking areas around the building, with access/egress via two, two-way driveways, via existing curb-cuts on Pleasant Street.

17. The proposed parking layout and snow storage areas are conforming, per §500 of the Ordinance.
18. The plans do not depict bicycle parking for six bicycles, as required by §500.2.22 of the Ordinance.
19. The City's peer review of petitioner's Traffic Impact & Access Study and petitioner's follow-up response letters are described in correspondence dated August 1, 2019, August 8, 2019 and August 13, 2019 from Kenneth Petraglia, PTOE, Malden, MA and recommend traffic and safety mitigation at the site access/egress drives, specifically to address site distance issues, and at adjacent roadways and intersections.
20. The City Engineer reviewed the proposal and geotechnical and stormwater analysis and provides recommendations in a memorandum dated August 14, 2019.
21. The proposal requires demolition of the existing building, and its demolition is subject to the City's Demolition and Alteration Delay Ordinance.
22. In accordance with the City's Demolition and Alteration Delay Ordinance, the Malden Historical Commission may determine that the existing building on the subject property is a Preferably Preserved Building and its demolition may be delayed up to twelve months for the purpose of considering alternatives to the demolition; this process may require revisions to petitioner's proposal, which may require amendment of any special permit granted or a new special permit.
23. The property has been surveyed by the Malden Historical Commission for its historical significance, as described in the inventory on file with the Massachusetts Historical Commission under Form number MAL. 484.
24. The Mayor, Ward 2 City Councilor and one of the three City Councilors-at- Large are in favor of the proposal.
25. One residential abutter is in favor of the proposal.
26. Other Malden residents, some of whom have an equity interest in the project and/or are potential residents of the proposed development, are in favor of the proposal.
27. There is no public opposition to the proposal.
28. As modified by proposed conditions of the special permit, the proposal is in the interest of the common good.

DECISION (Case #19-04):

On August 14, 2019, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following seven (7) conditions:

1. Obtain the determination of the Malden Historical Commission as to whether the building is a Preferably Preserved Building, in accordance with the City Demolition & Alteration Delay Ordinance.
2. Address outstanding safety concerns re: sight distances at both site drives, subject to the reasonable satisfaction/approval of the City's Peer Reviewer and City Engineer.
3. Compliance with memorandum from City Engineer dated August 14, 2019.
4. Restripe faded pavement markings and crosswalks on Pleasant Street adjacent to the property and at the intersection of Pearl Street.
5. Provide required bicycle parking.
6. Submit revised site plan with heights of all retaining walls that conform to Section 400.7.8 of the Ordinance.
7. All development shall be as per plans, except as modified by these conditions.

RECORD of VOTES (Case #19-04):

The vote on the motion to grant the special permit with seven (7) conditions was eight in favor, one opposed, and the motion passed (8-1):

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, no.

Motion by Antonucci, seconded by Chuha.

Present but not voting: Ferguson.

Note: After the motion was seconded and before the vote, Antonucci modified the first condition and Chuha agreed.

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.

Malden Planning Board

By: _____
Michelle A. Romero, City Planner