



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

CASE NUMBER 20-13

LOCATION of SUBJECT PROPERTY 1-13 Highland Avenue, Malden, MA

NAME of PETITIONER and PROPERTY OWNER Maldex Limited Partnership

DATE of PUBLIC HEARING September 23, 2020

DATE of DECISION September 23, 2020

DATE of FILING DECISION with CITY CLERK October 7, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR October 7, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 27, 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 #20-13):**

1. The property is known as and numbered 1-13 Highland Avenue, Malden and by City Assessor's Parcel 055 232 211.
2. Petitioner and property owner is Maldex Limited Partnership, c/o WS Asset Management W/S Development, 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467, and was represented by Hannah Foley, WS Development at the public hearing.
3. This petition filed in Permit Application # CMID 033609-2020 seeks a special permit under Section 12.12.030 of Chapter 12, Revised Ordinances of 2020 as Amended, of the City of Malden (the "Ordinance") to allow retail sales use with greater than 5,000 square feet of gross floor area in the Highway Business zoning district.
4. The following plans and information were submitted in support of the petition: Site plan, "ALTA/ACSM Land Title Survey Townline Plaza Malden & Medford, MA," dated June 7, 2013 (stamped/signed June 12, 2013), prepared for WS Development, prepared by Edward P. Jacobs, P.L.S, RJ O'Connell & Associates, Inc., Stoneham, MA; plan, "Townline Plaza Medford/Malden, MA Exhibit A," dated May 28, 2020, includes, "Tenant Name: Foodland, Square Footage: 9012 sf," and depicts "Tenant's Demised Premises;" floor plans, "Floor Plan General Notes Finish Schedule" (A-1) and "Floor Plans Equipment Schedules" (A-2), Foodland Market Townline Plaza Malden, MA, both dated September 21, 2020, prepared by EcoModern Architecture LLC, Boston, MA; "South Elevation Foodland Medford 11 Highland Ave Malden, MA," dated May 20, 2020, prepared by Jaswant S. Chani, R.A., Universal Architects Incorporated, Holliston, MA; lease plan, "Townline Plaza 295 Middlesex Avenue, Medford, MA," dated November 21, 2019, prepared by WS Development; correspondence dated June 1, 2020 from Ronald Muller, P.E., Ron Muller & Associates, Hopkinton, MA, re: "Townline Plaza – Grocery Store Reoccupancy Malden, Massachusetts," re: projected traffic volumes; and "Traffic Impact and Access Study Townline Plaza Re-Occupancy Malden, Massachusetts," dated February 22, 2018, prepared by Ronald Muller, P.E., Ron Muller & Associates.
5. In accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, Massachusetts General Laws, Chapter 30A, §18, and Governor Baker's March 23, 2020 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, and due to the COVID-19 pandemic, the public hearing was held virtually and petitioner and members of the public attended and participated remotely via technological means.
6. The public hearing complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11.

**FINDINGS of FACT (Case #20-13):** The City of Malden Planning Board finds the following facts:

1. The subject property, known as Townline Plaza, has approximately 6.4 acres in Malden and 4.5 acres in Medford, and three, single-story buildings, known as and numbered: 7-15 Highland Avenue, Malden, containing approximately 87,752 square feet; 1 Highland Avenue, Malden and 285-295 Middlesex Avenue, Medford, containing approximately 12,000 square feet in Malden and 46,252 square feet in Medford; and 283 Middlesex Avenue, Medford, containing approximately 1,793 square feet.
2. The subject of the petition is a middle storefront, known as 11 Highland Avenue, vacant for almost twelve years.
3. The proposal is to renovate the subject storefront, approximately 9,012 square feet in size, to create a retail area, 5,825 square feet in size, containing shelving, refrigerators, cases and checkout stations; a meat and fish shop, 381 square feet in size; a kitchen with cooking facilities for "freshly prepared foods," 280 square feet in size, and "seating/waiting area" with four tables and a total of 16 seats, 355 square feet in size; walk-in freezer and walk-in cooler, 691 square feet in size; employee break space/area, 274 square feet in size; and loading, delivery and staging areas, 580 square feet in size.
4. The proposed tables are for customers waiting to pick up and take-out prepared foods and not intended for dining or eating.
5. The property is located in the Highway Business zoning district.
6. The proposed market is classified as retail sales use with more than 5,000 square feet of gross floor area, and allowed by special permit, per §12.12.030 of the Ordinance.
7. The other existing business uses of the property in Malden, restaurant, retail sales and retail services, are allowed by right or by special permit and the existing industrial use, manufacturing, is allowed by special permit; some uses are the subject of variances and special permits, and some are preexisting nonconforming, per §§12.12.030 and 12.28.010 of the Ordinance.
8. Petitioner identifies current tenants in the lease plan and email dated September 21, 2020 from H. Foley, WS Development.
9. Direct abutters are a multifamily residential dwelling, motor vehicle repair shop and fast-food restaurant with drive-thru to the west; general offices and medical center to the north; general offices, manufacturing and warehouse to the east; and building construction & contractors to the south.
10. The Industrial 1 zoning districts abuts to the north and east; and the Residence B zoning district abuts to the west.
11. Surrounding land uses are industrial, business and residential.

12. The proposed use is not in conflict with surrounding land uses.
13. The property violates current dimensional controls for rear yard setback and the prohibition of multiple principal buildings on one lot, and is considered preexisting nonconforming, per §§12.16.010 and 12.28.010 of the Ordinance.
14. The proposal will not increase the dimensional violations or create any new nonconformities.
15. The existing and proposed uses of the property located in Malden require a total of 362 vehicle parking spaces; bicycle parking for ten bicycles; and eleven loading spaces, per §§12.20.010 and 12.20.020 of the Ordinance.
16. This proposal requires 36 parking spaces and one loading bay/space.
17. The site plan depicts approximately 696 parking spaces located on the entire site, in Malden and Medford, approximately 307 of which are located entirely in Malden, in a conforming layout; six loading bays/spaces, three of which are located in the space used by the manufacturing tenant; and twenty-five parking spaces, located in a chain-link fenced-in area along the northern side, not accessible, and historically and currently used for siting of dumpsters, storage containers and pallets.
18. No bicycle parking is provided on-site, and petitioner stated its intention to provide the required bicycle parking.
19. The site plan does not depict the required snow storage areas of 14,480 square feet and does not reflect existing landscaping conditions, including the required 24 trees, per §12.20.020 of the Ordinance.
20. Petitioner intends to provide a current site plan that depicts “as-built” parking spaces, snow storage and landscaping.
21. Most dumpsters on-site are not screened and several are partially screened with enclosures in a state of disrepair, in violation of screening requirements of §12.20.020 of the Ordinance and enclosure regulations of the Board of Health.
22. The proposed market will have its own dumpster at the rear of the building.
23. Petitioner stated its intention to screen all dumpsters on-site in the near future.
24. Litter has been an on-going issue at the site.
25. The proposal does not require a traffic impact study, per the Board’s *Rules and Procedures*, and in 2019, the City completed upgrades and improvements to the nearby intersection of Highland Avenue and Devir Street, including new controls, camera detection and new pedestrian signals, as stated in the email dated July 28, 2020 from City Engineer Yem Lip.
26. The traffic and traffic patterns generated by the proposed use will not adversely impact the surrounding streets or create a traffic or safety hazard.
27. The proposed tenant is a local, family-owned and operated ethnic grocery market, doing business as Foodland Market, with current locations in Cambridge, Dorchester and Burlington; the Cambridge location will be replaced with the Malden store.
28. The market will have fifteen employees and operate 10 am to 9 pm, Monday to Saturday, and 11 am to 6 pm on Sunday.
29. All meats are cut and prepared on-site.
30. The Ward 2 City Councilor and one of the three City Councilors-at-Large are in favor of the proposal.
31. There is no public opposition to the proposal.
32. As modified by the proposed conditions, the proposed use will not be more detrimental to the neighborhood.
33. As modified by the proposed conditions, the proposed use is in the interest of the common good.

DECISION (Case #20-13): On September 23, 2020, the Planning Board granted a special permit subject to these eleven conditions:

- 1) This special permit expressly authorizes only retail sales with an accessory seating/waiting area for prepared foods and any accessory or principal restaurant use is prohibited; no dining allowed, take-out only.
- 2) All development shall be as per plans, except as modified by these conditions, with only minor modifications of floor plan allowed; any increase in seating or expansion of kitchen facilities shall require an amendment of this special permit.
- 3) Any sale or service of alcoholic beverages is prohibited.
- 4) Any sale of tobacco, tobacco products or related accessories is prohibited.
- 5) Comply with all conditions/requirements of a Plan Review by Board of Health and obtain all necessary permits from Board of Health.
- 6) Provide bicycle parking on-site for a minimum of ten bicycles.
- 7) Screen all dumpsters on-site.
- 8) Submit current site plan depicting existing parking, required snow storage areas and landscaping, including 24 trees on Malden side of property.
- 9) Immediately upon issuance of this special permit, remove all litter, debris and trash from all areas of property, and begin to perform daily trash and litter management of entire property.
- 10) All prior special permits and variances (in effect) for the property and all conditions thereof shall remain in full force and effect.
- 11) Install, repair or replace sidewalks and driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director.

RECORD of VOTES (Case #20-13): On September 23, 2020, the vote on the motion to grant a special permit with eleven conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Ferguson, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

*Motion by MacCuish, seconded by Gebreselassie .*

*Absent: Henry. Present but not voting: Gray.*

*I hereby certify that the above is a true copy of the decision of the Malden Planning Board.*

By:

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Michelle A. Romero, City Planner