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MALDEN, MASS.

**CITY of MALDEN CITY COUNCIL  
NOTICE of DECISION**

CASE NUMBER: 151-21

LOCATION of SUBJECT PROPERTY: 11 Dartmouth Street and 17 Dartmouth Street

NAME of PETITIONER: 11 Dartmouth Street Property LLC

NAME of OWNER: 11 Dartmouth Street Property LLC

DATE of PUBLIC HEARING: April 6, 2021

DATE of DECISION: April 20, 2021

DATE of FILING DECISION with CITY CLERK: April 20, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR: April 20, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT: May 10, 2021

*(Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after this Notice is filed with City Clerk.)*

**PROCEDURAL (Case #151-20):**

1. The subject property currently consists of two separate parcels: one known as and numbered, 11 Dartmouth Street and by City Assessor's parcel identification #050259 918, and one known as and numbered, 17 Dartmouth Street and by City Assessor's parcel identification #050259902 (hereinafter, collectively, the "subject property.")
2. The property owner of 11 Dartmouth Street is North River Malden II LLC, c/o QL TBE Malden JB LLC, 30 Kimball Avenue, Suite 101, South Burlington, VT 05403 and the property owner of 17 Dartmouth Street is 11 Dartmouth Street Property LLC, 30 Kimball Avenue, Suite 101, South Burlington, VT 05403.
3. Petitioner is 11 Dartmouth Street Property, LLC, c/o Quaker Lane Capital, 200 Portland Street, Boston, MA 02114.
4. At the public hearing, petitioner was represented by Attorney Thomas Callaghan, 1 Centre Street, Malden MA, and Carlos Febres-Mazzei, Managing Principal, Quaker Lane Capital, 75 State Street, Suite 100, Boston, MA 02109.
5. The petition filed in Permit Application #CMID-035044-2020 seeks a special permit under §12.12.100 of Chapter 12, Revised Ordinances of 2020 as Amended of the City of Malden (hereinafter, the "Ordinance"), to allow a Structure More than Six Stories, namely, an office building with nine stories.
6. The following plans and information were submitted by the petitioner:
  - I. "APPLICATION FOR SPECIAL PERMIT MIXED-USE BUILDING 11 Dartmouth Street, Malden, Massachusetts Prepared for Quaker Lane Capital 200 Portland Street Boston, MA 02114," prepared by Howard Stein Hudson, Boston, MA, that includes:
    - a) Project Narrative.
    - b) Shadow Study, correspondence dated October 8, 2020 to Mark Barer, Quaker Lane Capital, from Gensler, with attachment, "11 Dartmouth Street shadow study."

- c) Traffic Study, “MALDEN, MASSACHUSETTS 11 Dartmouth Street TRANSPORTATION STUDY Prepared for Quaker Lane Capital,” dated October 2020 Prepared by Howard Stein Hudson, Boston, MA.
- d) Memorandum, “Response to Peer Review Comments, “dated October 9, 2020, prepared by Keri Pyke, P.E. PTOE, Howard Stein Hudson.
- e) “Stormwater Management Report, 11 Dartmouth Street, Malden, Massachusetts,” dated March 25, 2020, prepared by Howard Stein Hudson.
- f) Proposed plans, “Quaker Lane Capital Mixed Use Proposal,” undated, prepared by Gensler, that include: Context Plan, Floors Plans, Elevations, Perspective Views, Façade Design (9 pages total).
- g) Set of plans, “SPECIAL PERMIT PLAN SET FOR 11 DARTMOUTH STREET MALDEN, MA,” dated October 20 with Revisions dated April 1, 2020 and May 27, 2020, prepared by Gensler (Architect), that include: Site Preparation Plan, Site Layout and Materials Plan, Drainage and Utility Plan, Detail Sheets (8 pages total);
- II. Memorandum, “Response to Final Peer Review Comments, “dated November 16, 2020, prepared by Keri Pyke, P.E. PTOE, Howard Stein Hudson.
- III. “Preliminary Geotechnical Engineering Report Proposed Commercial Development 15-23 Pleasant Street/11-17 Dartmouth Street Malden, Massachusetts,” dated February 17, 2020, prepared by GZA Environmental, Inc., Bedford, NH.
- 7. Pursuant to the City’s Demolition & Alteration Delay Ordinance, Section 4.24, Chapter 4, City Ordinances of 2020, petitioner obtained a determination from the Historical Commission, dated January 16, 2020, that the existing building on the subject property may be demolished without delay.
- 8. Pursuant to §12.32.030.B.2 of the Ordinance, the Malden Planning Board provided the City Council with an advisory report and recommendations, dated December 9, 2020.
- 9. 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 the petitioner and members of the public attended and participated remotely via technological means.
- 10. 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 #151-21):**

The Malden City Council finds the following facts:

- 1. The subject property is currently the site of an office building containing 11,624 square feet and three stories; and an offsite parking facility that consists of an open air parking lot.
- 2. The proposal is to demolish the existing building and to construct a new building with nine stories and an approximate total gross floor area of 188,076 square feet.
- 3. As depicted on the plans, the proposal is to use floors two through nine of the new building for general offices, containing 150,000 square feet total; the first floor for restaurant and retail uses with tenants to be determined, containing a total 3,000 square feet; and a portion of the first floor and one underground level for parking of 165 vehicles, using an “automated” lift system.
- 4. The property is located in the Central Business zoning district.

5. The proposed general offices, restaurant and retail uses are allowed “by right” in this district, per §12.12.030 of the Ordinance.
6. Under the current Ordinance, various other uses are allowed “by right” in the Central Business zoning district, including, club/lodge, daycare center, hospital, non-profit school, religious facilities, business school, funeral home, general offices, recreation for gainful business, restaurant, retail sales with less than 5,000 square feet of gross floor area, retail services, convenience store, supermarket, artist live/work and public service corporation.
7. The proposed building might be used for “life sciences,” which is classified as research and development use and will require a special permit, per §12.12.030 of the Ordinance.
8. Petitioner states it has no intention to occupy or convert the proposed building for residential use.
9. Any use of the proposed building, other than those specified by the current proposal, may have impacts that require further review by the City, and any use of the property must comply with the Ordinance.
10. The proposed building more than six stories may be allowed by special permit and must comply with the use regulations and requirements for All Structures More than Six Stories, per §12.12.110 of the Ordinance.
11. The proposal complies with the applicable dimensional controls of §12.16.030 of the Ordinance.
12. The proposed general offices, restaurant and retail uses require no parking, per §12.20.02.H of the Ordinance.
13. Prior to filing this petition for a special permit, under the original proposal, 70 parking spaces were to be provided on-site; as depicted on the plans filed with the petition, 165 parking spaces were to be provided on-site; and at the public hearing, petitioner stated that 145 parking spaces would be provided on-site.
14. Petitioner intends to provide bicycle parking onsite for 80 in a bicycle room.
15. The City’s peer review report of petitioner’s traffic impact study and follow-up response are contained in correspondence dated May 5, 2020 and November 5, 2020 from Kenneth Petraglia, P.T.O.E., Malden, MA, and include the following recommendations for traffic and safety mitigation, on-site and in the project area: I. Intersections: Modify signal timings at intersection of Main Street/Ferry Street/Salem Street; at the intersection of Main Street/ Centre Street: a) replace the existing doghouse signal head with a four-section signal head that would include a flashing yellow arrow; b) installation of backplates on overhead signals; and c) modify signal timings for AM; with all modifications to include updated analysis, design and installation; Install pedestrian tactile warning panels at each crosswalk at the intersection of Main Street/Florence Street; II. Sidewalks: Install new sidewalks abutting the Project site on both sides of Dartmouth Street from Pleasant Street to Garnet Road; III. Crosswalks: Restripe existing crosswalks with thermoplastic (ladder pattern) at the intersections of Pleasant Street/Dartmouth Street/Middlesex Street and Garnet Road; and IV: Transportation Demand Management (TDM): Implement all proposed TDM measures: Transportation Coordinator; Tenant Orientation Packets; Bicycle Storage; Unbundled Parking; Rideshare Information; Internal ride-matching; Guaranteed Ride Home; and Transit Screen.
16. The City will be installing pavement markings for bicycle lanes on Dartmouth Street, pursuant to a Shared Streets Program grant; the City is considering proposals for the Spot Pond Brook Greenway; and the City may be participating in a bicycle sharing program.

17. As modified by the conditions of the special permit, traffic and circulation will be adequate following project development.
18. Prior to filing this petition for a special permit, under the original proposal, the proposed building had twelve stories.
19. There are residential buildings in the downtown area with more stories than the currently proposed nine-story building.
20. The proposed structure will create no significant new shadow for any properties in Residence A and B zoning districts.
21. The City Engineer must review the proposed water, sewer and drainage systems to determine whether they will be adequate following project development, and modifications may be necessary.
22. The Board of Health must review the proposal and determine whether adequate provisions have been made for solid waste removal and recycling.
23. According to petitioner, the proposal has a projected construction cost of \$90 million, which will generate \$1,000,000 in building permit fees, and the new building will generate significant yearly property taxes.
24. The proposal will generate jobs; and according to petitioner, the project will employ approximately 500 construction workers, and the new building may employ approximately 300 office workers.
25. Petitioner intends to use union labor during construction, where possible.
26. The proposal is in conformity with Economic Development Goals of the *Master Plan (2010)* and Recommendations for the Downtown: to develop modern and flexible office space; and to encourage the redevelopment of underutilized buildings and areas of the City, especially downtown (Sections E.3.3 and E.3.3.1, Chapter 5, *Malden Master Plan, 2010*).
27. All rights authorized by this special permit will lapse one year from date of granting, if substantial construction or use has not commenced, per §12.32.030.B.7 of the Ordinance; however, the expiration date may be extended by a condition of the special permit.
28. According to petitioner, it may take years to identify tenants to lease the proposed building.
29. Petitioner stated its intention to make a voluntary contribution of \$250,000.00 to the City's Affordable Housing Trust Fund.
30. The Mayor and Malden Redevelopment Authority are in support of the proposal, and public support of the proposal includes the Malden Chamber of Commerce, numerous abutting and surrounding commercial property owners, developers and businesses, several Malden residents and two members of the local ironworkers union.
31. One Malden resident and two Malden business owners, one of whom is a resident and one of whom is a current tenant of the property, are in opposition to the proposal; and the Planning Board is unanimously in opposition to the proposal, based on the size of the project not being in the interest of the public good.
32. As modified by the conditions of the special permit, the proposed structure will not be detrimental to the health, welfare, safety, peace and enjoyment of the nearby residents, and will not cause increases in loitering, disturbances, disorderly conduct, or excessive noise, or a decrease in air quality.
33. As modified by the conditions of the special permit, the proposed use is in the interest of the public good.
34. Petitioner consents to all proposed conditions of this special permit.

**DECISION (Case# 151-21):**

On April 6, 2021, the City Council granted a special permit subject to the following fifteen (15) conditions:

- 1) Merge lots (11 Dartmouth Street/Parcel ID 050 259 918 and 17 Dartmouth Street/Parcel ID 050 259 902) via Approval Not Required subdivision control process.
- 2) The entire development, including façades, shall be as per plans, which are incorporated herein by reference and except where modified by these conditions.
- 3) Floors 2-9 may only be occupied for general office use; a maximum of 3,000 SF of the first floor may only be occupied for retail sales, retail services and/or restaurant use, with any one business occupying no more than 2,000 SF; and any other use and occupancy, excluding research and development, shall require an amendment of this special permit and a traffic impact study; and all use requires compliance with the City zoning ordinance. Any residential use, including artist live/workspace, is prohibited.
- 4) A minimum of 145 vehicle parking spaces and bicycle parking for 80 shall be provided on-site.
- 5) Antennas on the rooftop or any part of the building's exterior are prohibited, except for emergency antennas.
- 6) Screen rooftop equipment visually and audibly.
- 7) No permanent dumpster will be permitted on site after completion of construction; the permanent building must have a trash compactor; storage totes for use with trash compactor are permitted, subject to Board of Health approval.
- 8) Install pedestrian alert sensors at garage entrance/exit.
- 9) Any outside storage of any kind is prohibited.
- 10) Any outside display of any kind is prohibited.
- 11) Implement the following traffic and safety mitigation on-site and in the project area:
  - A) Intersections: i) Modify signal timings at intersection of Main Street/Ferry Street/Salem Street; ii) At the intersection of Main Street/Centre Street: a) replace the existing doghouse signal head with a four-section signal head that would include a flashing yellow arrow; b) installation of backplates on overhead signals; and c) modify signal timings for AM; with all modifications to include updated analysis, design and installation; iii) Install pedestrian tactile warning panels at each crosswalk at the intersection of Main Street/Florence Street.
  - B) Sidewalks: Install new sidewalks abutting the Project site on both sides of Dartmouth Street from Pleasant Street to Garnet Road.
  - C) Crosswalks: Restripe existing crosswalks with thermoplastic (ladder pattern) at the intersections of Pleasant Street/Dartmouth Street/Middlesex Street and Garnet Road.
  - D) Transportation Demand Management (TDM): Implement all proposed TDM measures: Transportation Coordinator; Tenant Orientation Packets; Bicycle Storage; Unbundled Parking; Rideshare Information; Internal ride-matching; Guaranteed Ride Home; and Transit Screen.
  - E) Restripe Dartmouth Street from Garnet Road to Pleasant Street.
  - F) Make an annual voluntary contribution of \$11,000 to the City of Malden for use in a bike sharing program.

- 12) Developer agrees to make a voluntary contribution of \$250,000.00 to the City of Malden Affordable Housing Trust Fund.
- 13) Developer shall employ union labor with preference given to Malden union employees.
- 14) Water, sewer and drainage systems must be adequate following project development and are subject to review, approval and reasonable modification by the City Engineer. Solid waste removal and recycling must be adequate and are subject to review and approval of Board of Health.
- 15) This special permit shall expire 24 months from the date of granting, if substantial construction or substantial use has not sooner commenced.

**RECORD of VOTES (Case# 151-21):**

On a motion by Councillor O'Malley, seconded by Councillor DeMaria, that the special permit include a condition that the project utilize unions as the workforce as much as feasible and Malden residents as much as practicable. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor Winslow, seconded by Councillor O'Malley, that the special permit be contingent on the review, approval and reasonable modifications by the City Engineer of the water, sewer and drainage systems to ensure adequacy, and the Board of Health's review and approval of the waste removal and recycling plan to ensure adequacy. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor Winslow, seconded by Councillor O'Malley, that 1) all bicycle racks installed shall comply with the guidance of the Association of Pedestrian and Bicycle Professionals. 2) The pavement markings on Dartmouth Street between Garnet Road and Pleasant Street be re-applied consistent with the Shared Streets Project and proposal for the Spot Pond Brook Greenway and 3) The Applicant shall make an annual contribution of \$11,000 to be used by the City in any bike sharing program. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor O'Malley, seconded by Councillor Camell, to amend proposed Condition 3 to exclude Research and Development so that use will not require an amendment of this special permit. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor Murphy, seconded by Councillor Camell, to approve the twelve conditions recommended by City Planner Michelle Romero, which include a \$250,000 voluntary donation to the Affordable Housing Trust Fund. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor Spadafora, seconded by Councillor O'Malley that the expiration of the special permit be extended from 12 months to 24 months. It was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

On a motion by Councillor Murphy, seconded by Councillor Camell, that the special permit be granted with conditions, as amended, it was so voted, 11-0: Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

*I, Gregory Lucey, City Clerk of the City of Malden, hereby certify that the above is a true copy of the decision of the Malden City Council.*

By:   
\_\_\_\_\_  
*Gregory Lucey, City Clerk*