



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final Committee of the Whole

Councillor Neal Anderson
Councillor Peg Crowe
Councillor Barbara Murphy
Councillor Amanda Linehan
Councillor Craig Spadafora
Councillor Deborah DeMaria
Councillor David Camell
Councillor Jadeane Sica
Councillor Ryan O'Malley
Councillor Paul Condon
Councillor Stephen Winslow

Tuesday, October 13, 2020

7:00 PM

315-20

In accordance with Governor Baker's 3/12/20 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A,ss18, and the Governor's 3/23/20 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, this meeting will be conducted via remote participation.

In person attendance by members of the public is prohibited, and all effort will be made to permit public attendance of this meeting, in the manner specified below, via remote access by internet, telephone, and if available via public broadcast of the meeting by Malden Access Cable Television on public access television channels.

Public access will also be provided by posting draft minutes, and/or a transcript, recording, or record of the meeting on the city of Malden website at cityofmalden.org as soon as practicable after the meeting.

Additional information/guidelines for the public can be found here:

<https://www.cityofmalden.org/DocumentCenter/View/2487/Public-information-on-Public-Meetings-and-Hearings-during-the-Declared-State-of-Emergency-related-to-COVID19PDF>

Members of the public who wish to attend remotely can do so using the following information:

Please click the link below to join the webinar:

<https://cityofmalden.zoom.us/j/91467431491?pwd=dDBXdGZQb2J5Vk1QZWZuc0tXdWc1dz09>

Passcode: 218237

1. Read into the record the Notice of Public Hearing on the Petition of Misty Mountain Shop, LLC on behalf of 323 Commercial Street LLC seeking a special permit under Section 12.12.190 of Chapter 12 of the Revised Ordinances of 2020
2. 7:05PM - Public hearing on the petition of Misty Mountain Shop, LLC on behalf of 323 Commercial Street LLC seeking a special permit under Section 12.12.190 of Chapter 12, Revised Ordinances of 2020, As Amended, of the City of Malden (formerly Section 300.20 of Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden), to allow a Marijuana Establishment namely, a marijuana retailer, at the property collectively comprised of the properties known as and numbered 323 and 323B Commercial Street, Malden, MA and also known by City Assessor's Parcel ID #059 246 603A and #059 246 603B.

Petition and plans are available for public review in the City Clerk's Office, 2nd Floor, 215 Pleasant Street, Malden, MA (by appointment only) and on the City website under Permit Application # CMID-032303-2020 at https://permits.cityofmalden.org/EnerGov_PROD/SelfService#/home.

Members of the public are invited to virtually attend and participate and provide comment on the Petition.

Other Business

332-20

CITY COUNCIL SPECIAL PERMIT DECISION 323 COMMERCIAL STREET (CASE #332-20).

The Hearing for Misty Mountain Shop LLC to be granted a special permit to operate as a marijuana retailer was scheduled for this Council meeting. Misty Mountain Shop, a tenant of 323 and 323 B Commercial Street had been approved by the Cannabis Licensing and Enforcement Commission (CLEC) to move forward in the special permit process. The Malden Planning Board has provided the Malden City Council a report with 15 recommendations, dated August 26, 2020 to assist the Council with making their decision on granting the special permit.

Attorney Patrick MacDonald, 479 Eastern Ave., Malden and Erik Garth, 161 Boston Rd, Chelmsford represented Misty Mountain at the Public Hearing.

The following statements were made by the petitioner:

- 1) the petitioner has provided all the necessary applications and information up to this point.*
- 2) the application was over 600 pages and was clear and concise.*
- 3) the property is located in the correct zoning for a special permit.*
- 4) the petitioner has a long term lease and is financially stable.*
- 5) the petitioner will renovate the entire structure with mass renovations to the exterior.*
- 6) the petitioner will demolish an existing part of the structure to accomodate traffic flow.*
- 7) There is a large parking lot (49 spaces) that is in excess of the required parking.*
- 8) the petitioner accepted all 15 recommendations of the Planning Board.*

9) the Peer Review completed by the city does not conclude a major negative impact on traffic flow.

10) the petitioner added that for the first 60 days at a minimum, sales would be by appointment only.

11) the petitioner offered for the first 60 days there would be a police detail for traffic, Mon-Fr, (3-7 PM)

12) the petitioner meets all of the legal requirements.

13) the petitioner does not have a detrimental impact on the neighborhood.

14) the operation of the petitioner will not conflict with the surrounding land use.

15) the operations of the petitioner is in the interests of the common good, providing 30 jobs with a minimum of 50% going to Malden residents with an emphasis on minority hiring.

16) The renovation of the property will make it cleaner and aesthetically better than the current site.

17) the building is at the outskirts of the city.

18) the business is a revenue generator for the city.

19) the petitioner will install carbon monoxide filters at the site.

The Planning Board gave the City Council 15 recommendations to be considered to include with the special permit.

Speaking in favor of the special permit at the public hearing was John Maiara, 66 Olive Ave., Malden

Speaking against the special permit at the public hearing was Neil Kinnon, 11 Spruce Street, Malden, Anne Hai Zhang, 5 Boston Street, Malden.

Councillor O'Malley made a motion to table the special permit, seconded by Councillor Anderson. the motion failed by a roll call vote of 4-7: Anderson (y), Camell (n), Condon (y), Crowe (n), DeMaria (n), Linehan (n), Murphy (y), O'Malley (y), Spadafora (n), Winslow (n), Sica (n).

Councillor Crowe made a motion to add the condition that the petitioner work with the city peer reviewer and City officials to design a plan to regulate access/egress that would include signage and pavement markings. Councillor DeMaria seconded the motion. A roll call vote was taken : Anderson (y), Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Spadafora (y), Winslow (y), Sica. The motion passed 11-0.

Councillor Winslow made a motion that there be bicycle racks at the location as a condition. Councillor O'Malley seconded the motion. A roll call vote was taken: Anderson (y), Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Spadafora (y), Winslow (y), Sica (y). Motion carries 11-0.

Councillor O'Malley made a motion that the special permit remains in effect as long as the Host Community Agreement is in place. Councillor Winslow seconded the motion. The following roll call vote was taken : Anderson (y), Camell (y), Condon (n), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Spadafora (y), Winslow (y), Sica (n). Motion passed 9-2.

Councillor Crowe made a motion to grant the special permit with the 15 recommendations from the Planning Board and the additional 3 conditions from the Council, Councillor DeMaria seconded the motion. The following roll call vote was taken to grant the special permit with conditions: Anderson (y), Camell (y), Condon (n), Crowe (y), DeMaria (y), Linehan (y), Murphy (n), O'Malley (n), Spadafora (y), Winslow (y), Sica (y). The special permit was granted 8-3.

A motion was made by Councillor Crowe; seconded by Councillor DeMaria that the Petition be granted with the 18 conditions . The motion carried by the following vote:

Yea: 8 - Councillor Anderson, Crowe, Linehan, Spadafora, DeMaria, Camell, Sica and Winslow

Nay: 3 - Murphy, O'Malley and Condon

Adjournment

A motion was made by Councillor Anderson, seconded by Councillor DeMaria, that this meeting be adjourned.. The motion carried by the following vote:

The meeting adjourned at 10:18 PM

Yea: 11 - Councillor Anderson, Crowe, Murphy, Linehan, Spadafora, DeMaria, Camell, Sica, O'Malley, Condon and Winslow