



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

CASE NUMBER 20-04

LOCATION of SUBJECT PROPERTY 100 Maplewood Street, Malden, MA

NAME of PETITIONER and OWNER 100 Maplewood Street LLC

DATE of PUBLIC HEARING January 8, 2020

DATE of DECISION January 8, 2020

DATE of FILING DECISION with CITY CLERK January 22, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR January 22, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT February 11, 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 #20-04):

1. The subject property is known by City of Malden Assessor's parcel identification number 127433302.
2. Petitioner is the owner, 100 Maplewood Street LLC, 148 Main Street, Malden, MA, c/o Andreas Tsitos, 12 McCall Road, Winchester, MA.
3. At the public hearing, petitioner was represented by its contractor, Scott M. Fitzpatrick, Scott M. Fitzpatrick & Son, LLC, 67 Maplewood Street, Malden, MA 02148 and its engineers, Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA, and Richard J. Groll, Industrial Seismologist, Hollis, NH.
4. The petition seeks a special permit under §700.13, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow removal of ledge and alteration of grade to prepare the property to construct a new single-story commercial building with basement.
5. The following plans and information were submitted in support of the petition: "Existing Conditions Plan," (Drawing No. C-1), dated May 29, 2019 revised through November 14, 2019, "Site Layout Plan," (Drawing No. C-2), dated May 29, 2019, "Grading, Drainage and Utilities Plan," (Drawing No. C-3) dated May 29, 2019, all labeled, "Proposed Retail Building 100 Maplewood Street (Tax Map 127 Block 433 Lot 302) Malden, Massachusetts," and prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA; "1st Floor Plan- Basement Plan, Retail Building 100 Maplewood Street Malden, MA," (Drawing No. A1-1) and "Roof Plan- Elevations, Retail Building 100 Maplewood Street Malden, MA," (Drawing No. A1-1), both dated August 7, 2019 and prepared by Daniel F. DiLullo, Reg. Architect, Melrose, MA; "Drainage Calculations and Stormwater Management Plan for the Proposed Retail Building located at 100 Maplewood Street (Tax Map 127 Block 433 Lot 302) Malden, Massachusetts," dated November 14, 2019, prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc.; correspondence Re: EAI Project #19-41109 100 Maplewood Street Ledge Removal Special Permit, dated November 14, 2019, from Richard A. Salvo, P.E., Engineering Alliance, Inc.; correspondence Re: 100 Maplewood Street, Malden, Massachusetts Rock Excavation, dated November 14, 2019, from Richard J. Groll, Industrial Seismologist, Hollis, NH; and two emails dated January 2, 2020 from Richard A. Salvo, P.E., re: quantity of ledge to be removed.
6. In accordance with the City Demolition and Alteration Delay Ordinance, the Malden Historical Commission made the determination dated July 2, 2019 that the then-existing building is not Significant and the demolition permit would not be delayed.
7. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-04):

The City of Malden Planning Board finds the following facts:

1. The property is located at the corner of Maplewood Street and Eastern Avenue.
2. The property is vacant and the former site of a recently demolished single-story restaurant building; the freestanding ground sign remains at the southwestern corner; the property is currently enclosed

- with safety/construction fencing; on-site are construction machinery, equipment, materials and a trailer; and site work has begun, including excavation for the basement of the proposed new building.
3. Ledge was found on the northeastern side of the lot, in the area of the former paved parking lot and where a portion of the basement of the proposed new building will be constructed.
 4. The proposal is to remove ledge from the property to prepare the site for construction of a new single-story building with a basement, approximate footprint of 10,000 square feet and ten storefront units, each 900 to 956 square feet in size.
 5. The proposed methods/means to remove the ledge by mechanical processes, namely, using a hydraulic breaker attached to an excavator, with possible hydraulic drilling to perforate the rock.
 6. Under the proposal, the total excavation is approximately 500 cubic yards, which is the volume of solid or “in-place” ledge, and which is a total quantity of volume of 690 cubic yards of chipped ledge, to be removed from the site.
 7. The ledge removal operation is expected to take approximately two weeks to 45 days and depends on the resistance of the rock or how easily it breaks, and may be affected by the weather.
 8. Materials will be removed from the site by 30-yard trailers and involve approximately 23 truck trips.
 9. Hours for ledge removal activities are regulated by Section 7.9.4.3, Chapter 7 of the City ordinances regarding Noise Abatement, Noise Emanating from Business Activities.
 10. The public multimodal path, Northern Strand Community Trail/Bike to the Sea, located in the abandoned railroad right-of-way, directly abuts the property to the north.
 11. An active, high-pressure, natural gas pipeline and gas valve/regulator station are located in the abutting railroad right-of-way, approximately ten feet from the property line of the subject property.
 12. The Fire Department has concerns regarding the distance between the ledge removal work area and the gas pipeline and recommends that a fire watch may be required at any time during the ledge removal process at the discretion of the Fire Chief or his designee, as described in two email correspondences dated January 8, 2020 from Leonard Halloran, Deputy Chief and Kevin Halpin, Lieutenant.
 13. The proposal will not affect the quarantined hazardous waste area located nearby in the abutting railroad right-of-way.
 14. To the east, direct abutters are a motor vehicle repair shop and a two-family dwelling; to the south, on the other side of Eastern Avenue, wholesale and warehouse; diagonally across the intersection, a convenience store and manufacturing; and to the west, on other side of Maplewood Street, a gasoline filling & service station and motor vehicle repair shop.
 15. Surrounding land uses are residential to the north and industrial and business to the east, south and west.
 16. The proposal includes installation of a stormwater management system with an operations and maintenance plan.
 17. The City Engineer’s recommendations regarding the proposal, including water, sewer and drain connections, erosion control, drainage and stormwater facilities, are described in a memorandum dated December 10, 2019 from Yem Lip, City Engineer.
 18. The property is located in the Industrial 1 zoning district, and proposed business uses of the new building, namely, general offices, retail sales and retail services, are allowed by right, per §300.3 of the Ordinance.
 19. The new building complies with dimensional controls for the proposed business uses, except for one side yard setback, per §400.1 of the Ordinance, and is the subject of a variance granted by the Board of Appeal on March 20, 2019.
 20. The proposal provides a total of 44 parking spaces onsite, which complies with requirements for the proposed use business use of the new building; however, the proposed site plan does not depict the required landscaping, screening and bicycle parking, per §500.1 of the Ordinance.
 21. The proposal includes closing the northernmost curb-cut on Maplewood Street; installing a new curb cut further south on Maplewood Street; and maintaining the existing curb-cut on Maplewood Street, closest to Eastern Avenue, and the existing curb-cut on Eastern Avenue.

22. In his memorandum dated December 10, 2019, the City Engineer recommends closing the existing curb-cut on Maplewood Street that is closest to the intersection with Eastern Avenue.
23. The traffic impacts of the proposal, including site access and egress via existing and proposed curb-cuts and driveways, were not required to be reviewed by the City peer reviewer, per the Planning Board's *Rules and Procedures*.
24. All curb-cuts, whether new, modified or closed, require approval of the DPW Commission.
25. The Ward City Councilor is in favor of the proposal, subject to compliance with proposed conditions.
26. One residential abutter is in support of the proposal.
27. There is no public opposition to the proposal.
28. One of the three City Councilors-at-Large has concerns about the proposal due to the location of the gas pipeline in the abutting railroad right-of-way; one direct residential abutter has concerns regarding noise, property damage and the location of the gas pipeline; and one residential abutter has concerns with traffic and site access and egress.
29. Noise from the proposed work and activity is regulated by Section 7.9 of the City ordinances regarding Noise Abatement.
30. As modified by the proposed conditions of the special permit, the proposal will not adversely affect the general welfare and public safety.
31. The plans submitted with the petition are incorporated herein by reference and approved by the special permit, except as modified by conditions of the special permit.

DECISION (Case #20-04):

On January 8, 2020, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following fifteen (15) conditions: 1) All development shall be as per plans, except as modified by these conditions; 2) All ledge/rock removal may be done only by hydraulic breaker attached to an excavator or an equivalent vehicle/equipment, and hydraulic drilling; and any ledge/rock removal by blasting or any other mechanical or other means is prohibited; 3) During site development, implement erosion controls as per plan; 4) Offer and conduct pre-ledge removal video and photographic survey of all buildings within 300 feet of the property lines of the subject property, who consent, and provide survey to property owner; before ledge removal begins, provide City with list of all properties surveyed and contacted; 5) During any ledge removal activity, place seismograph on site and at the following properties or property line with: 890 Eastern Avenue, 900 Eastern Avenue, 9 Waite Street and adjacent to gas pipeline/regulator station; submit seismograph tapes to Fire Chief for review daily; 6) Maintain liability insurance of a minimum of \$100,000.00/\$300,000.00 with City of Malden named as a loss-payee; 7) During site development, hire fire details and provide a fire watch at any time as the Fire Chief deems appropriate and necessary in his reasonable discretion; 8) During site development, hire local police details as the Police Chief deems appropriate in his reasonable discretion; 9) A minimum of seven days prior to activity, deliver written notice to all premises within 300 feet of the property lines of subject property, indicating the date(s) of ledge removal activity will be conducted and the hours of beginning and ending daily for the same; submit copy of notice(s) to City; 10) The hours of operation for any ledge removal and/or any construction equipment operated for ledge removal or site grading/preparation, are 8 am to 5 pm Monday-Friday; 11) Install stormwater management system, as per plan; 12) Provide construction schedule and owner, site engineer, geotechnical engineer, contractor and gas pipeline representative shall attend a site meeting with City Engineering Department, Fire Department and City Planner prior to the start of work; 13) Comply with recommendations of City Engineer described in memorandum dated December 10, 2019; except re: item 1, existing southern curb-cut shall be eliminated, only provided that DPW approves proposed new northern curb-cut on Maplewood Street; 14) Landscape site in compliance with §500.2.13; provide required bicycle parking; and screen parking from residential property with privacy fencing; and 15) Maintain protective screening along Bike to Sea/Trail during ledge removal activity.

RECORD of VOTES (Case #20-04):

The vote on the motion to grant the special permit with fifteen conditions was nine in favor, none opposed, and the motion passed (9-0):

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

Motion by Antonucci, seconded by MacCuish.

Present but not voting: Ferguson.

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