



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

CASE NUMBER 20-12

LOCATION of SUBJECT PROPERTY 326 Commercial Street, Malden, MA

NAME of PETITIONER and OWNER 326 Commercial Street Associates Limited Partnership

DATE of PUBLIC HEARING September 23, 2020

DATE of DECISION September 30, 2020

DATE of FILING DECISION with CITY CLERK September 30, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR September 30, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 20, 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 #20-12):

1. The subject property is known as and numbered 326 Commercial Street and by City Assessor's Parcel #059-230-011.
2. Petitioner is the owner, 326 Commercial Street Associates Limited Partnership, c/o Combined Properties, Inc., 295 Canal Street, Suite 500, Malden, Massachusetts 02148.
3. At the public hearing, petitioner was represented by its attorney, Brian G. Cafferty, Combined Properties, Inc., 295 Canal Street, Suite 500, Malden, Massachusetts 02148.
4. This petition filed in Permit Application # CMID 033732-2020 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 offsite parking facility use of property in the Industrial 1 zoning district.
5. The following plans and information were submitted in support of the petition: a) Set of plans, "SRS Distribution, Inc. 326 Commercial Street, Malden, MA 02148 Issued for Special Permit Review June 24, 2020, REVISED SET," dated January 24, 2020 that contain a site survey plan, "Plan of Land in Malden, Massachusetts," dated October 27, 2000, revised July 26, 2006, prepared by William J. Ferro, R.P. L.S., Framingham, MA; "Architectural Site Plan," (AS-100) dated January 28, 2020 with revisions through June 24, 2020, "Existing/Proposed First Floor Plan" and "Existing Exterior Elevations," dated January 24, 2020, with revisions through June 24, 2020, all prepared by Shawn M. Burns, Architect, Stoneham, MA; b) four other versions of the "Architectural Site Plan," (AS-100), all prepared by Shawn M. Burns, Architect, Stoneham, MA and dated January 28, 2020: a version revised August 5, 2020, depicting an alternate location for generators; a version revised September 21, 2020, depicting an alternate location for generators and elimination/removal of parking spaces; a version revised September 22, 2020, depicting an alternate location for generators, elimination/removal of parking spaces and the Chapter 91 jurisdiction line; and a version revised September 23, 2020, depicting an alternate location for generators, elimination/removal of parking spaces, Chapter 91 jurisdiction line, and one additional parking space at the southwestern corner of the building; and c) "Transportation Impact Assessment," dated February 2019, prepared by Vanasse & Associates, Inc., Andover, MA.
6. 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 members of the public attended and participated remotely via technological means.
7. The Board held the public hearing on this petition concurrently with the public hearing on another petition by the same petitioner regarding other portions of the same property, namely, the petition filed in Permit Application #CMID 032456-2020 seeking a special permit to allow wholesale and distribution use, as decided in Case #20-11.
8. 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 #20-12):

The City of Malden Planning Board finds the following facts:

1. The property contains 5.1 acres and is the site of a single-story building with a total gross floor area of 27,192 square feet.
2. The proposal is to use portions of the property for an offsite parking facility with a maximum of 155 spaces, namely, the existing parking areas to the north, west and east of the building.
3. The property is located in the Industrial 1 district.
4. The proposed offsite parking facility use is allowed by special permit in this district, per §12.12.030 of the Ordinance.
5. The property is also proposed to be used for wholesale & distribution, which will occupy the existing building, adjacent areas and the parking lot in the southwestern corner of the property, separated by chain-link fencing from the rest of the site.
6. The direct abutter to the north is general offices; to the south, the City Department of Public Works; to the east, the Malden River, on the other side of which is National Grid; and to the west, on the other side of Commercial Street, are a daycare, retail sales and a building, construction & contracting company, that is the site of a proposed marijuana establishment.
7. Surrounding land uses are the active MBTA right-of-way (rapid transit and commuter rail); and business, industrial and multifamily residential uses.
8. The proposed use is not in conflict with surrounding land uses.
9. The proposal creates no violations of dimensional controls or nonconformities, per §12.16.010 of the Ordinance.

10. As proposed and depicted on the plans, the offsite parking facility will provide a maximum of 155 spaces: 119 to 147 spaces along the northern and eastern sides of the site, separated from the building areas by chain-link fence, with access/egress via a driveway that connects to the abutting property to the north, 230 Medford Street/300 Commercial Street, owned by petitioner; and eight spaces in the northwestern corner of the site, near the street, separated from the building and other parking areas by chain-link fence, with access/egress via the northernmost curb-cut on Commercial Street and a "Shared Driveway."
11. The parking layout is conforming, per §12.20.020.B of the Ordinance.
12. The required snow storage area for 155 spaces, 6200 square feet, is provided on-site per §12.20.020 of the Ordinance.
13. The proposal complies with requirements to provide landscaped areas onsite, per §12.12.090.B.5 of the Ordinance.
14. Sixteen bicycle racks are required for the maximum 155 spaces, based on the formula, 0.1 rack per parking space, as provided by §12.12.090.B of the Ordinance; and none are proposed.
15. The easterly end of the building and portions of the property are located on a "formerly filled tidal creek;" Massachusetts Department of Environmental Protection (MassDEP) has jurisdiction over the property pursuant to Massachusetts General Laws Chapter 91; and the property is the subject of Chapter 91 Licenses No. 1206 and No. 364.
16. Given the current location of Chapter 91 jurisdictional boundaries, the generators may need to be moved, eliminating eight spaces, and approximately 20 spaces may need to be eliminated/removed, as shown on the revised site plans, or the location of certain structures, namely, the generators, and certain parking spaces, would require a new license; however, MassDEP is using "enforcement discretion" while petitioner pursues dispute of the Chapter 91 jurisdictional boundaries, via a Request for Determination of Applicability, filed on September 18, 2020, as confirmed in emails dated May 26, 2020, September 18, 2020 and September 22, 2020 from Christine Hopps, Assistant Director, Waterways Regulation Program, MassDEP.
17. Petitioner reports having used the property for an offsite parking facility since 1991 and its current use by tenants of the abutting property, 230 Medford Street/300 Commercial Street, also owned by petitioner; however, there is no occupancy permit or other City approvals, including the required license/permit for outdoor parking from the City Council.
18. Adjacent to the property, the bicycle lane striping on the street is faded and signage is blocked by on-site vegetation.
19. The proposal includes the installation of a "river walk path" along the Malden River, located along the eastern property line; as proposed, the path is ten feet in width, with a walking surface eight feet in width, pervious surface, landscaping, and access and connection to the existing path at the abutting property to the north, 300 Commercial Street/230 Medford Street.
20. The proposed river walk path on the subject property may need to be widened for accessibility and readjusted to connect with the planned recreational path along the Malden River on the abutting property, 356 Commercial Street, at the City Department of Public Works, which is a community project in the design phase and led by Malden River Works.
21. The Mayor, Ward 1 City Councilor, one of three City Councilors-at- Large, Malden River Works, Friends of the Malden River, and one resident, support the proposal.
22. The Ward 4 City Councilor is in opposition to the proposal.
23. As modified by the proposed conditions, the proposal is not detrimental to the public good.

DECISION (Case #20-12):

On September 23, 2020, the Planning Board granted the special permit to allow offsite parking facility use of the property, subject to the following ten conditions:

- 1) The offsite parking facility may contain a maximum of 155 parking spaces.
- 2) Parking layout shall be as per one of the four site plans submitted herewith, which are incorporated herein by reference; any revisions, including those required by MassDEP pursuant to Chapter 91 jurisdiction, will require amendment of this special permit.
- 3) Obtain open air parking license from City Council.
- 4) All surfaces used or intended for the use of wheeled vehicles shall be paved with an all-weather dust free pavement.
- 5) Provide lights and locate to be shielded from streets and adjoining properties.
- 6) Maintain landscaping of front, side and rear yards.
- 7) Provide required bicycle parking on-site (0.1 bicycle rack per parking space).
- 8) Install, repair or replace sidewalks, driveways and bike lanes, and perform necessary incidental work, including signage, adjacent to the property, to the reasonable satisfaction of the DPW Director.
- 9) Install and maintain "river front path" along Malden River, as depicted on plans, except: a) align to connect to path at DPW site; b) expand width of walking surface to ten feet; c) surface shall be pervious; and d) rehabilitate with native plantings and remove invasive species.
- 10) Relocate snow storage on-site if necessary.

RECORD of VOTES (Case #20-12):

On September 23, 2020, the vote on the motion to grant a special permit subject to ten conditions, was eight in favor, one opposed, and the motion passed (8-1):

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

Motion by Chuha, seconded by Antonucci. Present but not voting: Ferguson. Absent: Henry.

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

By: _____
Michelle A. Romero, City Planner