



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

CASE NUMBER 23-09

LOCATION of SUBJECT PROPERTY 11 Charles Street, Malden, MA

NAME of PETITIONER and PROPERTY OWNER SL Realty Holdings, LLC

DATE of PUBLIC HEARING June 14, 2023

DATE of DECISION June 14, 2023

DATE of FILING DECISION with CITY CLERK June 27, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR June 27, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT July 17, 2023

[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 #23-09):

1. The subject property is known as and numbered 11 Charles Street and by City Assessor's parcel identification number 054 237 707.
2. Petitioner is the property owner, SL Realty Holdings, LLC, 389 Main Street, Suite 101, Malden, MA.
3. At the public hearing on June 14, 2023, petitioner was represented by Jay Lanstein, Chief Executive Officer, Cantella & Co. Inc., 389 Main Street, 1st Floor, Malden, MA, with a residential address of 422 E. 5th Street, Boston, MA.
4. The petition filed in permit application #CMID 053698-2023 seeks a special permit under Title 12, Chapter 12, Section 030 and Title 12, Chapter 12, Section 300, of the Code of the City of Malden (the Ordinance) to allow multifamily residential dwelling use, three to six stories, of property in the Central Business zoning district, and an Inclusionary Development, namely, to construct a building with five stories and a total of fifty-one (51) dwelling units, including eleven (11) Affordable Housing Units.
5. The following plans were submitted in support of the petition:
 - a) Set of plans, "21 Charles Street Development Review Application," dated May 22, 2023, prepared by Arrowstreet Inc., Architect, Boston, MA, that includes Proposed Site Plan, Site Layout Plan (C-301) dated February 21, 2023 (in margin) and March 8, 2023 ("Org. Date"), prepared by Stephen P. Martorano, P.E., Bohler Engineering, Boston; Architectural Site Plan (dated 1/20/23); Dimensional Table (dated 12/1/22); Aerial Views, with renderings of proposed building (dated 12/1/22); Context Elevation Diagram (dated 12/1/22); Floor plans for Level 1 Plan, Level 2 Plan, Level 3 Plan, Level 4 Plan, Level 5 Plan (all dated 12/1/22); Roof Plan (dated 1/20/23); Building Elevations for Charles Street (South), Driveway (North), Middlesex Street (West), Parking Lot (East) (all dated 12/1/22); Building Renderings of Charles St Corner View, Charles St View, Middlesex View, Parking Lot View (all dated 12/1/22).
 - b) Transportation Impact Study, 11 Charles Street, Malden, Massachusetts, prepared for SL Realty Holdings, LLC, dated January 2023, prepared by Howard Stein Hudson, Boston, MA.
 - c) Technical Memorandum, 21 Charles St, Malden, MA Response to Comments, dated May 24, 2023, prepared by Ian McKinnon, PE, PTOE, RSP, Howard Stein Hudson, Boston, MA.
 - d) Technical Memorandum, 11 Charles St, Malden, MA, dated June 12, 2023, prepared by Ian McKinnon, Howard Stein Hudson, Boston, MA re: updated traffic analysis with two additional background projects.
 - e) Plan, "Turning Movement 21 Charles Street, Malden, MA, Figure 3, Fire Truck Entering and Exiting Project Site Using Charles Street Curb Cut," dated June 13, 2023 prepared by Howard Stein Hudson.
6. The proposal meets the statutory criteria for a special permit to be granted at a lower voting threshold, as provided by the recently amended Massachusetts General Laws, Chapter 40A, §9, namely, the criteria regarding type of project, location, percentage of affordable housing units and preservation of affordability.
7. 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 #23-09):

The City of Malden Planning Board finds the following facts:

1. The subject property is located at the corner of Charles Street and Middlesex Street and located less than 1,500 feet from the Malden Center Station of the Orange Line MBTA Rapid Transit line, bus hub and commuter rail.
2. The property is the site of a foundation, partially installed for a previously proposed, 4-story, 80,000 square foot office building, that was not completed due to construction being stopped by the COVID-19 pandemic and petitioner being unable to secure office, business or commercial tenants.

3. The proposal is to construct a mixed-use building for multifamily residential use and business uses.
4. The proposed new building will have five floors and a total gross floor area of 76,000 square feet.
5. Under the proposal, there will be fifty-one (51) dwelling units, including eleven (11) Affordable Housing Units; comprised of six studio units, ranging in size from 415 to 684 square feet; twenty-five units with one bedroom, ranging in size from 686 to 879 square feet; and twenty units with two bedrooms, ranging in size from 879 to 1,317 square feet; and all dwelling units will be located on the second, third and fourth floors.
6. The proposed residential amenities on the first floor are a lobby with vestibule, trash room, bicycle parking room, package room, multipurpose room, and gym.
7. Under the proposal, business uses to be determined will occupy 1,523 square feet and 6,323 square feet on the first floor, and general offices will occupy 5,122 square feet on the fifth floor.
8. The proposal includes a roof deck on the fifth floor, approximately 3,000 square feet in size, for approximately fifty occupants, that will be accessible to residential and business tenants of the building.
9. Petitioner intends to occupy a portion of the proposed general office space.
10. The property is located in the Central Business zoning district.
11. The proposed multifamily dwelling use, more than three stories but not exceeding six stories, is allowed by special permit in this zoning district, per §12.20.030 of the Ordinance.
12. The proposed general offices use is allowed by right in this district, per §12.12.030 of the Ordinance.
13. Business uses of the first floor of the building are unknown at this time, and various business uses are allowed by right and by special in this zoning district, per §12.12.030 of the Ordinance.
14. The property known as and numbered, 17 Charles Street, directly abuts the subject property on three sides, to the east, south and west, and is used for motor vehicle repair shop, retail services and general offices; the direct abutter to the north, is retail sales with drive-thru (Walgreens); to the east, a building with various businesses, including restaurants, retail services and retail sales; to the west, on the other side of Middlesex Street, are a restaurant and supermarket; and to the south, on the other side of Charles Street, a former motor vehicle repair shop being converted to marijuana retailer, per City Council Special Permit granted in Case 202-22, extended by Case 233-23; a group dwelling, vehicle sales parking lot and municipal parking lot.
15. Surrounding land uses are industrial, business, institutional and residential, and the abandoned railroad right-of-way, a portion of which is used as the public multimodal recreational trail, Bike to the Sea/Northern Strand Community Trail.
16. The proposal complies with all dimensional controls, per §§12.16.010 and 12.16.030 of the Ordinance.
17. The proposal exceeds the minimum requirement for density, having a lot area of 48,938 square feet or 1.12 acres and providing 959 square feet of lot area per dwelling unit; and the proposal does not require or use the Density Bonus Incentive allowed for Inclusionary Developments, provided by §12.12.300.E.1 of the Ordinance.
18. The proposal exceeds the minimum requirement for open space, providing a total of 5,281 square feet or 103.5 square feet per dwelling unit; and the proposal complies with all “Usable Open Space Requirements for All Districts,” as provided by §12.16.080 of the Ordinance.
19. The multifamily dwelling requires a total of sixty-seven (67) parking spaces: fifty-six (56) spaces for the forty (40) market-rate units with a total of fifty-six (56) bedrooms, based on the requirement to provide one space per bedroom; and eleven spaces for the eleven (11) Affordable Housing Units, based on the requirement to provide one space per unit, in accordance with §§12.20.010 and 12.12.300.E.2 of the Ordinance.
20. Under the proposal, sixty-seven (67) parking spaces are provided in a paved parking lot, located in the side and rear yard, in a layout that conforms to the dimensions of spaces and width of parking aisles, per §12.20.020 of the Ordinance.
21. The proposed general offices and other allowed business uses to be determined do not require parking, per §12.20.020.H.1 of the Ordinance.
22. Access and egress for the parking lot will be via a driveway off Middlesex Street, and the driveway width conforms to the requirements for one or two-way traffic, per §12.20.020.C of the Ordinance.
23. The proposal includes one space for a car sharing program, per §12.20.020.H.4 of the Ordinance.
24. The proposal exceeds the required amount of bicycle parking per §12.20.020.H.5 of the Ordinance and will provide a bicycle room on the first floor with parking for twelve; five bicycle racks adjacent to the rear door; and two racks along the sidewalk on Middlesex Street.
25. Yard areas not paved for parking or access will be landscaped and the required seven trees planted, in compliance with requirements of §12.20.020.10 of the Ordinance.
26. More than the required snow storage is provided onsite, per §12.20.020.11 of the Ordinance.
27. No loading is required for the known business use, general offices; on-site loading may be required for business uses of the first floor that are yet to be determined, per §§12.20.020 and 12.20.030 of the Ordinance, unless the

Malden Traffic Commission certifies to the provision of adequate on-street loading, per §12.20.030.J. of the Ordinance, or the developer seeks and obtains a variance of loading requirements from the Board of Appeal; and the site plan proposed with this petition may need to be redesigned and amended.

28. Screening of the multifamily offstreet parking areas is not required for the proposal at this property because there are no abutting residential or educational uses, per §12.20.040 of the Ordinance.
29. Under the proposal, trash and recycling will be stored in rolling bins in a room on the first floor and be removed through a loading area on site, and no dumpsters are proposed.
30. The Fire Department confirms that ladder trucks will be able to access the site through the proposed site drive on Middlesex Street and approves of the plan for emergency access to the site from Charles Street, which will require installation of a fire gate at the end of the parking lot, installation of mountable sloped curbing, and elimination of one parking space on Charles Street.
31. The City's peer review of petitioner's traffic study and follow-up memoranda is described in correspondence dated April 7, 2023, correspondence dated May 25, 2023, and correspondence dated June 14, 2023 from Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc., Andover, MA, and recommends traffic and safety mitigation on-site and in the surrounding area, including a Transportation Demand Management Program, sidewalk improvements, restriping crosswalks, designing and installing a pedestrian signal to cross Charles Street at Middlesex Street, adjusting signals and pedestrian phase times at nearby intersections, on-street parking modifications and loading schedule.
32. The proposal is an Inclusionary Development, as defined by the Ordinance.
33. The proposal is to provide eleven (11) Affordable Housing Units, which is 21.5% of the total number of units and which exceeds the amount required by §12.12.300 of the Ordinance, which is 15% or 7.65 units.
34. Developer elects to provide one additional Affordable Housing Unit for the fractional unit, per §12.12.300 of the Ordinance.
35. The proposal complies with the requirements of the Inclusionary Zoning ordinance, §12.12.300 of the Ordinance, as described in the correspondence regarding compliance dated April 25, 2023 from Kristina Tseng, HOME Program Director, City of Malden Office of Strategic Planning & Community Development, and the Memorandum of Understanding dated April 21, 2023, between petitioner and City, regarding future compliance with requirements for a Lottery Plan, Marketing Plan and Draft Legal instruments for Preservation of Affordability.
36. Petitioner agrees that all Affordable Housing Units will remain affordable for a minimum of thirty years.
37. The Mayor, Ward 1 City Councilor, one of three City Councilors-at-Large and Ward 4 City Councilor are in support of the proposal.
38. One abutter, which is also a non-profit affordable housing provider in Malden; two Malden-based community service providers; and several Malden residents, businesses and property owners are in favor of the proposal.
39. There is no public opposition to the proposal.
40. As modified by the conditions of the special permit, the proposed residential use is in the interest of the common good.

DECISION (Case #23-09):

On June 14, 2023, pursuant to the foregoing Findings of Fact, the Planning Board granted the petition for a special permit, subject to the following eleven conditions:


1. All development shall be as per plans, except as modified by these conditions.
2. The maximum number of dwelling units is fifty-one (51); the maximum number of bedrooms is seventy-one (71); and a minimum of eleven (11) units shall be Affordable Housing Units.
3. Prior to issuance of any occupancy permit, developer/owner shall comply with all terms of the Memorandum of Understanding dated April 21, 2023 re: Affordable Housing Units, which is attached hereto and incorporated herein by reference.
4. Developer/owner shall implement the following traffic and safety mitigation:
 - a. Implement Traffic Demand Management Program that includes: designate Transportation Coordinator (TC) to manage TDM program and to oversee parking, service and loading activities; provide Rideshare Information, Internal Ride-matching program and Transit Information; designate one parking space for Car Share program; provide residents with "Welcome packet" re: available public transportation services, bicycle & walking alternatives, commuter options, contact info. for TC and enrollment in employee rideshare program; commercial tenants to offer Guaranteed Ride Home program at no cost to employees who use alternative mode of transportation to single-occupancy vehicle at least 3 times per week and register with TC; maintain bicycle parking room on ground floor as per plan.

- b. Provide new sidewalks along project site frontage and ADA compliant wheelchair ramps at Middlesex Street/Charles Street intersection.
 - c. Restripe crosswalks with thermoplastic, continental type (Ladder) pavement markings at the Middlesex Street/Charles Street intersection.
 - d. Design and construct a pedestrian actuated Rectangular Rapid Flashing Beacon (RRFB) for crossing Charles Street at Middlesex Street, subject to receipt of all necessary rights, permits and approvals.
 - e. Ensure that the “yellow” and “all-red” clearance intervals and the pedestrian phase times are adjusted at the study intersections (Centre Street at Middlesex Street, Main Street at Centre Street and Main Street at Charles Street), either as a part of the Project or by others. Prior to the issuance of a Certificate of Occupancy for 50 percent of the residential units (25 units) or 6,500 SF of commercial space, whichever occurs first, the Applicant shall adjust the “yellow” and “all-red” clearance intervals and the pedestrian phase times at the Centre Street/Middlesex Street, Main Street/Centre Street and Main Street/Charles Street intersections as recommended by Howard Stein Hudson, or shall verify that the required adjustments have been made.
 - f. At the site drive, install STOP-sign and align with the STOP-line; or relocate STOP sign, on abutting property at 185 Centre Street, closer to back of sidewalk to serve both sites.
 - g. The following parking modifications along Middlesex Street, subject to receipt of all necessary rights, permits and approvals:
 - 1) eliminate one parking space to the south of the proposed driveway on Middlesex Street and install “No Parking Anytime” sign.
 - 2) North of the existing driveway at 185 Centre Street on Middlesex Street, install “No Parking Anytime” sign.
 - 3) Pursue short-term loading/parking area along Middlesex Street.
 - 4) Eliminate parking space on Charles Street and install “No Parking Anytime” sign at location of emergency access.
 - h. Tenant moves shall be scheduled in advance with the property manager to ensure that moves are coordinated, and that sufficient space is available within the parking lot.
 - i. Provide short-term loading area as per plans, in a marked and signed area along the north side of the driveway prior to entering the parking lot.
5. Install and maintain all open space and landscaped areas as depicted on site plan.
 6. Construction dumpster is permitted; no permanent dumpster is allowed.
 7. The site plan may be modified to provide a required loading area for business tenants, provided that all required parking is provided in a layout that complies with the Ordinance (§12.20, MCC). Any modified site plan shall be filed with the Planning Board and Building Commissioner.
 8. The site plan shall be modified to allow emergency access only for the Fire Department from Charles Street, as per plan, “Turning Movement 21 Charles Street, Malden, MA, Figure 3, Fire Truck Entering and Exiting Project Site Using Charles Street Curb Cut,” dated June 13, 2023 prepared by Howard Stein Hudson; provided that all required parking is provided in a layout that complies with the Ordinance (§12.20, MCC); an emergency access only gate shall be installed on-site at the southern end of the parking lot; mountable sloped curbing shall be installed on Charles Street; and on-street parking shall be eliminated as necessary. The modified site plan shall be filed with the City Planner and Building Commissioner.
 9. Install stormwater management system on-site, subject to reasonable approval of City Engineer.
 10. All Affordable Housing Units shall remain Affordable, as defined by City ordinance, in perpetuity, or for a minimum of thirty (30) years, whichever is longer.
 11. Mill and overlay Middlesex Street between Centre Street and Charles Street, curb to curb.

RECORD of VOTES (Case #23-09):

On June 14, 2023, on the motion by Hayes, seconded by Soucy, to grant the petition for a special permit, subject to eleven conditions, the vote was eight in favor, one opposed, and the motion passed (8-1):

Chuha, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Stone, yes; Ioven, no. [Antonucci, Verma, absent].

I hereby certify that the above is a true copy of the decision of the Malden Planning Board. By: 
Michelle A. Romero, City Planner

MEMORANDUM OF UNDERSTANDING
FOR THE MALDEN ZONING ORDINANCE:
INCLUSIONARY ZONING

This Memorandum of Understanding (this "MOU"), dated 4/21/2023, is between the City of Malden (the "City") and SL Realty Holdings LLC (the "Developer"), with respect to the housing project known as, 11 Charles St (the "Project").

WHEREAS, Title 12, Chapter 12, Section 300 of the Code of the City of Malden references the Inclusionary Zoning Ordinance for the City (hereinafter, the Inclusionary Zoning Ordinance);

WHEREAS, the purpose of the Inclusionary Zoning Ordinance is to promote the development of permanent affordable housing in order to improve housing stability for low-and moderate-income households, mitigate the impacts of new residential development on the availability and cost of housing, and maintain an economically integrated community by promoting diverse affordable housing opportunities throughout Malden;

WHEREAS, the applicability of the inclusionary zoning provisions of this Section shall apply to all projects and developments in all zoning districts that result in a net increase of eight (8) or more dwelling units, whether in whole or in part, through new construction in one or more buildings, and/or by alteration, extension, reconstruction, structural change or change of use of an existing building or buildings OR a net increase of eight (8) or more dwelling lots created through any subdivision of land OR a net increase of eight (8) or more assisted living units in any nursing/convalescent home or other development;

WHEREAS, the Special Permit Granting Authority (the "SPGA") shall be the Planning Board, a Special Permit is required and may be granted only if the SPGA finds the proposal complies with the requirements of this Section;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

DEVELOPER INFORMATION

Name of Organization: SL Realty Holdings, LLC

Contact Information: 617-224-1426 jlanstein@cantella.com

Name of Project: 11 Charles St

Address of Project: Same

INCLUSIONARY ZONING CHECKLIST:

I have completed the Inclusionary Zoning Application Checklist provided by the City of Malden staff.

PLEASE CHOOSE ONLY ONE:

I am choosing to pay the fee in-lieu of building the required affordable unit.

I am building the required affordable units.

Total # of Units: 51

Total # of Parking Spaces: 67

In accordance with the Inclusionary Zoning Ordinance , Submission Requirements the Developer is required to submit the documents listed in Section J.1 c-e with its application for a special permit:

- 1) Lottery Plan for Affordable Units that includes Local Preference required by this Section.
- 2) Marketing Plan for Affordable Units that includes Local Preference required by this Section.
- 3) Draft legal instruments that describe Preservation of Affordability required by this Section.

In lieu of submitting these required documents with its application for a special permit, the Developer may agree to the terms of this MOU and identify the lottery agents who will be responsible for the production of these documents, and the City will consider a fully executed MOU with the Developer as satisfactory proof of Developer's compliance with the filing requirements for a Special Permit. If the Developer is granted a Special Permit, the Developer must continue to work on the required lottery plan, marketing plan, and affordable housing restriction, and the City will NOT issue an Occupancy Permit (temporary or final) for all or any part of the project unless and until the Developer has provided all required documents.

Will you be using a lottery agent to draft these documents and conduct the lottery?

YES

NO

If YES, please list the current lottery agent who will provide these documents:

Name of Organization: Maloney Properties

Contact Information: Jon Dittenbach
617-675-6445

If NO, please provide other agencies (affordable housing developers or other qualified agencies) that are engaged in the process that will produce these documents:

Name of Organization: _____

Contact Information: _____

COMPLIANCE PROCEDURES:
APPLICABLE TO ALL PROJECTS SUBJECT TO INCLUSIONARY ZONING

FOR PROJECT DEVELOPERS

- 1. Purpose.** The purpose of this MOU is to provide the framework and the responsibilities of the Parties associated with their work on the Project. The Malden Zoning Ordinance Section 12.12.300 Inclusionary Zoning was established to promote the development of permanent Affordable Housing in order to provide housing stability to low- and moderate-income households and mitigate the impacts of new market-rate residential development. Per the Ordinance's submission requirements for the application for a special permit, Developers shall provide lottery plans and marketing plans that address the local preference requirement and an affordable housing restriction to preserve the affordability of the units. Developers subject to Inclusionary Zoning are typically market-rate developers that might not have the capacity to provide the required documents that in accordance with the Department of Housing and Community Development's (DHCD) compliance language. Therefore, the City has decided to draft this MOU to expedite the process for developers to receive special permit from the Special Permit Granting Authority (SPGA). This MOU is NOT a substitute for the documents listed but serves as an agreement and commitment that the City and the Developers will provide the required documents prior to the issue of the Occupancy Permit. The following are taken from the Malden Zoning Ordinance 12.12.300 to emphasize the sections that correspond with the production of the lottery and marketing plan and affordable housing restriction.
- 2. Affordability.**

 - **Rental.** For Affordable Housing Units, payment of housing and related costs (including utility costs for heat, electricity, water, and hot-water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities) shall be set at a level not to exceed thirty percent (30%) of annual gross income for the renting household.
 - **Homeownership.** For homeownership Affordable Housing Units, the maximum sales price for initial purchase and subsequent sales shall be set at a level such that housing related costs (including utility costs for heat, electricity, water, and hot-water, mortgage payments, insurance, real estate taxes, and condominium fees) do not exceed thirty percent (30%) of the purchasing household's annual gross income.
- 3. Preservation of Affordability.** Affordable Housing Units required by and provided under the provisions of this ordinance shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible. Sales prices, resale prices, initial rents, and rent increases for the Affordable Housing Units shall be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements, to ensure long-term affordability and compliance with this Ordinance.

4. **Right of First Refusal.** The developer of an affordable homeownership unit developed as a result of this ordinance shall agree to execute a deed rider consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the Affordable Housing Trust Fund's right of first refusal to purchase the property at the point of original sale or any subsequent resale in the event that a qualified purchaser cannot be located, or in the event of a foreclosure on the property.
5. **Local Preference.** To the maximum extent permitted by law, including the regulations of the Department of Housing and Community Development or any successor agency, any special permit granted hereunder shall include a condition that a preference for Malden residents shall be included as part of the lottery and marketing plan for the Affordable Housing Units.
6. **Submission Requirements for Special Permit.** In addition to any other Submission Requirements of this Ordinance or the SPGA, an applicant for an Inclusionary Development shall submit the following with its application for a special permit:
 - Narrative that describes compliance with the Development Standards of this Section.
 - Narrative that identifies any proposed Alternative Methods of Compliance, including the reasons for the request and supporting documentation.
 - Lottery Plan for Affordable Units that includes Local Preference required by this Section.
 - Marketing Plan for Affordable Units that includes Local Preference required by this Section.

SIGNATURES

The City of Malden:

Director of Inspectional Services



Nelson Miller

Date: 5/9/2023

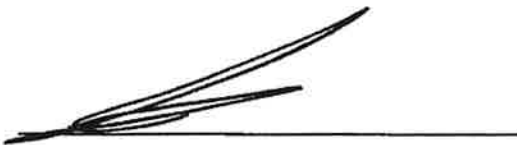
Director of Strategic Planning and Community Development



Deborah Burke

Date: 4/25/2023

Developer:



Date: 4/27/2023

[Name, Title, Company]

Jay Lanstlin
Manager
SL Realty Holdings, LLC