



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

CASE NUMBER 23-11

LOCATION of SUBJECT PROPERTY 204 Main Street, Malden, MA

NAME of PETITIONER and PROPERTY OWNER 204 Main Malden LLC

DATE of PUBLIC HEARING August 14, 2023

DATE of DECISION August 14, 2023

DATE of FILING DECISION with CITY CLERK August 23, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR August 23, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT September 12, 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 #23-11):

1. The subject property is known as and numbered 204 Main Street and by City Assessor's parcel identification number 064 309 925.
2. Petitioner is the property owner, 204 Main Malden LLC, 148 Main Street, Malden, MA.
3. At the public hearing on August 14, 2023, petitioner was represented by Thomas P. Callaghan, Jr., attorney, Kelliher & Callaghan, One Centre Street, Malden, MA; Scott Fitzpatrick, contractor, Scott M. Fitzpatrick & Son, LLC, 67 Maplewood Street, Malden, MA; Steven DeFuria, architect, Phoenix Architects, 9 Foster Street, Wakefield, MA; Rick Salvo, engineer, Engineering Alliance, 194 Central Street, Saugus, MA; and Andreas Tsitos, owner's representative, 148 Main Street, Malden, MA.
4. The petition filed in permit application number CMID 045711-2022 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 use of property in the Neighborhood Business zoning district for a multifamily residential dwelling, up to three stories inclusive, and an Inclusionary Development, namely, to construct a building with three stories and a total of thirty-three dwelling units, including four Affordable Housing Units.
5. The following plans and information were submitted in support of the petition: a) set of plans, "Multi-family Development, 204 Main Street (Tax Map 64 Block 309 Lot 925), Malden, Massachusetts," dated April 12, 2022, prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA, that includes an Existing Conditions Plan (C-1), dated March 3, 2021, that contains, "Certified Plot Plan of Land 204 Main Street Malden, MA (Middlesex County)," dated September 29, 2021, prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA; Site Layout (C-2) dated April 12, 2022 revised through January 6, 2023; Grading, Drainage & Utility Plan (C-3) dated April 12, 2022 revised through January 6, 2023; Construction Detail (D-1 and D-2); "Landscape Plan 204 Main St. Malden, MA," (L-I), dated May 12, 2023, prepared by James K. Emmanuel, Registered Landscape Architect, James K. Emmanuel Associates, Marblehead, MA; b) set of plans, "204 Main St Malden, MA," dated January 9, 2023, prepared by Peter L. Sandorse, Registered Architect, Phoenix Architects, Wakefield, MA, that includes a Proposed Parking Floor Plan revised August 14, 2023, Proposed First Floor Plan, Proposed Second Floor Plan, Proposed Third Floor Plan, Proposed Elevations: Right, Left, Front and Rear, Graphic Front Elevation, Graphic Left Elevation; c) "Drainage Calculations and Stormwater Management Plan," dated March 10, 2023, prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA (cover sheet revised August 9, 2023); d) "Transportation Impact Assessment, Proposed Residential Development, 204 Main Street, Malden, Massachusetts, prepared for United Properties, Inc.," dated January 2023, prepared by Vanasse & Associates, Inc., Andover, MA; e) correspondence, "Responses to Traffic Peer Review Comments of June 22, 2023, Proposed Residential Development, 204 Main Street," dated July 7, 2023 from Scott W. Thornton, PE, VAI; and f) correspondence, undated (received July 17, 2023) from Scott M. Fitzpatrick, Authorized Agent, 204 Main Malden LLC, to Nelson Miller, Building Commissioner, regarding the Inclusionary Zoning narrative.
6. Petitioner obtained all applicable Determinations of the Malden Historical Commission under the Demolition and Alteration Delay Ordinance, per §12.12.010.C of the Ordinance, and the Commission reviewed and approved the proposed demolition of the building at the subject property, as per decision dated June 29, 2022.
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 #23-11):

The City of Malden Planning Board finds the following facts:

1. The subject property is currently the site of a vacant 2 ½ story building, most recently used for a funeral home, and two construction trailers, construction materials, fencing, generator, equipment, various debris and plows.
2. The proposal is to demolish the existing building and construct a multifamily dwelling with three stories and thirty-three units, each with one bedroom, eleven units per floor, including four Affordable Housing Units; and amenities, including a trash room, mechanical and sprinkler rooms, bicycle storage room, vestibule, lobby, package and mail area, on the first floor; and a common area with seating on the second and third floors.
3. The property is located in the Neighborhood Business zoning district.
4. The proposed multifamily dwelling, up to three stories inclusive, is allowed by special permit in this zoning district, per §12.12.030 of the Ordinance.
5. The direct abutters to the south are single and two-family dwellings; to the west, two-family dwellings; to the north, two-family dwellings and a paved lot used for parking for the abutting property to the north, a mixed-use building with storefront used for retail sales/services and four residential dwelling units; and to the east, on the other side of Main Street, a two-family dwelling, a mixed-use building with storefront used for general offices and a single-family dwelling, and a multifamily dwelling with five stories and fifty-three units.
6. Surrounding land uses are residential, business and Bell Rock Park.
7. The proposal complies with all dimensional controls of §12.16.010 of the Ordinance, except building lot coverage and density.
8. The proposal is the subject of a variance granted for lot coverage and density, per the Board of Appeal decision dated January 18, 2023.
9. The project proposes a total of thirty-three units: eighteen units, allowed under the density requirements of the Ordinance; eleven units, allowed by the variance granted; and four units, allowed pursuant to the Density Bonus Incentive, Inclusionary Zoning provisions of the Ordinance.
10. The project proposes more than the minimum required open space, providing a total of 9,520 square feet or 288 square feet per dwelling unit, and the proposal complies with all Usable Open Space Requirements for All Districts, as provided by §§12.16.010 and 12.16.080 of the Ordinance.
11. The proposal requires a total of thirty-three parking spaces: twenty-nine spaces for the market-rate units with a total of twenty-nine bedrooms, based on the requirement to provide one space per bedroom; and four spaces for the four 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.
12. Under the proposal, thirty-six parking spaces will be provided, all head-on: eleven spaces in a paved parking lot in the southern side yard, and twenty-five in a basement-level garage, partially below grade, under the building.
13. The dimensions of parking spaces are conforming, per §12.20.020.A of the Ordinance.
14. The width of parking aisles is conforming, per §12.20.020.B of the Ordinance.
15. Under the proposal, the existing curb-cut on Main Street will be closed; two new curb-cuts and driveways off Main Street are proposed to provide access/egress for parking: one for the open parking lot, and one for the garage; and the width of each driveway is conforming for two-way traffic, per §12.20.020.C of the Ordinance.
16. Under the proposal, bicycle parking for at least four bicycles will be provided in a bicycle room in the basement/garage level floor, as required by §12.20.020.I.14 of the Ordinance.
17. Yard areas not paved for parking or access will be landscaped, in compliance with the requirements of §12.20.020.I.5 of the Ordinance, and as depicted on the Landscape Plan.
18. More than the required snow storage for parking is provided onsite, per §12.20.020.I.6 of the Ordinance.
19. The proposal requires screening along the southern property line, to screen the multifamily off-street parking area from abutting residential uses, per §12.20.040 of the Ordinance; the plans depict an area of the minimum required width, three feet, and petitioner intends to install fencing as screening.
20. Under the proposal, trash and recycling are proposed to be stored in totes in a room in the basement/garage level floor and collected by a third party; and no dumpster is proposed.
21. The City's peer review of petitioner's traffic impact study and follow-up response are described in correspondence dated June 14, 2023 and email dated July 12, 2023 from Kenneth J. Petraglia, P.E., PTOE, and recommends traffic and safety mitigation regarding signs and pavement markings; STOP-sign control with STOP-line pavement markings at site-driveway exits; and signs, landscaping, snow removal for site driveways.
22. The proposal is an Inclusionary Development, as defined by the Ordinance.
23. The proposal requires a minimum of 4.35 Affordable Housing Units, which is 15% of the total number of dwelling units, namely, twenty-nine units, excluding the units allowed as Density Bonus Incentive, per §12.12.300 of the Ordinance.

24. The proposal will provide four Affordable Housing Units on-site, and the developer elects to make an In-Lieu Payment to the Affordable Housing Trust Fund for the fractional unit, as an Alternative Method of Compliance, per §12.12.300 of the Ordinance.
25. The proposal complies with the requirements of Inclusionary Zoning, §12.12.300 of the Ordinance, as described in the correspondence regarding compliance dated August 3, 2023 from Kristina Tseng, HOME Program Director, City of Malden Office of Strategic Planning & Community Development, and the Memorandum of Understanding dated May 12, 2023, between the City and petitioner, regarding future compliance regarding Lottery Plan, Marketing Plan and Draft Legal instruments for Preservation of Affordability.
26. Petitioner is unsure whether the project will require ledge removal, which is subject to the Ordinance.
27. The Mayor, Ward 1 City Councilor, and one of three City Councilors-at-Large are in support of the proposal.
28. There is no public opposition to the proposal.
29. As modified by the conditions of the special permit, the proposed residential use is in the interest of the common good.

DECISION (Case #23-11):


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

1. All development shall be as per plans, except as modified by these conditions.
2. The maximum number of dwelling units is 33; the maximum number of bedrooms is 33; and a minimum of four units shall be Affordable Housing Units.
3. Prior to issuance of any occupancy permit, developer/owner shall make a one-time cash payment to the Affordable Housing Trust Fund as an Alternative Method of Compliance, In-Lieu Payment, in the amount required by Ordinance for the fractional required Affordable Housing Unit (0.35).
4. Prior to issuance of any occupancy permit, developer/owner shall comply with all terms of the Memorandum of Understanding dated May 12, 2023 re: Affordable Housing Units, which is attached hereto and incorporated herein by reference.
5. Developer/owner shall implement the following traffic and safety mitigation:
 - a) place both site-driveway exits under STOP-sign control with STOP-line pavement markings.
 - b) provide signs and markings that comply with the Federal Highways Administration, Manual on Uniform Traffic Control Devices for Streets and Highways, 2009 Edition (rev. 9/6/2022).
 - c) design and maintain signs, landscaping, and other appurtenances to ensure appropriate sight lines onsite and at site driveways.
 - d) promptly remove snow windrows to ensure appropriate sight lines on site and at site driveways.
6. Install and maintain all open space and landscaping, as depicted on the Site Layout plan and Landscape Plan.
7. Install and maintain privacy fencing along southern property line to screen residential abutters from parking.
8. Temporary construction dumpster is permitted; no permanent dumpster is allowed.
9. Provide bicycle parking for minimum of four (4) inside room in garage, as per plan.
10. Install and maintain stormwater management system onsite, as per plans, and subject to reasonable modification by City Engineer.
11. Thirty-six (36) parking spaces shall be provided.
12. Salvage and repurpose on-site the granite pillars and slabs from wall.
13. Screen rooftop mechanicals visually and for noise reduction.

RECORD of VOTES (Case #23-11):

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

Chuha, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Stone, yes; Verma, yes; Ioven, no. [*Antonucci, Gray, 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 MAY 12, 2023, is between the City of Malden (the "City") and UNITED PROPERTIES (the "Developer"), with respect to the housing project known as, 204 MAIN 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: UNITED PROPERTIES INC

Contact Information: ANDREAS TSITOS 781-883-9555

Name of Project: 204 MAIN ST

ANDREAS @
UNITEDPROPERTIES.COM

Address of Project: 204 MAIN ST, MALDEN

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: _____

Total # of Parking Spaces: _____

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: JOHN COSTELLO

617-675-6444 JCOSTELLO@MALONEYPROPERTIES.COM

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.

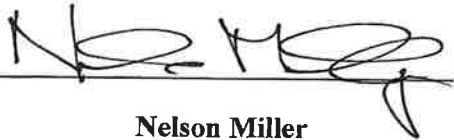


4. **Right of First Refusal.** The developer of an affordable homeownership unit developed as a result of this ordinance shall agree to execute a deed rider consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the Affordable Housing Trust 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: 8/14/23

Director of Strategic Planning and Community Development


Deborah Burke

Date: 8/10/2023

Developer:



Date: MAY 12, 2023

[Name, Title, Company]

ANDREAS TSITOS
PRESIDENT
UNITED PROPERTIES INC
148 MAIN ST
MALDEN, MA 02148