



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

CASE NUMBER 23-12

LOCATION of SUBJECT PROPERTY 129 Commercial Street, Malden, MA

NAME of PETITIONER and PROPERTY OWNER Old Town Trolley Tours of Washington, Inc.

DATE of PUBLIC HEARING September 13, 2023

DATE of DECISION September 13, 2023

DATE of FILING DECISION with CITY CLERK September 26, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR September 26, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 16, 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 #23-12):

1. The subject property is known as and numbered 129 Commercial Street and by City Assessor's parcel identification numbers 055 233 301.
2. Petitioner is the property owner, Old Town Trolley Tours of Washington, Inc., 380 Dorchester Avenue, South Boston, MA, a subsidiary of Historic Tours of America, Inc., 108 Sea Grove Main Street, St. Augustine, FL.
3. At the public hearing on September 13, 2023, petitioner was represented by Chris Crompton, General Manager Old Town Trolley Tours, 380 Dorchester Avenue, South Boston, MA; Brandon G. Li, Professional Engineer, Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA; Alan Popkin, Registered Architect, ahp Architects Inc., 116 John Street, Lowell, MA; and Daniel A. Dumais, Professional Engineer, MDM Transportation Consultants, Inc., 28 Lord Road, Marlborough, MA.
4. The petition filed in permit application number CMID 060932-2023 seeks a special permit under Title 12, Chapter 12, Section 030 of the Code of the City of Malden (the Ordinance) to allow use of property in the Industrial 2 zoning district for a warehouse, namely, for the storage of trolleys, with accessory trolley maintenance and repair, washing, fueling station and administrative offices.
5. The following plans and information were submitted in support of the petition: a) set of plans, "Site Development Plans for 129 Commercial Street Malden, MA," dated August 4, 2023 (stamped/signed August 8, 2023), prepared by Brandon G. Li, Professional Engineer, Kelly Engineering Group, Braintree, MA, that includes an "Existing Conditions Plan" (Sheet No. 2), dated August 4, 2023, prepared Steven M. Horsfall, Professional Land Surveyor, Kelly Engineering Group, Braintree, MA; Layout and Zoning Plan (Sheet No. 3) and Site Plan (Sheet No. 4); b) set of plans, "Old Town Trolley, 120 Commercial Street, Malden, MA, Client: Historic Tours of America," dated August 8, 2023 revised September 13, 2023, prepared by ahp Architects, Lowell, MA that include a First floor plan (A.101), Second floor plan (A.102) and Exterior Elevations (A.201); "Memorandum Re: Old Town Trolley Relocation, 129 Commercial Street- Malden, MA," dated August 11, 2023, and "Memorandum Re: Response to Comment," dated September 12, 2023, prepared by Robert J. Michaud, P.E. and Daniel A. Dumais, P.E., MDM Transportation Consultants, Marlborough, MA, that contains a Traffic Impact Assessment and additional traffic information; and "Stormwater Management Report 08/04/2023 129 Commercial Street Malden, MA," dated August 8, 2023, prepared by Brandon G. Li, P.E., Kelly Engineering Group, Braintree, MA.
6. 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 #23-12):

The City of Malden Planning Board finds the following facts:

1. The subject property comprises the block bound by Charles Street, Commercial Street, Adams Street and the Massachusetts Bay Transit Authority (MBTA) rapid transit and railroad right-of-way.
2. The property is the site of a two-story building with a total gross floor area of 52,172 square feet; an accessory building and three silos; and mostly vacant, except for petitioner's use of office space and outside parking lot.
3. Under the proposal, petitioner will renovate and use the majority of the building, 39,742 square feet, including the following on the first floor: storage and parking of forty-five trolleys (19,757 square feet); trolley repairs and maintenance (5,675 square feet); parts room (629 square feet); trolley wash area (1,194 square feet); prewash area (1,477 square feet); refueling and fuel storage area (259 square feet); and the second floor for administrative offices (8,255 square feet), including a briefing room, conference rooms, individual offices, locker rooms, and kitchenette.

4. Petitioner intends to sublease 11,209 square feet of the first floor and 1,273 square feet of the second floor, to a warehouse tenant, to be determined; petitioner does not need the space and the sublease is for financial reasons.
5. The property is located in the Industrial 2 zoning district.
6. The proposed warehouse is allowed by special permit in this zoning district, per §12.12.030 of the Ordinance.
7. The proposed vehicle repair and maintenance, washing, fueling and offices, will be accessory to the proposed principal warehouse use.
8. The direct abutter to the west is the active MBTA right-of-way with rapid transit Orange Line and commuter rail Haverhill train line; and the abutter to the north, on the other side of Charles Street, are medical center use by doctors' offices; to the east, on the other side of Commercial Street, manufacturing and Plaza 188 with supermarket, retail services (laundromat), general offices, restaurant (coffee shop), medical center (physical therapy); and to the south, on the other side of Adams Street, warehouse and wholesales & distribution.
9. Surrounding land uses are residential to the west and business and industrial to the north, east and south.
10. The proposed warehouse use is not in conflict with surrounding land uses.
11. The proposal complies with all dimensional controls of §§12.16.010 and 12.16.050 of the Ordinance.
12. Under the proposal, the required fifty-two parking spaces, per §12.20.010 of the Ordinance, will be provided in two on-site parking areas: one parking area located at northern end of the site with access/egress via Charles Street, and another parking area located at southern end of the site with access/egress via Commercial Street.
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. The width of both driveways, one on Charles Street and one on Commercial Street, are conforming for two-way traffic, per §12.20.020.C of the Ordinance.
16. Yard areas not paved for parking or access are depicted on the site plan as landscaped, in compliance with requirements, including the required six trees, per §12.20.020.I.5 of the Ordinance.
17. More than the required snow storage for parking will be provided onsite, per §12.20.020.I.6 of the Ordinance.
18. Required bicycle parking for twelve bicycles, will be provided in a secure area inside the building, per §12.20.020.I.14 of the Ordinance.
19. The proposed dumpster pad with enclosure does not comply with siting requirements because located within 20 feet of the rear property line; and does comply with visual screening requirement, per §12.20.030.H of the Ordinance; and this new violation may be allowed by special permit, per §12.12.010.B.2 of the Ordinance.
20. The proposed dumpster location will not be more detrimental to the neighborhood.
21. The City's peer review of petitioner's traffic impact study and response are described in correspondence dated September 7, 2023 and September 7, 2023 (received September 13, 2023) from Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc., Andover, MA; and as described in correspondence and as stated during the public hearing, the City peer reviewer recommends traffic and safety mitigation on-site and in the surrounding area, including a Transportation Demand Management Program; bicycle storage room or similar weather-protected, secure bicycle parking within the building; improvements to the intersection of Commercial Street and Charles Street; revisions to the Site Plan to include STOP-signs and STOP-lines on the site driveways and notes regarding signs, pavement markings and sight lines; and installation of "No Stopping Any Time" signs along the site frontage on Commercial Street.
22. The specific recommended improvements to the intersection of Commercial Street and Charles Street are: i) evaluate the "yellow" and "all-red" clearance intervals and pedestrian phase timings and adjust as necessary to meet current design standards; ii) upgrade, repair or replace the pedestrian push-buttons, signs and saddles as necessary to meet Americans with Disabilities Act (ADA) requirements; and iii) reconstruct the wheelchair ramps on the corners of the intersection to meet ADA requirements; or, as an alternative to ii) and iii), prepare detailed design plans/construction drawings and cost estimate to reconstruct the intersection to meet ADA requirements.
23. The expected costs of making the recommended improvements to the intersection of Commercial Street and Charles Street are substantial; the Board finds it would be an unfair burden on petitioner to make the improvements because the costs are disproportionate to the impacts of the proposal; also, the design plans/construction drawings and cost estimate may become outdated if not implemented in the near future, and currently, there is no funding for implementation identified.
24. According to petitioner, 30% of its employees use public transit; many employees report directly to locations other than the proposed Commercial Street facility; and the maximum number of employees on-site at any one time is expected to be forty-five.
25. Trolley departures from the site and arrivals to the site will be staggered.
26. There will be a one-way circulation pattern for trolleys: access via Charles Street, egress via Commercial Street.

27. The proposal includes removal of a portion of the existing building from the northwestern corner, 430 square feet in size, currently comprised of a freezer unit; and installation of an overhead door on the northern side of the building, for trolleys to enter the building.
28. An overhead door is proposed to be installed on the eastern side, adjacent to the repairs and maintenance area.
29. The proposal includes modification by relocation and enlargement of the curb-cut on Charles Street, for which petitioner has already obtained the required approval of the Department of Public Works.
30. The proposal includes removal of the loading docks, accessory building and silos from the southern side of the site, and the grade of the lot will be raised to meet the “finish floor level” of the building on the southern side.
31. Existing overhead doors on the southern side of the building will be modified for trolleys to exit the building.
32. Trolleys cannot “clear” or fit under the MBTA overpass bridges on Charles Street and Adams Street.
33. The traffic and traffic patterns generated by the proposed use will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
34. The proposed stormwater management plan is under review by the City Engineer.
35. Petitioner intends to install an oil-gas separator in the building.
36. The proposed interior refueling station would be located in a protected, self-contained area with a fire-suppression system and security system, and include an above-grade, 3,000-gallon tank for diesel fuel; the proposal is under review by the Fire Chief.
37. The Ward 1 City Councilor, and the former Ward 7 City Councilor, who is a long-time employee of petitioner, are in support of the proposal.
38. There is no public opposition to the proposal.
39. As modified by the conditions of the special permit, the proposal is in the interest of the common good.
40. As modified by the conditions of the special permit, the proposed use will not be more detrimental to the neighborhood.

DECISION (Case #23-12):

On September 13, 2023, pursuant to the foregoing Findings of Fact, the Planning Board granted the petition for a special permit, subject to the following eight conditions:

1. All development shall be as per plans, except and unless modified by these conditions.
2. Vehicle repair and maintenance, fueling and washing may only be accessory to the warehouse use.
3. Use and occupancy of 12,000 SF of the first floor and 1,300 SF of the second floor may be only for warehouse; any other use shall require an amendment of this special permit.
4. Maintain one-way circulation pattern for trolleys (access via Charles Street, egress via Commercial Street).
5. Interior refueling and fuel storage may only be done with the approval of Malden Fire Department.
6. Petitioner shall implement the following traffic and safety mitigation:
  - a. Implement a Transportation Demand Management Program (TDM) that includes:
    - i. Designate On-Site Transportation Coordinator (TC) to provide TDM information to employees and building tenants including tenant manual with info. on public transportation routes and schedules, area bicycle share, area car share, on-site bicycle parking, parking policies and site amenities.
    - ii. Offer a Guaranteed Ride Home (GRH) program at no cost to employees that arrive to the Project site using an alternative mode of transportation to a single-occupancy vehicle (SOV) at least three (3) times per week and that register with TC.
    - iii. Provide employees who work at/out of the Commercial Street facility with a transit pass subsidy at least 50% of the cost of a Massachusetts Bay Transportation Authority (MBTA) pass.
  - b. Make the following improvements at the Commercial Street/Charles Street intersection:
    - i. Evaluate the “yellow” and “all-red” clearance intervals and the pedestrian phase timings and adjust as necessary to meet current design standards.
  - c. Revise Site Plan to include following:
    - i. Addition of STOP-signs and STOP-lines on the Project site driveways.
    - ii. Add note: “All Signs and pavement markings to be installed within the Project site shall conform to the applicable specifications of the Manual on Uniform Traffic Control Devices (MUTCD).”
    - iii. Show sight triangle areas for the site driveways with a note: “Signs, landscaping and other features located within sight triangle areas shall be designed, installed and maintained so as not to exceed 2.5-feet in height. Snow accumulation (windrows) located within sight triangle areas that exceed 3.5-feet in height or that would otherwise inhibit sight lines shall be promptly removed.”
  - d. Provide an interior bicycle storage room or secure area inside the building with parking for 12 bicycles.

- e. Subject to the approval of the Traffic Commission, install “No Stopping Any Time” signs along the site frontage on Commercial Street.
- 7. Install proposed stormwater management system, subject to modification and approval of City Engineer.
- 8. Dumpster location shall be as per plan.

RECORD of VOTES (Case #23-12):

On September 13, 2023, on the motion by Antonucci, seconded by Stone, to grant the petition for a special permit, subject to eight conditions, the vote was nine in favor, none opposed, and the motion passed (9-0):

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