



IN CITY COUNCIL

Marlborough, Mass., MAY 20, 2024

ORDERED:

**IN CITY COUNCIL
NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

Special Permit Application of:
Alta Behavioral Health, LLC
55 Concord Street, Suite 111
North Reading, MA 01864
Order No. 24-1009099D

Locus:
400 Donald J. Lynch Boulevard
Marlborough, MA 01752
Assessors Map 26, Parcel(s) 29

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Alta Behavioral Health, LLC, with a mailing address of 55 Concord Street, Suite 111, North Reading, MA, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: **MAY 20, 2024.**

The Decision of the City Council was filed in the Office of the City Clerk of Marlborough on the **23rd** day of **MAY, 2024.**

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this **13th** day of **June 2024.**

Given under Chapter 40A Section 17 of the General Laws.

A TRUE COPY
ATTEST:

City Clerk



IN CITY COUNCIL

Marlborough, Mass., MAY 20, 2024

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IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

ORDER NO. 24-1009099D

Application of:

Alta Behavioral Health LLC
55 Concord Street, Suite 111
North Reading, MA 01864

Locus:

400 Donald J Lynch Blvd.
Assessors Map 26, Parcel 29

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Alta Behavioral Health LLC, a Massachusetts limited liability company having a mailing address of 55 Concord Street, Suite 111, North Reading, MA 01864, to operate as a narcotic detoxification and/or maintenance facility as provided in this Decision and subject to the following Findings of Facts and Conditions.

FINDINGS OF FACT

1. Alta Behavioral Health LLC, a Massachusetts limited liability company having a mailing address of 55 Concord Street, Suite 111, North Reading, MA 01864, is herein referred to as "Applicant."
2. Applicant is the lessee of a portion of certain real property located at 400 Donald J Lynch Blvd., Marlborough, MA, as shown on the Marlborough Assessors Maps as Map 26, Parcel 29 (the "Premises"). The land is entirely located in a Limited Industrial ("LI") zoning district.
3. The Applicant, on or about February 9, 2024, filed with the City Clerk of the City of Marlborough an application for a Special Permit (the "Application"). The Applicant intends to operate a nonresidential/outpatient facility licensed under 105 CMR 164 as a substance abuse treatment program in a portion of an existing building at the Premises (the "Proposed Use") consistent with Article VI, Section 650-31 of the zoning ordinance of the City of Marlborough (the "Zoning Ordinance").
4. In connection with the Application, Applicant filed a Special Permit Application, certified list of abutters, filing fee and site plans by Maugel Architects (collectively, the "Site Plan," attached hereto as "Attachment A").



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ORDERED:

5. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
6. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk of the City of Marlborough caused notice of the same to be advertised said date and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
7. The Marlborough City Council, pursuant to Mass. Gen. Laws c. 40A, held a public hearing on March 25, 2024, concerning said Application. The hearing was opened and closed at that meeting.
8. Applicant presented testimony at the public hearing detailing the Application, and describing the nature of its intended services to be provided and its impact in making these services more available and convenient to residents of the community. No one spoke against the proposed Special Permit. In addition, Applicant presented additional detailed project information at the Urban Affairs Committee meeting which occurred on April 29, 2024. All comments by those attending the City Council public hearing have been duly considered in making this decision.
9. Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding its Application, in the course of the Urban Affairs Committee meeting referred to above.
10. Applicant has requested a reasonable accommodation under State and Federal Law with respect to its Proposed Use at the Premises, specifically, relief from Marlborough Zoning Ordinance Article VI, Section 650-31 C(2)(a) as the Premises will be located within 1000' of a school (Crossroads School Inc., 295 Donald Lynch Blvd, Marlborough, MA 01752).
11. The Applicant argues that a municipality is required to reasonably accommodate disabled persons by modifying its zoning policies, practices and procedures and may not intentionally discriminate against disabled persons. 28 C.F.R. § 35.130(b)(7)(i)-(ii) states: "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity."

BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:

- A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.



IN CITY COUNCIL

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ORDERED:

- B) The City Council finds that the Proposed Use of the Premises, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. Further, the City Council finds that the Proposed Use of the Premises, is consistent with the use allowed by Special Permit under Article VI, Section 650-31 of the Zoning Ordinance and that any adverse effects of the Proposed Use will not outweigh its beneficial impacts to the City or the neighborhood. In addition, the City Council finds that the outpatient services offered to individuals in recovery from substance use will provide a significant benefit to the residents of the City. In making these determinations, the City Council has considered the factors outlined in Article VI, Section 650-31(B)(1)-(7) of the Zoning Ordinance.
- C) The City Council finds that the individuals the Applicant intends to provide services to at the Premises are a protected class, as a result of disability, under the Americans with Disabilities Act. The City Council finds the relief requested from Marlborough Zoning Ordinance Article VI, Section 650-31 C, is reasonable and necessary, given without said relief the limitations imposed by subsection C of Section 650-31 would prevent locating the Proposed Use at the Premises.
- D) The City Council, pursuant to its authority under Mass. Gen. Laws c. 40A and the Marlborough Zoning Ordinance, **GRANTS** the Applicant a Special Permit to operate a nonresidential/outpatient facility licensed under 105 CMR 164 as a substance abuse treatment program in an existing building at 400 Donald J. Lynch Boulevard with a reasonable accommodation under the Americans with Disabilities Act in the form of a waiver from having to comply with subsection C(2)(a) of Section 650-31 of Article IV, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Compliance With Building Regulations. Buildout and modification of the Premises to be occupied shall be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts.
 2. Application and Documents. All plans, drawings, site evaluations, and documentation provided by the Applicant as part of this Special Permit Application, including the Site Plan, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same.
 3. Compliance with Local, State and Federal Laws. The Applicant agrees to comply with all rules, regulations, and ordinances of the City of Marlborough, Commonwealth of Massachusetts, and the Federal Government as they may apply to the construction, maintenance, and operation of Applicant's Proposed Use at the Premises, as supplemented by applicable conditions of this Special Permit.



IN CITY COUNCIL

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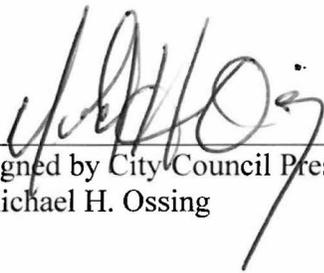
ORDERED:

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4. Incorporation of Plans and Drawings. All terms, conditions, requirements, approvals, plans, and drawings provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, including the Site Plan, are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
5. Compliance of Signs with Sign Ordinance. All building signage at the subject location shall comply with the City of Marlborough Sign Ordinance.
6. Fire Protection. Fire protection systems shall be acceptable in all respects to the City of Marlborough Fire Chief or their designee.
7. Safety. The Applicant's Premises shall be locked, even during program hours (office hours). The front desk shall be staffed during program hours and patients will be required to sign-in and sign-out. A waiting area shall be used within the Premises to minimize congestion and wait time outside the Premises for pick-ups.
8. Recording of Decision. In accordance with the provisions of Massachusetts General Laws Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense, shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed. After recording but prior to issuance of a Building Permit, Applicant shall provide the City Council and the City Solicitor's office with a copy of the recorded Special Permit.
9. Unless the context otherwise clearly requires, all references in the above conditions to Applicant's "successors and/or assigns" shall also refer to and include any sub-tenant(s) of the Applicant.

Yea: 11 – Nay: 0

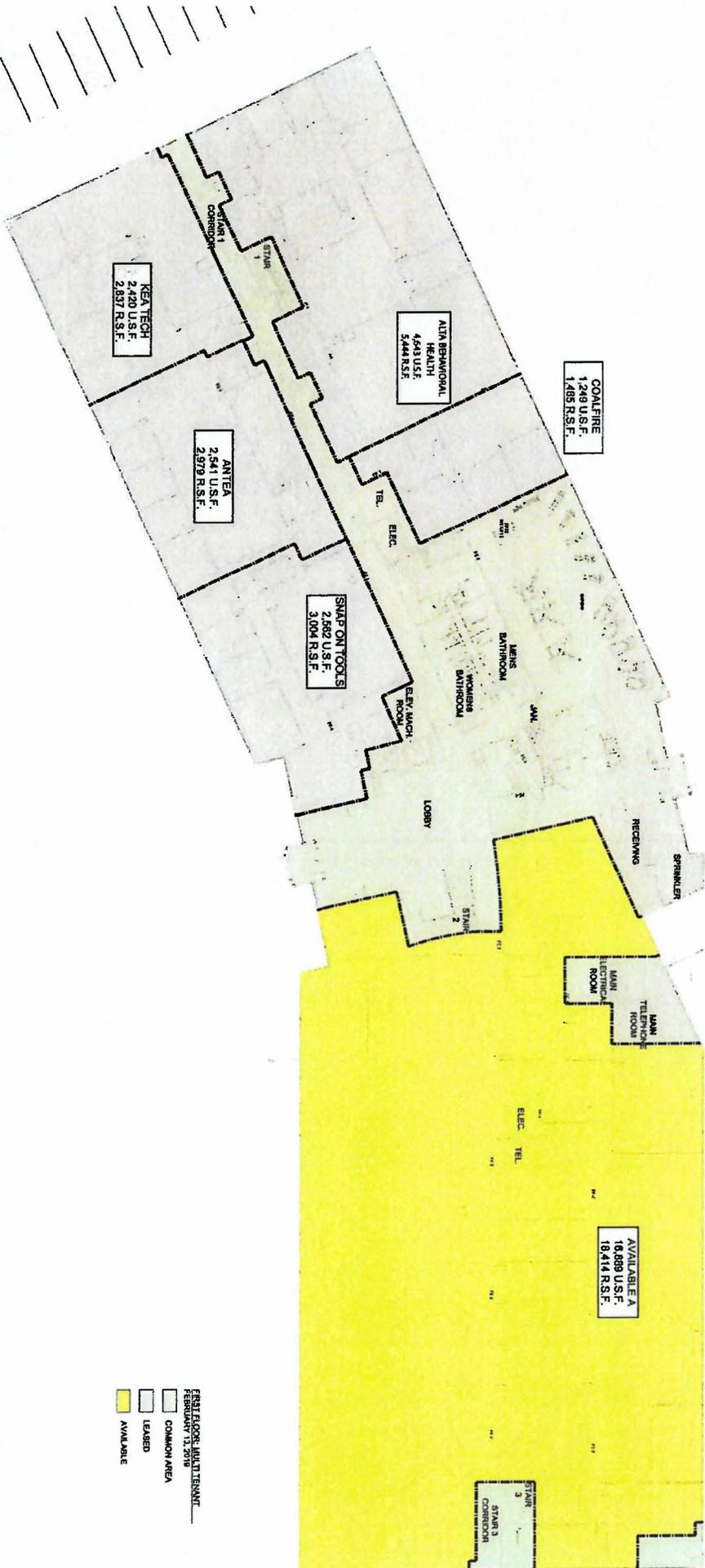
Yea: Vital, Doucette, Preciado, Brown, Irish, Navin, Landers, Navin, Oram, Ossing & Robey.


Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
24-1009099D

ATTACHMENT

A



Alta Behavioral Health, LLC
400 Donald Lynch Blvd
Marlborough, MA 01752
Unit 105 (grey on plan - 4,400 square feet)
1st Floor Corner Unit
Zoning District: Limited Industrial
Table of Use Regs attached - see
Narcotic detoxification and/or maintenance facility
highlighted on Page 7 - allowed with SP

EXIT = Exit Sign

