\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, 2023

notice of decision
grant of special permit

In City Council
Order No. **22/23-1008768**

Application of:
Alliance Health & Human Services/Marie Esther Health Center, Inc.

Locus:
720 Boston Post Road E, Marlborough, MA

Parcel 7 on Assessors Map 61

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Marie Esther Health Center, Inc., with a mailing address of 144 Turnpike Road, Suite 220, Southborough, MA, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, 2023

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [ ] day of [ ], 2023.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

A TRUE COPY

ATTEST:

City Clerk

**ORDERED:**

**IN CITY COUNCIL**

  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DECISION ON A SPECIAL PERMIT**

Application of:
Marie Esther Health Center, Inc.

Locus:
720 Boston Post Road E, Marlborough, MA

Parcel 7 on Assessors Map 61

**DECISION ON A SPECIAL PERMIT**

**ORDER NO. 22/23-1008768**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Marie Esther Health Center, Inc. (the “Applicant”) for expansion of the existing skilled nursing use at 720 Boston Post Road E, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

# The Applicant, Marie Esther Health Center, Inc., is a registered not-for-profit corporation formed under Chapter 180 of the General Laws and exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, with an address of 144 Turnpike Road, Suite 220, Southborough, MA 01772.

# The Applicant is the owner of the property located at 720 Boston Post Road E, Marlborough, Massachusetts, being shown as Parcel 7 on Assessors Map 61 (the “Site”).

# In accordance with Article IV, Section 650-12.B, of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes renovate 10,490 square feet of the preexisting nonconforming convalescent and nursing home use at the Site to create 12 additional rest home beds (the “Use”). As shown on the Plans referenced in paragraph 5 below, the Use consists of a commercial building containing the convalescent and nursing home operation, loading areas, accessory parking, and landscaped areas.

# The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit (“Application”) for the Use.

# In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled “Title Commitment By: Fidelity National Title Insurance Company Commitment Number: 18T963-2022 Effective Date: 4/20/2022 Date of Field Survey: 4/5/2022” by Blew & Associates, P.A., dated May 16, 2022, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit (the “Plans”), attached hereto as **“Attachment A.”**

# 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.

# The Site has an area of 1,001,729 square feet +/- as shown on the Plans.

# The Site is a former convent and provincial administrative facility constructed for the Sisters of Saint Ann in 1963. Subsequently, a portion of the property also housed a Montessori school. The Sisters of Saint Ann converted a portion of the facility into a convalescent and nursing home for nuns in 1994. The original nursing unit became licensed by the Department of Public Health in 2000. A second nursing unit was licensed in 2003. Alliance Health, Inc. affiliated with Marie Esther Health Center, Inc. on February 25, 2019, which helped assure the longer-term viability of the nursing and convalescent home. As part of the affiliation, the nuns who were residents of the facility were allowed to remain as long as medically appropriate, and the Sisters of Saint Ann leased a portion of the building not used for patient care. Currently 6 different Orders of religious women live among the other residents receiving care there.

# The Site was zoned for Business when the Marie Esther convent and provincial administrative facility was constructed. As a religious facility, its use was allowed within the district. Over time, as the nuns aged, portions of the facility were converted to nursing and convalescent care to provide the care they needed. This resulted in the existing non-conforming use under zoning.

# Pursuant to the Rules and Regulations of the City Council for the City of Marlborough 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 for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

# The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, January 23, 2023. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on January 23, 2023.

# The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon the neighborhood.

# As part of the public hearing, no abutters to the Site expressed support or opposition about the Use or potential impact of this project.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS**

1. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
2. The City Council finds that the proposed expansion of the convalescent and nursing home use to include an additional 12 rest home beds would not be substantially more detrimental to the neighborhood than the existing convalescent and nursing home use of the Site.
3. The City Council finds that the preexisting nonconforming convalescent and nursing home use of the Site has not been abandoned or not used for a period of two years or more.
4. The City Council finds that the proposed Use is not enlarged to more than 25% of the floor and ground area of the preexisting nonconforming convalescent and nursing home use, as no changes are proposed to the exterior of the building or the Site.
5. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to expand the preexisting nonconforming convalescent and nursing home use at the Site as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

# Construction in Accordance with Applicable Laws. Construction at the Site is to be in accordance with all applicable building codes and zoning regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.

# Future Site Changes. Future changes to the exterior of the building or to the Site may be subject to site plan review.

# Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council’s Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

# Operations. Operations will not change from the existing. This facility is running 24 hours, 7 days a week, 365 days a year.

# Staffing. As a skilled nursing facility licensed by the Massachusetts Department of Public Health, this facility has required staffing levels for all licensed beds including the additional 12 rest home beds. This facility will maintain staffing levels as needed to care for the new rest home residents and maintain its DPH licensure.

# Lighting. Exterior lighting at the Site will remain unchanged by this renovation.

# Signs. Signage at the Site shall comply with the City’s Sign Ordinance.

# Noise and Air Quality. The Applicant shall comply with the City’s Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.

# Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 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, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council’s office, the Building Department, and the City Solicitor’s office.

**Yea: \_\_\_ - Nay: \_\_\_ -Absent - \_\_\_**

**Yea: \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, Nay: \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_,**

**Absent: \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_,**

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| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signed by City Council PresidentMichael H. Ossing |  | ADOPTEDIn City CouncilOrder No. 22/23-1008741 |

**Attachment A**

“Title Commitment By: Fidelity National Title Insurance Company Commitment Number: 18T963-2022 Effective Date: 4/20/2022 Date of Field Survey: 4/5/2022” by Blew & Associates, P.A., dated May 16, 2022