

DRAFT SPECIAL PERMIT DECISION

ALTA MARLBOROUGH, LLC

LINCOLN AND MECHANIC
STREETS

IN URBAN AFFAIRS

JUNE 8, 2022

6:30 PM

_____, 2022

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. #22-1008572

Application of:
Alta Marlborough, LLC

Locus: Lincoln & Mechanic Streets
Assessors Map 56, Parcel 85
Assessors Map 69, Parcels 337, 338, 338A, 339, 339A, 340, 341, 342, 343, 345
Portion of City Rail Spur Land

DECISION

The City Council of the City of Marlborough hereby GRANTS the Application of Alta Marlborough, LLC, with a mailing address of 91 Hartwell Avenue, Lexington, MA 02421, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2022

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2022.

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:
Alta Marlborough, LLC

Locus: Lincoln & Mechanic Streets
Assessors Map 56, Parcel 85
Assessors Map 69, Parcels 337, 338, 338A, 339, 339A, 340, 341, 342, 343, 345
Portion of Rail Spur Land

**DECISION ON A SPECIAL PERMIT
ORDER NO. 22-1008572**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Alta Marlborough, LLC (the “Applicant”) for a mixed-use development at Lincoln Street and Mechanic Street in the Neighborhood Business Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Alta Marlborough, LLC, is a Delaware limited liability company with an address of 91 Hartwell Avenue, Lexington, MA 02421.
2. The Applicant is the prospective owner of the property located Lincoln Street and Mechanic Street in Marlborough, MA, being shown as Assessors Map 56 as Parcel 85, and on Assessors Map 69 as Parcels 337, 338, 338A, 339, 339A, 340, 341, 342, 343, 345, and including a portion of the rail spur land shown on the Plans referenced in paragraph 5 below (the “Site”).
3. In accordance with Section 650-17, Section 650-18(A)(42), and Section 650-39 of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes a mixed-use development at the Site (the “Use”). As shown on the Plans referenced in paragraph 5 below, the Use consists of 276 residential units – 10% of which shall be restricted as affordable – in two attached buildings, 10,074 square feet of ground level retail and commercial space, a parking garage with 448 spaces, an open-air parking lot with 8 spaces, 25 parking spaces parallel to Lincoln Street and Mechanic Street located partially on the Site and partially within the City right of way, landscaped areas, and amenity areas. As shown on the Plans referenced in paragraph 5 below, the Applicant also proposes a parking lot with 22 spaces and restroom facilities on a parcel to be donated to the City.

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

5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a site plan entitled “283-325 Lincoln Street, Marlborough, MA” by Allen & Major Associates, Inc., with the last revision date of _____, 2022 (the “Plans”) attached hereto as **“Attachment A.”**

6. In connection with the Application, the Applicant also submitted a Fiscal Impact Analysis dated May 5, 2022 by Fougere Planning & Development, Inc., a Transportation Impact Assessment dated May, 2022 by Vanasse & Associates, Inc.

7. 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.

8. The Site is located in the Neighborhood Business Zoning District.

9. The Site has an area of 197,347 square feet +/- (4.5 acres) as shown on the Plans.

10. 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 be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, May 9, 2022. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on May 9, 2022.

12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

13. At the public hearing, three members of the public spoke in favor of the use and one member of the public spoke in opposition to the Use.

14. The Applicant, through its representatives, conducted a balloon test on May 18, 2022, to demonstrate the height of the proposed buildings, with notices of the balloon tests being mailed to property owners listed on the certified list of abutters and being posted on the City website.

15. Pursuant to Massachusetts General Laws Chapter 40A, Section 9, a special permit for the Use requires a simple majority vote because the Applicant proposes a mixed-use

development in a center of commercial activity in Marlborough that will restrict 10% of its residential units as affordable.

16. Councilor Donald Landers was absent from the single session of the public hearing on the Application. Prior to the vote on this decision, Councilor Landers filed a written certification as to examination of all the evidence and testimony received at the hearing session as set forth in "**Attachment B**" hereto, made as part of the record of the hearing, in accordance with Massachusetts General Laws Chapter 39, Section 23D.

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

A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. In accordance with Section 650-39.F, the City Council finds that modifications to the dimensional, parking, design, and landscaping requirements applicable to the Use, as shown on the Plans, shall result in an improved design and will not nullify or substantially derogate from the intent or purpose of Section 650-39 of the Zoning Ordinance, because the design integrates the buildings with the existing neighborhood and nearby rail trail, and accommodates convenient parking for members of the public using the Site's retail and commercial spaces.

D. 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 for a mixed-use development 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:

1. Construction in Accordance with Applicable Laws. Construction of all structures on 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 and shall be built according to the Plans as may be amended during Site Plan Review.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and a final certificate of occupancy shall not be issued until the Applicant has complied with all conditions,

provided that the Site Plan Committee may authorize the phasing of site work depending upon weather conditions and other factors. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the Site Plan Review Committee may approve minor amendments to the Plans, so long as said changes do not materially increase the impervious area of the Use, alter traffic flow, increase the size of the buildings, or increase the number of residential units, all as shown on the Plans.

4. 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.

5. Storm Water and Erosion Control Management. The Applicant shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

6. Affordable Units. Ten percent (10%) of the residential units at the Site shall be made available as rental units at affordable prices to renters (whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development) in perpetuity or the longest period allowed by law (the "Affordable Housing Units"). The Affordable Housing Units shall comply with all requirements for inclusion in the Subsidized Housing Inventory ("SHI") of the Commonwealth of Mass. Department of Housing and Community Development ("DHCD"). Prior to obtaining a final certificate of occupancy for any unit within the Use, the Applicant, in coordination with the City and its Community Development Authority, shall file all required submissions to DHCD for inclusion of the Affordable Housing Units on the SHI and shall diligently take all actions necessary to include the Affordable Housing Units on the SHI, including without limitation, preparing and executing a regulatory agreement and declaration of restrictive covenants and/or any other restrictive instrument necessary to ensure compliance with this condition, a marketing plan, and all other required documentation. All costs associated with complying with this condition, including but not limited to, the DHCD process, recording of all documents with the registry of deeds, and the marketing plan for the Affordable Units shall be borne by the Applicant.

7. Rail Trail Lot. Not later than the issuance of a final certificate of occupancy for the Use, the Applicant shall convey to the City the land shown on the Plans as “Lot 2” having completed the parking lot and restroom improvements as shown on the Plans, retaining an access easement over Lot 2 for the benefit of the Use.

8. Parallel Parking Spaces and Sidewalks. Prior to the issuance of a final certificate of occupancy for the Use, the Applicant shall grant to the City any easements deemed necessary by the City Engineer for the parallel parking spaces and sidewalks along Lincoln Street and Mechanic Street, as shown on the Plans. If the City accepts as public ways any portions of the parallel parking spaces and sidewalks along Lincoln Street and Mechanic Street, the City Council hereby finds that any resulting change in the Site’s boundaries and setbacks meet the provisions of Section 650-39.F of the Zoning Ordinance for modified dimensional, parking, design, and landscaping requirements for the reasons set forth in Finding C of this Decision.

9. Jefferson Street Parking Lot. Prior to the issuance of a building permit for the buildings associated with the Use, the Applicant shall provide a payment to the City in the amount of \$468,038.50 to be used by the City to make improvements to the City-owned parking lot located at 56 Jefferson Street, which serves the Assabet River Rail Trail.

10. Neighboring Properties at 91, 103, and 103A Mechanic Street. The Applicant shall install and maintain along the boundary line of the Site adjacent to 91 Mechanic Street a privacy fence with a height of six feet, where permissible under the City Code, and vegetated screening to help minimize the view of the Site from 91 Mechanic Street. The Applicant shall install and maintain along the boundary line of the Site adjacent to 103 and 103A Mechanic Street fencing and vegetated screening to help minimize the view of the Site from 103 and 103A Mechanic Street. Wherever possible, the Applicant shall preserve and maintain existing trees to screen the Site from neighboring properties.

11. Site Access and Safety.

- a. The Site driveway, access easement across the rail trail parking lot, and the vehicle turnaround driveway shall be a minimum of 24 feet in width and designed to accommodate the turning and maneuvering requirements of emergency vehicles.
- b. For all perpendicular parking spaces, the drive aisle behind the parking should be a minimum of 23 feet in order to facilitate parking maneuvers.
- c. Vehicles exiting the Site should be placed under stop sign control with a marked stop line.
- d. All signs and pavement markings to be installed within the Site shall conform to the applicable standards of the Manual on Uniform Traffic Control Devices.
- e. Sidewalks shall be provided to link the building entrances to the sidewalks along Lincoln Street and Mechanic Street, as shown on the Plans.

- f. Americans with Disabilities Act (ADA) compliant wheelchair ramps shall be provided for crossing the Site driveway and rail trail parking lot entrance, or the driveway and entrance shall be designed such that the sidewalks along Lincoln Street and Mechanic Street are flush with the driveway and entrance.
 - g. Signs and landscaping installed in the vicinity of the Site driveway and rail trail parking lot entrance shall be designed and maintained so as not to restrict lines of sight.
 - h. Snow accumulations in the vicinity of the Site driveway and rail trail parking lot entrance shall be promptly removed where such accumulations would impede sight lines.
 - i. Accommodations for future Electronic vehicle (EV) charging stations shall be installed in at least 10% of the parking spaces in the parking garage with at least 20 parking spaces having EV charging stations installed upon occupancy of the parking garage.
12. Transportation Alternatives.
- a. The Applicant shall assign a transportation coordinator to coordinate a Transportation Demand Management (TDM) program for the Site.
 - b. Information regarding public transportation services, maps, schedules, and fare information shall be posted in a central location and/or otherwise made available to residents and employees at the Site.
 - c. A welcome packet shall be provided to residents and employees detailing available public transportation services, bicycle and walking alternatives, and commuter options available.
 - d. Commercial tenants shall be encouraged to offer specific amenities to discourage off-site trips, including providing a breakroom equipped with a microwave and refrigerator, offering direct deposit of paychecks, and similar measures to reduce overall traffic volumes and travel during peak-traffic-volume periods.
 - e. Work-at-home workspaces shall be provided to support telecommuting by residents of the Site.
 - f. Pedestrian accommodations shall be incorporated within the Site and consist of walkways that connect to the existing sidewalks along Lincoln Street and Mechanic Street.
 - g. A central maildrop shall be provided within the building for residents.

h. Secure bicycle parking shall be provided for residents, visitors/patrons and commercial tenants, including weather protected bicycle parking in a bike room located within the garage.

13. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting associated with the retail and commercial spaces at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.

14. Compliance with Applicable Laws. The Applicant shall comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

15. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, 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: _____, _____,

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
Order No. #22-1008572

Attachment A

Attachment B

City Council

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Friday, June 3, 2022 2:28 PM
To: City Council; Steven Kerrigan; Wilson Chu
Cc: Patricia Bernard; Tin Htway; Priscilla Ryder; Thomas DiPersio; David Giorgi; Kevin Breen; John Garside; Jason Grossfield; Meredith Harris; Linda Martins
Subject: RE: Alta Marlborough (Lincoln/Mechanic Mixed Use Project)
Attachments: Draft Special Permit - Alta Marlborough 6-3-2022 (A7806009-2x7A575).DOCX

Greetings,

Attached for your review and comment is a draft special permit decision for the Alta Marlborough mixed-use project. A few notes:

- Condition #9: the figure for the Jefferson Street project was provided in an estimate included in our land swap agreement with the MEDC.
- Condition #10: we are in discussions with abutting property owners about screening, and therefore Condition #10 is subject to change.
- Condition #11: these site access and safety measures were recommended in our traffic study.

We look forward to reviewing the project and the draft decision during our meeting with the Urban Affairs and Housing Committee on Wednesday, June 8.

Thanks, and enjoy the weekend.

Brian

MIRICK O'CONNELL
ATTORNEYS AT LAW

BRIAN R. FALK

Partner

Mirick, O'Connell, DeMallie & Lougee, LLP

100 Front Street | Worcester | MA | 01608-1477

t 508.929.1678 | f 508.983.6256

bfalk@mirickoconnell.com | Bio



Please visit our website: www.mirickoconnell.com

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Tuesday, May 10, 2022 10:12 AM
To: Falk, Brian R. <bfalk@MirickOConnell.com>
Subject: FW: Alta Marlborough (Lincoln/Mechanic Mixed Use Project)

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Monday, May 9, 2022 11:55 AM
To: City Council <citycouncil@marlborough-ma.gov>; 'Steven Kerrigan' <skerrigan@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>
Cc: 'pbernard@marlborough-ma.gov' <pbernard@marlborough-ma.gov>; Tin Htway (thtway@marlborough-ma.gov) <thtway@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; Meredith Harris <MHarris@marlboroughedc.com>; 'Linda Martins' <lmartins@marlboroughedc.com>; Bergeron, Arthur P. <abergeron@mirickoconnell.com>
Subject: RE: Alta Marlborough (Lincoln/Mechanic Mixed Use Project)

Greetings,

Attached are the following submissions for the Alta Marlborough project:

1. Fiscal Impact Analysis;
2. Transportation Impact Assessment; and
3. Multifamily Development Review Criteria Self-Assessment.

We look forward to reviewing these materials with the City Council, the Urban Affairs Committee, and the Site Plan Review Committee.

Please let me know if you would like hard copies of either report and I will have them delivered.

Thanks,
Brian

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Thursday, April 7, 2022 3:30 PM
To: City Council <citycouncil@marlborough-ma.gov>; 'Steven Kerrigan' <skerrigan@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>
Cc: 'pbernard@marlborough-ma.gov' <pbernard@marlborough-ma.gov>; Tin Htway (thtway@marlborough-ma.gov) <thtway@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; Meredith Harris <MHarris@marlboroughedc.com>; 'Linda Martins' <lmartins@marlboroughedc.com>; Bergeron, Arthur P. <abergeron@mirickoconnell.com>
Subject: RE: Alta Marlborough (Lincoln/Mechanic Mixed Use Project)

I am resending the building renderings as I understand there were issues with the version emailed this morning. You should see two different building perspectives. If not, please let me know.

Thanks,

Brian

From: Falk, Brian R. <bfalk@MirickOConnell.com>

Sent: Thursday, April 7, 2022 10:57 AM

To: City Council <citycouncil@marlborough-ma.gov>; 'Steven Kerrigan' <skerrigan@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>

Cc: 'pbernard@marlborough-ma.gov' <pbernard@marlborough-ma.gov>; Tin Htway (thtway@marlborough-ma.gov) <thtway@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; Meredith Harris <MHarris@marlboroughedc.com>; 'Linda Martins' <lmartins@marlboroughedc.com>; Bergeron, Arthur P. <abergeron@mirickoconnell.com>

Subject: Alta Marlborough (Lincoln/Mechanic Mixed Use Project)

Greetings,

Attached are special permit application materials filed this morning for the Alta Marlborough project by Wood Partners. Below is a link to the site plan, elevations, and drainage calculations.

[WP Marlborough - SP Submission](#)

I provided hard copies of these materials to various City agencies this morning. If anyone would like another hard copy or a different size, please let me know.

Thank you for your time and attention to this matter.

Brian



Brian R. Falk | X 678 | t 508.929.1678 | m 617.417.5509
Partner
Worcester Office

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