



IN CITY COUNCIL

Marlborough, Mass., _____ MAY 6, 2024 _____

ORDERED:

Suspension of the Rules requested – granted.

That the Revised Application for Site Plan Review from Procopio Companies, on behalf of Marlborough TOTG and JW Capital Partners, LLC, for a mix-use project at 57 Main Street in the Marlborough Village District, be and is herewith referred to the **URBAN AFFAIRS COMMITTEE, SITE PLAN REVIEW COMMITTEE & LEGAL DEPARTMENT.**

Councilor Preciado Recused.

ADOPTED

ORDER NO. 22/24-1008694E

Amended and Restated Site Plan Approval with Conditions

Applicant: JW Capital Partners, LLC

Property Owner: Marlborough TOTG LLC

Location: 57 Main Street (the “Site”) being shown as Parcel 291 on Assessors Map 70.

Zoning District: Marlborough Village District (“MVD”)

Plans: The following Site Plan Approval Final Conditions amend and restate the Council’s Site Plan Approval with Conditions dated April 25, 2023 and are based on a set of plans entitled “Exchange Place” by Bruce Saluk & Assoc., Inc., with the last revision date of April 22, 2024, Landscape Plan prepared by Verdant Landscape Architecture, dated March 27, 2024, and a set of architectural drawings entitled “Exchange Place” by The Architectural Team (the “Site Plans” attached hereto as **EXHIBIT A**).

AMENDED AND RESTATED SITE PLAN APPROVAL FINAL CONDITIONS:

A. Site Conformance:

1. Construction of the Site shall be in conformance with the approved Site Plans, the provisions of Chapter 270 of the Code of the City of Marlborough in effect as of April 25, 2023, and the conditions stated herein.
2. All construction on the Site shall conform to the appropriate National, State and City of Marlborough codes and regulations in force for each respective discipline and shall be in accordance with the Site Plans, subject to minor changes approved by the Building Commissioner pursuant to Section H.1 below. Codes and regulations shall include but are not limited to State Building, Plumbing, Wiring, NFPA, DPW utility and roads, Noise and Signs. Construction of the Site shall also comply with the Zoning Ordinance in effect as of April 25, 2023, and all references to the Zoning Ordinance contained herein refer to the applicable provisions in effect as of that date.

B. Prior to Issuance of a Building Permit:

1. Construction Staging and Safety Plan:
 - a. The Applicant shall complete the project in accordance with a Construction Staging and Safety Plan (the “Construction Plan”) to be submitted for review and approval by the Site Plan Review Committee (at a regularly scheduled meeting). Said Construction Plan shall address the building demolition phase of the project, which may take place in advance of the construction phase and under a separate demolition permit.
 - b. The Construction Plan shall provide detailed information concerning:
 - (i) areas of the Site and adjacent property that will be marked off for the staging of construction vehicles, etc.;
 - (ii) traffic management, detour routes if necessary, construction signage, pedestrian protection, blocked sidewalks, streets, etc.;
 - (iii) construction fencing to enclose material and equipment;
 - (iv) fencing and/or barricades to provide limits within the construction site for the separation of construction, pedestrian and vehicular traffic;
 - (v) dedicated illuminated and covered pedestrian walkways adjacent to the structure at egress paths in accordance with 780 CMR Massachusetts State Building Code and related Mass. Amendments, including but not limited to Chapters 31, 32, 33, and 34, in effect at the time the building permit application is submitted;
 - (vi) the sequencing of the construction of the project;
 - (vii) access to active hydrants prior to delivery of combustible construction materials on the Site, and
 - (viii) an emergency operation plan during construction (241 plan).
 - c. Any deviation to the approved Construction Plan must be approved by the Building Commissioner.

2. Green Design:
 - a. The building plans shall show compliance with Section 650-34.D.2(m) of the Zoning Ordinance, concerning sustainable building design, of the Zoning Ordinance of the City of Marlborough. Prior to the issuance of a building permit, the Building Commissioner shall review the building plans to ensure that the design incorporates green building techniques.
 - b. The residential units shall have all-electric utilities, including heat, air conditioning, and hot water, and the Applicant shall use best efforts to provide all-electric utilities in the non-residential portions of the project.
3. Design Standards: The building plans shall show compliance with Section 650-34 “A. Purpose and vision” for development that is compatible with the character of downtown Marlborough and Section 650-34 “D. Design standards” noting the purpose of the design standards is to promote quality development emphasizing the City’s sense of history, with new buildings reflecting the preference for moderate scale structures that are in harmony with the existing historic brick structures while incorporating green building techniques.
4. Rooftop Mechanicals: On the building plans, the elevation drawings shall show areas reserved for rooftop mechanicals and the elevator penthouse. Detail drawings illustrating the type, location, and dimensions of fencing/screening must be provided. The Building Commissioner shall confirm that the building drawings conform to the requirements of Section 650-34.D.2.(b) regarding screening of rooftop mechanical equipment.
5. ~~Footings: If the footings for the proposed building will be located within the City of Marlborough public way layout, an easement from the City of Marlborough will need to be obtained prior to the issuance of any building permits.~~

C. Construction:

1. Preconstruction Meeting: Prior to the commencement of construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, Fire Chief, Police Chief, and the site contractor responsible for doing the work. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls. A similar meeting shall be held prior to the commencement of demolition, which may take place under a separate demolition permit.
2. Use of Ways During Construction: Consistent with the Construction Plan, all areas for construction staging and offloading of building materials, as well as any excavations, long-term construction scaffolding, or other obstructions, shall be coordinated to maximize public safety and to minimize interference with the customary use of public ways by vehicles and pedestrians. Permits are required for any street or sidewalk excavations or obstructions. The Police Chief shall have the discretion and authority to require additional protection and/or details as needed. The Applicant shall pay to the City the cost for every police detail which is provided by the Marlborough Police Department for the project.
3. OSHA: All Contractors shall abide by OSHA regulations as appropriate, including but not limited to OSHA-29 CFR, Section 1926.
4. Safety Official: The Applicant/ site contractor shall have on the Site at all times during construction, a qualified Construction Safety Official. Prior to the commencement of construction, Applicant shall provide to the Building Commissioner the name and contact information of said Construction Safety Official.

5. Hours of Operation: In accordance with Section 431-3B of the Code of the City of Marlborough, excavation machinery may be operated only during the normal workweek, from Monday through Saturday, except holidays, between the hours of 7:00 a.m. to 7:00 p.m., except Sunday when all use is prohibited except with variance by the Board of Health or as emergency work.

D. Storm Water:

1. Siltation Control: The Applicant, Property Owner, and site contractor shall be responsible for protecting the City drainage system with erosion controls at all times during construction, and for notifying the Conservation Officer and the City Engineer in an expeditious manner if there is any visible siltation to the existing drainage system. Immediate measures shall be taken to control the siltation source and to restore any impacted areas. The Applicant shall engage the services of additional professionals as deemed necessary by the Conservation Officer and City Engineer to ensure proper erosion control.
2. Stormwater Management and Maintenance Plan: Prior to the issuance of the final certificate of occupancy, the Applicant shall provide the City Engineer and the Conservation Officer with the final Stormwater Management and Maintenance Plan. The Applicant shall also include a copy of the snow removal protocol for the Site. The name, address and phone number of the contract person who will be in charge of authorizing the annual maintenance shall be provided to the Conservation Officer and City Engineer.
3. Annual Reports: An annual maintenance report shall be provided to the City Engineer and the Conservation Officer by June 1st of each year reporting on the maintenance and operation procedures, outlined in the Stormwater Management and Maintenance Plan, which have been met for that year. This reporting requirement will follow the issuance of the final certificate of occupancy.
4. The issuance of this decision confirms compliance with Marlborough City Code Ch. 271 "Stormwater Management" and shall serve as the "stormwater management permit" as required in the ordinance.

E. Landscaping:

1. Prior to the installation of trees, the Applicant shall meet at the Site with the Conservation Officer to verify the adequacy of tree planting areas.
2. Modifications: All modifications to the approved Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
3. Site Visit: Prior to the final signoff, the Landscape Architect shall provide an as-built planting plan and a letter of confirmation that the plan conforms to the approved plans. The Conservation Officer shall confirm by a site visit that the planting has been installed according to the approved Landscape Plans, or a revision, previously approved by the Conservation Officer, of the Landscape Plans.
4. Replacement of Plantings: Following 18 months of the date of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Property Owner with a species of the same kind and size.
5. Mulch Placement: Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan.
6. Maintenance: Landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans at all times. This shall be an ongoing condition.

F. Parking and Parking Garage:

1. The design of the parking garage access shall be such that entering and exiting from the garage is controlled by authorized users. The building design shall provide for adequate sight distances for vehicles exiting the garage to provide for pedestrian safety. The Applicant shall use appropriate signage at the entrance and exit to ensure pedestrian safety.
2. The parking garage is intended for use by the residents of the Site, service providers, and vehicle sharing services authorized to use the Site. The parking garage is not intended for public use.
3. Applicant shall provide a minimum of 80 parking spaces on site.
4. Applicant shall not seek to use the city owned Bolton Street lot for residential parking.

G. Other Conditions:

1. Improvements to Exchange and High Streets: The Applicant shall grant a permanent easement to the City of Marlborough for the purpose of widening the paved width of Exchange Street, at no cost to the City. Further, the Applicant shall (i) construct a 5-foot wide concrete sidewalk with concrete curbing along the west side of Exchange Street within the new easement, (ii) widen the paved width of Exchange Street to 23 feet within the existing right-of-way and the new easement, provided that any acceptance of an expanded Exchange Street right-of-way by the City shall leave the Site with the minimum setback required by the Zoning Ordinance, (iii) mill and pave Exchange Street between limit lines 'A' & 'B', (iv) reconstruct Exchange Street between limit line 'B' to Main Street to improve grading for proper drainage control, (v) construct three new catch basins with curb inlets on Exchange Street and one on High Street, (vi) convert two existing drain manholes used as catch basins on Exchange Street to drain manholes, (vii) remove the concrete apron at the intersection of Main Street and Exchange Street, (viii) increase the radius rounding at the intersection of High Street and Exchange Street, (ix) replace the wheelchair ramps at the intersections of Main Street and Exchange Street and High Street and Exchange Street, (x) remove approximately the top 2 feet of the existing retaining wall along the Site and High Street and install a small wall with a new concrete curb approximately 4 feet from the existing paved edge of High Street, (xi) construct a 4-foot wide concrete sidewalk with concrete curbing along the south side of High Street from Bolton Street to Exchange Street within the existing public way layout, (xii) mill and pave High Street from Bolton Street to Exchange Street within the existing public way layout and (xiii) convert the existing catch basin on High Street to a double catch basin with a curb inlet, all as shown on the Site Plans. Prior to issuance of a building permit, the Applicant shall provide to the Building Commissioner a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the cost of the work which Applicant will undertake within the public ways, and a Certificate of Insurance or other evidence as required by the City, naming the City of Marlborough, c/o Department of Public Works, City Engineer, 135 Neil Street Marlborough, MA 01752, as an additional insured, in such amounts as are required by the City for a liability policy concerning the Applicant's work within the public ways.
2. Work Within Public Way: All work within the public way layout, including but not limited to, planting, repaving, pavement milling and overlay, pavement markings, etc., as shown on the approved plans, shall be completed prior to the issuance of a final certificate of occupancy.
3. As-Built Plans: An as-built plan(s) must be submitted to the City Engineer for review prior to the issuance of the final certificate of occupancy for the project. The as-built plan(s) shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website for the City of Marlborough. An as-built landscape plan is also required to be submitted by the landscape architect.

4. Time for Completion: Work as provided for on the Site Plans shall be carried into effect and completed within two (2) years following the date of issuance of the building permit for the project, unless the City Council has granted in writing an extension of time for completion of the work.
5. Signage: Pursuant to Section 650-34.I. of the Zoning Ordinance, the City Council hereby retains jurisdiction over all signage of the project to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council which must meet the requirements of Section 650-34.I of the Zoning Ordinance.

H. General Provisions:

1. Minor Changes: The City Council delegates to the Site Plan Review Committee the authority to approve minor changes to the approved Site Plans, so long as said changes do not materially increase the impervious area of the Site, materially increase the size of the building, materially reduce the commercial space at the Site, alter traffic flow, increase the number of residential units, or increase the total number of bedrooms above 92, all as shown on the Site Plans. For the avoidance of doubt, façade adjustments to maximize airflow in the garage are minor changes that has been delegated to the Site Plan Review Committee.
2. Phasing: A final certificate of occupancy shall not be issued until the Applicant has complied with all conditions of this Decision; provided, however, that the City Council delegates to the Site Plan Review Committee the authority to approve the phasing of work required by this Decision depending upon weather conditions and other factors. A temporary certificate of occupancy may be issued for portions of the building while other portions of the building or site work required by this Decision remain incomplete, subject to a phasing plan approved by the Site Plan Review Committee.
3. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.

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Exhibit A