



# IN CITY COUNCIL

Marlborough, Mass., JANUARY 7, 2019

ORDERED:

## DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

### NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Application of:

Lost Shoe Brewing and Roasting Company, LLC  
d/b/a Lost Shoe Brewing and Roasting Company  
Order No. 18/19-1007462B

Location:

19 Weed Street  
Marlborough, MA 01752  
Map 70, Parcel 147

### DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Lost Shoe Brewing and Roasting Company, LLC (herein after "Applicant Tenant"), for a coffee roasting facility at 19 Weed Street, Marlborough, MA, based on the Findings of Facts and Conditions attached hereto as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: **January 10, 2019.**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **10<sup>th</sup>** day of **January, 2019.**

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 **31<sup>st</sup>** day of **January, 2019.**

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

A TRUE COPY

ATTEST

  
City Clerk



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ORDERED:

## **DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 18/19-1007462**

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Lost Shoe Brewing and Roasting Company, LLC (hereinafter "Applicant Tenant"), as provided in this Decision and subject to the following Findings of Facts and Conditions:

### **FINDINGS OF FACTS AND CONDITIONS**

1. The landlord is Downtown Marlborough, LLC, a duly organized and existing Limited Liability Company established under the laws of the state of Massachusetts with its principal place of business located at 63 Court Street, Boston, MA 02108.
2. Applicant Tenant is a duly organized and existing Massachusetts Limited Liability Company with its principal place of business at Ashcroft Law Firm, LLC, 200 State Street, Boston, MA 02109 and has duly filed its Certificate of Organization Limited Liability Company with the City Clerk of the City of Marlborough to operate its business at the subject location. The LLC managers of the Applicant Tenant are Melynda Gallagher and John Paul Gallagher.
3. The landlord is the title owner of the property located at 19 Weed Street (the "Site"). The landlord and Applicant Tenant have executed or will execute a lease regarding the Site and its use pursuant to the terms of this special permit regarding the Site.
4. The Applicant Tenant seeks permission to utilize the Site as a coffee roasting facility (the "Facility"). The Site is located in the Marlborough Village zoning district. Coffee roasting is allowed in the Marlborough Village zoning district by special permit.
5. The Applicant Tenant, on November 14, 2018, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of § 650-17 and pursuant to the procedures specified in § 650-59 of the Marlborough Zoning Ordinance (the "Application").
6. The Site contains an existing two-unit commercial building. The Site is shown in the building on plans submitted with or subsequent to the Application, the first said plan entitled "Existing Conditions/Demo" and the second plan being a floor plan entitled "1<sup>st</sup> Floor Plan"; both plans prepared for: Lost Shoe Brewing & Roasting, 19 Weed Street, Marlborough, MA 01752; both plans prepared by: Austin Design, Inc., 2 Mead Street, Greenfield, MA 01301; both plans dated: June 1, 2018 (collectively, the "Plans"), which Plans are attached hereto. No modifications are proposed to the exterior of the building, minor structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.



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## ORDERED:

7. The Applicant Tenant seeks a special permit allowing the establishment and operation of the Facility. The Site will also include an on-Site taproom with retail sales for serving the roasted coffee as well as beer brewed in an on-Site production brewery.
8. The Plans have been certified by the Building Commissioner, acting on behalf of the City Planner, as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.
9. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c. 40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.
10. The Marlborough City Council pursuant to M.G.L. c. 40A held a public hearing on December 17, 2018, concerning the Application. The hearing was opened and closed at that meeting.
11. The Applicant Tenant presented evidence at the public hearing detailing the proposed use and its projected limited impact upon City services, the neighborhood and traffic.
12. At the public hearing, Melynda Gallagher, who will be managing the operation of the business, described the proposed business as being one that would involve roasting coffee on-site while utilizing a Vortex EcoFilter for odor and smoke control. She indicated that coffee is roasted at 400± degrees for ten to fifteen minutes; that at around five minutes, the coffee begins to turn a light brown color and smells like sweet, baking bread and that it is not until around the ten-minute point that it develops roast-type aromas and the smoke becomes more noticeable; that, of the ten to fifteen minutes, only two to four minutes are in the stage where the roasting produces roast-type smells and noticeable smoke; that smoke will be directed into a Vortex EcoFilter which uses atomized water to suppress up to eighty-percent of the smoke and odor; and that once that smoke and odor has processed through the EcoFilter, it will exit the building as water vapor. In response to questions from city councilors, she indicated that:
  - a) twenty pounds of coffee can be roasted in one batch;
  - b) starting out, roasting would take place two to three days a week for about an hour per day;
  - c) the roasting process does not differentiate between certified organic and non-organic coffee beans;
  - d) the Vortex EcoFilter filtration system would vent through the roof towards the front of the building near the garage door; and
  - e) the business hopes to open in January 2019.



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## ORDERED:

13. No member of the public spoke, either in favor of or in opposition to the proposal.
14. Following the public hearing, the Urban Affairs Committee held a meeting on January 3, 2019 during which this Application was discussed. At that meeting, the parties discussed various issues and proposed permit conditions to deal with them.

### **REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT**

- A. The City Council finds that the Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the requested special permit (the "Special Permit").
- B. The use of the Site for coffee roasting is an appropriate use of the Site and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.
- C. The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, **GRANTS** the Applicant Tenant, its successors and assigns, a Special Permit to establish and operate a coffee roasting facility as per plans filed with the City Council and the City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS**, which shall be applicable to Applicant Tenant and its successors and assigns, and a violation of which shall be a violation of this Special Permit:
  1. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.
  2. Compliance with Local, State and Federal Laws: The Applicant Tenant agrees to comply with all rules, regulations and ordinances from the City of Marlborough, the Commonwealth of Massachusetts, and Federal Government as they may apply to the construction, maintenance of equipment, and operation of the Facility.



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## ORDERED:

3. Public Peace and Good Order: The Applicant Tenant agrees to maintain public peace and good order at all times. In the event the Chief of Police determines that either the business or the Applicant Tenant is acting contrary to public peace and good order, the Chief shall notify the Applicant Tenant in writing and shall direct the Applicant Tenant that it shall put corrective measures into effect within seven calendar days of such written notification. Upon the failure or inability of the Applicant Tenant to implement such corrective measures within such period, the Police Chief may require the Applicant Tenant to employ one or more police detail officers during such hours or days that the Police Chief in the exercise of his sole discretion deems to be necessary for the purpose of correcting the conditions. Applicant Tenant shall obtain appropriate CORI information regarding all employees of Applicant Tenant, and shall keep said information available for inspection by local police upon request.
4. Parking: No on-street parking shall be permitted on Weed Street or any other abutting side street or public way or public property except for municipal parking spaces.
5. Hours of Operation: The hours of operation of the Facility, in conjunction with the on-Site taproom and on-Site production brewery, shall not be earlier than 5:00 AM nor later than 1:00 AM on any day, subject to the approval of the Marlborough License Board.
6. Limits of Use: The proposed principal use of the Site is to roast coffee, brew beer, and serve these products in the on-Site taproom. No other kinds of public use shall be allowed at or in the Site except those the Building Commissioner deems ancillary to this principal use.
7. Food Preparation: No food shall be prepared by the Applicant Tenant at or in the Site unless and until the Applicant Tenant obtains a permit and any other approvals from the Director of the Marlborough Board of Health and pays the accompanying fees.
8. Certificate of Occupancy Required: No use of the Site will be made pursuant to this Special Permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the change of use of the Site.
9. No Expansion of Use Area or Change in Area Configuration: Only the area of the Site, containing approximately 4,600 sq. ft., which has been specified in the Plans attached hereto, will be used for the proposed use. To the extent that a substantial increase in, or a change in the configuration of, the area used for this use is desired, the Building Commissioner shall determine whether such increase or change constitutes a substantial change of the permitted use, and if so, no such area increase or configuration change shall be permitted unless and until this Special Permit has been modified by the City Council.



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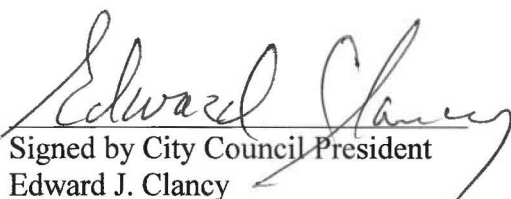
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## ORDERED:

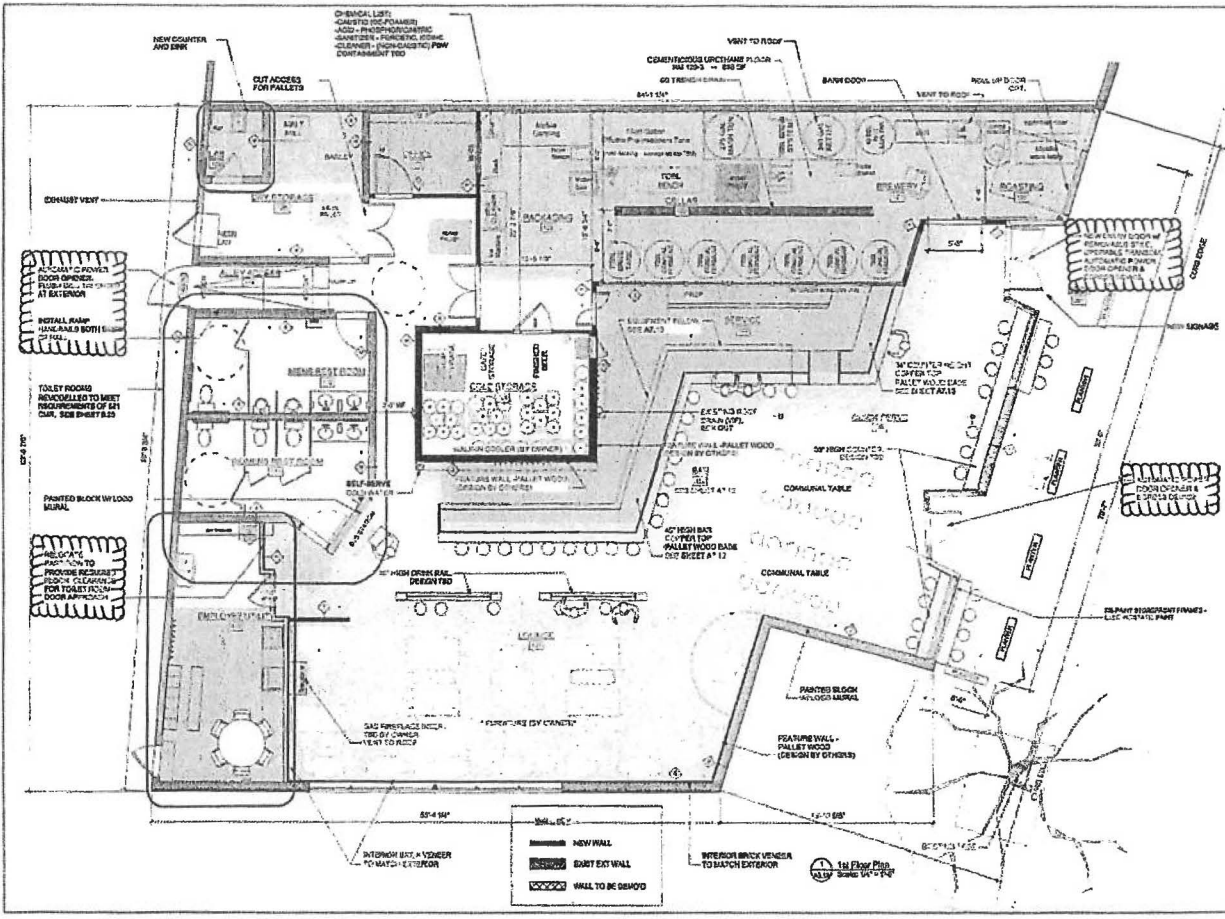
10. Subsequent Users: Before any successor tenant uses the Site for the uses allowed in this Special Permit, the Director of the Marlborough Board of Health shall determine in writing that any permit required of Applicant Tenant, and any other permit determined by the Director to be necessary, has been obtained.
11. Required Approval Regarding Sanitary Conditions: Prior to the beginning of operation of the business, the Director of the Marlborough Board of Health shall determine in writing what, if any, special sanitary requirements are necessary at or in the Site in order to ensure that the Facility does not cause unusual health risks to those using the Facility or to the public. The Director may later, in writing, amend and/or add to said requirements as the Director deems necessary. Such determination, and any such amendments and/or additions, shall be provided by the Director to the City Council. Any failure by the Applicant Tenant to comply with said sanitary requirements shall be a violation of this Special Permit.
12. Nuisance Odors. Nuisance odors and airborne pollutants emanating from the Site to the outdoor air as a result of the coffee roasting process allowed under this Special Permit shall be prohibited. If it is determined by the City Council or the Board of Health that such odors and/or pollutants are emanating from the Site to the outdoor air, the coffee roasting process shall cease until such time as it can be conducted, to the satisfaction of the Board of Health, without such odors and/or pollutants emanating from the Site to the outdoor air.
13. Recordation: In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant Tenant shall, at its expense, record this Special Permit with the Middlesex South District 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 being filed. The Applicant Tenant shall provide a copy of the recorded Special Permit to the City Council, the City Solicitor, and the Building Commissioner.

**Yea:11 – Nay: 0**

**Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey**

  
Signed by City Council President  
Edward J. Clancy

ADOPTED  
In City Council  
18/19-1007462B



**AUSTIN DESIGN**  
 872 Mead St  
 Concord, MA 01331  
 413.574.8668  
 8187 Alden St  
 Marlborough, VT 05339  
 802.961.8946

**Loet Shoe Brewing & Roasting**  
 19 Wood Street  
 Marlborough, MA 01762



1ST FLOOR PLAN  
 Scale: FTS  
 Date: 01 JUNE 2018  
 Rev: 04/2018

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**A3.15**