## IN CITY COUNCIL

Marlborough, Mass.___JULY25,2022

ORDERED:

# IN CITY COUNCIL <br> NOTICE OF DECISION <br> GRANT OF SPECIAL PERMIT 

Special Permit Application of:
Alta Marlborough, LLC
91 Hartwell Avenue
Lexington, MA 02421
Order No. 22-1008572E

Locus:
Lincoln \& Mechanic Streets
Marlborough, MA 01752
Assessors Map 56, Parcel 85
Assessors Map 69, Parcel 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: July 25, 2022.
The Decision of the City Council was filed in the Office of the City Clerk of Marlborough on the $\underline{\mathbf{2 6}^{\text {th }}}$ day of July 2022.

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 $\underline{16}^{\text {th }}$ day of August 2022.
Given under Chapter 40A Section 17 of the General Laws.

## A TRUE COPY

ATTEST:
City Clerk

ORDERED:

## IN CITY COUNCIL

Marlborough, Mass.,_JULY 25, $\frac{2022}{\text { PAGE 1 }}$

## IN CITY COUNCIL

# DECISION ON A SPECIAL PERMIT ALTA MARLBOROUGH, LLC 

## DECISION ON A SPECIAL PERMIT <br> ORDER NO. 22-1008572E

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 on various parcels 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 on or about Lincoln Street and Mechanic Street in Marlborough, MA, being shown on 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 as "Parcel A - N/F City of Marlborough" 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 a public amenity / restroom building on a parcel to be conveyed in accordance with the Land Swap Agreement referenced in condition \#17 below.
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.

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5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a site plan entitled "Alta Marlborough, 283-325 Lincoln Street, Marlborough, MA" by Allen \& Major Associates, Inc., with the last revision date of April 1, 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., and 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 211,972 square feet $+/-(4.87$ 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 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 heid 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.

IN CITY COUNCIL

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\text { Marlborough, Mass.,_JULY 25, } 2022
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ORDERED:
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.

## IN CITY COUNCIL

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ORDERED:
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 Review 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 Plan's, so long as said changes do not materially increase the impervious area of the Use, alter traffic flow, increase the size of the buildings, increase the number of residential units, or increase the total number of bedrooms above 440, 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.

## IN CITY COUNCIL

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\text { Marlborough, Mass.,_JULY 25, } 2022
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ORDERED:
6. Affordable Units. Ten percent ( $10 \%$ ) of the residential dwelling 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 Massachusetts 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 and Public Amenity/Restroom Building. Not later than the issuance of a final certificate of occupancy for the Use or 26 months following the issuance of a building permit for the buildings associated with the Use, whichever is sooner, and in accordance with the Land Swap Agreement referenced in condition \#17 below, the Applicant shall have both caused the conveyance to the Marlborough Economic Development Corporation of the land shown on the Plans as "Lot 2" and completed the parking lot and public amenity/restroom building as shown on the Plans, retaining an access easement over Lot 2 for the benefit of the Use to be further defined through the Site Plan Review process; provided, however, that the Site Plan Review Committee through the Site Plan Review process may authorize the construction of the public amenity/restroom building at another site in the City, or payment to the City in lieu of such construction. The final design of the public amenity/restroom building shall be determined by the Site Plan Review Committee through the Site Plan Review process and shall be architecturally interesting and have railroad-related design elements.

## IN CITY COUNCIL

## Marlborough, Mass.,_JULY 25, 2022

ORDERED:
8. Parallel Parking Spaces and Sidewalks. Prior to the issuance of a final certificate of occupancy for the Use, the Applicant (at no cost to the City) shall grant to the City and record any easements deemed necessary by the City Engineer in a form acceptable to the City, 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 final certificate of occupancy for the Use or by the date set forth in the Land Swap Agreement referenced in condition \#17 below (whichever is sooner), the Applicant shall complete improvements to the Cityowned parking lot located at 56 Jefferson Street, which serves the Assabet River Rail Trail, in accordance with said Land Swap Agreement.
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.

## IN CITY COUNCIL

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\text { Marlborough, Mass.,_JULY 25, } 2022
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ORDERED:
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.
j. At the Applicant's expense, the Site Plan Review Committee shall engage the services of an outside transportation engineer to provide a peer review of the Applicant's Transportation Impact Assessment dated May 2022 by Vanasse \& Associates, Inc., and shall implement the recommendations of such engineer through the Site Plan Review process. The need for additional safety improvements at the Site's driveways or nearby intersections, such as additional signage, crosswalk markings, traffic calming devices, etc., shall be reviewed as part of the Site Plan Review process.

## IN CITY COUNCIL

Marlborough, Mass.,_UUY゙ 25,2022

ORDERED:
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. Landscaping. A detailed landscaping plan for the Site shall be reviewed and further conditioned during the Site Plan Review process and may contain more extensive screening of the Site than is required by the Zoning Ordinance.
15. Green Design. 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 retail, commercial, and amenity portions of the Use. The Use shall have a green roof, substantially as shown on the Plans.
16. 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.

## IN CITY COUNCIL

Marlborough, Mass.__JUY 25, 2022
ORDERED:
PAGE 9
17. Land Swap Agreement. The Applicant shall exercise all rights authorized (subject to all conditions herein) by this special permit in a manner that is consistent with that certain Land Swap Agreement dated March 2, 2022, by and between WP East Acquisitions, L.L.C. and the Marlborough Economic Development Corporation, as may be amended by the parties to said agreement ("Land Swap Agreement").
18. 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: 8 - Nay: 1 - Absent - 1 - Abstain: 1
Yea: Wagner, Doucette, Brown, Irish, Navin, Ossing, Perlman, \& Robey.
Nay: Oram
Absent: Landers
Abstain: Dumais.


ATTACHMENT

















3A: 38,551
5A: 35,401



3A: 38,551


EXISTING SECTION AT LINCOLN STREET



(3) ие




## CERTIFICATION PURSUANT TO G. L. c. 39, SECTION 23D ("MULLIN RULE")

I, Donald R. Lenders, hereby do swear and certify under the pains and penalties of perjury as follows:

1. I am a member of the Marlborough City Council (council, board or commission).
2. I missed a single hearing session on the matter of the Order No. 22-1008572: Special Permit application of Alta Marlborough. LLC. Wood Partners to build a mixed-use project in the Neighborhood Business District on the corner of Lincoln and Mechanic Streets, which was held on May 9, 2022.
3. On $6 \mid 5122$ (date) I examined all the evidence and testimony received at the hearing session that I missed which included a review of (initial which ones) applicable):
a. $\qquad$ official audio recording of the missed hearing session; or
b. $\qquad$ official video recording of the missed hearing session; or
c. $\qquad$ official transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this $6^{\text {th }}$ day of June 2022.


Signature of Member

Received as part of the record of the above matter:
Date:


## IN CITY COUNCIL

## Marlborough, Mass.,_JUNE 6. 2022

ORDERED:

## Suspension of the Rules requested - granted.

That the Certification from Ward 7 Councilor Donald R. Landers, Sr., as required under MGL Chapter 39 §23D ("Mullin Rule"), regarding the Application for Special Permit of Alta Marlborough, LLC (Wood Partners), to build a mixed-use project in the Neighborhood Business District consisting of 10,074 square feet of ground floor retail and commercial space, 276 dwelling units in addition to an on-site parking garage with 448 spaces to be located at the corner of Lincoln and Mechanic Streets, Order No 22-1008572, be and is herewith accepted and placed on FILE.

ADOPTED

ORDER NO. 22-1008572C

