



IN CITY COUNCIL

SEPTEMBER 27, 2010

Marlborough, Mass.

ORDERED:

Suspension of the Rules requested - granted

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 10-1002683B

Application of:
110 Pleasant LLC
PO Box 650056
West Newton, MA 02465

Locus:
110-118 Pleasant St.
Map 68, Parcels 462 & 463

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 10-1002683B

The City Council of the City of Marlborough hereby **GRANTS** the application of 110 Pleasant LLC, as provided in the **DECISION** and subject to the following Procedural Findings and Findings of Facts and Conditions.

Decision filed: September 27, 2010

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 27th day of September, 2010.

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 19th day of October, 2010.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY
ATTEST:

City Clerk



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ORDERED:

**In City Council
Marlborough, Massachusetts
September 27, 2010
Decision on a Special Permit Application**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to 110 Pleasant LLC, a Massachusetts limited liability company having a mailing address of P.O. Box 650056, West Newton, MA 02465 as provided in this Decision and subject to the following Findings of Facts and Conditions.

1. 110 Pleasant LLC, a Massachusetts limited liability company, having a mailing address of P.O. Box 650056, West Newton, MA 02465, is herein referred to as Applicant.

2. Applicant will become the owner of certain real property located at 110-118 Pleasant Street, Marlborough, MA, as shown on the Marlborough Assessors Maps as Map 68, Parcels 462 and 463 (the "premises") which Applicant shall combine through an 81X plan. The land is entirely located in a Residence B zone. The property, which was originally developed as the site of the Howe Shoe Factory and later as the Corbin Box Factory, was used for manufacturing and various other non-residential purposes until 2009. All of these uses were pre-existing nonconforming in a Residence B zone.

3. The Applicant, on or about September 8, 2010, filed with the City Clerk of the City of Marlborough an application for a Special Permit under the provisions of Mass. Gen. Laws c. 40A, §6 and Marlborough Zoning Ordinance Article IV, § 650-12(B). Applicant intends to alter the preexisting nonconforming use of the premises to a mixed residential and office use, and to alter the preexisting nonconforming structure that exists thereon, through the adaptive reuse of the existing structure to accommodate seventeen (17) residential housing units and one (1) office suite. All residential units will be sold to owner-occupants.

4. In connection with the permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee and twenty-three (23) copies of the Site Plan.

5. The Site Plan was certified by the Acting City Planner for the City of Marlborough as having complied with Marlborough Zoning Ordinance Article VIII, § 650-59, Paragraph 7.

6. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the permit application and the City Clerk caused to be advertised said date in the Metrowest Daily News and sent notice of said hearing to abutters entitled to notice under law.



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7. The Marlborough City Council, pursuant to Mass. Gen. Laws c. 40A, held a public hearing on September 27, 2010, concerning the said application. The hearing was opened and closed at that meeting.

8. Applicant presented testimony at the public hearing detailing the application, and describing its impact upon municipal services and on the neighborhood, including visual, environmental and traffic impacts. In addition, the Urban Affairs Committee of the City Council began consideration of this application at its meeting on September 21, 2010, and invited public participation and attendance at that meeting. All comments by those attending the Urban Affairs Committee meeting, and by those attending the City Council public hearing, have been duly considered in making this decision.

9. Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the impacts of the proposed project, and proposed building and related site modifications.

BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:

A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.

B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. Further, the City Council finds that the proposed new use of the site, and the structure as altered, will not be substantially more detrimental to the neighborhood than the continued use of the existing site and structure for manufacturing and other non-nonconforming uses. The visual impacts from the proposed use have been mitigated, and the traffic impacts will be no more detrimental than the possible impacts from industrial uses. In addition, the City Council finds that the proposed residential use may act as a catalyst in encouraging further growth and improvements to the surrounding area.

C) The City Council, pursuant to its authority under Mass. Gen. Laws c. 40A, § 6 and under Article IV, § 650-12, Paragraph B of the Marlborough Zoning Ordinance, GRANTS the Applicant a Special Permit to alter the pre-existing non-conforming use of the premises to a residential use and to alter the preexisting nonconforming structure that exists thereon, through the adaptive reuse of the existing structure to accommodate seventeen (17) residential housing units and one (1) office suite (the "Project"), SUBJECT TO THE FOLLOWING CONDITIONS:

1. Compliance With Building Regulations. Construction and modification of all structures on the site is to be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's



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Special Permit Application and Site Plan. The Site Plan referred to in this condition is the four (4) page set of plans entitled "Preliminary Site Plan for a 17 Unit Condominium Development Howe Shoe Factory Condominium, 110 Pleasant Street, Marlborough, Massachusetts" dated September 9, 2010, last revised September 22, 2010, by Hancock Associates, Civil Engineers, filed with the Special Permit Application, as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee. All other terms, conditions, requirements, approvals, drawings, and renderings required hereunder are made a part of and incorporated herein as a condition of the issuance of this Special Permit.

2. Compliance With Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Ordinance, prior to the issuance of the actual Building Permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Special Permit and no Occupancy Permit shall be issued until the Applicant complies with all conditions. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns within the site, require the removal of landscaping, or reduce the overall green space of the Project by more than 10% will require subsequent approval by the City Council.

3. Application and Documents. All plans, drawings, site evaluations, and documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same.

4. Compliance with Local, State and Federal Laws. The Applicant agrees to comply with all rules, regulations, and ordinances of the City of Marlborough, Commonwealth of Massachusetts, and the Federal Government as they may apply to the construction, maintenance, and operation of Applicant's facility, except pursuant to the terms of this Special Permit.

5. Incorporation of Plans and Drawings. All terms, conditions, requirements, approvals, plans, and drawings provided by the Applicant as part of this Special Permit Application and as amended during the application hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council. The Site Plan referred to in this condition is the site plan referred to in Condition #1 above.



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ORDERED:

6. Improvements Installed Prior to Certificate of Occupancy. All site improvements that have been shown in renderings and/or are conditions of this Special Permit will be installed prior to the issuance of any temporary or permanent occupancy certificate; provided, however, that if all other work is completed between October 1, 2010 and June 1, 2011, all landscaping plants will be required to be installed by June 1, 2011. Applicant agrees that the permanent maintenance of the landscaping and the other site improvements is an ongoing condition of this Special Permit.

7. Limit and Type of Residential Units. The project will contain no more than seventeen (17), units, which will all be two-bedroom units as referenced on the Site Plan and to be further depicted on related architectural/building permit plans.

8. No Modifications to Driveway Entrances. If any modifications are made to the driveway entrances and exits as shown on the Site Plan that in any way alter the traffic flows as represented in the final revision of the Site Plan submitted to the City Council as part of the Special Permit Application, and as revised during the Special Permit approval process, the Applicant shall return to the City Council for approval of these modifications to the Special Permit. Applicant shall apply for and obtain all necessary permits from the necessary parties.

9. Catch Basins. All catch basins shall be installed in accordance with the plans submitted to the City Council and/or the City Council's Urban Affairs Committee. The catch basins shall be monitored by the Applicant on a semi-annual basis with reports given to the City Engineer. The catch basins are to be cleaned annually, or at more frequent intervals, by the Applicant as determined necessary by the City Engineer.

10. Maintenance of Parking Areas. Parking areas will be swept and maintained as necessary. Pursuant to the provisions of Mass. Gen. Laws c. 90, § 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. Applicant shall be responsible for providing, installing, and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Manual of Uniform Traffic Control Devices. Signs demarcating compact spaces shall not detract from the "streetscape" established for the project as requested during Site Plan Review.

11. Compliance of Signs with Sign Ordinance. All building signage at the subject location shall comply with the City of Marlborough Sign Ordinance in effect at the issuance of the special permit without a variance.



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ORDERED:

12. Exterior Light Fixtures. All illumination of individual parking lot light fixtures shall not exceed 200 watt fixtures and shall be screened, baffled or otherwise directed away from abutting residential property. Reflectors shall be utilized and configured to mitigate light from entering abutting properties. The total height of the pole and attached fixture shall not exceed 14 feet at its highest point.

13. Landscaping Maintenance. Applicant agrees to plant and maintain the Project landscaping as shown on the Site Plan as submitted to the City Council and/or the City Council's Urban Affairs Committee subject to Site Plan Review.

14. Dumpster Screening. Applicant agrees to screen the Project's trash area by constructing a suitable 6-foot screen fence with a gate for access. Applicant further agrees that the dumpster located on the site will be covered.

15. Unit Washers and Dryers. Each residential unit shall contain a washer and dryer hookup.

16. Snow Storage. Snow storage is to be provided on-site. Snowmelt runoff is to be directed toward catch basins.

17. Trash Pickup. No trash pickup will occur at the site, and no commercial deliveries will be made to the site, before 7:00 A.M. or after 7:00 P.M. Applicant agrees to maintain a separate dumpster or receptacle for the recycling of paper products.

18. Fire Protection. Fire protection systems shall be acceptable in all respects to the City of Marlborough Fire Chief or his designee.

19. Water and Sewer Connections. Water and sewer services provided to the Project shall be subject to the current citywide water and sewer charges and subject to annual adjustment by the Commissioner of Public Works. Water and sewer connections, if such connections are required, to service the building, shall be subject to a separate approval process and conditions.

20. Fence. Applicant shall erect and maintain a 6-foot high stockade fence as shown on the Site Plan along the property line that abuts residential neighbors.

21. In accordance with the provisions of Mass. Gen. Laws c. 40A, § 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.



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ORDERED:

22. Owner-Occupancy. It shall be a condition of the condominium bylaws of the Project that all units in the project that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium bylaws, and will provide that this section may not be amended. No occupancy permit regarding the Project shall be issued unless and until the City Solicitor has certified to the Building Commissioner that the condominium bylaws for the Project conform to this provision and that the said condominium bylaws, along with the condominium master deed, have been recorded. Applicant may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said unit to tenants; provided however, that:

a) no said unit shall be or continue to be rented after the third anniversary of the date of the occupancy permit of said unit;

b) no unit shall be rented or continue to be rented after the fifth anniversary of the date of issuance of the first occupancy permit for the Project;

c) the number of units being rented to and occupied by tenants shall not at any time exceed four (4) units; and

d) no sign at the premises shall market any unit as being for rent.

23. Handicapped/Wheelchair-Accessible Unit. Applicant has identified seven units that could be adapted to be handicapped/wheelchair accessible. One of these units will be marketed as handicapped/wheelchair accessible at all times until all of said seven identified units have been sold, and will be appropriately modified to accommodate the needs of a handicapped buyer at no extra cost to the buyer.

24. No Further Subdivision of Condominiums. Applicant shall cause there to be included in the Master Deed creating the condominium for the Project a requirement that there shall be no further units created within the condominium other than the seventeen (17) residential units and one (1) office unit allowed through this special permit. Prior to the issuance of the first occupancy permit for the first unit of the Project, the City Solicitor shall verify in writing to the Building Commissioner that the Master Deed creating the condominium for the Project has been recorded, that said requirement is contained in the Master Deed, and that the Master Deed contains a provision that said Master Deed requirement prohibiting the creation of further units may not be eliminated.

25. Unless the context otherwise clearly requires, all references in the above conditions to "Applicant" shall also refer to Applicant's successors and assigns, and specifically to the condominium unit owners' association.



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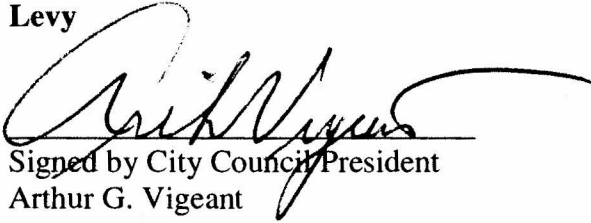
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ORDERED:

Yea: 11- Nay: 0

Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy

A handwritten signature in cursive script, appearing to read "Arthur G. Vigeant", is written over a horizontal line.

Signed by City Council President
Arthur G. Vigeant

ADOPTED

In City Council

Order No. 10-1002683B