



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 5, 2011

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

Special Permit Application of:
110 Pleasant LLC
26 Elderwood Dr., Stoughton, MA 02072
Order No. 11-1002923F

Locus:
110-118 Pleasant St.
Assessors Map 68, Parcel 462-463

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 11-1002923F/ X10-1002683B

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

Decision date: **December 8, 2011**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **8th** day of **December, 2011**.

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 29th day of December 2011.

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

A TRUE COPY
ATTEST

A handwritten signature in black ink, appearing to read "Lisa M. [unclear]".

City Clerk



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ORDERED:

AMENDMENT
TO ORIGINAL SPECIAL PERMIT
GRANTED TO 110 PLEASANT LLC
Order No. 11-1002923F/X10-1002683B

110 Pleasant LLC
26 Elderwood Drive, Stoughton, MA 02072

110-118 Pleasant Street
Marlborough, MA 01752

The City Council of the City of Marlborough hereby GRANTS the application of 110 Pleasant LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, as provided in this Decision and subject to the following Findings of Fact and Conditions.

PROCEDURAL FINDINGS OF FACT

1. 110 Pleasant LLC, a Massachusetts limited liability company having a mailing address of 26 Elderwood Drive, Stoughton, MA 02072, is referred to hereinafter as the "Applicant."
2. Applicant is the owner of certain real estate located at 110-118 Pleasant Street, Marlborough, MA, as further described in a deed recorded at the Middlesex South District Registry of Deeds in Book 55633, Page 468 (hereinafter, the "Premises").
3. On September 27, 2010, the City Council of the City of Marlborough voted to grant the Applicant a special permit concerning the Premises, as further described in a document recorded at the Middlesex South District Registry of Deeds in Book 55633, Page 471 (hereinafter, the "Original Special Permit").
4. On May 19, 2011, the Applicant submitted to the City Clerk for the City of Marlborough an application seeking to amend the Original Special Permit under the provisions of M.G.L. c. 40A, § 9 and the Marlborough Zoning Ordinance, Article VI, § 650-59C(20) (hereinafter, the "Application"). In connection with the Application, the Applicant submitted a Special Permit Summary Impact Statement, certified list of abutters, and filing fee.



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5. 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 on the Application and the City Clerk caused to be advertised the public hearing's date in the MetroWest Daily News and sent notice of said hearing to abutters entitled to notice under law.

6. On June 20, 2011, the City Council held a public hearing concerning the Application. The hearing was opened and closed on that date. On October 17, 2011, the City Council voted to approve the Applicant's request to extend the time for final action on the Application to December 31, 2011.

7. The Applicant presented testimony at the public hearing detailing the Application. All testimony made by those speaking at the public hearing have been duly considered in making this Decision.

8. The Procedural Findings of Fact specified above supplement those made in the Original Special Permit, which are expressly incorporated herein by reference.

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-conforming 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.



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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 an amendment to the Original Special Permit, a) deleting the condition number 22 of the Original Special Permit and substituting therefor a new condition number 22, as set forth below; and b) adding a new condition number 26, as set forth below. All other conditions of the Original Special Permit shall continue in full force and effect, and are expressly incorporated herein by reference.

22. Owner-Occupancy. It shall be a condition of the condominium by-laws of the project that all residential units in the project, consisting of a total of seventeen units, 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 by-laws, 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 Inspector that the condominium by-laws, along with the condominium master deed, have been recorded. Applicant (110 Pleasant LLC, 26 Elderwood Drive, Stoughton, MA 02072), including its successors and assigns, 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 units to tenants; provided, however, that:

- a. No said unit shall be or continue to be rented after the fifth anniversary of the date of issuance of the occupancy permit of said unit;
- b. No unit shall be rented or continue to be rented after the seventh anniversary of the date of issuance of the first occupancy permit for the site;
- c. The number of units being rented and occupied by tenants shall not exceed seventeen (17) units;
- d. An executed "rent to own" contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit;
- e. Applicant, including its successors and assigns, shall continue to market the units as condominiums;
- f. No sign at the premises shall market any units as being for rent; however "rent to own" signs are permissible so long as they are in compliance with City's sign ordinance without variance; and
- g. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.



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ORDERED:

The term "Applicant, its successors and assigns," as used herein and for purposes of this Condition 22, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities. No entity may, at one time, own more than 10% of the units in any condominium created hereunder.

26. Recording. This Amendment to the Original Special Permit shall be recorded at the Middlesex South District Registry of Deeds in accordance with the provisions of M.G.L. Chapter 40A, § 11 prior to the issuance of any occupancy permit regarding the Project. The Applicant (110 Pleasant LLC, 26 Elderwood Drive, Stoughton, MA 02072), including its successors and assigns, shall be responsible for recording, at its expense, this Amendment to the Original Special Permit; and shall present evidence of said recording to the City Solicitor's office, which thereupon shall duly forward said recording evidence to the Building Inspector as a condition of his issuance of any occupancy permit regarding the site.

Yea: 11- Nay: 0

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


Signed by City Council President
Arthur G. Vigeant

ADOPTED
In City Council
Order No. 11-1002923F