



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 5, 2011

**ORDERED:**

## **DECISION FOR SPECIAL PERMIT IN CITY COUNCIL**

Special Permit Application of:  
St. Mary's of French Hill Redevelopment LLC  
26 Elderwood Dr., Stoughton, MA 02072  
Order No. 11-1002922F

Locus:  
26-30 Broad St.-St. Mary's Condominiums  
Assessors Map 80, Parcel 68

## **DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 11-1002922F/ X07-1001500C**

The City Council of the City of Marlborough hereby **GRANTS** the application of St. Mary's of French Hill Redevelopment, 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 29<sup>th</sup> day of December 2011.

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

A TRUE COPY  
ATTEST

  
City Clerk



# IN CITY COUNCIL

Marlborough, Mass.,

DECEMBER 5, 2011

PAGE 1

ORDERED:

AMENDMENT  
TO ORIGINAL SPECIAL PERMIT  
GRANTED TO ST. MARY'S OF FRENCH HILL REDEVELOPMENT, LLC  
Order No. 11-1002922/X07-1001500C

St. Mary's of French Hill Redevelopment LLC  
26 Elderwood Drive, Stoughton, MA 02072

St. Mary's Condominiums  
26-30 Broad Street, 2-22 St. Mary's Way Marlborough, MA 01752

The City Council of the City of Marlborough hereby GRANTS the application of St. Mary's of French Hill Redevelopment 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. St. Mary's of French Hill Redevelopment 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 26-30 Broad Street, Marlborough, MA, as further described in a deed recorded at the Middlesex South District Registry of Deeds in Book 50143, Page 588 (hereinafter, the "Premises").
3. On June 25, 2007, 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 50144, Page 1 (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.



# IN CITY COUNCIL

DECEMBER 5, 2011  
Marlborough, Mass., \_\_\_\_\_ PAGE 2

## ORDERED:

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 non-conforming structures at the site will not be substantially more detrimental to the neighborhood than the original uses of those structures. The visual impacts from the proposed use have been mitigated, and the traffic impacts will be no more detrimental than the possible impacts from alternative 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 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 21 of the Original Special Permit and substituting therefor a new condition number 21, as set forth below; and b) deleting the condition number 27 of the Original Special Permit and substituting therefor a new condition number 27, 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.



# IN CITY COUNCIL

DECEMBER 5, 2011  
Marlborough, Mass., \_\_\_\_\_ PAGE 3

## ORDERED:

21. 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 promptly after any appeal period from the issuance hereof as expired, or after any said appeal has been resolved. The Applicant (St. Mary's of French Hill Redevelopment LLC), 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.

27. Owner-Occupancy. It shall be a condition of the condominium by-laws of the project that all units in the project, consisting of a total of thirty-six 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 Commissioner that the condominium by-laws for the project conform to this provision and that the condominium by-laws, along with the condominium master deed, have been recorded. Applicant (St. Mary's of French Hill Redevelopment LLC), 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 unit to tenants; provided, however, that:

- a. No said unit shall be or continue to be rented after September 1, 2016;
- b. The number of units being rented and occupied by tenants shall not exceed eight (8) units;
- c. 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; this condition shall not apply to 4 rented units for the first year of rent with rental agreements signed prior to June 20, 2011;
- d. Applicant, including its successors and assigns, shall continue to market the units as condominiums;
- e. 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
- f. 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.



## IN CITY COUNCIL

Marlborough, Mass., ~~DECEMBER 5, 2011~~


ORDERED:

PAGE 4

The term "Applicant, its successors and assigns," as used herein and for purposes of this Condition 27, 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.

**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. 11-1002922F