



IN CITY COUNCIL

Marlborough, Mass., ~~APRIL 5, 1999~~ 19

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 99-7967

Application of:
Brigham Development Corp. and
Williams Village, LLC
38 Brigham St, Marlborough

Locus:
Williams Street
Assessors Map 113, Lots 3 and 4

DECISION

The City Council of the City of Marlborough voted to GRANT a Special Permit to Brigham Development Corp. and Williams Village, LLC, 38 Brigham Street, Marlborough, MA to construct a Retirement Community based on the Findings of Facts and Rulings attached hereto.

Decision filed: April 6, 1999

APPEALS

Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A §17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal thereto has been filed with this office.
Given at Marlborough this 27th day of April, 1999.

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

A TRUE COPY
ATTEST:

City Clerk



IN CITY COUNCIL

APRIL 5, 1999

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ORDERED:

**DECISION ON A SPECIAL PERMIT
BRIGHAM DEVELOPMENT CORP AND WILLIAMS VILLAGE,
CITY COUNCIL ORDER NO. 99-7967**

FINDINGS OF FACTS AND RULINGS

1. Brigham Development Corp., and Williams Village, LLC. both are hereinafter referred to as the Applicant.
2. The Applicant is the proposed owner of certain real property located in the City of Marlborough, shown more particularly as Parcel 1. The Applicant is the proposed owner of certain real property located in the City of Marlborough, shown more particularly on a Plan entitled "Concept Plan, The Villages at Crane Meadow, Williams Street Marlborough, MA" by Bruce Saluk & Associates, dated January 16, 1999. This parcel of land is also shown as Lots 3 & 4 on the Marlborough City Assessors Map #113. Henry and Elizabeth Belmore currently own Lot #3 and Williams Village (LLC) is the record owner of Lot 4. Total area of the combined Site is 24.9 (twenty four and nine/tenths) acres.
3. On or about December 4, 1998, Applicant filed with the City Clerk of the City of Marlborough an Application for a Special Permit under Article V, §200-12B of the Zoning Ordinance of the City of Marlborough. Applicant requests a Special Permit to construct a Retirement Community, as that term is defined in the Ordinance, on said land, all of which is located within a so-called LI/RCR Overlay Zoning District.
4. The Site is currently occupied by one residential structure.
5. In connection with the Permit Application, Applicant filed the required Needs and Impact study, certified list of abutters, filing fee and six copies of the Site Plan.
6. The Site Plan was certified by the Building Inspector, in his role as Acting City Planner, as having complied with Rule #4, items (a) through (m) of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. 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 Marlborough Enterprise and sent notice of said Hearing to abutters entitled to notice under law.

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8. The Marlborough City Council, pursuant to MGL Ch. 40A, held a Public Hearing on January 25, 1999, concerning the said Application.

9. The Applicant presented testimony at the Public Hearing detailing the Application, describing its impact on the neighborhood, describing the benefits to the City and the surrounding property owners resulting from demolition of the one existing structure and avoiding a possible industrial development. In addition, there was testimony from numerous surrounding property owners confirming the very positive impacts on the neighborhood resulting from approval of this proposed Retirement Community.

10. Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the traffic impacts of the proposed project, the adequacy of the proposed parking and the benefits of the proposed amenities at the Site.

11. Applicant submitted to the Urban Affairs Committee a proposed condominium Master Deed providing for the restrictions in use of the premises which are specified in Section 200-12B(11) of the Zoning Ordinance.

12. Applicant represented and submitted plans reflecting that only a Retirement Community will be developed without any apartment component.

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

A) The 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 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.

C) The City Council, pursuant to its authority under MGL Ch.40A **GRANTS** the Applicant's Application for proposed use of the premises as a Retirement Community, **SUBJECT TO THE FOLLOWING CONDITIONS:**



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- 1) All demolition and new construction at the Site shall be done in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and shall be built in accordance to Site Plan filed by Applicant with this Application, and entitled "Concept Plan, The Villages at Crane Meadow, Williams Street, Marlborough, MA", dated January 16, 1999 prepared by Bruce Saluk & Associates, Inc.
- 2) 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 Permits. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Building Permit and no Occupancy Permit shall be issued until all conditions are complied with by Applicant. Said Site Plan Review shall become a part of this Special Permit. *done
by applicant on
April 1999*
- 3) Any signage installed or erected on the premises shall meet the requirements of the Sign Ordinance of the City of Marlborough.
- 4) 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.
- 5) Landscaping shown on the plans filed with the City Council shall be maintained and replaced properly as needed.
- 6) The issuance of an Occupancy Permit for Applicant's use shall be conditioned upon the completion and compliance with the requirements contained herein. The terms and conditions shall apply to Applicant, its successors and assigns.
- 7) No dwelling shall contain less than 1,000 (one thousand) square feet of living area or more than 2,400 (two thousand four hundred) square feet of living area. At least 66% (sixty six percent) of the living area in each unit shall be located on the first floor.
- 8) No more than ninety-one (91) condominium units shall be constructed on the Site.

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- 9) The Retirement Community shall be structured as a condominium, and the Applicant has submitted to the City Council the proposed Condominium Master Deed. Prior to the issuance of any occupancy permits regarding the Retirement Community, the Building Inspector shall establish to his satisfaction that a condominium has been created and that the provision of Article 9 of the submitted Condominium Master Deed, which said Article 9 limits occupancy of condominium units to person over age 55 (fifty five) and their spouse and restricts the presence of boats, boat trailers and recreational vehicles, are included in the filed Condominium Master Deed and in any later amendments thereto.
- 10) No subdivision of the parcel or parcels which are the subject of the Special Permit shall be allowed without the prior modification of this Special Permit.
- 11) Flood stages for a 100 (one hundred) year storm event shall be determined for all detention basins and wetland areas prior to Site Plan approval. All units shall have first floor elevations no less than two (2 feet) feet higher than the 100 (one hundred) year flood stage which might occur within two hundred (200) feet of any proposed unit. The recorded condominium Master Deed shall prohibit the finishing of unit basements for any habitation purpose other than storage.
- 12) Through Site Plan Review, Applicant shall work with the Police Chief, Fire Chief and City Engineer to assure that unit numbering, street naming and internal traffic controls will be satisfactory to all parties and that upon the recommendation of the Police Chief, the Traffic Commission will be requested to make internal traffic controls enforceable through local Ordinance.
- 13) All units in the Retirement Community shall be sprinkled to the NFPA-13R Standards. The Retirement Community shall contain a fire alarm system acceptable to the Fire Chief.
- 14) Ninety one (91) units of Condominiums are total numbers of units. No expansion is to be allowed.
- 15) Applicant will allow access to Trail System to the surrounding neighborhoods as shall be determined by the City of Marlborough Conservation Officer.

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ORDERED:

16) Applicant shall use and document to the City through the Site Plan process its efforts to obtain a secondary access for the process. If said access is not obtained during said Site Plan Review then the City shall request such entryway and access to the project it deems necessary.

17) All units shall be pre-wired for future installation of burglar, fire and EMS alarm systems by the unit owners.

18) A payment of \$15,000.00 (fifteen thousand dollars) shall be provided to the City of Marlborough Inspectional Services Fund to offset the increases in costs associated with the project's construction. Funds shall be expended as needed to contract for temporary stock, materials and supplies so as to enable the Building Inspector to provide adequate supervision of the project.

19) A payment of \$15,000.00 (fifteen thousand dollars) is to be paid to the Open Space Stabilization Fund upon issuance of the forty-sixth building permit. Failure to pay shall prohibit the issuance of any additional building or occupancy permits.

Yea: 11- Nay: 0

Yea: Katz, Langley, Nawrocki, Pope, Evangelous, Oram, Zomar, Hunt, McAllister, Vigeant, Yurkus.

Nay: None

ADOPTED

In City Council

Order No. 99-7967B

Adopted April 5, 1999

A TRUE COPY

ATTEST:

City Clerk



IN CITY COUNCIL

APRIL 25, 2011

Marlborough, Mass., _____

ORDERED:

That, as a result of the City Council's approval of Order No. 11-1002806-1A, the following special permits previously approved by the City Council, in its capacity as special permit granting authority, shall each be modified in the following respects:

- 1) Special Permit issued to Brigham Development Corp., 38 Brigham Street, Marlborough, MA for development and operation of land at 388 Boston Post Road East into a "Retirement Village" of condominiums, Order No. 97-7158B, adopted September 8, 1997. The second sentence in condition number 7 thereof, which sentence had read "At least 66% (sixty six percent) of the living area in each unit shall be located on the first floor," shall be stricken and shall have no legal effect as of the effective date of Order No. 11-1002806-1A;
- 2) Special Permit issued to Brigham Development Corp. and Williams Village, LLC, 38 Brigham Street, Marlborough, MA to construct a retirement community, Order No. 99-7967B, adopted April 5, 1999. The second sentence in condition number 7 thereof, which sentence had read "At least 66% (sixty six percent) of the living area in each unit shall be located on the first floor," shall be stricken and shall have no legal effect as of the effective date of Order No. 11-1002806-1A; and
- 3) Special Permit issued to Metro Park Corp., 929 Boston Post Road East, Marlborough, MA to construct a retirement community, Order No. 03-10022, adopted September 8, 2003, as amended by a Revised Special Permit issued to Toll MA Land Partnership, 250 Gibraltar Road, Horsham, PA to construct 69 townhouse residential retirement community units, Order No. 09-1002151C, approved June 22, 2009. The second sentence in condition number 7 thereof, which sentence had read "At least 66% (sixty-six percent) of the living area in each unit shall be located on the first floor," shall be stricken and shall have no legal effect as of the effective date of Order No. 11-1002806-1A

Be and is herewith **APPROVED**.

[END: Order No. 11-1002806-2A]

ADOPTED
In City Council
Order No. 11-1002806-2A

Approved by Mayor
Nancy E. Stevens
Date: May 4, 2011

A TRUE COPY
ATTEST:


City Clerk



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ORDERED:

3. The effective date of these amendments shall be the date on which they are voted upon by the city council.

Be and is herewith **APPROVED**.

[END: Order No. 11-1002806-1A]

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ADOPTED
In City Council
Order No. 11-1002806-1A

Approved by Mayor
Nancy E. Stevens
Date: May 4, 2011

A TRUE COPY
ATTEST:


City Clerk