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CITY OF MARLBOROUGH

2017 SEP -7 P 12: 58

1. Minutes, City Council Meeting, August 28, 2017.
2. PUBLIC HEARING On the Proposed Moratorium on Recreational Marijuana Establishments and Retailers, Order No. 17-1006949A.
3. PUBLIC HEARING On the Proposed Zoning Amendment – Assabet River Rail Trail Overlay District, (ARRTOD), Order No. 17-1006983.
4. Communication from the Mayor re: School Project Update, Order No. 17-1007001.
5. Communication from the Mayor re: Grant Acceptance from the Executive Office of Public Safety & Security Highway Division in the amount of \$3,000.00 to fund the High Visibility Traffic Enforcement & Traffic Enforcement Patrols.
6. Communication from the Mayor re: Grant Acceptance from Target in the amount of \$1,400.00 by which this grant is being made through Target's Heroes and Helpers Holiday Program.
7. Communication from City Solicitor Rider re: BSL Marlborough Development, LLC, Amended Special Permit, 421 Bolton St., in proper legal form, Order No. 17-1006816D.
8. Communication from City Solicitor Rider re: BSL Marlborough Development, LLC, Request for Fee Interest in Sewer Parcel and for Drainage Easement, 421 Bolton St., in proper legal form, Order No. 17-1007003, X17-10068716D.
9. Communication from Attorney Bergeron on behalf of Capital Group Properties, LLC, to remove from the Table, Set a Public Hearing and Refer to appropriate Council Committee & Planning Board, Order No. 17-1006963A, Proposed Zoning Map Amendment to add Land to Retirement Community Overlay District.
10. Minutes, Planning Board, June 19, & July 24, 2017.
11. Minutes, School Building Committee, May 16 & June 6, 2017.
12. CLAIMS:
 - a. Thomas Ruggiero, 122 Taylor Rd., pothole or other road defect.
 - b. William Brewin, 126 Woodridge Rd., other property damage and or personal injury.

REPORTS OF COMMITTEES:

13. ORDERED: That the Fire Chief appear before Operations and Oversight to discuss response times of his department west of 495. The Chief will discuss with the Committee average response times to the various apartment complexes in the Southwest Quadrant of the city, as well as possible compliance issues we currently face. The Chief will also discuss the impact of further development on his department. Submitted by Councilor Elder

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.

UNFINISHED BUSINESS:

From Finance Committee

14. **Order No. 17-1006975A– Salary Ordinance – Principal Assessor - The Finance Committee voted 4 – 0 to advertise and approve the salary ordinance for the Principal Assessor. THIS ITEM CANNOT BE FURTHER ADDRESSED UNTIL THE SEPTEMBER 25, 2017 CITY COUNCIL MEETING AS THE TEN DAY PERIOD AFTER ADVERTISEMENT WILL NOT BE MET FOLLOWING THE ADVERTISEMENT DATE OF SEPTEMBER 7, 2017.**

From Operations & Oversight Committee

15. **Order No. 17-1006972 - The Chief of Police appear before the Operations and Oversight Committee to discuss procedures involved in companies who are applying for door to door permits. It is furthered ordered that the Committee and Council review possible restrictions to the permitting process to help residents not be harassed by salesmen.**
Motion made by Councilor Robey, seconded by Chair, to amend Chapter 468, Section 17.B to increase the fee to \$35.00 and increase the fine for Section 28.A to be not less than \$35.00. The motion carried 3-0.

From Urban Affairs Committee

16. **Order No. 17-1006816D - Application for Special Permit by Mirick O'Connell on behalf of BSL Marlborough Development LLC to construct a 52 unit, 60,823 +/- square foot Assisted Living Facility with Special Care Unit at 421 Bolton Street. Motion made by Councilor Elder, seconded by Chair, to approve the decision on a special permit as amended. The motion carried 5-0.**
17. **Order No. 16/17-1006443AA - Communication from Nicholas Harron regarding applicant's formal request for waiver pursuant to Section 650-35H.(8) to allow for three building signs for the proposed Evviva Cucina restaurant located at 142 Apex Drive, Order No. 16/17-1006443R.**
Motion made by Councilor Elder, seconded by Chair, to approve the third sign as requested for the proposed Evviva Cucina restaurant. The motion carried 5-0.

From City Council

18. **Order No. 17-1006958A - Communication from Code Enforcement Officer, Pam Wilderman, re: Sign Request, Hilton Garden Inn, 170 Forest Street. ITEM WAS TABLED UNTIL THE SEPTEMBER 11, 2017 CITY COUNCIL METING.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723**

AUGUST 28, 2017

Regular meeting of the City Council held on Monday, August 28, 2017 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juairé, Oram, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Absent: Ossing. Meeting adjourned at 9:30 PM.

ORDERED: That the Minutes of the City Council meeting JULY 24, 2017, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid to install 2 new poles and remove 1 pole along Boundary Street. Pole installs are part of a project to accommodate the expansion of Boundary Street, hearing recessed at 8:09 PM.

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey.

Absent: Councilor Ossing.

MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install 7 new poles and removing 5 poles along Boston Post Road West. Pole installs are part of a project to accommodate the expansion of Boston Post Road West, hearing recessed at 8:14 PM.

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.

Absent: Councilor Ossing.

MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install 1 new pole along Hayes Memorial Drive. Pole install is part of a project to accommodate the expansion of Boundary Street & Route 20-Boston Post Road West, hearing recessed at 8:16 PM.

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.

Absent: Councilor Ossing.

MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment - Expansion and Modification of the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), hearing recessed at 8:25 PM.

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.

Absent: Councilor Ossing.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment - Brew Pubs, Wineries, Breweries & Distilleries), hearing recessed at 8:31 PM.

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.

Absent: Councilor Ossing.

ORDERED: That the Communication from the Mayor re: Veto of Council Order 17-1006939A, pertinent to issuance of a letter of interest in TransitX, **FILE**; adopted.

Councilor Oram opposed.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Department of Transportation (MassDOT) grant in the amount of \$388,710.00 to fund several complete street projects; adopted.

ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in certain portions of land located on Hudson Street and Mechanic Street, as more particularly described herein, be taken for the purpose of the reconstruction, construction, repair and maintenance of roadway improvements on Hudson Street and Mechanic Street, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests or fee simple interest in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

1. Street address: 8 Hudson Street, Marlborough, MA 01752

Permanent easement for roadway widening purposes: Being an approximately 191.77 S.F. portion of the property located on 8 Hudson Street, Marlborough, MA, known and numbered as Map 56, Parcel 107 on the Assessors' Map of the City of Marlborough and shown as Parcel B on a plan entitled "Plan of Land in Marlborough, MA," dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

OWNER: Bryan Rijo
8 Hudson Street
Marlborough, MA 01752

2. Street Address: 159 Mechanic Street, Marlborough, MA

Temporary easement for construction purposes: Being an approximately 1,242.27 S.F. portion of the property located at 159 Mechanic Street, Marlborough, MA, known and numbered as Map 56, Parcel 101 on the Assessors’ Map of the City of Marlborough and shown as Parcel A on a plan entitled “Plan of Land in Marlborough, MA,” dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Hudson Street and Mechanic Street.

Permanent easement for roadway widening purposes: Being an approximately 686.39 S.F. portion of the property located at 159 Mechanic Street, Marlborough, MA, known and numbered as Map 56, Parcel 101 on the Assessors’ Map of the City of Marlborough and shown as Parcel C on a plan entitled “Plan of Land in Marlborough, MA,” dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

OWNER: Victor Alecio
 159 Mechanic Street
 Marlborough, MA 01752

The ownership of said parcels and each of them are supposed to be as stated herein, but said easements and each of them are hereby taken whether the ownership is as stated herein or otherwise. We determine that the damages, set forth in the Table of Awards below, have been sustained by the owners of said parcels upon which said easements, so taken, are located.

TABLE OF AWARDS

The City Council hereby makes the following awards for damages for the owner or owners of record:

<u>OWNERS</u>	<u>MARLBOROUGH ASSESSORS’ MAP/PARCEL</u>	<u>AREA OF TAKING</u>	<u>AWARD</u>
Bryan Rijo Hudson Street Marlborough, MA 01752	56/107	191.77 S.F. +/- (permanent easement)	\$959
Victor Alecio 159 Mechanic Street Marlborough, MA 01752	56/101	1,242.27 S.F. +/- (temporary easement)	\$755
		686.39 S.F. +/- (permanent easement)	\$2,402

Refer to **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the Mayor re: School Project Update, **FILE & REFER TO THE MAYOR TO PLACE THIS SCHOOL PROJECT UPDATE ON THE SEPTEMBER 11, 2017 CITY COUNCIL AGENDA FOR THE PURPOSES OF THE MAYOR CONVENING HIS TEAM, INCLUDING SUPERINTENDENT GREULICH AND OTHER SCHOOL PERSONNEL TO COMPREHENSIVELY DISCUSS ITS STATUS WITH CITY COUNCIL;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, McDonald's USA, LLC, 250 Maple Street, to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane, in proper legal form, Order No. 17-1006907B, **MOVE TO REPORTS OF COMMITTEE;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, BSL Marlborough Development LLC, 421 Bolton Street, seeking permission to build and operate an assisted living facility with a special care unit, in proper legal form, Order No. 17-1006816C, **MOVE TO REPORTS OF COMMITTEE;** adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

I. Section 650-5, entitled "Definitions; word usage," is hereby amended:

- a. By deleting in subsection B thereof the definition of SELF-STORAGE FACILITY in its entirety and inserting in place thereof the following definition:

SELF-SERVICE STORAGE FACILITY

A building, group of buildings or other structure, whether permanent or temporary, having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for by customers for the storage of personal or business goods or property, and where the facility owner/operator has limited access to the units. A self-service storage facility shall be considered synonymous with a self-storage facility, self-storage warehouse, mini-warehouse and mini-storage.

II. Section 650-48, entitled "Off-street parking," is hereby amended as follows:

- a. By inserting in subsection A thereof new sub-subsections 17 and 18:

(17) A self-service storage facility shall provide a minimum of 1 parking space per employee and 1 parking space per 1,600 square feet of the facility.

III. Section 650-17, entitled "Table of Uses," is hereby amended as follows:

- a. By regulating industrial uses so as to allow, by special permit, a self-service storage facility in the Business (B), Commercial Automotive (CA), Limited Industrial (LI) and Industrial (I) districts, as follows:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV
Self-service storage facility	N	N	N	N	N	N	N	SP	SP	SP	SP	N

Refer to **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY SEPTEMBER 25, 2017**; adopted.

ORDERED: That the Communication from Attorney Cipriano on behalf of Tiger Cat Properties LLC, re: request to extend time limitations on Application for Special Permit to construct a multifamily dwelling at 487 Lincoln Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Pat Scorzelli on behalf of Mina Property Group LLC, re: request to extend time limitations on Application for Special Permit to construct a commercial automotive facility at 408 Maple Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Mirick O’Connell on behalf of BSL Marlborough Development LLC re: request to extend time limitations on Application for Special Permit to construct a 52-Unit, 60,823 +/-square foot Assisted Living Facility with a Special Care Unit, 421 Bolton Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney McCay, Mirick O’Connell, BSL Marlborough Development LLC, re: addressing two items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: Benchmark’s February 16, 2007 request to purchase or have City owned property abandoned for land off Bolton Street retaining a permanent sewer easement in the sewer line parcel and Benchmark’s requested acquisition of a drainage easement from the northern property line of 421 Bolton Street site to the proposed connection to existing catch basin, Order No. 17-1006816C, **TABLED**; adopted.

Note: Both of the requested agenda items are referenced but not attached in the proposed decision for Special Permit, Condition #9, ITEM 12 OF THIS AGENDA.

ORDERED: That the Communication from Attorney McCay, Mirick O’Connell, BSL Marlborough Development LLC, re: addressing three items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: traffic related memoranda referenced in the draft Special Permit Decision, Condition #10, the PowerPoint presentation prepared for the August 15, 2017 Urban Affairs Committee meeting and original signed extension agreement, Order No. 17-1006816C, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED:

1. That the Street for sewer purposes, said land being shown on City Assessor's Map No. 30 as Parcel No. 700 (the "Sewer Parcel"), and pursuant to M.G.L. c. 40, §§ 15 and 15A having received notification from the Commissioner of Public Works having charge of the Sewer Parcel that the City's fee interest in the Sewer Parcel is no longer needed for sewer purposes so long as the City retains an easement under the Sewer Parcel for sewer purposes in the area labeled "Proposed 30 FT Wide Sewer Easement" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering, the City Council hereby:
 - a. Pursuant to M.G.L. c. 40, § 15A, transfers the Sewer Parcel to the City Council for the purpose of disposition by sale;
 - b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Sewer Parcel is available for disposition by sale;
 - c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the Sewer Parcel at \$14,000 pursuant to a determination of value set forth in a November 1, 2016 appraisal by Kenneth J. Croft III, Esq. of Foster Appraisal & Consulting Co., Inc; and
 - d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor to convey the Sewer Parcel by sale, subject to the City's retention of an easement for sewer purposes consistent with this Order.
2. Having taken by eminent domain the fee interest in land located at 431 Bolton Street for school purposes, said land being shown on City Assessor's Map No. 30 as Parcel No. 12 (the "School Parcel"), and pursuant to M.G.L. c. 40, §§ 15 and 15A having received notification from the School Committee having charge of the School Parcel that a drainage easement within a 1,123 SF+/- area of the School Parcel labeled "Proposed 30 FT Wide Drainage Easement" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering (the "Drainage Easement Area"), is not needed for school purposes, the City Council hereby:
 - a. Pursuant to M.G.L. c. 40, § 15A, transfers the Drainage Easement Area to the City Council for the purpose of disposition by sale;
 - b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Drainage Easement Area is available for disposition by sale;
 - c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the Drainage Easement Area at \$0; and
 - d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor to convey a drainage easement within the Drainage Easement Area by sale consistent with this Order.

Refer to **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Eriksen, Walker Realty LLC, on behalf of Walker Realty LLC, re: renderings of 21 Apex Drive, Order No. 16/17-1006443V, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Apex Sign Requests 21 & 160 Apex Drive, Order No. 16/17-1006443V, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to relocate 3 solely owned electrical poles 54, 55, & 56-1 on Maple Street (Route 85), refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to install 1 solely owned electrical pole on Framingham Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** Petition of NGrid to relocate 1 solely owned pole to be made jointly owned poles 37-84 and relocate 17 jointly owned poles on Maple Street (Route 85), refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to relocate 2 poles and associated facilities on Maple Street/Framingham Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Central Mass Mosquito Control Project re: spraying program, **FILE & PLACE ON WEBSITE**; adopted.

ORDERED: That the Minutes Conservation Commission, June 15, 2017 & July 20, 2017, **FILE**; adopted.

ORDERED: That the Minutes Traffic Commission, June 28, 2017, **FILE**; adopted.

ORDERED: That the Minutes, License Board, May 31, 2017; June 12, 2017 & June 21, 2017, **FILE & REFER BACK TO LICENSE BOARD THE APRIL 26, 2017 MINUTES FOR AMENDMENT**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- a. Arthur Correa, 114 Woodridge Road, residential mailbox claim 2(a).
- b. Tammy Chin, 750 Farm Road, #208, pothole or other road defect.
- c. Laura Butland, 44 Ferrechia Drive, pothole or other road defect.
- d. David D'Amico, 102 West Hill Road, pothole or other road defect & other property damage.
- e. Debbie Winske, 271 Farm Road, pothole or other road defect.

Reports of Committees:

Councilor Elder reported the following out of the Operation & Oversight Committee:

Meeting Name: City Council Operations & Oversight Committee

Date: August 14, 2017

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:02 PM – Adjourned: 6:55 PM

Present: Chairman Elder; Operations & Oversight Committee Members Councilors Robey and Landers; and Councilors Clancy and Doucette; Police Chief David Giorgi

Order No. 17-1006972 - The Chief of Police appear before the Operations and Oversight Committee to discuss procedures involved in companies who are applying for door to door permits. It is furthered ordered that the Committee and Council review possible restrictions to the permitting process to help residents not be harassed by salesmen. The Operations and Oversight Committee met with Police Chief David Giorgi for a discussion of the City's ordinance on Peddling and Soliciting (Chapter 468). Police Chief Giorgi explained the process (completed application, copy of identification, records check history, letter on company letterhead stating authority to solicit, \$25 fee per person, and passport size photo) and the permits are good for one year. An issue for the permit has been the size of the expiration date which the Police Department can enlarge on future issued permits. Chairman Elder noted that certain non-profit organizations and politicians are excluded from the ordinance and do not require permits. The committee then discussed the fee of \$25.00 has not been updated for at least the past twenty years and they increased the fee to \$35.00 and matched the violation amount to \$35.00 as well.

Motion made by Councilor Robey, seconded by Chair, to amend Chapter 468, Section 17.B. to increase the fee to \$35.00 and increase the fine for Section 28.A. to be not less than \$35.00. The motion carried 3-0.

Motion made by Councilor Robey, seconded by Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 6:55 PM.

Councilor Robey reported the following out of the Finance Committee:

Marlboro City Council Finance Committee

Monday July 31, 2017

In Council Chambers

Present: Chairman Ossing; Finance Committee Members Councilors Robey, Doucette and Irish. Councilor Oram was absent. Councilor Clancy and Delano were also in attendance. The meeting convened at 7:24 PM.

- 1. Order No. 17-1006975 – Salary Ordinance – Principal Assessor:** The Finance Committee reviewed the Mayor's letter dated July 20, 2017 requesting a revision to the salary ordinance to update the salary of the Principal Assessor. The Finance Committee voted 4 – 0 to advertise and approve the salary ordinance for the Principal Assessor.

Reports of Committees Cont'd

2. Order No. 17-1006978 – Proposed Orders to Enter into Purchase and Sales Agreement and Appropriation of Funds for Land Acquisition: The Finance Committee reviewed the Mayor's letter dated July 20, 2017 requesting the approval of an order to acquire the parcel at 28 Witherbee Street. The acquisition of this parcel would potentially provide more design flexibility for the proposed renovation and addition to the Marlboro Public Library. The Finance Committee approved the following two orders 4 – 0:

- Order 17-1006978-1 to authorize the Mayor to enter into negotiations for the parcel at 28 Witherbee Street for parking and more design flexibility for the Library renovation project. The Finance Committee approved amending the order by adding the words "more than" in the last paragraph prior to the "25%".
- Order 17-1006978-2 approving the additional use of the \$75,000.00 appropriated by Order 16-1006760B from the Undesignated fund for the purpose of providing the deposit to bind offers on the parcel of 28 Witherbee Street for parking and more design flexibility for the Library renovation project. The Finance Committee approved the scrivener's error to correct the various "Order" numbers listed in the order.

The Finance Committee agreed to support suspending the rules at the August 28, 2017 City Council meeting to approve both orders.

The Finance Committee adjourned at 7:58 PM.

Reports of Committees Cont'd

Councilor Delano reported the following out of the Urban Affairs Committee:

Meeting Name: City Council Urban Affairs Committee

Date: August 15, 2017

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Convened: 5:33 PM – Adjourned: 6:40 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaire, Tunnera and Landers; and Councilors Clancy and Robey; Donald Rider (City Solicitor, City of Marlborough); Nathan Mahonen (**Bohler Engineering**)

Order No. 17-1006907 - Application for Special Permit from Bohler Engineering on behalf of McDonald's USA, LLC to modify the existing drive-thru and associated menu boards and propose a new side-by-side drive-thru and menu boards to optimize circulation and restaurant operations at 250 Maple Street. The Urban Affairs Committee met with Nathan Mahonen of Bohler Engineering for a discussion of McDonald's USA, LLC's application for a special permit for modification to an existing drive-through facility at the existing restaurant at 250 Maple Street. Since their last appearance before the Urban Affairs Committee on August 8, 2017, Mr. Mahonen conferred with City Solicitor Donald Rider regarding revisions to their proposed Decision on a Special Permit City Council Order No. 17-1006907A as discussed at that meeting. Those revisions included their agreement to install and maintain additional off-site plantings in an area off the southwesterly boundary of their site; the addition of no less than four arborvitae on each side of the existing trash enclosure; and the addition of no less than five No Loud Music Anytime signs on their site.

Motion made by Councilor Elder, seconded by Chair, to approve the decision on a special permit as amended. The motion carried 5-0.

Motion made and seconded to request a suspension of the rules at the August 29, 2017 City Council meeting to approve this application. The motion carried 5-0.

Motion made and seconded to refer to the Legal Department to be placed in proper legal form for the August 28, 2017 City Council Agenda for approval. The motion carried 5-0.

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:40 PM.

Reports of Committees Cont'd

Councilor Delano reported the following out of the Urban Affairs Committee:

Meeting Name: City Council Urban Affairs Committee

Date: August 22, 2017

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Convened: 5:31 PM – Adjourned: 7:10 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juare, Tunnera and Landers; and Councilors Doucette, Ossing and Robey; Donald Rider (City Solicitor, City of Marlborough); **Brian Falk (Mirick O'Connell); Eric Gardner (Benchmark Senior Living); Jesse Johnson (Bohler Engineering); Kevin Eriksen (Walker Realty LLC); Nicholas Harron (Evviva Cucina)**

Order No. 17-1006816B - Application for Special Permit by Mirick O'Connell on behalf of BSL Marlborough Development LLC to construct a 52 unit, 60,823 +/- square foot Assisted Living Facility with Special Care Unit at 421 Bolton Street. The Urban Affairs Committee met with attorney Brian Falk of Mirick O'Connell, Eric Gardner of Benchmark Senior Living, and Jesse Johnson of Bohler Engineering for a discussion of their application for a special permit to build and operate an assisted living facility with a special care unit at 421 Bolton Street. They reviewed the changes to the document titled, Decision on a Special Permit City Council Order No. 17-1006816D, dated 8/22/17, which were based upon discussions at the Urban Affairs Committee meeting held on August 15, 2017. The changes discussed were the mitigation payment section and traffic items moved from the Findings of Fact section into the Conditions section; the addition of a condition with respect to a job fair geared towards Marlborough residents; and the conveyance of ten acres of land to the City shall occur no later than sixty days after the issuance of the building permit rather than prior to the issuance of the final occupancy permit for the project.

Motion made by Councilor Elder, seconded by Chair, to approve the decision on a special permit as amended. The motion carried 5-0.

Motion made by Councilor Elder, seconded by Chair, to request a suspension of the rules at the August 29, 2017 City Council meeting to approve this application. The motion carried 5-0.

Order No. 16/17-1006443T - Communication from Nicholas Harron regarding applicant's formal request for waiver pursuant to Section 650-35H.(8) to allow for three building signs for the proposed Evviva Cucina restaurant located at 142 Apex Drive, Order No. 16/17-1006443R. The Urban Affairs Committee met with attorney Kevin Eriksen of Walker Realty LLC and Nicholas Harron of Evviva Cucina for a discussion of a waiver to allow for three building signs for the proposed Evviva Cucina restaurant located at 142 Apex Drive. Mr. Eriksen explained this request was like the previous one for the 110 Grill and this building was unique within the center as it is not just an end cap but a freestanding building with its four sides facing various areas internal to the site as well as Route 20. The waiver request was only for the allowance of a third building sign and all other elements of the signage were zoning compliant. The sign package as shown to the committee was their customary signage and would be installed as it appeared in the PowerPoint presentation.

Reports of Committees Cont'd

Motion made by Councilor Elder, seconded by Chair, to approve the third sign as requested for the proposed Evviva Cucina restaurant. The motion carried 5-0.

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:10 PM.

Suspension of the Rules requested – granted

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, August 28, 2017 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, **“COMPENSATION SCHEDULE”**, having been read was ORDERED ADVERTISED as follows:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, SECTION 6, SALARY SCHEDULE AS FOLLOWS:

Position	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
		Start	6 months of service	1 year of service	2 years of service	3 yrs. of service	4 yrs. of service	5 yrs. of service
Principal Assessor	July 1, 2017	\$91,405.26	\$93,233.10	\$95,098.68	\$96,999.96	\$98,940.00	\$100,918.80	\$102,937.38

ADVERTISED AS INDICATED ABOVE AND CANNOT BE FURTHER ADDRESSED UNTIL THE SEPTEMBER 25, 2017 CITY COUNCIL MEETING AS THE TEN DAY PERIOD AFTER ADVERTISEMENT WILL NOT BE MET FOLLOWING THE ADVERTISEMENT DATE OF SEPTEMBER 7, 2017.

Suspension of the Rules requested – granted

ORDERED: That Pursuant to MGL c. 30B, § 16 (e)(2), the City Council of the City of Marlborough hereby determines that advertising for the proposed purchase of a parcel of land will not benefit the City's interest because of the unique qualities and location of the property as hereinafter defined:

The parcel identified on the Assessors Map of the City of Marlborough as Map 69 Parcel 235, containing 0.37 acres or 16,117.2 S.F., more or less, located at 28 Witherbee Street, Marlborough, MA, and further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 25364, Page 378. The persons having a beneficial interest in this parcel, as tenants by the entirety, are Paulo S. Ribeiro and Katherine R. Ribeiro;

The above-identified parcel satisfies the requirements of said M.G.L. c. 30B, § 16 (e)(2), because:

(i) the parcel is uniquely situated because it is located within close proximity to the existing Marlborough Public Library, which does not currently have sufficient parking to meet the requirements of the Board of Library Commissioners in relation to the proposed renovation and addition project; (ii) the only way to increase the amount of parking is to purchase parcels uniquely located either adjacent to, or within close proximity of, the Marlborough Public Library; and (iii) the proposed acquisition of the subject parcel will increase parking for access to, and increased usage of, the Marlborough Public Library. In addition, the acquisition of the parcel would potentially provide more design flexibility for the proposed renovation and addition to the Marlborough Public Library.

It is further ordered that the Mayor is authorized to negotiate and enter into a purchase and sale agreement for the above-identified parcel, subject to the following conditions: (i) that, in accordance with M.G.L. c. 43, § 30, the purchase price of any parcel shall not exceed more than 25% of the average assessed value of the parcel during the previous three years; (ii) that the City's performance under any purchase and sales agreement will be contingent upon a favorable vote of the City Council authorizing the City to acquire the parcel for the amount stated in the purchase and sales agreement; and (iii) that the City's performance under any purchase and sales agreement will be contingent upon a favorable vote of the City Council authorizing the appropriation of sufficient funds for the purchase of the parcel. As of this date, the average assessed value of the above-described parcel for the previous three years has been calculated as \$383,600.

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED: That pursuant to Mass. Gen. Laws c. 43, § 30, the City Council, by a two-thirds vote of all its members hereby authorizes the additional use of the \$75,000 appropriated by Order No. 16-1006760B from the Undesignated Fund (Account Number 10000-35900), said amount having been appropriated for purposes of binding offers by the City on purchase and sales agreements for the four (4) parcels described in Order No. 16-1006760A and Order No. 16-1006760B and relating to the proposed renovation and construction of an addition to the Marlborough Public Library and the need for additional public parking thereat, for like purposes, which are

- (1) a binding offer by the City on a purchase and sales agreement concerning a parcel, said additional parcel being the subject of Order No. 17- 1006978-1A and described below:

The parcel identified on the Assessors Map of the City of Marlborough as Map 69 Parcel 235, containing 0.37 acres or 16, 117.2 square feet of land, located at 28 Witherbee Street, Marlborough, MA, and further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 25364, Page 378. The persons having a beneficial interest in this parcel are Paulo S. Ribeiro and Katherine R. Ribeiro.

and

- (2) a binding offer or offers on any additional purchase and sales agreement(s) for parcels relating to said above-described purposes without the need for any additional vote or votes of the City Council regarding the use of said \$75,000, conditional upon an affirmative vote or votes of the City Council authorizing the Mayor to enter into said additional purchase and sales agreement(s).

APPROVED; adopted.

MOTION made by Councilor Delano to Suspend the Rules to address the Special Permit, by Mirick O'Connell on behalf of BSL Marlborough Development LLC to construct a 52 unit, 60,823 +/- square foot Assisted Living Facility with Special Care Unit at 421 Bolton Street in proper legal form, from Urban Affairs Committee – **DOES NOT CARRY.**

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, BSL Marlborough Development LLC, 421 Bolton Street, seeking permission to build and operate an assisted living facility with a special care unit, in proper legal form, Order No. 17-1006816C, **FILE;** adopted.

ORDERED: That the Communication from Attorney McCay, Mirick O'Connell, BSL Marlborough Development LLC, re: addressing three items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: traffic related memoranda referenced in the draft Special Permit Decision, Condition #10, the PowerPoint presentation prepared for the August 15, 2017 Urban Affairs Committee meeting and original signed extension agreement, Order No. 17-1006816C, **FILE;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, McDonald's USA, LLC, 250 Maple Street, to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane, in proper legal form, Order No. 17-1006907B, **FILE**; adopted.

Suspension of the Rules requested – granted

ORDERED:

IN CITY COUNCIL
DECISION ON A SPECIAL PERMIT

Special Permit
McDonald's USA, LLC
Order No. 17-1006907C

Locus:
250 Maple Street
Assessors Map 82, Lots 156 and 157B

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 17-1006907C**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to McDonald's USA, LLC for modification to an existing drive-through facility at the existing restaurant at 250 Maple Street, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. McDonald's USA, LLC, One McDonald's Plaza, Oak Brook, IL 60523, has a Northeast Region office located at 690 Canton Street, Westwood, MA 02090, and is hereinafter referred to as the "Applicant."
2. The Applicant is a subsidiary of McDonald's Corporation, One McDonald's Plaza, Oak Brook, IL 60523 which owns the premises known and numbered as 250 Maple Street, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 82, Lots 156 and 157B (hereinafter, the "Site"). As the operator of the existing McDonald's restaurant and drive-through located at the Site, the Applicant proposes to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane at the Site (hereinafter, the "Project").
3. Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Sections 650-14.B and 650-17 of the Zoning Ordinance of the City of Marlborough (2008 Code), Applicant is seeking permission for the expansion of an existing drive-through facility.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.

5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled “Site Development Plans for Proposed McDonald’s with Drive-Thru, Location of Site: 250 Maple Street (Route 85), City of Marlborough, Middlesex County, Massachusetts, Map 82, Lot 156”, prepared for McDonald’s, drawn by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=20', dated April 20, 2017, most recently revised August 10, 2017 (hereinafter, the “Plans”).
6. The Plans were certified by the Building Inspector of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, 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 for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, July 24, 2017.
9. Applicant, through its civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.
10. The Applicant intends that the proposed drive-through addition will greatly improve overall operation and efficiency on-site. The Applicant represents that the additional order station will allow order times to be reduced and traffic to move more smoothly through the queue to ultimately reduce on-site stacking.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. 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 Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS Applicant a Special Permit to expand the existing drive-through as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

1. 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.
2. The issuance of the Special Permit is further subject to detailed Site Plan Review 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 no occupancy permit shall be issued until Applicant has complied with all conditions. 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. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's facility.
4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough. It is a further condition that the location of the signage shall not be substantially different than that shown on the Plans submitted herewith, allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. All illuminations of individual parking lot light fixtures shall not be modified from the existing condition without prior approval by the Site Plan Review Committee.
7. There shall be no overnight parking at the Site, except that parking which is incidental to the continued 24-hour Site operations shall be allowed.

8. Applicant, its successors and/or assignees agrees to maintain the Project landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee, as may be amended during Site Plan Review.
 - a. Upon the completion of the proposed Maple Street improvements, to be constructed by others, Applicant, its successors and/or assigns shall install and maintain additional plantings off the southwesterly boundary of the Site, between the Site and the new sidewalk in the area designated on Sheet C-4 of the Plans. These plantings shall be a maximum height of thirty-six (36) inches so as to not impede sight distances. The final species and number of plantings shall be reviewed and approved by the City Engineer and Conservation Officer during construction, as will the plantings' future maintenance to be performed by Applicant, its successors and/or assigns.
9. No less than four (4) arborvitaes shall be installed and maintained on each side of the existing trash enclosure as shown on the Plans.
10. The drive-through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and in full compliance with the noise ordinance of the City of Marlborough. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential zoning district, in accordance with the noise ordinance of the City of Marlborough.
11. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the 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 a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
12. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, or increase the size of the building shown on the Plans.
13. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.
14. The hours of operation for the restaurant will continue to be 24 hours per day, 7 days per week.
15. The hours of operation for the drive-through facility will continue to be 24 hours per day, 7 days per week.

16. As designated on Sheet C-4 of the Plans, Applicant shall erect no less than five (5) No Loud Music Anytime signs which advise its customers that loud vehicle music shall not be permitted at any time of any day (24 hours per day, 7 days per week).
17. Any work performed within the public way on Maple Street shall be done by Applicant, its successors and/or assigns during off-peak hours and, prior to commencement of such work, Applicant, its successors and/or assigns shall provide to the Engineering Division of the City's Department of Public Works for its approval a traffic management plan relating to the said work.
18. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.
19. During construction, no vehicles shall be staged on public ways.
20. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns 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 Applicant, its successors and/or assigns has applied to the Building Commissioner for a building permit concerning the Project. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office, the Building Department and the City Council immediately subsequent to recording.

Yea: 10 – Nay: 0

Yea: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey

Absent: Ossing

MOTION made by Councilor Delano to Suspend the Rules to remove from TABLE, Order No. 17-1006963, advertise a public hearing for October 16, 2017, refer to Urban Affairs Committee and Planning Board, the Code of the City of Marlborough, as amended, be further amended by amending the Zoning Map established by Chapter 650 Zoning Article III Establishment of Districts Section 650-8 "Boundaries Established; Zoning Map". Said Zoning Map is amended by superimposing the Retirement Community Overlay District over Assessors Map 73, Parcels 52 and 53, and Assessors Map 85, Parcels 14 and 15 - **DOES NOT CARRY**.

ORDERED: That the Communication from Code Enforcement Officer, Pam Wilderman, re: Sign Request, Hilton Garden Inn, 170 Forest Street, **TABLED UNTIL THE SEPTEMBER 11, 2017 CITY COUNCIL MEETING**; adopted.

ORDERED: That the Revised Color Renderings for proposed office building to be constructed at 11 Apex Drive, Order No. 16/17/-1006443, **APPROVED**; adopted.

ORDERED: Be it ordained by the City Council that in accordance with § 650-35, Hospitality and Recreation Mixed Use Overlay District (HRMUOD), of the City Code the City Council hereby grants the following waiver for Walker Realty LLC and 110 Grill AC Marlboro LLC (hereinafter collectively the "Applicant") in connection with the proposed 110 Grill restaurant to be located at 115 Apex Drive, Marlborough:

1. In accordance with § 650-35.H(8), a waiver of the requirement set forth in § 650- 35.H(1) of the City Code that a maximum of two (2) wall signs be affixed to a building for each tenant, having found that based upon the proposed signage plans and other information submitted by the Applicant such waiver will enhance the overall design of the tenant space and will not derogate from the intent of the HRMUOD.

APPROVED; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:30 PM.



IN CITY COUNCIL

Marlborough, Mass., _____ JULY 24, 2017

PAGE 1

ORDERED:

Suspension of the Rules requested – granted

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled “Definitions; Word Usage,” is hereby amended by adding to said Section the following definition:

MARIJUANA ESTABLISHMENT: a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

MARIJUANA RETAILER: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

2. A new Section 650-37, entitled “TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS AND MARIJUANA RETAILERS,” is hereby added, as follows:

650-37 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS AND RETAILERS

A. Purpose

By vote of the state election on November 8, 2016, the voters of the Commonwealth approved a law, Chapter 334 of the Acts of 2016, which regulates the cultivation, distribution, possession, and use of marijuana for recreational purposes. By act of the Legislature, Chapter 351 of the Acts of 2016, the Cannabis Control Commission must issue initial regulations by March 15, 2018 and begin accepting applications for licenses by April 1, 2018. The Cannabis Control Commission must also adopt final regulations by July 1, 2018.



IN CITY COUNCIL

Marlborough, Mass., _____ JULY 24, 2017

PAGE 2

ORDERED:

Pursuant to section 3 of chapter 94G of the Massachusetts General Laws, a municipality may adopt zoning regulations that impose reasonable safeguards on the operation of marijuana establishments. Chapter 334 of the Acts of 2016 also established the Cannabis Advisory Board to, among other things, advise on the preparation of regulations. It is expected that the Legislature, the Cannabis Control Commission, and the Cannabis Advisory Board's will provide guidance to the City concerning the regulation of recreational marijuana establishments and marijuana retailers.

B. Temporary Moratorium

The regulation of recreational marijuana establishments and marijuana retailers raises complex and novel legal, planning, and public safety issues. The City intends to adopt a temporary moratorium on the use of land and structures in the City for the purpose of recreational marijuana establishments and marijuana retailers. The temporary moratorium will provide the City with time to study, plan, consider and promulgate ordinances to address said complex and novel issues, including but not limited to assessing and incorporating State regulations, in a manner consistent with sound land use planning goals and objectives.

For the reasons sets forth above, and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for or by recreational marijuana establishments and marijuana retailers, as herein defined. During the moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana in the City; consider Cannabis Control Commission regulations regarding recreational marijuana establishments and marijuana retailers and related uses; consider such guidance as may be provided by the Legislature, the Cannabis Control Commission, and the Cannabis Advisory Board; determine whether the City shall restrict any or all recreational marijuana establishments and marijuana retailers through any available legal means, adopt provisions of the Zoning Code to address the impact and operation of recreational marijuana establishments, marijuana retailers and related uses; and consider such other and further matters as set forth in M.G.L. c. 94G, § 3 and M.G.L. c. 64N, § 3. The moratorium shall be in effect through July 1, 2018.

Be and is herewith refer to **PLANNING BOARD AND ADVERTISE PUBLIC HEARING FOR SEPTEMBER 11, 2017.**

Councilor Elder opposed.

ADOPTED

ORDER NO. 17-1006949A



IN CITY COUNCIL

Marlborough, Mass., _____ JULY 24, 2017

ORDERED:

PAGE 1

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by adding a new Section 650-36 as follows:

ARTICLE VI

§650-36 – RAIL TRAIL OVERLAY DISTRICT

A. Purpose and Objectives

- (1) The Assabet River Rail Trail Overlay District (herein, the “ARRTOD”) allows the application of supplemental land use controls within the boundaries of a certain overlay district as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the ARRTOD are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting pedestrian and bicycle friendly development complimentary to the Assabet River Rail Trail.
- (2) For the purposes of this section, the ARRTOD shall be superimposed on the other districts existing at the time of the adoption of this Section, and shall include all parcels of real estate that, as of July 1, 2017, either abutted the Assabet River Rail Trail or were held in common ownership with parcels that abutted the Assabet River Rail Trail.

B. Authority of Permit Granting Authority

- (1) The City Council shall be the Permit Granting Authority for Special Permit Approval in the ARRTOD. In all instances, a development which proceeds under the ARRTOD is subject to Site Plan Approval in accordance §270-2 of the Marlborough City Code.
- (2) The City Council may, by special permit in accordance with Section 650-59, permit a “Rail Trail Development”, defined in Subsection C, on any lot or combination of lots located in the ARRTOD (a “Development Parcel”) provided that:
 - a. A portion of the Development Parcel contained a non-residential use in operation as of July 1, 2017.
 - b. The Development Parcel has a minimum area of 1.5 acres.



IN CITY COUNCIL

Marlborough, Mass., _____ JULY 24, 2017

PAGE 2

ORDERED:

- c. The Rail Trail Development compliments the Assabet River Rail Trail by improving the appearance of the Development Parcel as seen from the Assabet River Rail Trail, encourages the use of the Assabet River Rail Trail, and provides certain public amenities (including, but not limited to, landscaping, trash receptacles, public safety enhancements, or other benefits) that enhance the Assabet River Rail Trail.

C. Eligible Uses, Dimensional Controls:

- (1) A Rail Trail Development shall include any use allowed in the underlying zoning district, either as of right or by special permit, in addition to the following:
 - a. Retail sales and services, up to 5,000 square feet of gross floor area per establishment.
 - b. Restaurant, café with or without table service (including outside seating and service) without drive-thru, up to 5,000 square feet of gross floor area per establishment.
 - c. Residential uses, with such density as seemed appropriate by the City Council.
- (2) A Rail Trail Development may include multiple uses, which may be commingled into a single structure or structures or may be located in multiple separate structures on one building lot.
- (3) A Rail Trail Development shall be subject to the dimensional, parking and landscaping requirements of the underlying zoning district and for the use or combination of uses of the Rail Trail Development, provided, however, that the City Council may elect to vary dimensional and parking requirements by Special Permit if, in the City Council's opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this Section. This authority shall continue subsequent to initial occupancy.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY SEPTEMBER 11, 2017.**

ADOPTED

ORDER NO. 17-1006983



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OF MARLBOROUGH

SEP -7 A 10: 17

City of Marlborough

Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Nicholas J. Milano
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

September 7, 2017

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: School Project Update

Honorable President Clancy and Councilors:

Over the past two years, we have been working with the Massachusetts School Building Authority (the "MSBA") to undertake a school construction project in Marlborough. As described in the Statement of Interest that was submitted to the MSBA in March 2015, the main goals of the project were to alleviate overcrowding issues at the Raymond C. Richer Elementary School and the elementary grades in Marlborough Public Schools. Another goal of the project has been to assess whether it is feasible to put Marlborough fifth graders back into an elementary school setting. Thanks to your approval of funds for a professional study, we are steadily progressing through the Feasibility Study phase of the MSBA process.

The MSBA's mandated requirements are comprehensive and they require that we study all possible options and solutions to identify the best, long-term project for our community. As this study has progressed, our school leadership, the School Building Committee, and I have agreed with the study to date that the best long-term option for our community is constructing a fourth elementary school which will result in four elementary schools with grades K-5.

This would not be possible if the Richer Elementary School were not in very good condition. Regular capital investments and careful maintenance mean we have a facility that can continue to serve us well as a school building. Continued investment at Richer is necessary, however. A major portion of the first required submittal to the MSBA was an extensive review of the Richer facility and mechanical systems; these studies will guide our future investment at the Richer school.

Our consultants went through a comprehensive site review, identifying the pros and cons of numerous sites in Marlborough. I contacted the owners of several larger parcels to discuss their interest in selling land, but they were either not interested or put too high a price on the land.

As a result, our professional team on the project is currently studying the feasibility of a new elementary school on Poirier Drive. We are approximately midway through the Feasibility Study and look forward to providing you a full update in City Council. The first submittal we provided to the MSBA can be accessed on the School Building Committee page on the City's website along with additional information about the project.

Superintendent Greulich, her leadership team, the project architect, our project manager, and I will attend the September 11, 2017 City Council meeting. We look forward to working closely with the City Council on a school project that will solve some of the challenges facing our students today.

Thank you,



Arthur G. Vigeant
Mayor



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CITY OF MARLBOROUGH
2017 SEP -7 A 10 17

City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610
www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Nicholas J. Milano
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

September 7, 2017

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752


Re: Grant Acceptance – Marlborough Police Department

Honorable President Clancy and Councilors:

Please find enclosed for your acceptance a grant in the amount of \$3,000.00 for the Marlborough Police Department from the Executive Office of Public Safety and Security. This is a reimbursement grant that will be used for high visibility traffic enforcement patrols as part of the *Drive Sober or Get Pulled Over* program.

More information is contained in the attached packet along with a letter from Chief Giorgi. If you have any questions, please do not hesitate to contact me or Chief Giorgi.

Thank you,


Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough

Police Department

David A. Giorgi
Chief of Police

355 Bolton Street, Marlborough, Massachusetts 01752
Tel. (508)-485-1212 Fax (508)-624-6938

August 23, 2017

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752



Dear Mayor Vigeant:

The Marlborough Police Department has been awarded a grant in the amount of \$3,000.00 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security. The grant is a reimbursement grant and will be used for high visibility traffic enforcement patrols.

Attached is a copy of the grant approval letter as well as the Notice of Grant Award. I am requesting that the grant award be forwarded to the City Council for approval. Should you have any questions, please do not hesitate to call.

Sincerely,

David A. Giorgi
Chief of Police

CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD

DEPARTMENT: POLICE DEPARTMENT DATE: 8/23/2017

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: CAPTAIN TIMOTHY NAZE

NAME OF GRANT: TRAFFIC ENFORCEMENT & EQUIPMENT GRANT

GRANTOR: EXECUTIVE OFFICE OF PUBLIC SAFETY HIGHWAY SAFETY DIVISION

GRANT AMOUNT: 3,000.00

GRANT PERIOD: 05/22/2017- 09/22/2017

SCOPE OF GRANT/
ITEMS FUNDED HIGH VISIBILITY TRAFFIC ENFORCEMENT
TRAFFIC ENFORCEMENT PATROLS

IS A POSITION BEING
CREATED: N/A

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? N/A

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS
TO BE USED:

ANY OTHER EXPOSURE TO CITY?
N/A

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: ASAP

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT

Timothy Naze

From: Phelan, Lindsey (EPS) <lindsey.phelan@state.ma.us>
Sent: Thursday, June 29, 2017 12:34 PM
To: David Giorgi
Cc: Timothy Naze
Subject: Authorization for FFY 2017 DSOGPO
Attachments: Highway_Contract_Subrecipient Grant Conditions.doc; Budget B (\$3,000).doc; TE 2017 Scope of Services.doc

Importance: High

Dear Chief Giorgi,

On behalf of the Executive Office of Public Safety and Security, please accept this email and attached scope of services and budget and as authorization to proceed with the upcoming *Drive Sober or Get Pulled Over* mobilization under the FFY 2017 Traffic Enforcement grant program. The DSOGPO will run from 8/14 to 9/4.

When submitting your reimbursement request, the attached Subrecipient Grant Conditions document needs to be included. Fiscal will not pay the expenditure without this packet.

- Reporting forms for the DSOGPO will be posted on our [website](#) closer to the mobilization start date.
- Your department will not be reimbursed for any costs incurred outside of the DSOGPO dates. Please note there is no in-kind match requirement this year.

Please contact me with any questions or concerns. I look forward to working with you on this program.

Thank you,

Lindsey Phelan, Program Coordinator
 Highway Safety Division
 Office of Grants and Research
 Executive Office of Public Safety and Security
 10 Park Plaza, Suite 3720
 Boston, MA 02116
 p. (617) 725-3337 f. (617) 725-0260



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2017 SEP -7 A 10:41

City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610
www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Nicholas J. Milano
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

September 7, 2017

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Grant Acceptance – Marlborough Police Department

Honorable President Clancy and Councilors:

Please find enclosed for your acceptance a grant in the amount of \$1,400.00 for the Marlborough Police Department from Target. This grant is being made through the Target's Heroes and Helpers program.

As part of this program, Marlborough Police officers will use the gift cards from Target to help children shop for gifts for their families. This is a great program and the Marlborough Police Department has participated for several years.

If you have any questions, please do not hesitate to contact me or Chief Giorgi.

Thank you,

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough

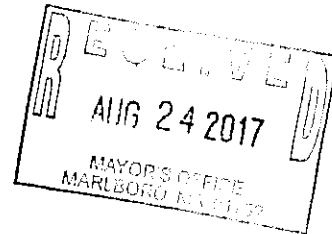
Police Department

David A. Giorgi
Chief of Police

355 Bolton Street, Marlborough, Massachusetts 01752
Tel. (508)-485-1212 Fax (508)-624-6938

August 22, 2017

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752



Dear Mayor Vigeant:

The Marlborough Police Department has been awarded a grant in the amount of \$1,400.00 from Target. The grant is part of Target's Heroes and Helpers program and will be used to purchase Target gift cards for children participating in the program. Each participating child will be paired with a Marlborough police officer who will help choose gifts for the child's family using one of the donated Target gift cards. We will simply be turning the \$1,400.00 back over to Target as we participate with them in this program. The department and our officers have participated in this program for several years and it is a rewarding experience for all participants, both the children and the officers.

I am requesting that the grant award be forwarded to the City Council for approval and the event has traditionally taken place during the second week in December at the Target store on Boston Post Road East. Should you have any questions, please do not hesitate to call.

Sincerely,

David A. Giorgi
Chief of Police

**CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD**

DEPARTMENT: POLICE DEPARTMENT DATE: 22-Aug-17

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Chief David A. Giorgi

NAME OF GRANT: _____

GRANTOR: TARGET STORE

GRANT AMOUNT: \$1,400.00

GRANT PERIOD: 2017

SCOPE OF GRANT/
ITEMS FUNDED HEROES AND HELPERS HOLIDAY PROGRAM

IS A POSITION BEING
CREATED: N/A

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? N/A

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS
TO BE USED:

ANY OTHER EXPOSURE TO CITY?

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: Dec-17

**DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT**

Robert Jusseaume

From: application.notification@target.com
Sent: Tuesday, June 27, 2017 2:52 PM
To: Robert Jusseaume
Subject: Target Application Approved - Application ID 35384549

City of Marlborough Massachusetts Police Department
355 Bolton Street
Marlborough, MA 01752

Program: Heroes and Helpers shopping Event Payment Amount: \$1,400.00 Check #0002508620 Check
Date:06/15/2017 Grant Request ID#35384549

Dear Lieutenant Jusseaume:

Target is pleased to inform you that your organization's grant request has been approved. Your grant check should have arrived, or will arrive in the next few days and is specifically for the program and amount referenced above. If you have not received your check within 30 business days from check date, please reach out to your Target contact. Please note that your grant check is void if it is not cashed within five months.

As always, Target grants are one-time gifts. By making annual commitments, we ensure we can remain flexible and respond to changing community and business needs.

Since 1946, Target has given 5 percent of profit - which equals more than \$4 million a week - to local communities. We are proud to partner with organizations like yours to meet the needs of our communities. Whether it's inspiring young minds, offering unique cultural experiences or meeting your community's most basic needs; we thank you for your continued commitment to making a difference.

Kind Regards,

Target Corporation

CG/JMAIL/103793499



City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR
2017 SEP -7 A 11:16
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR
ELLEN M. STAVROPOULOS
PARALEGAL

September 7, 2017

Edward Clancy, President
Marlborough City Council

RE: Order No. 17-1006816D, Application for a Special Permit, 421 Bolton Street, Marlborough –
BSL Marlborough Development LLC

Dear President Clancy and Members:

At the Legislative & Legal Affairs meeting on Tuesday, September 5, 2017, the L&L Committee met to discuss the request from BSL Marlborough Development LLC ("BSL") that the City convey its fee interest in a so-called sewer parcel to BSL. In turn, the order discussed by L&L involves BSL's conveyance of an approximate 10-acre parcel to the City.

I mention this because the timing of that 10-acre conveyance, as set forth in the order discussed by L&L, would occur at the time of BSL's closing with the current property owners. This contrasts with the timing set forth in the proposed special permit decision presently sitting on the Council table, wherein it was proposed in condition 8 that BSL would convey the 10 acres to the City within 60 days of the issuance of the building permit for the project – an appreciably later date than the BSL closing.

Since the L&L order's timing for the proposed 10-acre conveyance is appreciably more favorable to the City than the timing set forth in the tabled special permit decision, I respectfully recommend that the Council consider the following motion when voting on the special permit:

It is hereby moved that the proposed special permit decision, as amended, be further amended by deleting the last sentence of condition 8, which reads "The Donated Land shall be deeded to the City within 60 days of the issuance of the Building Permit for the Use," and inserting in place thereof that "The Donated Land shall be deeded to the City at the time of the closing of the Applicant's acquisition of the Site, subject to the City's conveyance of the 'Sewer Parcel' and 'drainage easement' as referenced in condition 9 below."

For your convenience, I have taken the liberty of enclosing the proposed special permit decision as would be amended by this motion. I certify that the enclosed decision is in proper legal form.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: David K. McCay, Esquire

IN CITY COUNCIL

ORDERED:

DECISION ON A SPECIAL PERMIT

IN CITY COUNCIL

Special Permit
BSL Marlborough Development LLC
Order No. 17-1006816D

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 17-1006816D**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to BSL Marlborough Development LLC (the "Applicant") to build and operate an assisted living facility with a special care unit at 421 Bolton Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant, BSL Marlborough Development LLC, is a duly organized and existing Limited Liability Company having a business address c/o Benchmark Senior Living, 201 Jones Road, Third Floor West, Waltham, Massachusetts 02451.
2. Richard and Jill Cochrane are the owners of the property located at 421 Bolton Street, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 30, Parcels 13 and 14, and the City of Marlborough is the owner of the property shown on the Marlborough Assessors Maps as Map 30, Parcel 700 (the "Site").
3. The Applicant proposes to build and operate a new 104-bed, 60,823+/- square foot assisted living facility with a special care unit at the Site (the "Use").
4. The Site is located in the Residence A-2 Zoning District, north of U.S. Route 20 and with frontage on Massachusetts State Route 85.
5. The Site has an area of approximately 677,332 square feet (15.5 acres).
6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.
7. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan entitled "Site Development Plans for Benchmark

Senior Living” prepared by Bohler Engineering and dated January 20, 2017, revised March 28, 2017, May 31, 2017 and July 18, 2017 (the “Plans”).

8. The Plans were certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, 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.

9. 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 public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

10. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the Application on Monday, May 8, 2017. The hearing was opened and closed on that date. On June 19, 2017, the City Council approved an Agreement to Extend Time Limitations to extend the time for final action on the Application to September 12, 2017.

11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Project, describing its impact upon municipal services, the neighborhood, and traffic.

**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 650-18(44)(c) of the Zoning Ordinance of the City of Marlborough, the City Council also finds that:

1. There is adequate access to and from the proposed assisted living facility for emergency response vehicles, insofar as the Plans demonstrate sufficient space for emergency response vehicles to enter and exit the Site.
2. Alternative access to the Site is not necessary, based upon the sufficiency of the Site’s primary access in the event of an emergency evacuation.
3. There are sufficient provisions for medical transport, based upon the Site’s access ways and layout.

4. The overall impact of the proposed assisted living facility will not adversely affect the neighborhood or the City, as the Site is located in the vicinity of similar or complimentary land uses and the Use, as conditioned in this Decision, will have minimal impact on the neighborhood and the City.

D. In accordance with Section 650-18(44).d.(1) and Section 650-59.C(12)(a) of the Zoning Ordinance of the City of Marlborough, the City Council also finds that the Applicant has agreed to donate approximately 10 acres of the Site to the City for municipal purposes (the "Donated Land"). The Donated Land will benefit the City and its citizens generally, and prior to the separation of the Donated Land from the Site, the Use conformed to the dimensional criteria set forth in Section 650-41 of the Zoning Ordinance of the City of Marlborough.

E. The Donated Land includes a walking trail in the southeast corner as shown on Sheet 4 of the Plans. The walking trail connects the 1LT Charles W. Whitcomb School and the athletic fields on the Marlborough High School property, although the trail was disturbed as a result of the construction of the athletic fields. The Applicant has agreed to clear the vegetation for a path to make the connection from the base of the slope by the athletic field around the slope out to Stevens Street. Such work shall be complete before the issuance of a final Occupancy Permit for the Use. The precise location of the clearing to reconnect the path will be identified in the field by the Applicant and the City Conservation Officer.

F. The City Council finds that the Plans comport with the design standards set forth in Section 650-18(44).d(3).

G. 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 to build and operate an assisted living facility with a special care unit 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.

2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Project.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review 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 no occupancy permit shall be issued until the Applicant has complied with all conditions. 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.

4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the City Council or the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.

5. 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.

6. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns 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, its successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

7. Parking. The Applicant shall provide 65 parking spaces at the Site, plus 10 additional overflow parking spaces, as shown on the Plans, which exceeds the parking required for the Use under Section 650-48.A(16) of the Zoning Ordinance of the City of Marlborough by 15 spaces. Prior to the issuance of the final Occupancy Permit, the Applicant shall enter into a written agreement with a third party for the provision of any off-site parking needed for holidays and special events at the Site.

8. Donated Land; Lot Coverage. Pursuant to Finding D of this Decision and in accordance with Section 650-18(44)d(1) of the Zoning Ordinance of the City of Marlborough, the Applicant shall donate the Donated Land to the City for municipal purposes, and following the conveyance of the Donated Land to the City, the maximum lot coverage allowed for the Use as shown on the Plans may exceed 30% notwithstanding the dimensional criteria set forth in Section 650-41 of the Zoning Ordinance of the City of Marlborough. The Donated Land shall be deeded to the City at the time of the closing of the Applicant's acquisition of the Site, subject to the City's conveyance of the "Sewer Parcel" and "drainage easement" as referenced in condition 9 below.

9. Mitigation Payment. The Applicant has agreed to donate One Hundred and Fifty Thousand Dollars (\$150,000, the "Mitigation Payment") to the City to mitigate the impacts of the Use on the City. The Mitigation Payment shall be made to the City within 60 days of the issuance of the Building Permit for the Use. The Mitigation Payment will benefit the City and its citizens generally. The Mitigation Payment includes Fourteen Thousand Dollars (\$14,000) in compensation to be paid by the Applicant to the City pursuant to the Applicant's February 16,

2017 Request to Purchase or Have City-Owned Property Abandoned for 13,401 SF+/- Land Off of Bolton Street, Assessor’s Map No. 30, Parcel No. 700 (“Sewer Parcel”), subject to the City Council’s approval of the Applicant’s Request by the City Council. The City would retain a permanent sewer easement in the Sewer Parcel. The \$14,000 valuation of the Sewer Parcel was established pursuant to a November 1, 2016 appraisal by Kenneth J. Croft III, Esq. of Foster Appraisal & Consulting Co., Inc. The Mitigation Payment also includes any compensation to be paid by the Applicant to the City for the acquisition of a drainage easement from the northern property line of the Site to the Proposed Connection to Existing Catch Basin on the property of the City of Marlborough (Marlborough Assessors Maps, Map 30, Lot 12) between the property line to the Site and Poirier Drive, as shown on Sheet 6 of the Plans, and subject to the City Engineer’s review and the City Council’s approval. The Mitigation Payment is intended to subsidize the City’s construction of a concession stand and bathrooms for the athletic fields at the 1LT Charles W. Whitcomb School.

10. Traffic Mitigation. To mitigate any traffic-related concerns related to the proposed project, the Applicant has agreed to make the improvements specified in June 20, 2017 Memorandum of Jason Adams, P.E., PTOE of McMahon Transportation Engineers & Planners re “Vehicle Speed and Safety Assessment, Bolton Street (Route 85), Marlborough, Massachusetts;” and the June 25, 2017 Memorandum from Timothy F. Collins, Assistant City Engineer to the Traffic Commission re “Traffic Safety Plan in the Vicinity of #421 Bolton Street – for Benchmark Senior Living,” all as approved by the City’s Traffic Commission on July 25, 2017. Such traffic-related improvements shall be complete before the issuance of the final Occupancy Permit for the Use.

11. The Applicant shall hold a job fair in the City for the purpose of giving Marlborough residents an opportunity to apply for employment at the assisted living facility. This condition may be satisfied by the Applicant’s participation in a job fair organized by the Marlborough Economic Development Corporation.

12. Recording of Decision. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns 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, 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: _____ - Nay: _____ - Absent: _____

ADOPTED
In City Council
Order No. 17-1006816D
Adopted: _____ 2017

Approved by Mayor
Arthur Vigeant
Date: _____ 2017

A TRUE COPY

ATTEST: _____ City Clerk



City of Marlborough Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR
2017 SEP -7 A 11:16
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR
ELLEN M. STAVROPOULOS
PARALEGAL

September 7, 2017

Edward Clancy
President
Marlborough City Council

RE: Order No. 17-1007003A
Requests for Fee Interest in Sewer Parcel and for Drainage Easement
BSL Marlborough Development LLC
421 Bolton Street, Marlborough

Dear President Clancy and Members:

At the Legislative & Legal Affairs meeting on Tuesday, September 5, 2017, the L&L Committee met to discuss the request from BSL Marlborough Development LLC ("BSL") that the City convey its fee interest in a so-called sewer parcel, as well as a drainage easement, to BSL. The L&L Committee requested that I place the order, as revised during the meeting, onto the next Council agenda.

Accordingly, enclosed please find the order as revised, which I certify to be in proper legal form.

In addition, the L&L Committee asked that I outline the sequence of votes necessary for the Council to take action on the proposed order. I recommend:

- that a motion be made for the City to convey its fee interest in the Sewer Parcel to BSL as set forth in part 1, including sections a through d, of the enclosed order;
 - and if that motion carries,
- that a motion then be made for the City to convey the Drainage Easement to BSL as set forth in part 2, including sections a through d, of the enclosed order.

BSL has agreed that a two-thirds (2/3) vote be taken on each motion, even though there are portions of the order that would otherwise require only a simple majority.

Thank you for your attention to this matter.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: David K. McCay, Esquire

ORDERED:

1. Having taken by eminent domain the fee interest in 13,401± SF of land off Bolton Street for sewer purposes, said land being shown on City Assessor's Map 30 as Parcel 700 (the "Sewer Parcel"), and subject to receipt of written notification from the Commissioner of Public Works, having charge of the Sewer Parcel, of his determination pursuant to M.G.L. c. 40, §§ 15 and 15A that the City's fee interest in the Sewer Parcel is no longer needed for sewer purposes so long as the City retains an easement in, on and under the Sewer Parcel for sewer purposes in the area labeled "Proposed 30 FT Wide Sewer Easement (8,461± SF)" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering and filed herewith, the City Council hereby:
 - a. Pursuant to M.G.L. c. 40, § 15A, transfers the Sewer Parcel from the Department of Public Works to the City Council for the purpose of conveyance of the fee interest therein to BSL Marlborough Development LLC ("BSL") while retaining an 8,461± SF easement therein for sewer line access, maintenance, repair and related sewer purposes;
 - b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Sewer Parcel is available for disposition by sale of the City's fee interest therein to BSL;
 - c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the fee interest in the Sewer Parcel at \$14,000 pursuant to a determination of value set forth in a November 1, 2016 appraisal by Kenneth J. Croft III, Esq. of Foster Appraisal & Consulting Co., Inc; and
 - d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor, pursuant to M.G.L. c. 40, § 3, to convey the Sewer Parcel by sale to BSL, subject to: (1) the City's retention of an easement for sewer purposes consistent with this Order; and (2) the conveyance to the City of approximately 10 acres of the property located at the 421 Bolton Street site and as described as the "Donated Land" in a Special Permit Decision, City Council Order No. 17-1006816D. The Mayor's executed deed conveying the City's fee interest in the Sewer Parcel shall be held in escrow to be recorded at the Middlesex South Registry of Deeds simultaneously with the conveyance of the Donated Land at the time of the closing of BSL's acquisition of the 421 Bolton Street site.

2. Having taken by eminent domain the fee interest in land located at 431 Bolton Street for school purposes, said land being shown on City Assessor's Map 30 as Parcel 12 (the "School Parcel"), and subject to receipt of written notification from the School Committee, having charge of the School Parcel, of its determination pursuant to M.G.L. c. 40, §§ 15 and 15A that an 1,123± SF area of the School Parcel labeled "Proposed 30 FT Wide Drainage Easement (1,123± SF)" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering and filed herewith (the "Drainage Easement Area"), is not needed for school purposes, the City Council hereby:

- a. Pursuant to M.G.L. c. 40, § 15A, transfers from the School Committee to the City Council the Drainage Easement Area for the purpose of conveyance of a drainage easement therein to BSL Marlborough Development LLC (“BSL”);
- b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Drainage Easement Area is available for disposition by sale to BSL;
- c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the Drainage Easement Area at \$1,000; and
- d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor, pursuant to M.G.L. c. 40, § 3, to convey a drainage easement within the Drainage Easement Area by sale to BSL consistent with this Order.

ADOPTED
In City Council
Order No. 17-1007003A

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2017 SEP -6 A 11: 18

Arthur P. Bergeron
Mirick O'Connell
1800 West Park Drive, Suite 400
Westborough, MA 01581-3926
abergeron@mirickoconnell.com
t 508.929.1652
f 508.463.1385

September 6, 2017

Councilor Edward Clancy, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: Capital Group Properties, LLC, 685 Farm Road,
Proposed zoning map amendments to add land
To Retirement Community Overlay District, Order #17-1006963A

Dear Councilor Clancy:

On behalf of my client, Capital Group Properties, LLC, I respectfully request that this matter, which was previously submitted to the City Council but tabled, be removed from the table so that the Council can consider whether to:

1. schedule the matter for a public hearing;
2. refer the matter to the Planning Board; and,
3. refer the matter to the appropriate Council Committee.

Thank you in advance for your assistance.

Very truly yours,



Arthur P. Bergeron

APB/cm

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

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MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

1A

Call to Order

2017 SEP -5 A 9:19
June 19, 2017

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Philip Hodge, Sean Fay and George LaVenture. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes:

A. June 5, 2017

On a motion made by Mr. Fay, seconded by Mr. Hodge, the Board voted to approve the minutes from the June 5, 2017, regular Planning Board meeting. Motion carried.

2. Chair's Business:

3. Approval Not Required:

A: Walker Realty LLC and 11 Apex LLC- RT 20 (Boston Post Road West)

Applicant representative, Joe Trolia, was present for the decision. Mr. Fay read a letter into the record from City Engineer DiPersio outlining the Engineering Division's favorable recommendation for the Board's endorsement of the plan. On a motion by Mr. LaVenture and seconded by Mr. Hodge, the Board voted to accept the letter and place on file. It was further voted to endorse the Approval Not Required Plan for the property located at Boston Post Road West (APEX), which combines the non-buildable 13,655 sq. ft. parcel 13B with the 151,403 sq. ft. Lot 14, for a combined area of 165,058 sq. ft. Motion Carried.

B: West Hill LLC (Easterly side of terminus of DuFresne Dr.)

Applicant representative, Jeff Stefanik, was present for the decision. Mr. Fay read a letter into the record from City Engineer DiPersio outlining the Engineering Division's favorable recommendation for the Board's endorsement of the plan. The plan creates Lots 4I, 4J, 9D, 10E and 12D which have been determined to meet the frontage, area, access and dimensional requirements for residential A-2 Zoning. On a motion by Mr. LaVenture and seconded by Mr. Hodge, the Board voted to accept the letter and place on file. It was further voted to endorse the Approval Not Required Plan for the property located on the easterly side of the terminus of DuFresne Dr. Motion Carried.

5. Pending Subdivision Plans: Updates and Discussion:

A: Engineer's Report

Mauro Farm:

Engineering had previously created a small punch list for the developer, which had not been addressed prior to the June 19 meeting of the Planning Board. Developer is seeking to clarify the open space description and prepare open space deeds.

Commonwealth Heights:

Commonwealth Heights approval expires on July 25, 2017. The Planning Board will consider a further extension at its meeting July 24, 2017, if the blight issue has been resolved to the satisfaction of the Code Enforcement Officer. Per the recommendation of the Engineering Division, the next milestone in granting an Extension of Approval is for November 27, 2017, the date "the developer produce documentation that a new developer for this

subdivision has been selected, and that they are committed to completing the construction of the subdivision within the timeframe established by the Construction Schedule provided to the Planning Board on May 8, 2017."

Walker Brook Estates:

The Planning Board Administrator will contact developer to verify reduction of the bond to \$63,000. Walker Brook Estates is in the 1-Year Maintenance Period until June 5, 2018.

Howes Landing:

Developer has stated that requested work on the detention basin has been completed.

Goodale Estates:

Blasting at the site has continued. Utility work is underway. When requested, the Engineering Division will work with the developer to coordinate the Right-of-Way site survey.

Bouffard Drive:

City Council voted to accept Bouffard Drive. Mylars have been sent to Legal for recording.

Water's Edge (Open Space):

City Council voted to accept the open space parcel. Mylars have been sent to Legal for recording.

City Engineer DiPersio indicated that Engineering met with the Legal Department to discuss street acceptances. A Home Rule Petition could offer a streamlined acceptance path. Exploratory work continues.

6. Preliminary/Open Space Submissions/Limited Development Subdivisions: None

7. Definitive Subdivision Submission: None

8. Signs:

A: Update from Inspectional Services

Chairperson Fenby welcomed Doug Scott, Building Commissioner, and Pamela Wilderman, Code Enforcement Officer, to the Planning Board to discuss facilitating communication between the Board and the Building Department. The discussion focused on Inspectional Services continuing enforcement efforts and limitations resulting from recent changes to federal law. Mr. Fay asked Ms. Wilderman what types of violations she would like to hear about should a board member notice a violation. Response: gateways to City, off-premises signs, signs on fences, etc. She explained what details to include and her preferred method of notification (email). As an example, Ms. Wilderman discussed the photos received of an illegal off-premises, backlit sign with a surrounding structure at the corner of Broadmeadow and Parmenter.

The Board and Ms. Wilderman discussed current enforcement efforts and her steps to discourage sign violations. Mr. Fay noted that the Board had not had a request for a sign variance in over a year and asked if individuals were being discouraged from requesting sign variances. The Board agreed that fewer variance requests were a positive development. Ms. Wilderman noted that although she does not discourage individuals from applying for a variance, Inspectional Services has been more proactive in discussing potential issues with property owners *prior* to sign placement. Seeking guidance from the department reduces the need for variances and reduces the incidence of code violations. Additionally, many of the sign requests are addressed under development agreements reviewed by City Council.

Code Enforcement is a part-time position, with office hours on Tuesdays, Wednesdays and several hours on Thursdays. Ms. Wilderman has been concentrating on required annual inspections. Commissioner Scott and the Board praised Ms. Wilderman for her deep knowledge base. The Commissioner indicated that one of his priorities is cross-training other members of Inspectional Services on the duties of the Code Enforcement Officer. This cross-training is beginning to show progress. Mr. Scott and Ms. Wilderman said that questions or concerns may be addressed (regardless of day) by sending emails to the department's primary email address Building_dept@marlborough-ma.gov.

Mr. Scott acknowledged that public safety is the necessary priority of the department, but Inspectional Services is willing and able to follow up on any issues of concern. Ms. Fenby shared that she felt that the "feedback loop" may have been lost recently. While issues may have been addressed by the department, updates were not communicated to the Board. Mr. Scott and Ms. Wilderman shared their desire to carry through with enforcement and that email is an efficient way to "stay informed". The Board would like to extend a past practice of the previous Building Commissioner, Steve Reid. Mr. Reid would often address the Board with recommendations on sign variances or related matters under Board consideration. The Board would welcome similar collaboration with Mr. Scott as needed.

Considering the recent Supreme Court ruling limiting regulations of sign content, Solicitor Rider was questioned whether it was time to revisit the City's sign ordinance to identify any inconsistencies. Historically, reworks of the sign ordinance have been a difficult process. Solicitor Rider suggested making incremental improvements to clarify language. The example he used was clarifying the use of "Special Permit", which implies a formal process including public hearing. Chairperson Fenby thanked both Mr. Scott and Ms. Wilderman for their time and participation in the meeting.

9. Unfinished Business: None

10. Informal Discussion: None

11. Correspondence: None

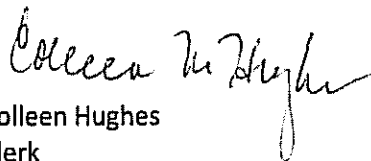
12. Public Notices of other Cities and Towns:

- A. Framingham Notices
- B. Southborough Notices

On a motion made by Mr. Fay, seconded by Mr. LaVenture, it was voted to accept and place on file. Motion carried.

Adjournment: On a motion made by Mr. LaVenture, seconded by Mr. Fay, it was voted to adjourn at 7:45 pm. Motion carried.

Respectfully submitted,



Colleen Hughes
Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2017 SEP -5 A 4 36
~~July 24, 2017~~

Call to Order

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, Brian DuPont and George LaVenture. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes:

A. June 19, 2017

On a motion made by Mr. Fay, seconded by Mr. LaVenture, the Board voted to approve the June 19, 2017, Planning Board meeting minutes. Motion carried.

2. Chair's Business: None

3. Approval Not Required: None

5. Pending Subdivision Plans: Updates and Discussion: Engineer's Report

A. Mauro Farm:

Developer has completed most items on the department's punch list. Weather has delayed crack sealing. There are two remaining action items relating to deeds that are being worked on by Legal Department. Mr. Fay inquired about the outcome of a lawsuit between the developer and an open-space parcel behind the property. Mr. DiPersio stated that he would research that question.

B. Cider Mill Estates:

Attorney Beattie informed Engineering and the Planning Board Administrator that due to impacts of the rainy weather, the developer anticipates a 1-month delay from the previously stated construction schedule. The Board expressed their appreciation for Attorney Beattie's proactive communication. The subdivision completion date is currently July 1, 2018.

C. Commonwealth Heights:

On a motion by Mr. Fay, seconded by Mr. DuPont, it was voted to waive the reading and place on file the letter dated June 19, 2017, from Scott Weiss of The Gutierrez Company Re: Commonwealth Heights Subdivision - Completion of Work & Request for Extension. Motion carried. Mr. Fay read into the record the letter dated July 12, 2017, from Code Enforcement Officer Wilderman Re: Blight Review, Commonwealth Heights Subdivision. The letter stated that blight issues on the property have been addressed. On a motion by Mr. Fay, seconded by Mr. DuPont, it was voted to waive the reading and place on file the correspondence dated May 8, 2017, from Assistant City Engineer, Tim Collins, Re: Commonwealth Heights- Request for Subdivision Approval Extension. Motion carried.

On Monday, July 24, the Marlborough Planning Board took the following action with respect to The Gutierrez Company's request for extension of the Commonwealth Heights Subdivision:

On a motion by Mr. Fay and seconded by Mr. DuPont, the Board voted that an extension to the

Commonwealth Heights Subdivision be granted until November 27, 2017.

The Board also voted to inform the developer that prior to the extension date of November 27, 2017, the developer must provide proof that they have secured a development partner and provide the Board a construction calendar based upon actual development plans. Motion carried.

Mr. Weiss arrived late in the proceeding. Given the many extensions granted to the developer, the Board reiterated its expectation that an approved subdivision plan be followed by actual development. The developer will be informed by letter that this will be the last extension granted unless the Gutierrez Company demonstrates development activity consistent with the completion schedule provided.

6. Preliminary/Open Space Submissions/Limited Development Subdivisions: None

7. Definitive Subdivision Submission:

A. 72 Hager St.- Applicant Rep., Peter Bemis, Engineering Design Consultants, Inc.

Mr. Fay read the letter from applicant representative, Peter Bemis, into the record. On a motion by Brian DuPont and seconded by Mr. Fay, the correspondence was voted accepted and placed on file. Mr. Bemis introduced his submitted plan for a definitive subdivision at 72 Hager St. in Marlborough. Mr. Bemis explained that the project will require numerous waivers by the Planning Board, but was the preferred plan with only three building lots and an open space for cow grazing. Mr. Bemis provided an overview of each of the waiver requests. Waivers are summarized below:

- Request waiver from the required 25-foot radius at property line intersections with Hager St. (to 12' and 0')
- Request waiver from the required width of 50' Right of Way (to 30')
- Request waiver from Dead-End-Streets required 100' property line diameter (to 40'-described as adequate to accommodate the turning around of the City's largest emergency vehicle - an aerial ladder truck.)
- Request waiver from the maximum 3% slope requirement (5% requested around cul-de-sac.)
- Waiver from required width of 26' (to 18' – only three lots and width still allows 2-way passage of cars.)
- Request waiver of sidewalks, curbs and gutter as road is private and has only three dwellings.
- Request waiver from providing street trees as road remains private and individual lots will be landscaped.
- Request waiver from providing monuments as road will remain private.
- Request waiver from providing street signs as dwelling addresses will be off Hager St.
- Request waiver from providing street lights as road will remain private in a rural setting.

Mr. Bemis indicated that he has already met with Conservation Officer Ryder to discuss the open space area and the desired barn and cow pond. Plans have also been submitted to the Board of Health for comment. Mr. Bemis also indicated that he has met with the Fire Dept. to discuss the waivers and explained to the Board that no concerns were expressed. (Formal comment will be obtained prior to the Board's decision.)

In addition to the definitive plan, Mr. Bemis presented an ANR plan (approval under the subdivision control law not believe to be required) that was previously submitted to the Town of Framingham. Mr. Bemis explained that the ANR plan creates "Lot 1", a building lot which has land in Marlborough and Framingham, and two parcels in Marlborough which are the subject of the definitive plan. At the request of the applicant, the ANR plan will be addressed concurrently with the definitive plan, so that the definitive plan will not have to be signed by the Framingham Planning Board. Mr. Bemis stated that he would send a letter to the City Clerk and Planning Board explaining that a decision on the ANR is not required prior to the August 28 meeting date.

On a motion by Brian DuPont and seconded by Mr. Fay, it was voted to accept and place on file all portions of the submittal (including drawings, appendices, checklists and stormwater calculations). Motion carried.

A public hearing on the matter was set for Monday, August 28, 2017, at 7:15 p.m. in Memorial Hall, 140 Main St. Marlborough.

8. Signs: None

9. Unfinished Business: None

10. Informal Discussion: None

11. Correspondence: None

12. Public Notices of other Cities and Towns:

On a motion made by Ms. Hughes, seconded by Mr. McCarthy, it was voted to accept and place on file. Motion carried.

Adjournment: On a motion made by Mr. LaVenture and seconded by Mr. DuPont, it was voted to adjourn at 7:45 pm. Motion carried.

Respectfully submitted,


Colleen Hughes
Clerk

/kih

SBC MEETING NOTES

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CITY OF MARLBOROUGH

PROJECT TITLE: RICHER ELEMENTARY SCHOOL

Meeting Date:	May 16, 2017	SBC Project Meeting #09
Prepared by:	Tieshia Walton – Daedalus Projects Inc	2017 SEP -5 P 12:40

<u>Attendees:</u>	<u>Affiliation</u>
Arthur Vigeant	Mayor, City of Marlborough/SBC Chair
Nicholas Milano	City of Marlborough
John J. Ghiloni	School Building Committee Member/ Commissioner of Public Works
Douglas Scott	School Building Committee Member/ Building Commissioner, City of Marlborough
Jim Fortin	School Building Committee Member
Denise Ryan	School Committee Member
Joseph Trola	School Building Committee Member
Patrick Mauro	School Building Committee Member
Maureen Greulich	Superintendent, Marlborough Public Schools
Thomas Gatzunis	Daedalus Projects, Inc. (DPI)
Tieshia Walton	Daedalus Projects, Inc. (DPI)
Michael Pagano	Lamoureux Pagano & Associates (LPA)
Peter Caruso	Lamoureux Pagano & Associates (LPA)
William Senecal	Lamoureux Pagano & Associates (LPA)
Paul Cacciola	Lamoureux Pagano & Associates (LPA)

<u>Item</u>	<u>Description: New Business</u>	<u>RESP/STATUS</u>
3.01	Motion made by Chairman Vigeant to approve the 3/27/2017 and 5/2/2017 meeting minutes seconded by John Ghiloni. Motion passed unanimously.	RECORD
3.02	<p>SBC MEETING:</p> <ul style="list-style-type: none"> The PDP will be submitted to the MSBA on June 14th. All documents that must be inserted into the submission must be to LPA by June 8th. The PDP will be given to the OPM on June 13th for delivery to the MSBA the following day. The Richer no build solution entails bringing the building up to code. LPA does not think this option will benefit the City, but will do a further study on an Add/Reno K-4, 675-student option. The current Richer site is not suitable for a K-5 school. Cost estimates are required by the MSBA during the Schematic Design, Design Development and Construction Document phases of the project. 	DISTRICT/CITY /DAEDALUS/LPA
3.03	<p>ALTERNATIVE SITES:</p> <ul style="list-style-type: none"> LPA ranked four sites, High School Fields, South Street, Broadmeadow Street, and 146-154 Williams Street as detailed on the attached presentation. A score of five being the best ranked. LPA recommends South Street and Broadmeadow Street be removed from consideration. The high school ranked number one. LPA thinks there is enough land with the support of the conservation commission to build a two-story, k-5, 610-student school building, with a connection from the driveway to the parking lot to minimize disruption to the wetland. 397 Williams Street is under P & S with an estimated purchase price of \$8 million. The property has a good foundation to develop as a school. Sections may have to be torn down, but there is a lot of interior space. LPA will further study. Doug will meet with the Fire Department to find the building plans. 	RECORD

	<ul style="list-style-type: none"> • 146 Williams Street is prime farmland with an automatic Environmental Notification Form requirement. There are currently buildings on the "prime farmland" • South Street is prime farmland with an automatic Environmental Notification Form requirement. Tony Raiano is open to starting a program at the farm for students but wants to stay in the farming business • Broadmeadow Street is prime farmland with an automatic Environmental Notification Form requirement. • The Mayor and Ed Clancy spoke to Bob Jackson at 146-154 Williams Street about the property being open space and a school and he is not interested in selling. • The calls made to the owner of Broadmeadow Street were not returned. • The 397 Williams Street property is under Purchase Sale & Agreement and an extension was granted until June 30th. • LPA will list Richer, High School and 397 Williams as alternate sites in the PDP. There will be a note added that 397 Williams Street is not for sale at this time. 	
3.04	<p>BUDGET:</p> <ul style="list-style-type: none"> • DPI did an estimate on a similar 100,000 square foot school project where the Total Project cost was \$55-60 million. • At this time construction cost are \$430 per square foot with a 21% soft cost and 4% escalation times two for the two year project duration • The MSBA does not reimburse for land acquisitions. MSBA allows only 8% of construction cost for site work. For sites requiring major site work, the Owner bears cost over MSBA allotment. 	DISTRICT/CITY /DAEDALUS/LPA
3.05	<p>ADJOURNMENT:</p> <ul style="list-style-type: none"> • Motion made by Superintendent Maureen Greulich to adjourn the meeting seconded by John Ghiloni at 5:48 p.m. Motion passed unanimously. 	RECORD
3.06	<p>ATTACHMENTS:</p> <ul style="list-style-type: none"> • SBC Presentation attached for reference. 	RECORD

Respectfully submitted
August 30, 2017



Mayor Arthur G. Vigeant
Chair

SBC MEETING NOTES

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

PROJECT TITLE: RICHER ELEMENTARY SCHOOL

Meeting Date:	June 6, 2017	SBC Project Meeting # 201704SEP -5 P 12:40
Prepared by:	Tieshia Walton – Daedalus Projects Inc	

<u>Attendees:</u>	<u>Affiliation</u>
Arthur Vigeant	Mayor, City of Marlborough/SBC Chair
Nicholas Milano	City of Marlborough
John J. Ghiloni	School Building Committee Member/ Commissioner of Public Works
Katie Robey	School Building Committee Member/ City Councilor
Douglas Scott	School Building Committee Member/ Building Commissioner, City of Marlborough
Jim Fortin	School Building Committee Member
Denise Ryan	School Building Committee Member
Joseph Trolla	School Building Committee Member
Patrick Mauro	School Building Committee Member
Maureen Greulich	Superintendent, Marlborough Public Schools
Dr. R.J. Skaza	Principal, Richer Elementary
Michael Bergeron	Marlborough Public Schools
Thomas Gatzunis	Daedalus Projects, Inc. (DPI)
Tieshia Walton	Daedalus Projects, Inc. (DPI)
William Senecal	Lamoureux Pagano & Associates (LPA)
Katie Crockett	Lamoureux Pagano & Associates (LPA)
Paul Cacciola	Lamoureux Pagano & Associates (LPA)

<u>Item</u>	<u>Description: New Business</u>	<u>RESP/STATUS</u>
4.01	<p>SBC MEETING:</p> <ul style="list-style-type: none"> • Katie Crockett gave an overview of the details of the PDP document being submitted to the MSBA on June 14th. • The Preferred Schematic Report (PSR) is scheduled to be submitted to the MSBA in September. The PSR will summarize the process and conclusion of the Preliminary and Final Evaluation of Alternatives and document the Districts selection and recommendation of a preferred solution. See the attached presentation on the estimated cost of each potential alternative: base repair, renovation and addition, new construction and or new construction on an alternate site as required by the MSBA. LPA's consultants will do additional site analysis on the High School site. The base repair option includes retaining the modular classrooms, no new construction, and does not include the K-5 option. If the addition/renovation is chosen there will be an incentive given by the MSBA. New construction of a fourth elementary school will leave the current Richer school online, and repairs to the school will eventually have to be done. • During the Schematic Design Phase, the programming is more detailed and cost estimates are done. At the end of this phase, the reimbursement rate can be more accurately predicted. • Local authorization is needed to obtain funding within 120 days of the Schematic Design approval by MSBA. • The District voted and approved at the last School Committee meeting moving the 5th grade back to the elementary school level. The K-5 configuration will be a primary factor when selecting the preferred solution. 	<p>DISTRICT/CITY /DAEDALUS/LPA</p>

	<ul style="list-style-type: none"> • The floor plans of the school are located in the Appendices of the PDP, but will not be include in the PDP due to safety concerns. There will be a spreadsheet provided by Michael Bergeron inserted into the PDP instead. • Motion made by Michael Bergeron to submit the Preliminary Design Program (PDP) to the MSBA seconded by Chairman Vigeant at 4:40 p.m. Motion passed by roll call vote 10-0-0 Yeas: Arthur Vigeant John J. Ghiloni Katie Robey Jim Fortin Denise Ryan Joseph Trolla Patrick Mauro Maureen Greulich Dr. R.J. Skaza Michael Bergeron • Motion made by Michael Bergeron to end the meeting seconded by Chairman Vigeant at 4:42 p.m. Motion passed unanimously 10-0-0 	
4.02	<p>ATTACHMENTS: SBC Presentation attached for reference.</p>	RECORD

Respectfully submitted
 August, 30 2017



Mayor Arthur G. Vigeant
 Chair