

1. Minutes, City Council Meeting, August 18, 2008.
2. Communication from the Mayor re: budget transfer request in the amount of \$2,550.60 which moves funds from Animal Inspector to Professional and Technical to fund the Critter Control contract.
3. Communication from the Mayor re: reappointment of Paul Guinta to the Zoning Board of Appeals for a term of five years expiring on May 5, 2013.
4. Communication from the Mayor re: request to convert two existing Beer and Wine licenses to All Alcohol licenses.
5. Communication from the Mayor re: Berlin Farms Subdivision – Open Space Land Acceptance.
6. Communication from the Mayor re: Sepracor Inc. TIF Proposal.
7. Communication from the Mayor re: Order acknowledging the City's interest in insurance proceeds from Life Insurance policy of Nicholas Xenos and authorizing the Mayor to sign disclaimer to allow Nicholas Xenos' widow to receive the proceeds instead.
8. Communication from Donald Rider, City Solicitor re: MetroPCS Massachusetts, LLC, Special Permit for 75 Donald Lynch Blvd. in proper form.
9. Communication from Donald Rider, City Solicitor re: Boston Post 355 LLC, Special Permit for 355 Boston Post Road West for the Business District in proper form.
10. Communication from Donald Rider, City Solicitor re: Boston Post 355 LLC, Special Permit for 355 Boston Post Road West for the Water Supply Protection District in proper form.
11. Communication from Attorney Bergeron, on behalf of 890 Boston Post Rd LLC, re: request to withdraw without prejudice proposed zoning changes pertinent to a New Car Dealership Overlay District.
12. Application from Attorney Arthur B. Bergeron, on behalf of 890 Post Rd LLC, re: modified version of adopting proposed New Car Dealership Overlay District.
13. Minutes, Community Development Authority, June 19 & 30, 2008.
14. Minutes, Planning Board, July 14, 2008.
15. CLAIMS:
 - A. Gary Mayo, 53 Dartmouth St., property damage
 - B. Anthony Mulherin, 136 Chestnut St., vehicle damage
 - C. John McStay, 28 Evelina Dr., vehicle damage
 - D. Ron Rolly/Ron Michaux, 27 Taylor Rd., vehicle damage
 - E. Catherine Hughes, 61 Ridge Rd., vehicle damage

REPORTS OF COMMITTEES:

16. ORDERED: That the Mayor be requested to submit a transfer to the Affordable Housing Stabilization Fund in the amount of \$190,000.00 received from the Design Pak housing conversion project, immediately upon the certification of the City's Free Cash, which should be certified by the State in October.Submitted by Councilor Pope
17. ORDERED: That the Mayor be requested to submit a transfer to a new stabilization account – Recycling Swap Shack – in the amount of \$5,000.00 received from Omnipoint/T-Mobile for the east plant site, immediately upon the certification of the City's Free Cash, which should be certified by the State in October.Submitted by Councilor Pope

UNFINISHED BUSINESS:

From Public Services Committee

18. **Order No. 08-1001875 – Application of Richard Roach d/b/a Hudmar Ltd. for renewal of Junk Dealer's license.** Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**

19. **Order No. 08-1001897 - Application, renew Pool Table (2) licenses, Marlboro Cozy Café, 487A Lincoln St.** Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**
20. **Order No. 08-1001896 – Application for Fuel Storage License, Ayoub Engineering on behalf of ExxonMobile Corp., 260 West Main St. -- Hunt's Mobile.** Work to upgrade underground piping to the tanks and the overhead fire suppression system has been inspected. Inspection of pipes converting gasoline to diesel scheduled on Wednesday, July 30, - report will be forwarded forthwith. **Recommendation of the Public Services Committee is to refer back to City Council without recommendation, pending report of final inspection from the Fire Chief and further recommending issuance of an amended Fuel Storage License upon receipt of final inspection reports.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

**Lisa M. Thomas
140 Main St.**

**Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723**

AUGUST 18, 2008

Regular meeting of the City Council held on Monday AUGUST 18, at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juare, Seymour, Clancy and Landers. Meeting adjourned at 9:42 p.m.

ORDERED: Minutes, City Council Meeting, July 14, 2008, **FILE**; adopted. (**Councilor Schafer abstained**)

MOTION: Councilor Pope requested that Item 2, Application to amend Special Permit of Toll MA Land Limited Partnership to construct 80 units on less than 14 acres and to revise current permit conditions accordingly be moved to Item 3 and Item 3, Application for Special Permit from MetroPCS, LLC for proposed installation of a Telecommunication Facility onto existing Telecommunication Tower located at 445 Simarano Dr. be moved to Item 2, **APPROVED**; adopted.

ORDERED: Now being the time set for the PUBLIC HEARING On the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 445 Simarano Dr. , all were heard who wish to be heard, hearing adjourned at 8:04 p.m.

ORDERED: Now being the time set for the PUBLIC HEARING On the Application to amend Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 80 units on less than 14 acres and to revise current permit conditions accordingly, all were heard who wish to be heard, hearing adjourned at 8:40 p.m.

ORDERED: Now being the time set for the PUBLIC HEARING On the Petition from Attorney Gadbois, on behalf of Lewis Clark, Jr., to amend the Zoning Ordinance so that the Retirement Community Overlay Districts be abolished and that Retirement Communities can be an allowable use in all districts with a Special Permit in accordance with a new Section 200-22 of the Zoning Ordinance, all were heard who wish to be heard, hearing adjourned at 9:06 p.m. (**Councilor Ferro filed a disclosure statement with the City Clerk's Office**)

ORDERED: That the following budget transfer request in the amount of \$91,355.88 which would move funds from Public Safety Stabilization to Police Officer to continue to meet the payroll charges for the two recently added police officers, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 83600-32701

\$91,355.88

Fringes

TO:

Acct. # 12100001-50420

\$91,355.88

Police Officer - Salary

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ORDERED: That the revision to the Council on Aging's recently received FY09 formula grant has been increased by \$2,732.00 to \$38,255.00 as the result of a per elder allotment increase and in accordance with MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined in the grant application, **APPROVED**; adopted.

ORDERED: That the Student Awareness of Fire Education Grant in the amount of \$5,800.00 from the Commonwealth of Massachusetts Executive Office of Public Safety be awarded to the Marlborough Fire Department for the purchase of a variety of educational materials as well as programs including lectures, school visits, and open house as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, **APPROVED**; adopted.

ORDERED: That the reserve of funds through the Fairmont Hill Revolving Account and the Capital Outlay Accounts to provide for replacement of sidewalks along Liberty Street and the associated guardrail and retaining wall along Ward Park be dissected as follows according to a new total estimate of \$257,000.00:

Total Estimated project cost:	\$257,000.00
Existing funding from Capital Outlay Account:	\$60,000.00
Proposed funding from Fairmont Hill Revolving Account:	\$121,200.00
Additional funding required:	\$75,800.00

The deadline for contract execution would be September 18, 2008. Authorization for use of Fairmont Hill Revolving Account funds in excess of \$100,000.00, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the reserve of funds through the Fairmont Hill Revolving Account and the Capital Outlay Accounts to provide for replacement of sidewalks along Liberty Street and the associated guardrail and retaining wall along Ward Park be dissected as follows according to a new total estimate of \$257,000.00:

Total Estimated project cost:	\$257,000.00
Existing funding from Capital Outlay Account:	\$60,000.00
Proposed funding from Fairmont Hill Revolving Account:	\$121,200.00
Additional funding required:	\$75,800.00

The deadline for contract execution would be September 18, 2008.

That the following budget transfer request in the amount of \$75,800.00 which would move funds from Stabilization to DPW projects to cover the cost of the remaining shortfall, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 836000-11515	\$75,800.00
Stabilization	

TO:

Acct. # 19300006-58514	\$75,800.00
DPW Projects	

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ORDERED: That the drainage project in the Glenbrook neighborhood that is aimed at improving the entrance characteristics of the inlet control structure where Millham Brook enters the closed drainage system for the development be financed either by a \$130,000.00 transfer request from Stabilization to Drainage **OR** via a new bond request, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 836000-11515	\$130,000.00
Stabilization	

TO:

Acct. # 19300006-58315	\$130,000.00
Drainage	

OR

That the sum of \$130,000.00 (one hundred thirty thousand) dollars be and is hereby appropriated for drain construction.

That to meet said appropriations, the Comptroller/Treasurer, with the approval of the Mayor, is hereby authorized to issue bonds or notes of the City of Marlborough in the amount of \$130,000.00.

Pursuant to the provisions of Chapter 44, Section 7 (1) the Massachusetts General Laws as amended, each issue of such bonds or notes shall be payable in not more than thirty (30) years from date of issue.

ORDERED: That the City's adoption of Section 4, Chapter 73 of the Acts of 1986 which allows for the doubling of all exemptions offered in the City to qualified residents (i.e. elderly, Blind, Disabled Vets) as provided by Massachusetts Law and in which the City would absorb any associated costs through the Overlay Account, **APPROVED**; adopted.

ORDERED: That the reappointment of Lawrence Wenzell to the Arts Lottery Council whose two term expires on May 1, 2010, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the following notification from the City Clerk re: the **STATE PRIMARY ELECTION CALL**, be and is herewith accepted and placed on **FILE**.

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE PRIMARY ELECTION** will be held in the polling locations as noted below on **SEPTEMBER 16, 2008** as follows: Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court and Register of Probate.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd,
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd,
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St (corner of
Main/Newton Sts), rear	
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd,
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St,
WARD FIVE: Prec. 1	Senior Center, 250 Main St,
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St (corner of
Main/Newton Sts), rear	
WARD SIX: Prec. 1 and 2	Marlborough Middle (Intermediate) School,
25 Union St, Library	
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St

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- ORDERED: That the communication from director of Public Facilities, John Ghiloni and City Clerk, Lisa Thomas regarding an alternate polling location for Ward 4, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the communication from the Planning Board recommending approval of the Zoning Ordinance change for the New Car Dealership Overlay District, refer to **URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Andrew Candiello on behalf of MetroPCS Massachusetts LLC for proposed installation of a Telecommunication Facility onto existing Telecommunications Tower located at 75 Donald Lynch Blvd., until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Attorney Bergeron on behalf of Boston Post 355 LLC to construct and operate a car wash at 355 Boston Post Rd. West, until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That the Agreement to Extend Time Limitations on the application for Special Permit from Attorney Bergeron on behalf of Boston Post 355 LLC to construct and operate a car wash at 355 Boston Post Rd. West as it is also located in the Water Supply Protection District, until 5:00 PM on September 30, 2008, **APPROVED**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext., **REFER TO WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE**; adopted.
- ORDERED: That the application for a Taxi License by Cleonice Goncalves, 19 Ruth Dr., Marlborough, MA , Marlboro City Taxi, refer to the **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the request to accept Joseph North Road as a public way refer to **PUBLIC SERVICES**; adopted.
- MOTION: That agenda #20, Communication from Michael Meagher, Esq., regarding Gulbankian's Mobile Home Park be moved to item #25, That Donald and Levon Gulbankian as officers in Gulbankian's Mobile Home Village, Inc. appear before the Urban Affairs Committee to review the status of City Council Special Permit #89/2851C, the subsequent agreement for judgment that modified that special permit, together with a written status report on the status of each condition contained in the special permit, with specific attention to the requirement for providing 6 affordable housing units.Submitted by Councilors Pope and Ferro, **APPROVED**; adopted.
- ORDERED: That the communication from Keegan Werlin LLP regarding Notice of Filing and Public Hearing by NSTAR Gas Company, **FILE**; adopted.
- ORDERED: That the minutes, Planning Board, June 23, 2008, **FILE**; adopted.
- ORDERED: That the minutes, MetroWest Regional Transit Authority, June 23, 2008 **FILE**; adopted.

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

- A. Anthony Vellante, 236 Bridge Rd., vehicle damage
- B. Lori Ebb, 11 Carver Hill Rd., vehicle damage
- C. Marianne Haroian, 218 South St., Auburn, vehicle damage
- D. Edwin Tiru, 9 Springhill Ave., property damage
- E. James Dowling, 52 Country Club Blvd., #1301, vehicle damage

Reports of Committees:

Councilor Juaire reported the following out of the Public Services Committee:

Order No. 08-1001875 – Application of Richard Roach d/b/a Hudmar Ltd. for renewal of Junk Dealer’s license. Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**

Order No. 08-1001897 - Application, renew Pool Table (2) licenses, Marlboro Cozy Café, 487A Lincoln St. Chief Leonard is without objection to this renewal. **Recommendation of the Public Services Committee is to approve 3-0.**

Order No. 08-1001896 – Application for Fuel Storage License, Ayoub Engineering on behalf of ExxonMobile Corp., 260 West Main St. – Hunt’s Mobile. Work to upgrade underground piping to the tanks and the overhead fire suppression system has been inspected. Inspection of pipes converting gasoline to diesel scheduled on Wednesday, July 30, - report will be forwarded forthwith. **Recommendation of the Public Services Committee is to refer back to City Council without recommendation, pending report of final inspection from the Fire Chief and further recommending issuance of an amended Fuel Storage License upon receipt of final inspection reports.**

Suspension of the Rules requested – granted

ORDERED: That the resubmission on the application for Special Permit by Attorney Bergeron, on behalf of Boston Post 355, LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the application for Second Special Permit by Attorney Bergeron, on behalf of Boston Post 355, LLC for permission to construct and operate a car wash at 355 Boston Post Rd. West, as it is also located in the Water Supply Protection District, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunication Facility onto the existing Telecommunications Tower located at 75 Donald Lynch Blvd, refer to the **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

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ORDERED: That Donald and Levon Gulbankian as officers in Gulbankian's Mobile Home Village, Inc. appear before the Urban Affairs Committee to review the status of City Council Special Permit #89/2851C, the subsequent agreement for judgment that modified that special permit, together with a written status report on the status of each condition contained in the special permit, with specific attention to the requirement for providing 6 affordable housing units, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Michael Meagher, Esq, on behalf of Gulbankian's Mobile Home Park, re: remaining building and occupancy permits for the manufactured housing community of Broadmeadow Rd., refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: 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 ADDING TO SECTION 3-13 OF CHAPTER 3 OF ARTICLE II THE FOLLOWING NEW PARAGRAPHS:

It shall be deemed to be within the proper discharge of the official duties of the employees in the Legal Department for said employees to contact private contractors and/or their insurers in an effort to assist, or attempt to assist, those claimants whose claims against the City of Marlborough have been denied based upon a determination by the Legal Department or the City's insurer that said private contractors are responsible for satisfying those claimants' claims; provided however, that nothing contained herein shall be construed to create an attorney-client relationship between any claimant so assisted, or attempted to be assisted, and either the Solicitor or the Assistant Solicitor, whose sole client is and shall remain the City of Marlborough; and provided, further, that nothing contained herein shall be construed so as to interfere, in the sole determination of the Solicitor or the Assistant Solicitor, with the proper discharge of any other official duties of the employees in the Legal Department. This paragraph shall be applicable to only those claims received by the City of Marlborough on or after the date when this paragraph is approved.

Notwithstanding the immediately preceding paragraph, any written claim presented to the City of Marlborough alleging that a residential mailbox has been damaged by the operation of a snow plow shall be granted upon written confirmation provided by the Department of Public Works to the Legal Department that City of Marlborough snow plow operations were in effect during the date when, and on the street where, the claimed mailbox damage occurred; provided, however, that such claim must be accompanied both by an auto-dated photograph(s) of the damaged mailbox as well as by a paid receipt showing the actual cost of the mailbox's repair or replacement; and provided, further, the maximum amount of reimbursement shall be set at Seventy-Five and 00/100 (\$75.00) Dollars, except that in the absence of such photograph(s) and/or such paid receipt, the maximum amount of reimbursement shall be set at Thirty and 00/100 (\$30.00) Dollars. This paragraph shall be applicable to only those mailbox claims received by the City of Marlborough on or after November 1, 2008.

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The foregoing amendment to Section 3-13 of Chapter 3 of Article II of the Code of the City of Marlborough shall expire on June 30, 2009 unless prior to expiration the City Council determines it is appropriate to extend this amendment beyond June 30, 2009, **APPROVED**; adopted.

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

ORDERED: That the request to extend time in which to complete condition #21 of Special Permit granted for residential conversion of 175 Maple St in which City Council voted on June 9, 2008 to extend deadline for 45 days. That the new expiration date is October 6, 2008, **FILE**; adopted.

NOTE: Councilor Pope noted that the City received a check in the amount of \$190,000.00 and requested that the Mayor transfer the monies from the General Fund to the Affordable Housing Fund.

ORDERED: Pursuant to § 5 of Chapter 40A of the General Laws, the City Council of the City of Marlborough, having received a submission from the Planning Board of the City of Marlborough to amend the zoning ordinance of the city of Marlborough, as amended, by further amending Chapter 200, Article VI, Section 200-30, entitled "Limited Development Subdivisions," now ordains that the Zoning Ordinance of the City of Marlborough, as amended, be further amended by adding thereto, as follows:

1. The introductory preamble to § 200-30 is hereby deleted in its entirety and replaced with the following:

A parcel located in a residence district with frontage on a public way may be subdivided, subject to a special permit from the Planning Board, into Limited Development Subdivision lots for the use only as single-family dwellings under the alternative lot area, frontage and dimensional criteria set forth below; provided, however, that the special permit applicant must clearly demonstrate to the Board that the parcel which is the subject of the special permit application could be subdivided by right under conventional subdivision requirements, as set forth in the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board's Rules and Regulations, into at least two and one-half times as many building lots as the number of building lots proposed in the special permit application.

2. The caption of Section 200-30A is hereby amended by deleting the word, "Dimensional."
3. Section 200-30A(8) is hereby deleted in its entirety and replaced with the following:

(8) The applicant for a special permit hereunder shall file with the Planning Board a preliminary plan that must clearly demonstrate to the Board that the parcel which is the subject of the special permit application is capable, as of right, of conventional subdivision, pursuant to the applicable ordinances of the City of Marlborough, the Subdivision Control Law and the Board's Rules and Regulations, into at least two and one-half building lots for each building lot proposed under the Limited Development Subdivision criteria, **APPROVED**; adopted.

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:42 p.m.



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

Nancy E. Stevens 21
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

September 3, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

Attached please find a budget transfer request in the amount of \$2,550.60 which will move funds from Account No. 15120003-50830 (Animal Inspector) to Account No. 15120006-53180 (Professional & Technical) for the purpose of funding the Critter Control contract. The position of Animal Inspector had been rolled into the Critter Control contract and, in that these services can not be paid out of a payroll line item, I am requesting approval of this transfer request to the appropriate funding line.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

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**CITY OF MARLBOROUGH
BOARD OF HEALTH**

255 Main St. Rom 101
Marlborough, MA 01752
Facsimile (508) 460-3625 Tel (508) 460-3751

Robert Landry M.Ed.,R.S.,
Administrator

Massachusetts Environmental Health Association
Board of Directors

September 2, 2008

The Honorable Nancy E. Stevens, Mayor
City Hall
140 Main Street
Marlborough, MA. 01752

Re: Budget transfer request

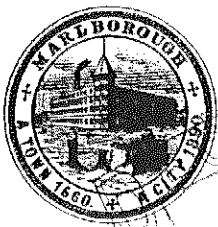
Dear Mayor Stevens,

The Board of Health is requesting a transfer from line item **15120003 50830, *Animal Inspector***, to line item **15120006 53180, *Professional/Technical Services*** in the amount of **\$2550.60**. These funds will be used to pay Critter Control for contracted Animal Inspector Services through June 30, 2009.

Respectfully Submitted,

Robert Landry M.Ed.,R.S.
Administrator

cc: Diane Smith, Auditor



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

Nancy E. Stevens 3
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

September 3, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

I am submitting herewith the name of Paul Quinta for reappointment to the Zoning Board of Appeals. While, Mr. Quinta has served for many years as an alternate on the ZBA, this reappointment would elevate his service to that of a full ZBA member replacing Quincy Spear. His term would be one of 5 years expiring on May 5, 2013.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



140 Main Street
Marlborough, Massachusetts 01752
Tel: (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

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September 3, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

On behalf of the License Board, I am forwarding a request to covert two existing Beer and Wine licenses to All Alcoholic licenses. A favorable vote by the Council will result in no change in the total number of active licenses.

I have attached the letter received from License Board Chair Walter Bonin outlining its recommendation as well as a map which provides location of all establishments within the City that currently have a liquor license.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



CITY OF MARLBOROUGH

LICENSE BOARD

255 Main Street, Room 101
Marlborough, Massachusetts 01752
Facsimile (508) 460-3625 TDD (508) 460-3610

Walter Bonin, Chairman
Herman Hudson, Member
James Riessle, Member
Tel (508) 460-3751

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July 1, 2008

Dear Mayor Stevens:

The License Board, at its meeting on June 25, 2008, voted to request the City of Marlborough to initiate the process to convert two current Beer and Wine package store licenses to ALL Alcoholic licenses. This followed an examination of the locations of current ALL Alcoholic package stores.

It is the Board's position that Route 20 East is under represented since the nearest ALL Alcoholic license is over 2 1/2 miles from the Sudbury Town Line. In addition, currently there is only one ALL Alcoholic license in the immediate downtown area and its volume is very low. We believe another one in the central business district would be a spur to economic activity if its location was close to other commercial businesses. Overall, the justification for this increase is the heavy population increase that we experience during the day due to heavy city employment. We also felt that by converting existing licenses as opposed to adding additional ones would be more positively received by the Legislature who must approve our request.

I have enclosed a map that shows the location of all existing package stores, both ALL Alcoholic, and Beer and Wine only.

I would be happy to answer any questions or provide additional information should you need it.

Respectfully yours,

Walter Bonin
Walter Bonin
Chairman



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

Nancy E. Stevens 51
MAYOR

Karen H. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

September 3, 2008

Arthur Vigeant
President
Marlborough City Council

RE: Berlin Farms Subdivision - Open Space Land Acceptance

Dear President Vigeant and Members:

During the summer, the City received a deed of a parcel of land consisting of 2.356 acres associated with the Berlin Farms subdivision. Enclosed please find a letter from the Conservation Commission, asking that the City Council accept that deed for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

In addition, I am also asking that the Council accept payment of \$5,000.00 to be placed in the Conservation Maintenance Trust, account #845-00-4830, for the purposes of managing the Berlin Farms parcel and other conservation land.

Both the deed and the payment are in furtherance of the Planning Board's Granting of Special Permit Concept Plan Open Space Development, issued on February 22, 2005. Accordingly, in addition to the Conservation Commission's letter, I have also enclosed, for your review and deliberation, copies of the special permit, the deed, a plan depicting the parcel, and a Notice of Grant Award.

As always, I am available to discuss this matter with you further.

Sincerely,

Nancy E. Stevens
Mayor

Enclosures



City of Marlborough

Conservation Commission

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140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768 Facsimile (508) 460-3747

May 27, 2008

Nancy Stevens, Mayor
140 Main St. City Hall
Marlborough, MA 01752

RE: Berlin Farm Subdivision- Open Space land Acceptance

Dear Mayor Stevens:

At its meeting on January 17, 2008 the Marlborough Conservation Commission voted to recommend the acceptance of the open space parcel of 2.356 acres which is to be donated to the City as a requirement of the Planning Board through the Open Space Subdivision known as Berlin Farms. On behalf of the Commission, I would like to ask that you send this to the City Council for the acceptance of this land for conservation and watershed protection purposes as described below. In addition the acceptance of the required payment of \$5,000 for the long term maintenance of this property is also being requested.

This action will fulfill the requirements of the Planning Board's "Granting of Special Permit Concept Plan Open Space Development" issued on Feb. 22, 2005 as it pertains to the open space land. This special permit requires the following actions:

1. The requirement to set aside open space for the purpose of the promotion and development of natural resources, watershed protection, passive recreation and conservation. A draft deed was reviewed and approved by the Commission and appears in order. Final review by the City Solicitor will be needed. A copy of the plan showing the parcel in question is attached. (As required in items # 9 & 12 of the special permit.)
2. The payment of \$5,000 to the City's Conservation Maintenance Trust for the long term maintenance and inspection of this parcel of land. The proper "City of Marlborough Notice of Grant Award" is attached as required for the acceptance of these funds for this purpose. (As required in item #12 of the special permit.)
3. A site assessment for hazardous waste pursuant to the provision of Mass. General Laws Chapter 21E. This has been satisfied by a letter from ENSTRAT Strategic Environmental Services to Henry Renaud and Mr. & Mrs. Kehoe dated August 30, 2007 transmitting the ASTM Transaction Screen Assessment. This document has been reviewed by our Conservation Officer and appears in order.
4. The legal office is awaiting an attorney's updated certificate of title certifying to the City of Marlborough that title to the Open Space Parcel is free and clear of any and all encumbrances. This should be received shortly.

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Page 2
Berlin Farms Open Space

As all the above items have been met, and the City Solicitor has agreed to review all final documents as to form, the Commission recommends that the City accept this parcel of land for conservation purposes as outlined above to be managed by the Marlborough Conservation Commission.

In addition, the Commission recommends the acceptance of the \$5,000 gift to be accepted by the City Council and placed in the City Conservation Maintenance Trust Account # 84500-48300 to be used for the long term maintenance and inspection of this parcel.

Should you have any questions, please give me or Priscilla Ryder our Conservation Officer a call at 508-460-3768.

Sincerely,



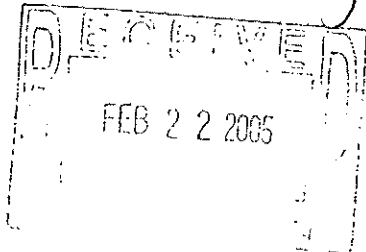
Edward Clancy
Chairman

Encl: Plan of Land
City of Marlborough Notice of Grant Award

Cc: Planning Board
Don Rider
Con. Com.



Bk: 45135 Pg: 118 Doc: DECIS
Page: 1 of 4 05/06/2005 10:42 AM



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GRANTING OF SPECIAL PERMIT
CONCEPT PLAN OPEN SPACE DEVELOPMENT

DECISION

NAME OF APPLICANT: Henry and Marlo Renaud of 226 Berlin Road,
Marlborough, MA 01752 AND
Thomas and Elizabeth Kehoe of 238 Berlin Road,
Marlborough, MA 01752

NAME OF OWNER(S): Henry and Marlo Renaud of 226 Berlin Road,
Marlborough, MA 01752 AND
Thomas and Elizabeth Kehoe of 238 Berlin Road,
Marlborough, MA 01752

NAME OF SURVEYOR: Robert Parente
Central Mass. Engineering and Survey
277 Main Street
Marlborough, MA 01752

LANDSCAPE ARCHITECT: Vince Rico
Rico Associates
621 Main Street
Shrewsbury, MA 01545

LOCATION OF PROPERTY: a 5.3 acre parcel located at 226 Berlin Road, bounded
East by Padula Drive, South by Berlin Road, West by
Riana and North by Kehoe and said property is
identified as Parcel 30 on Assessors' Map 41 and Parcel
6 on Assessor's Map 54.

VOTE: In Favor:
In Opposition:
Absent:

MR: 24860.2

DECISION FILED WITH
CITY CLERK

February 22, 2005

APPEALS

Appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed
within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the
City Clerk of the City of Marlborough.

Barbara A. Ferry (MAD)

Marlborough, Planning Board

This is to certify that twenty (20) days have passed since the filing of the
within decision and no appeal thereto has been filed with this office.
Given at Marlborough this 14th day of March, 2005.

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

A TRUE COPY
ATTEST:

John Reynolds
City Clerk

*Extremi
Gregory Nitzanek
287 E. Main St
Marlboro
01752*

226 Berlin Rd, Marlboro

55

**CITY OF MARLBROUGH
PLANNING BOARD**

SPECIAL PERMIT DECISION

The Planning Board of the City of Marlboro hereby grants a Special Permit to Henry and Marlo Renaud of 226 Berlin Road, Marlborough Massachusetts and Thomas and Elizabeth Kehoe of 238 Berlin Road, Marlborough, Massachusetts, hereinafter referred to as the Applicants, under Chapter 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

FINDINGS OF FACT

1. Henry and Marlo Renaud of 226 Berlin Road, Marlborough Massachusetts and Thomas and Elizabeth Kehoe of 238 Berlin Road, Marlborough, Massachusetts are the Applicants.
2. The Applicants on or about July 26, 2004 filed with the Planning Board and the City Clerk of the City of Marlborough, an application for a Special Permit under Chapter 200 (Zoning) of the Code of the City of Marlborough, Article VI, Section 200-25.3, "Open Space Development".
3. The proposed location of the project is a 5.3 acre parcel located at 226 Berlin Road, bounded East by Padula Drive, South by Berlin Road, West by Riana and North by Kehoe and said property is identified as Parcel 30 on Assessors' Map 41 and Parcel 6 on Assessor's Map 54.
4. The Applicants filed a concept plan entitled "Berlin Farms (Concept Sketch of Open Space Subdivision" dated July 26, 2004 and stamped by Robert Parente of Central Mass Engineering and Survey.
5. The Planning Board held a public hearing pursuant to the requirements of Massachusetts General Laws Chapter 40A on September 20, 2004. The notice of the Public Hearing was advertised in the Marlborough Enterprise, and notices were sent to the abutters as required by law.
6. The Applicants presented testimony at the public hearing describing the project and compliance with the requirements of Chapter 200-25.3. Testimony from abutters present was also heard.
7. A report from the City of Marlborough Conservation Commission has been received and reviewed as required under Section H(6) of Chapter 200-25.3.

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8. The proposed subdivision is a six (6) lot subdivision, of which all six will have access from an as yet unnamed street off of Berlin Road, an existing public way in the City of Marlborough.
9. The applicant proposes to set aside 2.14 acres of open space for conservation and watershed management purposes which represents 40.3 percent of the total project site. The open space as shown on the plan satisfies the open space dimensional requirements of Section F(6) of Chapter 200-25.3.

DECISION, CONDITIONS AND FINDINGS

10. The Planning Board approves the creation of 6 building lots, said approval pursuant to the provisions of Section C(4) of Chapter 200-25.3
11. Final decisions on requests for waivers from the Subdivision Rules and Regulations shall be made during the Definitive Plan Approval process.
12. The Applicants shall submit a written commitment from the entities identified in Section 200-25.3(G) regarding the acceptance of the open space parcel. If the City is not the accepting entity, the requirements of Section 200-25.3(G)(2) shall be satisfied. The Applicant shall demonstrate to the Planning Board's satisfaction that the entity, if other than the City, is institutionally and financially capable of maintaining the open space parcel. If the City of Marlborough is the accepting entity for the open space, the amount of Five Thousand and 00/100ths (\$5,000.00) shall be placed by the Applicant in the City of Marlborough Conservation Commission's Maintenance Fund on or before such time as the lots are released for sale or building thereon. The Applicants shall submit the Conservation restriction, maintenance program and maintenance agreement described in Section 200-25.3(G)(b), (c) and (d), to the Planning Board for review at the time of submission of the Definitive Subdivision Plan. If the City is the accepting entity, then the parcel shall be conveyed and accepted for open space conservation, natural resource protection and watershed management purposes. The Planning Board shall be satisfied that the intent of Section 200-25.3 of the zoning ordinance is satisfied before approving the Definitive Plan.
13. Title to the open space parcel must be clear. A site assessment for hazardous waste pursuant to the provisions of Massachusetts General Laws Chapter 21E shall be performed prior to transferring open space ownership from the Applicant.
14. The applicant shall be responsible for submitting to the City Solicitor an attorney's certificate of title certifying to the City of Marlborough that title to the 'open space parcel' is free and clear of any and all encumbrances. The Applicant shall be responsible for all recording fees associated with the recording of any and all documents associated with this Special Permit and any further action taken by the Planning Board concerning the proposed subdivision.
15. The Planning Board finds that the proposed project as conditioned by this Special Permit will meet the objectives of Chapter 200-25.3 and the design criteria of Section H(8)(b) of that Chapter will not have a substantial or unduly adverse effect upon adjacent property or the character of the neighborhood.

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Upon a vote of the Planning Board taken on February 14, ²⁰⁰⁵ ~~2004~~, the Marlborough Planning Board grants this Special Permit for Open Space Development.

Marlborough Planning Board

IN FAVOR of Special Permit

OPPOSED to Special Permit

[Signature]
Colleen M. Hughes
[Signature]
[Signature]

Middlesex, ss

On this 14th ^{February, 2005} ~~December, 2004~~, before me, the undersigned notary, personally appeared the above-named and proved to me through satisfactory evidence of personal identification which were _____ to be the persons whose names appear in the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]

Notary Public
My Commission Expires:

PAMELA A. WILDERMAN
 Notary Public
 Commonwealth of Massachusetts
 My Commission Expires
 September 2, 2005

[Signature]
Attest: Middlesex S. Registrar

QUITCLAIM DEED

We, Henry H. Renaud, III and Marlo J. Renaud, of 226 Berlin Road, Marlborough, MA, and Thomas A. Kehoe and Elizabeth J. Kehoe, of 238 Berlin Road, Marlborough, MA,

For consideration paid and in full consideration of One Dollar (\$1.00), and in accordance with the subdivision approval by the Planning Board of the City of Marlborough of the Subdivision known as "Berlin Farms,"

Hereby grant to the City of Marlborough, a municipal corporation having a principal place of business at City Hall, 140 Main Street, Marlboro, MA 01752,

With Quitclaim Covenants, the property described as follows:

A certain tract of open space land designated "Open Space (Passive Recreation) to City of Marlborough, Map 54, Parcel 29, Area: 102,650 s.f.+/-, (2.356 +/- acres)(18.3% wetlands)," as shown on a plan entitled, "Subdivision Plan of Land, Definitive Open Space, Lotting Plan Modification of Plan No. 277 of 2006 and Plan No. 868 of 2007, Berlin Farms, Marlborough, Mass.," Owner/Applicant: Berlin Farms 2007 Realty Trust, Charles V. Freeman, Trustee, P.O. Box 118, Hudson, MA 01749, Scale 1" = 40', Date: November 28, 2007, Prepared by: Inland Survey, Inc., dba Zanca Land Surveying, Civil Engineers and Land Surveyors, 16 Gleasondale Road, Stow, MA (978) 461-2355, (Sheet 2 of 6), said plan being last revised on January 17, 2008 and recorded at the Middlesex South District Registry of Deeds as Plan Number 140 of 2008, and to which plan reference is hereby made for a more particular description of said open space land; subject to the drainage easement for the benefit of Lots 1, 2, 3 and 4 as shown on said plan.

Said property is conveyed to said City under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

Subject to and together with all rights, easements, covenants and agreements of record. This conveyance is in accordance with a Special Permit-Concept Plan Open Space Development, dated February 22, 2005, being recorded with the Middlesex South District Registry of Deeds, Book 45135, Page 116.

Being a portion of the premises as described in deed of Edwin B. Carlson and Kathleen A. Sweeney to Henry H. Renaud, III and Marlo J. Renaud, dated September 16, 1994 and recorded with the Middlesex South District Registry of Deeds, Book 24860, Page 2, and deed of Elizabeth D. Siciliano and David S. Davis to Thomas A. Kehoe and Elizabeth J. Kehoe, dated April 12, 2002

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and recorded with the Middlesex South District Registry of Deeds, Book 35312, Page 160.

Witness our hands and seals this 16th day of May, 2008.

[Signature]
Henry H. Renaud, III

[Signature]
Marlo J. Renaud

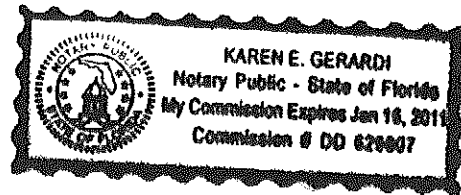
STATE OF FLORIDA

Hillsborough, ss.

May 16, 2008

Then before me, the undersigned notary public, personally appeared Henry H. Renaud, III and Marlo J. Renaud, proved to me through satisfactory evidence of identification, which was Mass Drivers License, to me known to be the persons whose names are signed on the foregoing instrument, and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]
Notary Public:
My commission expires: 1-16-2011



Witness our hands and seals this 16 day of May, 2008.

[Signature]
Thomas A. Kehoe

[Signature]
Elizabeth J. Kehoe

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

May 21, 2008

Then before me, the undersigned notary public, personally appeared Thomas A. Kehoe, and Elizabeth J. Kehoe, proved to me through satisfactory evidence of identification, which was DRIVERS LICENSE, to me known to be the persons whose names are signed on the foregoing instrument, and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]
Notary Public: Paul V. Giannetti
My commission expires: 10-11-13



PAUL V. GIANNETTI
Notary Public
Commonwealth of Massachusetts
My Commission Expires 10/11/2013

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APPROVED UNDER THE SUPERVISION OF THE MARLBOROUGH PLANNING BOARD

APPROVED UNDER THE SUPERVISION OF THE MARLBOROUGH PLANNING BOARD



LEGEND

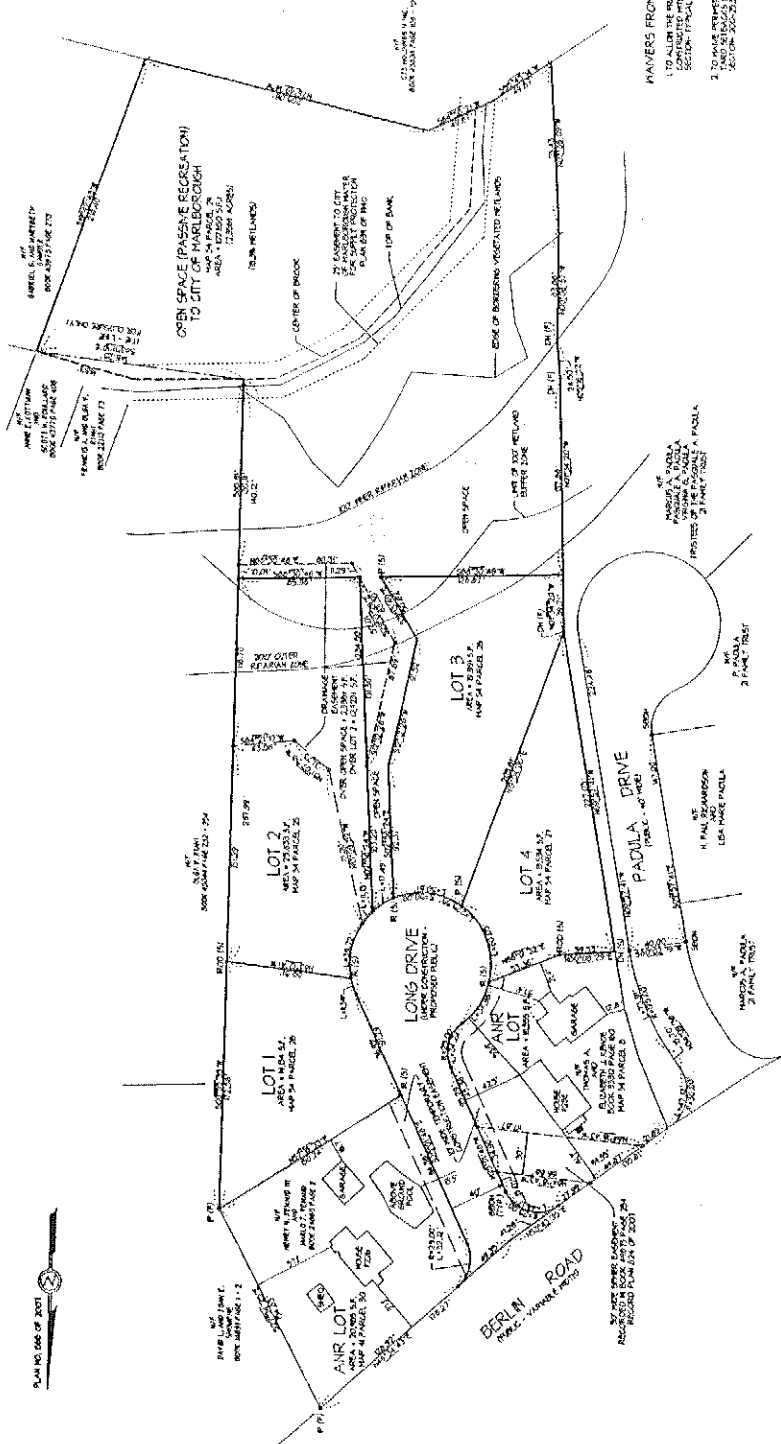
LEGEND

APPROVED DENIED

BERLIN FARMS

SUBMISSION PLAN OF LAND DEFINITIVE OPEN SPACE LOTTING PLAN MODIFICATION

Table with columns: NO., DATE, DESCRIPTION, SHEET NO. OF 8



SITE SUMMARY

NOTES

APPROVED BY

DATE



140 242

5/12

CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD

DEPARTMENT: Conservation DATE: Feb. 6, 2008

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Priscilla Ryder

NAME OF GRANT: Acceptance of Open Space Land-Berlin Farms Open Space Development

GRANTOR: Berlin Farms 2007 Realty Trust

GRANT AMOUNT: \$5,000.00

GRANT PERIOD: N/A

SCOPE OF GRANT/
ITEMS FUNDED The Planning Board Special Permit-Item #12 requires \$5,000.00 to be deposited into the Conservation Maintenance Trust for the long term maintenance of this and other conservation land management.

IS A POSITION BEING
CREATED: No

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

ARE MATCHING CITY
FUNDS REQUIRED? No

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

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

ANY OTHER EXPOSURE TO CITY?
No

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: _____
As soon as possible.

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



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

Nancy E. Stevens
MAYOR

Karen H. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

September 3, 2008

Arthur Vigeant
President
Marlborough City Council

RE: Sepracor Inc. TIF Proposal

Dear President Vigeant and Members:

I am pleased to submit to you a Tax Increment Financing ("TIF") proposal from Sepracor Inc. Sepracor is a research-based pharmaceutical company dedicated to treating and preventing human disease by discovering, developing, and commercializing innovative pharmaceutical products, with a focus on the treatment of respiratory and central nervous system disorders. Sepracor already has its corporate headquarters in Marlborough at 84 Waterford Drive, off Robin Hill Street. Sepracor plans to expand its operations and invest capital in the amount of \$47 million in two phases. In addition, Sepracor plans to maintain its current level of 613 jobs in the City and to create another 250 new permanent full-time jobs.

As an essential component of that planned expansion, Sepracor has approached the City to propose that the Council approve a TIF agreement. Accordingly, I enclose for the Council's consideration the following documents:

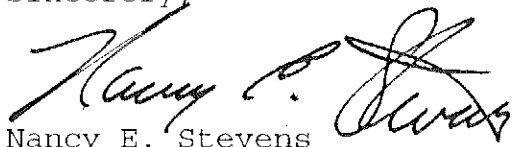
1. the proposed TIF agreement, which is the product of negotiations involving various City officials;
2. a proposed TIF plan;
3. a proposed Certified Project application;
4. a proposed application for the 84/158 Waterford Drive Economic Opportunity Area;
5. a proposed Council resolution;

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- 6. a spreadsheet presenting the tax implications of the proposed TIF agreement; and
- 7. a spreadsheet presenting a work force analysis and job creation plan.

I respectfully request that these documents, including the proposed TIF agreement, be referred to the Finance Committee for review, as requested by Sepracor Inc.

Sincerely,



Nancy E. Stevens
Mayor

Enclosures



City of Marlborough Office of the Mayor

140 MAIN STREET, 4TH FLOOR

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3770 ■ FACSIMILE (508) 460-3698 ■

TDD (508) 460-3610

9/1
Nancy E. Stevens
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE
SECRETARY

September 4, 2008

Arthur Vigeant
President
Marlborough City Council


RE: Order Acknowledging The City's Interest In Insurance Proceeds From Life Insurance Policy Of Nicholas Xenos And Authorizing Mayor To Sign Disclaimer To Allow Nicholas Xenos' Widow To Receive The Proceeds Instead

Dear President Vigeant and Members:

Enclosed herewith please find an Order concerning the proceeds of a life insurance policy owned by Nicholas Xenos, a former firefighter for the City who recently passed away. The City became the beneficiary of Mr. Xenos' life insurance policy by default when Mr. Xenos named himself as owner, but did not designate a beneficiary. By disclaiming its interest in the proceeds of the life insurance policy, the City will allow Eleanor Xenos, Mr. Xenos' widow, to benefit from those proceeds.

As always, I am available to answer any questions that you may have concerning the attached.

Sincerely,



Nancy E. Stevens
Mayor

Enclosure

Cc: Donald V. Rider, Jr., City Solicitor
Cynthia Panagore Griffin, Assistant City Solicitor

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ORDERED:

That the City Council hereby authorizes Mayor Nancy E. Stevens to sign a Disclaimer of Interests In The Life Insurance Policy On The Life Of Nicholas Xenos in order to allow the proceeds of the life insurance policy owned by Nicholas Xenos to pass, not to the City, but instead to his widow Eleanor Xenos.

ADOPTED
In City Council
Order No. 08-
Adopted

Lisa M. Thomas, Clerk of the City Council

Approved by Mayor
Nancy E. Stevens, Mayor
Date:

Nancy E. Stevens, Mayor

A TRUE COPY
ATTEST:
Date:

Lisa M. Thomas, Clerk of the City Council

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Disclaimer of Life Insurance Proceeds

**DISCLAIMER OF INTERESTS IN
LIFE INSURANCE POLICY ON THE
LIFE OF NICHOLAS XENOS**

The City of Marlborough, 140 Main Street, Marlborough, MA, hereby unconditionally and irrevocably disclaims in full its interest in and right to receive the proceeds of ING Life Insurance and Annuity Company Policy No. U 1 234 974 of which Nicholas Xenos was the Owner and the Insured. The City of Marlborough certifies that (a) there has been no assignment, conveyance, encumbrance, pledge, transfer, or any contract therefore by the City of Marlborough as a beneficiary of said life insurance policy; (b) there has been no sale or other disposition of said interest pursuant to judicial process; (c) the City of Marlborough is not insolvent; (d) the City of Marlborough has not waived its right to disclaim said interest; and (e) the City of Marlborough has not accepted said interest or any benefit therefrom.

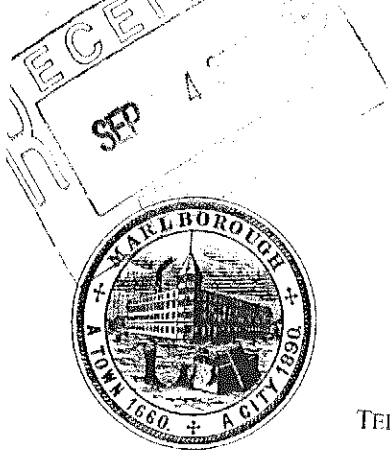
Witness our hands and seals this _____ day of September, 2008.

On behalf of the City of Marlborough:

Nancy E. Stevens, Mayor

Delivery of a copy of the foregoing disclaimer is hereby acknowledged
this _____ day of _____, 2008.

On behalf of ING Life Insurance and Annuity Company
By: _____



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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

DONALD V. RIDER, JR.
CITY SOLICITOR
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR
BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER
KATHERINE M. KIMBER
PARALEGAL

September 4, 2008

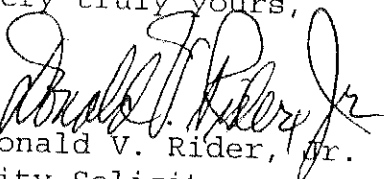
Arthur Vigeant
President
Marlborough City Council

RE: Order 08-100-1858
Special Permit Application
MetroPCS Massachusetts, LLC
75 Donald J. Lynch Boulevard

Dear President Vigeant and Members:

Pursuant to Chapter 200-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the special permit application submitted by MetroPCS Massachusetts, LLC for co-location at 75 Donald J. Lynch Boulevard. The application is for co-location of six (6) panel antennas and one (1) GPS antenna onto an existing tower, as well as placement of the associated equipment within an existing compound on the ground.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure
cc: Francis D. Parisi, Esquire

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September 8, 2008
**DECISION ON A SPECIAL PERMIT
METROPCS MASSACHUSETTS, LLC
CITY COUNCIL ORDER NO. 08100-1858**

Re: 75 Donald J. Lynch Boulevard

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd, Chelmsford, MA as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd., Chelmsford, MA 01824 (hereinafter "Applicant").
2. Through its Application for a Special Permit, the Applicant seeks permission to allow co-location of six (6) wireless communications antennas and one (1) GPS antenna on an existing telecommunications tower and supporting equipment on the ground within an existing compound (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "AT&T MARLBOROUGH" Chappell Engineering Associates, LLC, dated 1/30/08, revised 2/13/08 and 2/19/08, as submitted with the Special Permit Application, and as further revised 6/18/08 (hereinafter "Plans").
3. The location of the Proposed WCD Project is 75 Donald J. Lynch Boulevard. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Parcel No. 2 of Plate 13. The owner of record for the site is Albert D. Bombard.
4. The Applicant is a sub-lessee of New Cingular Wireless, which owns the existing telecommunications tower at the site and leases the underlying compound area.
5. The Site is zoned LI. Wireless communication devices are allowed by grant of Special Permit in LI Zoning Districts.
6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Code of the City of Marlborough.

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7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on June 9th, 2008, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law. Pursuant to MGL c. 40A, § 9, the ninety-day time limit for the City Council to make a decision on the Applicant's Special Permit was extended, by written agreement, until 5:00 p.m. on September 30, 2008, and a copy of that agreement was timely filed in the office of the City Clerk for the City of Marlborough.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Special Permit application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

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

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is 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 of this Approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the

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City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.
- 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.
- 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.
- 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.
- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCD referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the

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Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.

- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 134 of the City Code.
- 8) No operation of this WCD shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) Applicant shall be subject to site plan review if applicable.
- 10) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.



City of Marlborough
Legal Department

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CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

KATHERINE M. KIMBER
PARALEGAL

September 4, 2008

Arthur Vigeant
President
Marlborough City Council

RE: Order No. 08-1001806-1B
X08-1001876B
Special Permit Application-Business District
Boston Post 355 LLC
355 Boston Post Road West

Dear President Vigeant and Members:

Pursuant to Chapter 200-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the special permit application submitted by Boston Post 355 LLC for 355 Boston Post Road West. The application is for a car wash proposed for the Business District.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Arthur P. Bergeron, Esquire

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BOSTON POST 355 LLC

**SPECIAL PERMIT (BUSINESS DISTRICT)
FINDINGS OF FACT AND CONDITIONS**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Boston Post 355 LLC to construct a carwash in a Business District, as provided in this Decision and subject to the following Findings of Facts and Conditions.

- 1) Boston Post 355 LLC is a Delaware limited liability company having a business address of 154 Southfield Rd, Concord, Massachusetts, and is hereinafter referred to as "Applicant".
- 2) Applicant is the owner of certain real property located at 355 Boston Post Road West, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 88 Parcel 15. The land is entirely located in a Business District and is also entirely located in the Water Supply Protection District.
- 3) The property is currently used as a contractor's yard for a landscaping and snowplowing business.
- 4) The Applicant, on or about April 25, 2008, filed with the City Clerk of the City of Marlborough an application for a Special Permit under the provisions of Article V Sec. 200-17 and pursuant to the procedures specified in Article VIII Section 200-59 of the Marlborough Zoning Ordinance.
- 5) In connection with the permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee and had previously filed twenty (20) copies of the Site Plan.
- 6) The Site Plan was certified by 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.

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

8) The Marlborough City Council, pursuant to MGL C.40A, held a public hearing on June 9, 2008, concerning the said application. The hearing was opened and closed at that meeting. Pursuant to MGL c. 40A, § 9, the ninety-day time limit for the City Council to make a decision on the Applicant's Special Permit was extended, by written agreement, until 5:00 p.m. on September 30, 2008, and a copy of that agreement was timely filed in the office of the City Clerk for the City of Marlborough.

9) Applicant's attorney presented testimony at the public hearing detailing the application, described the improvements to the environment resulting from improved stormwater control at the site, and showed renderings of the proposed carwash to emphasize the improved aesthetic appearance of the site that would result from approval.

10) Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the impacts of the proposed project, and proposed building and related site modifications. In particular, Applicant presented a traffic study describing the likely impact of the proposed carwash on traffic, and a noise impact study dealing with the impact of the proposed carwash on surrounding properties.

11) Applicant provided the Urban Affairs Committee with revised site plans entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, revised 7/10/08, by Cabco Consult, and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08) (hereinafter, "The Revised Plans".)

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

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

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B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will be in harmony with the general purposes and intent of the zoning ordinance, in that it will improve the appearance of the site and will have no significant negative impacts upon abutters. The proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. The visual and noise impacts from the proposed use have been mitigated, and the limited hours of operation will minimize the noise and traffic impacts to neighbors.

C) The City Council, pursuant to its authority under MGL C.40A §9 and under Chapter 200 of the Marlborough City Code, GRANTS the Applicant a Special Permit to allow a carwash on the premises, (the "Project"), SUBJECT TO THE FOLLOWING CONDITIONS:

1) Compliance With Building Regulations. Construction of all structures on the site is to be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Site Plan. The Site Plan referred to in this condition is the plan entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, by Cabco Consult, filed with the Special Permit Application, as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, all said revisions being reflected in a plans showing a revision date of 7/10/08, and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08). All other terms, conditions, requirements, approvals, drawings and renderings required hereunder are made a part of and incorporated herein as a condition of the issuance of this Special Permit.

2) Compliance With Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Ordinance, prior to the issuance of the actual Building Permit; provided, however, that the Building Commissioner may issue a building permit prior to the completion of site plan review regarding work which, in his opinion, will not be affected by said site plan review. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Special Permit and no Occupancy Permit shall be issued

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until all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns within the site, require the removal of landscaping, reduce the overall green space of the Project, or add any new element in Zone A other than the landscaping, will require subsequent approval by the City Council.

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

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

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

6) Improvements Installed Prior to Certificate of Occupancy. All site improvements, except those specified on the plans approved at Site Plan Review, that have been shown in renderings and/or are conditions of this Special Permit will be installed prior to the issuance of any temporary or permanent occupancy certificate. If all other work is completed between Oct. 1 and June 1, all landscaping plants will be required to be installed by June 1. Applicant agrees that the permanent maintenance of the landscaping and the other site improvements is an ongoing condition of this Special Permit.

7) Supplemental Permit Review Fee. Applicant shall, at the time of application for a Building Permit, pay the sum of \$2,000 to the City of Marlborough Inspectional

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Services Funds to offset the increase in cost associated with the project's construction such as materials, staff, equipment and supplies relative to permitting, monitoring and inspection of the project. Issuance of a final Occupancy Certificate by the Building Commissioner shall be deemed to have demonstrated compliance with the terms of this Condition.

8) Snow Storage. Snowmelt runoff will be directed toward catch basins. All snow will be stored in the designated paved area shown on the Revised Plans.

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

10) Maintenance of Parking Areas. Parking areas will be swept and maintained as necessary. Pursuant to the provisions of MGL C.90 §18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. Applicant shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Manual of Uniform Traffic Control Devices.

11) Compliance of Signs with Sign Ordinance. All building signage at the subject location shall comply with the existing City of Marlborough Sign Ordinance without a variance. The proposed freestanding sign for the project will be made of wood or a material appearing to be wood, and will be lit by indirect lighting. The sign will not be lit from ½ hour after closing to ½ hour before the opening of the carwash each day.

12) Exterior Light Fixtures. Exterior parking lot lighting shall not spill on to abutting residential property. Parking lot light poles shall not exceed 20 feet in height. Reflectors shall be utilized and configured to mitigate light from entering abutting properties. Light fixtures shall consist of pressure sodium lights not exceeding 200 watts. During the Site Plan review process, the location of the light pole shown on Sheet 6 of the Revised Plans as being located at a location behind

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the parking lot in the rear of the building will be moved to a location to the north of the dumpster shown on said plan.

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

14) Dumpster Screening. Applicant agrees to screen the Project's trash area by constructing a suitable 6-foot high wooden screen fence.

15) Trash Pickup. Trash pick up and commercial deliveries will only be made from 7:00 AM through 5:00 PM Monday through Friday.

16) Hours of Operation. Hours of Operation will be limited to 7 AM to 7 PM, Monday through Saturday, and 8:00 AM to 6 PM on Sunday.

17) Facade Appearance. An artist-colored rendering of the proposed building façade for Applicant will be provided prior to Site Plan Approval. The building façade will consist of a red brick veneer, and will be configured as shown in renderings filed with the Urban Affairs Committee.

18) Noise Mitigation Enforcement. This special permit is being approved based upon the representation of Applicant that the noise caused by operation of equipment inside Applicant's building will not cause so-called noise "spikes" in excess of 53dbA at the easterly, westerly or rear property lines. Prior to the issuance of a Certificate of Occupancy regarding this project, Applicant will notify the owners and tenants of all abutting property, in a manner satisfactory to the Building Commissioner, that any noise complaints regarding business operations should be reported to the Code Enforcement Officer. Thereafter, the Code Enforcement Officer may, in said Code Enforcement Officer's discretion, order that sound testing be conducted forthwith by an independent certified sound engineer to be selected by the Code Enforcement Officer, with the advice of Applicant, at Applicant's cost. The sound engineer shall immediately conduct such sound testing as the sound engineer deems appropriate to determine whether, in fact, the operation of equipment inside Applicant's building is causing noise "spikes" exceeding 53bdA at the said easterly, westerly or rear property line; and the sound engineer shall present the results of his/her sound testing in a written report to be provided to both the Code Enforcement Officer and the Applicant. If the sound engineer determines that, in fact, the operation of equipment inside

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Applicant's building is causing noise "spikes" exceeding 53dbA at the said easterly, westerly or rear property line, the Code Enforcement Officer shall order Applicant to devise and implement such building or operations modifications as will eliminate said noise "spikes" within sixty (60) calendar days. Immediately upon either the expiration of that time period or the Applicant's implementation of such building and operational modifications, whichever is sooner, the Code Enforcement Officer shall order that sound retesting be conducted forthwith by the sound engineer, at Applicant's cost, to determine whether the operations or building modifications have eliminated the noise "spikes", and the sound engineer shall present the results of his/her sound retesting in another written reports to be provided to both the Code Enforcement Officer and the Applicant. If the sound engineer determines that the Applicant has not eliminated, within said sixty (60) calendar day period, the noise "spikes" exceeding 53dbA at the said easterly, westerly or rear property line, then all of Applicant's equipment operations determined by the sound engineer to cause said noise "spikes" will thereafter be prohibited until, if ever, the sound engineer, at Applicant's cost, certifies that no noise spikes exceeding 53dbA at the easterly, westerly or rear property line will occur thereafter; and the sound engineer shall provide his/her written certification to both the Code Enforcement Officer and the Applicant.

20) Compliance with Related Permit. Applicant has also applied for a special permit, pursuant to Chapter 200-24, to construct a carwash in the Water Supply Protection District. Any conditions attached to the approval of that special permit are also incorporated herein and made a part hereof.

21) No Queuing on Rte. 20. Applicant will assure that no motor vehicle that is queuing and waiting for carwash or other service on the premises will be located on the Rte. 20 right of way. If the Chief of Police determines that this condition is not being complied with, the Chief may, in the Police Chief's absolute discretion, require the closing of the carwash for a period to be determined by the Police Chief or, if the Police Chief is unavailable, by his designee.

22) Limited Vacuum Operation. All exterior motor vehicle cleaning vacuums will be turned off and disabled when the carwash is not in operation. All exterior vacuums shall be located as shown on the Revised Plans.

23) Limited Left-Hand Turns. Applicant will, as part of its curb cut application to MassHighway, request that appropriate signage be installed to prohibit left-turns from the site from 4:00 PM to 6:00 PM from Monday through Friday. Provided

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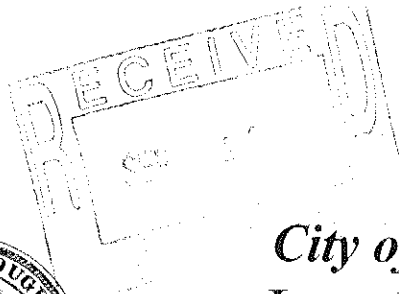
that said signage is approved, Applicant will erect said signage and prohibit left-hand turns from the site during said periods. If the Police Chief later determines, based upon accident reports and other data he finds to be relevant, that left-hand-turns should be prohibited at the site at all times, he shall so notify the owner of the property, who shall then promptly apply to MassHighway, to cause said prohibition to come into effect. If said prohibition comes into effect, the owner of the property shall cause appropriate signage to be installed and shall thereafter cause said prohibition to be enforced on the site.

24) Car Wash Safety Factor. The Chief of Police or his designee shall have authority to order the carwash temporarily closed when an “icing” or unsafe condition on the public way exists due to the carwash or weather conditions, as determined solely by the Chief of Police or his designee.

25) Storage of Flammables Prohibited. No flammable materials, except those, like diesel and oil, that will be used to heat the premises, will be stored at the site.

26) Recordation. In accordance with the provisions of MGL C.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before a Building Permit is issued.

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BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

KATHERINE M. KIMBER
PARALEGAL

September 4, 2008

Arthur Vigeant
President
Marlborough City Council

RE: Order No. 08-1001876B
X08-1001806-1B
Special Permit Application-Water Supply Protection District
Boston Post 355 LLC
355 Boston Post Road West

Dear President Vigeant and Members:

Pursuant to Chapter 200-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the special permit application submitted by Boston Post 355 LLC for 355 Boston Post Road West. The application is for a car wash proposed for the Water Supply Protection District.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure
cc: Arthur P. Bergeron, Esquire

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BOSTON POST 355 LLC

**SPECIAL PERMIT (WATER SUPPLY PROTECTION DISTRICT)
FINDINGS OF FACT AND CONDITIONS**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Boston Post 355 LLC to construct a carwash in Zone B of the Water Supply Protection District, as provided in this Decision and subject to the following Findings of Facts and Conditions.

- 1) Boston Post 355 LLC is a Delaware limited liability company having a business address of 154 Southfield Rd, Concord, Massachusetts, and is hereinafter referred to as "Applicant."
- 2) Applicant is the owner of certain real property located at 355 Boston Post Road West, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 88 Parcel 15. The land is entirely located in a Business District and is also entirely located in the Water Supply Protection District.
- 3) The property is currently used as a contractor's yard for a landscaping and snowplowing business.
- 4) The Applicant, on or about April 24, 2008, filed with the City Clerk of the City of Marlborough an application for a Special Permit under the provisions of Article V Sec. 200-24 and pursuant to the procedures specified in Article VIII Section 200-59 of the Marlborough Zoning Ordinance.
- 5) In connection with the permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee and had previously filed twenty (20) copies of the Site Plan.
- 6) The Site Plan was certified by 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.

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

8) The Marlborough City Council, pursuant to MGL C.40A, held a public hearing on June 9, 2008, concerning the said application. The hearing was opened and closed at that meeting. Pursuant to MGL c. 40A, § 9, the ninety-day time limit for the City Council to make a decision on the Applicant's Special Permit was extended, by written agreement, until 5:00 p.m. on September 30, 2008, and a copy of that agreement was timely filed in the office of the City Clerk for the City of Marlborough.

9) Applicant's attorney presented testimony at the public hearing detailing the application, described the improvements to the environment resulting from improved stormwater control at the site, and showed renderings of the proposed carwash to emphasize the improved aesthetic appearance of the site that would result from approval.

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

11) Applicant provided the Urban Affairs Committee with revised site plans entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, revised 7/10/08, by Cabco Consult, and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08) (hereinafter, "The Revised Plans") . The revised plans show the snow storage area for the site, and also provide a table at Plan page 4 listing all development elements of this project that are in Zone A of the Water Supply Overlay District (hereinafter, "The Zone A Use Table").

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

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

B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will be in harmony with the general purposes and intent of the zoning ordinance, in that it will improve the appearance of the site, improve the water quality of the surface water at the site, and will have no significant negative impacts upon abutters. The proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. The City Council further finds that, subject to the permit conditions enumerated herein, the proposed use will not have an adverse impact on the Marlborough water supply.

C) The City Council has reviewed the uses in this proposal that will be located in Zone A of the Water Supply Protection District, all as listed in The Zone A Use Table provided on Sheet 4 of the Revised Plans. The City Council finds that those uses located in Zone A are not unique to the use of the site as a carwash, but are uses that would be allowable in Zone A as accessory to uses that are otherwise allowable as of right in the underlying Business District. Therefore, the City Council finds that the proposed carwash is not located in Zone A, provided that the permit conditions imposed below are complied with.

D) The City Council, pursuant to its authority under MGL C.40A §9 and under Chapter 200 of the Marlborough City Code, GRANTS the Applicant a Special Permit to allow a carwash on the premises, (the "Project"), SUBJECT TO THE FOLLOWING CONDITIONS:

1) Compliance With Building Regulations. Construction of all structures on the site is to be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Site Plan. The Site Plan referred to in this condition is the plan entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, revised 7/10/08 by Cabco Consult , and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08) (hereinafter, "The Revised Plans"), filed with the Urban Affairs Committee during the application/hearing process. All other terms, conditions, requirements,

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approvals, drawings and renderings required hereunder are made a part of and incorporated herein as a condition of the issuance of this Special Permit.

2) Compliance With Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Ordinance, prior to the issuance of the actual Building Permit; provided, however, that the Building Commissioner may issue a building permit prior to the completion of site plan review regarding work which, in his opinion, will not be affected by said site plan review. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Special Permit and no Occupancy Permit shall be issued until all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns within the site, require the removal of landscaping, reduce the overall green space of the Project, or add any new element in Zone A other than the landscaping, will require subsequent approval by the City Council.

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

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

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

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6) Improvements Installed Prior to Certificate of Occupancy. All site improvements, except those specified on the plans approved on site plan review, that have been shown in renderings and/or are conditions of this Special Permit will be installed prior to the issuance of any temporary or permanent occupancy certificate. If all other work is completed between Oct. 1 and June 1, all landscaping plants will be required to be installed by June 1. Applicant agrees that the permanent maintenance of the landscaping and the other site improvements is an ongoing condition of this Special Permit.

7) Compliance with Conservation Commission Agent Recommendations. Applicant will demonstrate, to the satisfaction of the Site Plan Review Committee, that all "Criteria for Design" required in Section 200-24(F) will be complied with. Without limiting the foregoing, applicant will comply with the recommendations of the Conservation Commission Agent listed in her communication to the City Council dated July 5, 2008, a copy of which is on file with the City Council and attached hereto.

8) Snow Storage. Snowmelt runoff will be directed toward catch basins. All snow will be stored in the designated paved area shown on the Revised Plans.

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

10) Maintenance of Parking Areas. Parking areas will be swept and maintained as necessary.

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

12) Carwash Equipment Monitoring. All carwash equipment shall be monitored on an annual basis with reports given to the Director of the Water and Sewer division of the Department of Public Works. The purpose of said report shall be to demonstrate that the nature of the effluent discharged to the Marlborough sewer

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system is acceptable and that the total discharge to the system continues to average less than 750 gallons per day on a monthly average basis.

13) Disposal of Chemicals Containers. No container that has been used for the storage of chemicals used in the carwash process will be disposed of in the dumpster located on the property.

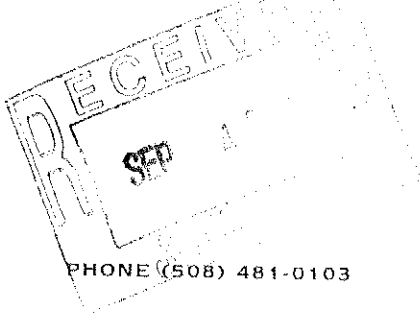
14) Storage of Flammables Prohibited. No flammable materials, except those, like diesel and oil, that will be used to heat the premises, will be stored at the site.

15) Activity Prohibition in Zone A. No activity that is accessory to a carwash, including but not limited to the pre-washing of cars, will be allowed in Zone A.

16) Compliance With Related Permit. Applicant has also applied for a special permit, pursuant to Chapter 200-17, to construct a carwash in a Business District. Any conditions attached to the approval of that special permit are also incorporated herein and made a part hereof.

17) As offsite mitigation because of the impact of this permit on the Water Supply Protection District, Applicant will, prior to the issuance of any occupancy permit for the project, pay the sum of Twenty Thousand (\$20,000) Dollars to the Conservation Maintenance Trust Fund.

18) Recordation. In accordance with the provisions of MGL C.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, before a Building Permit is issued.



//

ARTHUR P. BERGERON
Attorney-at-Law
27 PROSPECT STREET
MARLBORO, MASSACHUSETTS 01752

FAX (508) 485-8506

September 4, 2008

Councilor Arthur Vigeant, President
Marlborough City council
City Hall
Marlborough, Ma 01752
(hand-delivered)

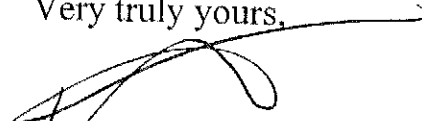
Re: Order #08-1001833, proposed zoning ordinance changes to create New Car Dealership Overlay District

Dear Councilor Vigeant:

My client, 890 Boston Post Road LLC, hereby asks that its proposed change to the zoning ordinance, as expressed in the above-referenced Order, be withdrawn without prejudice. After discussions in the Urban Affairs Committee, my client has decided to resubmit a modified version of this proposal, which would further limit the possible locations of the New Car Dealership Overlay Districts, shrink the size of the Overlay District my client is proposing in and around 890 Boston Post Road East, and allow the City Council to impose offsite mitigation requirements on any proposed new car dealership.

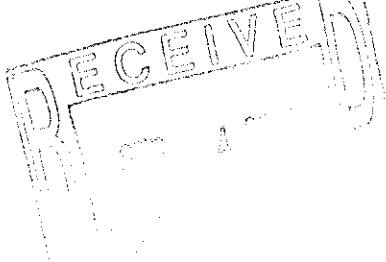
Since the City Council would have to hold another public hearing on this matter anyway before it acts because more than 90 days have expired since the original June 9 public hearing, and given the number and nature of the proposed changes, my client is requesting this withdrawal so that it can immediately resubmit the redrafted ordinance language.

Very truly yours,



Arthur P. Bergeron

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ARTHUR P. BERGERON
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PHONE (508) 481-0103

FAX (508) 485-8506

Sept. 4, 2008

Councilor Arthur Vigeant, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: modified version of proposed New Car Dealership Overlay District

Dear Councilor Vigeant:

On behalf of my client, 890 Boston Post Road LLC, I am enclosing and submitting for consideration by the City Council a modified version of a proposed amendment to the Marlborough Zoning Ordinance to allow the creation of New Car Dealership Overlay District. My client, which owns land in the Business District and would be affected by this proposal, has standing to submit it.

I would appreciate it if you could consider scheduling this matter for a public hearing at the City Council meeting on Monday, September 29. Given that previous review of this project, I would anticipate that our presentation will be short. Also, please refer the matter to the Planning Board.

Very truly yours,

A handwritten signature in black ink, appearing to be "Arthur P. Bergeron", written over a horizontal line.

Arthur P. Bergeron

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DRAFT ORDINANCE REVISIONS

That Chapter 200 of the Code of the City of Marlborough, being the zoning ordinance, as most recently amended, be further amended as follows:

1) By adding to **Section 200-05. Definitions**, the following definition:

“NEW CAR DEALERSHIP: A business engaged in the sale of new passenger motor vehicles as a recognized agent of a motor vehicle manufacturer or as one whose authority to sell new passenger motor vehicles is created by a written contract with such manufacturer, together with related service and used vehicle sales, operating pursuant to a Class I license granted by the Marlborough License Commission pursuant to Massachusetts General Laws Chapter 140 sec. 58”

2) By adding the following new section 200-31 to Chapter 200

200-31 New Car Dealership Overlay District

A. Purpose. The purpose of the New Car Dealership Overlay District (NCDOD) shall be to advance the public health, safety and welfare by allowing for the development and operation of a New Car Dealership in areas of the Marlborough Business Districts where it is found that such a use would not conflict with other existing or proposed uses in the Business Districts or in other districts in close proximity to a New Car Dealership.

B. Location. A New Car Dealership Overlay District may only be created regarding land that, at the time of its creation, is located in a Business District. The exterior boundaries of a New Car Dealership Overlay District shall not border or be located immediately across a public way from a Residence District (RR, A-1, A-2, A-3, RB, RC) unless the City Council specifically finds that there is no then current or reasonably expected use of the abutting residentially zoned land for residential purposes. For the purposes of this section, a New Car Dealership Overlay District shall be superimposed on the other District existing at the time that any land in said underlying District is also included in the New Car Dealership Overlay District. The subsequent rezoning of any or all of the land included in the

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New Car Dealership Overlay District from the Business District to another District shall not affect its inclusion in the New Car Dealership Overlay District, unless said land is specifically removed from said New Car Dealership Overlay District.

C. Permitted Uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses that are allowed, either as of right or by Special Permit, in the underlying Business District, regarding land in a New Car Dealership Overlay District the City Council may, by Special Permit in accordance with the provisions of Section 200-59, permit a New Car Dealership as defined in Section 200-05, subject to such terms and conditions as the said City Council deems appropriate, and subject in addition to the following provisions:

(1) Each lot or group of contiguous lots upon which a New Car Dealership is located shall have total frontage on an existing public way of not less than 330 feet, and shall have a total size of not less than six (6) acres.

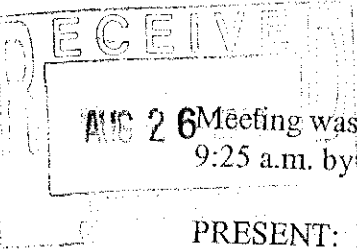
(2) All newly constructed buildings or additions at the site shall be constructed so as to maximize their adaptive reuse for other uses that are otherwise allowable in a Business District.”

The conditions imposed by the City Council may include conditions that would require the developer and/or owner of a New Car Dealership permitted hereunder to cause aesthetic and other improvements in other parts of the Business District in order to reduce or minimize the net impact of automotive uses in the Business District.

3) by including in a New Car Overlay District the land shown on the Marlborough Assessors Maps as Map 61 Parcels 17, 17A, 20 and 21 and Map 62 Parcels 1, and 24.

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MARLBOROUGH COMMUNITY DEVELOPMENT AUTHORITY
JUNE 19, 2008
MINUTES



Meeting was held at City Hall, 4th Floor Conference Room and was called to order at 9:25 a.m. by Mayor Nancy Stevens.

PRESENT: Mayor Nancy Stevens, Stephen Vigeant, Lynn Faust, Michael Hogan, David McCabe, Dr. Muir, Camille Duridas, Diane Sullivan and Jackie Malloy

ABSENT: Betsy Roszko

Motion made by Mayor Stevens to accept the minutes of May 8, 2008, seconded by Steven Vigeant. Michael Hogan asks that they be amended to include his presence. Minutes Accepted as amended -- All in favor

HOUSING REPORT:

Steven Vigeant has questions regarding the schedule of installing the replacement windows at 240 Main Street. Will there be additional costs or any effect on the residence due to the work being done in the middle of winter? Lynn Faust suggests that Betsy have the Maintenance men help with the moving of furniture. The members request that Betsy Roszko and John Ghiloni be present at the next CDA meeting to discuss the installation of new windows for 240 Main Street. Steven Vigeant would like to see a procedure in writing.

Mayor Nancy Stevens motions to pay Housing bills payable, seconded by Dr. Muir, all in favor - Approved

The members discuss the status of 61 Emmett Street. Work to be done on the house will be put out to bid. Motion made by Lynn Faust to have Diane Sullivan work out the details on how to sell the property (as is). The members would like to dispose of the property as quickly as possible. Seconded by Steven Vigeant. All in Favor - Approved

It is discussed that the proceeds from 61 Emmett Street will be reinvested in the Affordable Housing Program.

Motion by Mayor Stevens to accept the Housing Directors Report, seconded by Dr. Muir. All in favor - Approved

Diane Sullivan updates the members relative to the upcoming Public Hearing scheduled for June 26, 2008. The purpose of the hearing is to gather public input on the use of the City's Federal Community Block Grant Program Funding from grant years 2004 and 2005.

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Mayor Stevens discusses with the board that she has asked Diane Sullivan to come to the City Council meeting on Monday, June 23, 2008 purely for an update. She has asked Diane to give the City Council an overview of where we stand with our recovery efforts and to inform the Council that we are back in business.

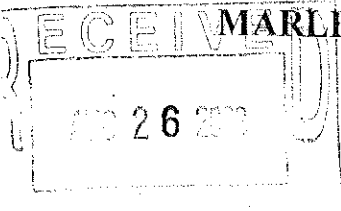
Mayor Nancy Stevens announces to the members that Diane Sullivan gave her a letter of resignation, which the Mayor did not want to accept. Mayor Stevens continues to say that Diane has been offered an opportunity which she can not turn down. She will be working at the State House for the State Treasurer.

Dr. Muir states that Diane has made a terrific impact and is extremely sorry to see her go. However, He wishes her the best.

Michael Hogan asks Diane if DHCD has a partnership to give us someone for 4-5 months till they hire someone. The Mayor asks if Diane could contact DHCD to arrange for meeting to discuss options.

Lynn Faust motions to Adjourn at 9:55 a.m. – All in favor

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MARLBOROUGH COMMUNITY DEVELOPMENT AUTHORITY
JUNE 30, 2008
MINUTES

Meeting was held at City Hall, 4th Floor Conference Room and was called to order at 8:37 a.m. by Mayor Nancy Stevens.

It was stated that Diane Sullivan will be joining us a little late.

PRESENT: Mayor Nancy Stevens, Dr. Muir, David McCabe, John Ghiloni, Steven Vigeant, Lynn Faust, Diane Smith, Tom Able, Betsy Roszko, Camille Duridas, Diane Sullivan and Jackie Malloy

Michael Hogan via Teleconference

HOUSING REPORT:

Bills Payable: Review and discussion. Motion by Lynn Faust, Seconded by Steve Vigeant to approve payment of the June 30, 2008 Bills payable and Housing Assistance payments.

MMDT Account need new signature cards from all Board Members.

Betsy distributed booklets to all members; she mentions that it may not be appropriate to discuss the booklet today because the Members are just receiving it. Betsy continues to describe the information within the Booklet.

Betsy informs the Members that there will be a Section 8 update provided to them on a monthly basis. She continues to ask the Members to please review that Booklet and to call her with any questions.

Mayor Motions to table the Booklet for the next meeting when there will be an in-depth discussion on the contents of the Booklet.

John Ghiloni and Betsy discuss the replacement windows scheduled to be installed at 240 Main Street. John handed out a revised project schedule to each member. John informs the Members that the Contract will be awarded by August.

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The Mayor questions the impact that the installation may have on the residents. The Members all agree that the project must not upset the residents. John Ghiloni confirms that the installation is a one day job, not an overnight project. The Mayor asks Betsy to set-up a vacate apartment with furniture and a T.V. John also mentions that the end result will be better than it is now.

Dr. Muir states that the residents want the improvement, not the inconvenience. Steven Vigeant asks if it can be postponed until March. John advises that prices are rising and the project should begin.

Mayor Stevens discusses the 1:00 6/30/08 informational meeting which Betsy has scheduled with the residents. The Mayor asks if a Member of the Authority would attend for her and to please mention that she has been called into Boston for the afternoon and would be at the meeting if she could be.

John Ghiloni departs the meeting at 9:00 a.m.

COMMUNITY DEVELOPMENT REPORT:

Diane Sullivan apologizes for her lateness – it is motioned to discuss the June 19, 2008 Minutes at the next Meeting – approved

Diane Sullivan discusses the transitional report which she has distributed to the Members. She continues to advise the Members that she has a meeting with DHCD on July 2, 2008 to discuss the possibility of hiring a Consultant that could start on updating the Grant Management System.

Diane informs the Members that the CDA can not apply for 2009 until they have spent all of the money left from 2004-2005. There is a balance of \$750,000.00 which needs to be used over the next four months. It is required that the GMS be updated in order for this to happen.

Diane informs the Members that she has had conversation with Michelle Ciccolo from Hudson. She is Partime CDBG in Hudson and is starting her own CDBG Consulting Services. Mayor Stevens feels that she comes highly regarded she would hire Michelle in a heartbeat.

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Steve Vigeant mentions that he and Diane have a meeting with DHCD (Mark) on July 2, 2008 Michael Hogan will be joining them too. They will discuss with Mark the possibility of hiring Michelle. Mayor will call Michelle today and asks Diane to prepare a Contract.

Diane informs the members that she received an email from the Department of Public Works in reference to Windsor street drainage issues. Tom Cullen asks if there is CDBG funds to correct the issue. Michael Hogan asks for the plot plan. Steven Vigeant asks that Tony Trudella attend the next meeting to inform the Members on what we own (Windsor st., Parking Lot and lighting)

Steven Vigeant Motions to have Tony Trudella join us at the next meeting in July to discuss hiring an intern to help work on the Windsor St. Project. Seconded by David McCabe – Approved

Diane informs the board that Jackie Malloy has started researching properties in the Lincoln Street area, through her MLS and the Banker & Tradesman. An update will be given at the next meeting.

The members need to secure outside Legal Counsel which Jackie Malloy has prepared solicitation to expedite the process.

There are a number of Liens which have been recorded with incorrect dollar amounts. We have been in contact with Peter Haney who is ready to correct Liens from 2001-2003 and the second set would be 1990-2000. The CDA is at risk if these Liens are not corrected.

Diane informs the Board that Deborah Fairbanks has made a request to the CDA for a Bridge loan in order to proceed with the Landscaping needed to complete the project. Boston Community Capital has secured this development. She has asked for \$40,000.00 which will be paid back upon the 29th sale of the units. Lynn Faust asked Camille Duridas if she feels that the pricing and marketing is on track. Camille replies that locally we should do some Public Relations for her. Michael motions not to exceed \$40,000.00 and continues to suggest that we do not use CDBG funding that we use Fafard money instead. Lynn Faust motions to accept, Steve Vigeant Seconded – Approved.

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Diane Sullivan suggests to the Members that we look at Jackie Malloy for a more permanent position. Presently she is parttime/temporary at \$19.00 an hour. She feels that would need to be bumped up.

Michael Hogan questions the Transitional Report relative to the Drawdown of \$189,000.00. If we made a mistake, than we owe the money. If we did not make a mistake we do not owe the money. Michael continues to say that this would be a perfect item for Michelle to tackle.

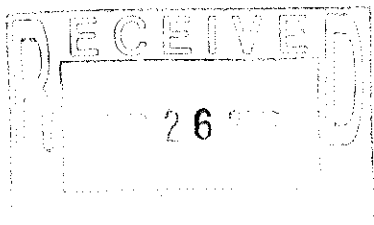
Dr. Muir has some questions regarding the window installation. Will everything be done from the inside of each unit? Betsy explains that all work will be done from the inside and that there will be more than one team performing the work.

Steven Vigeant states that John Ghiloni needs to have a back up plan in case of an emergency, i.e. storm/rain

Betsy will have a unit prepared for the residence to stay in with T.V. and possible sleeping arrangements. Mayor Stevens advises the members that she has access through Human Services to provide them with a one night stay at a local hotel which would include breakfast.

Mayor Stevens Motions to adjourn at 9:40 a.m., Seconded by Dr. Muir – Approved

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City of Marlborough Commonwealth of Massachusetts



PLANNING BOARD

Barbara L. Fenby, Chair
Steve Kerrigan, Clerk
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Robert Hanson
Sean N. Fay

PLANNING BOARD MINUTES
July 14, 2008
7:00 PM

Carrie Lizotte, Board Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: CLizotte@marlborough-ma.gov

The Planning Board for the City of Marlborough met on Monday, July 14, 2008 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Clyde Johnson, Philip Hodge, Robert Hanson and Sean Fay. Also present: Assistant City Engineer Richard Baldelli.

MINUTES

Meeting Minutes June 23, 2008

On a motion by Mr. Kerrigan, seconded by Mr. Johnson with Mr. Fay and Mr. Hanson abstaining:
To accept and file the meeting minutes.

CHAIR'S BUSINESS

Commonwealth of Massachusetts Correspondence from the Executive Office

Governor Duval Patrick sent correspondence regarding the 2009 version of Commonwealth Capital, which has proven to be an effective program for promoting better land use choices. The Commonwealth Capital explicitly endorses planning and zoning measures that are consistent with the Commonwealth's Sustainable Development Principals and the Commonwealth is encouraging the municipalities to implement the measures by using state funding.

On a motion by Mr. Kerrigan, seconded by Mr. Johnson, it was duly voted:
To accept and file correspondence and to refer the correspondence to the Mayor's Office for their review.

City Council Order 08-1001939 Proposed amendment to the Zoning Ordinance

The City Council has referred the petition from Attorney Gadbois on behalf of Lewis Clark, Jr., to amend the Zoning Ordinance so that the Retirement Community Overlay Districts be abolished and that the Retirement Communities can be an allowable use in all districts with a Special Permit in accordance with a new Section 200-22 of the Zoning Ordinance.

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On a motion by Mr. Kerrigan, seconded by Mr. Fay it was duly voted:

To schedule a public hearing on August 18, 2008 at 7:30 pm.

Marlborough Historical Society

Peter Rice Homestead Land

The Marlborough Historical Society sent correspondence to the owner of the property asking for a long term land lease of 99 years.

On a motion by Mr. Kerrigan, seconded by Mr. Hodge it was duly voted:

To accept and file correspondence.

City Council Order #08-1001833

Proposed New Car Dealership Overlay District in the Marlborough Zoning Ordinance

On May 12, 2008 the Planning Board held a public hearing for the proposed change in the Zoning Ordinance for the New Car Dealership Overlay. Mr. Hodge had some concerns on how some zoning ordinances are carefully crafted to not look like spot zoning. Mr. Johnson stated that he believed that Mr. Bata has had a reputable business and it just trying to make his business develop.

On a motion made by Mr. Johnson, seconded by Mr. Kerrigan, with Mr. Hodge and Mr. Hanson opposing, it was duly voted:

To recommend to the City Council a favorable recommendation to the City Council to approve the change in the Zoning Ordinance for the New Car Dealership Overlay District.

Change in Schedule

Public Hearing Date

The Planning Board has decided to add Wednesday, August 13, 2008 to hold two public hearings.

On a motion by Mr. Kerrigan, seconded by Mr. Fay it was duly voted:

To notify the City Clerk of the change in the schedule for the addition of a special meeting on August 13, 2008.

APPROVAL NOT REQUIRED PLAN

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Baldelli had no new updates.

Acre Bridge Estates (Blake Circle)

City Engineer Correspondence

Amended Covenant

Mr. Baldelli has reviewed the amended covenant and is recommending to the Planning Board to approve the covenant.

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On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file correspondence and to endorse the amended covenant.

Country Club Estates (Stow Road)
Foreclosure Correspondence

Mark A. Kablack from M.A. Kablack has sent correspondence for the pending complaint for foreclosure of the open space parcel at the Country Club Estates Subdivision and has decided not to contest the proceedings. He is asking to renew his request for relative action with the subdivision and the release of the performance bond.

On a motion by Mr. Johnson, seconded by Mr. Hanson it was duly voted:

To accept and file correspondence; to refer the correspondence to the Engineering Department for their review.

Mauro Farm (Cook Lane)
Phasing Request
Correspondence from Martin Loiselle

Mr. Loiselle is asking for the Board to delay the final discussion on their phasing request until August 18, 2008.

On a motion made by Mr. Kerrigan, seconded by Mr. Johnson it was duly voted:

To accept and file the correspondence; to delay the final discussion until August 18, 2008.

Correspondence from City Engineer
Proposed Phasing Concept

Mr. Baldelli, Assistant City Engineer, sent correspondence to the Planning Board with his major concerns for the Phasing request:

- Multiple phases should have been discussed during subdivision review process.
- The revised plans do not provide enough information on site development.

The Engineering Department does not see an upside to the proposed phasing request.

On a motion by Mr. Kerrigan, seconded by Hodge it was duly voted:

To accept and file correspondence; and to send a copy of the correspondence to the developers.

O'Leary's Landing (Joseph North Road)
Plan of Acceptance

The Engineering Department has reviewed all original mylar as-builts for the subdivision. They are recommending for the Planning Board to accept the subdivision.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file the letter from Assistant City Engineer Richard Baldelli and to endorse his recommendation that the roadway has remained in satisfactory condition for the yearlong maintenance period. Mr. Bumpus should contact the City Council regarding taking the necessary

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steps to have the acceptance plan approved. The outstanding bond will be returned at such time as the plans have been approved by the Council and filed with the Registry of Deeds.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS/ LDS SUBMITTALS

LDS Submittal
214 Wilson Street
Public Hearing Date

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To schedule a public hearing date of August 13, 2008 at 7:00 pm.

DEFINITIVE SUBDIVISION SUBMISSIONS

289-401 Elm Street
Definitive Submittal

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To schedule a public hearing date of August 13, 2008 at 7:30 pm.

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

COMMUNICATIONS/CORRESPONDENCE

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

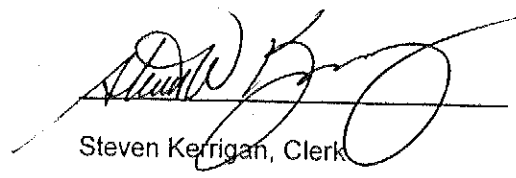
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Mr. Kerrigan, it was duly voted:

To adjourn at 7:45 p.m.

A TRUE COPY

ATTEST:


Steven Kerrigan, Clerk