

REGULAR MEETING
DECEMBER 17, 2007

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes, City Council Meeting, December 3, 2007.
2. PUBLIC HEARING: On the application of National Grid to install new pole #21-50 and relocate pole #21 on Maple St. **Included with this order is a communication from Jim Dascoli, City's Engineering Division re: Nat'l Grid to install new pole and relocate pole #21 on Maple St.**
3. Communication from the City Solicitor re: Special Permit Application for First Student Inc. in proper form.
4. Minutes, Planning Board, November 19, 2007.
5. TransReport, December, 2007.
6. CLAIMS:
 - A. Atty. Robert K. Rainer for Arlene Rivera, personal injury.
 - B. Nick Traiforos, 191 Desimone Dr., property damage.
 - C. Timothy Stanley, 89 Neil St., vehicle damage.
 - D. Gina Oliveira, 450 Boston Post Rd., personal injury.
 - E. Alan Von Schoppe, 39 Vega Rd., property damage.
 - F. Anselmo B.C. Cardona, 74 Newton St. #1, vehicle damage.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From City Council

7. **Order No. 07-1001689** - That the presentation from representatives of Verizon and Comcast with update regarding local access television for Verizon Fios in the City of Marlborough, be **TABLED** until the December 17, 2007 City Council Meeting.

From Public Services Committee

8. **Order No. 07-1001682A** – Petition of Mass Electric to install stub pole #82-#84 to support existing pole #82 on Farm Rd. **Recommendation of the Public Services Committee is to approve 3-0 subject to the granting of the DPW road opening permit and all of the regulations and conditions set forth by the DPW and final plan submission and approval by December 10, 2007. Included with this order is a communication from Jim Dascoli, City's Engineering Division re: Nat'l Grid for stub pole on Farm Rd.**
9. **Order No. 07-1001734** – Application of National Grid to install new pole #21-#50 and relocate pole #21 on Maple St. **Recommendation of the Public Services Committee is to report out of Committee without recommendation 3-0 subject to the conditions set forth in the DPW road opening permit.**

From Open Space Committee

10. **Order No. 07-1001711** – Communication from David B. Perini, Commissioner of the Executive Office for Administration and Finance, Division of Capital Asset Management, re: surplus state owned real property located in the City of Marlborough. **Recommendation of the Open Space Committee is to accept and place on file 3-0.**

From Urban Affairs Committee

11. **Order No. 07-1001666** – Application for Zoning Amendment from Attorney Arthur Bergeron for 890 Post Rd. LLC, which owns real property shown on Assessor's Map 62 Parcels 1 and 24. Parcel 1 which extends from the Boston Post Road north to the City's Easterly Treatment Plan, is bisected by a zone line, making the rear of the property, which is landlocked, borders the Treatment Plan and is zoned Rural Residential, useless. Pursuant to MGL C. 40A, S. 5, the petitioner is requesting that the rear of the land shown on Assessor's Map 62 Parcel 1 be rezoned from Rural Residence to Business. **Recommendation of the Urban Affairs Committee is to approve 4-0.**
12. **Order No. 07-1001650A** – Application of First Student Inc. for outdoor storage of vehicles (school busses) on Hayes Memorial Dr. **Recommendation of the Urban Affairs Committee is to approve 2-1. (Councilor Clancy and Towle in favor and Councilor Pope opposed).**

From Finance Committee

13. **Order No. 07-1001706** - Transfer \$1,400,000 from Health Insurance Trust Fund to Stabilization Account. The Finance Committee reviewed the Mayor's letter dated October 24, 2007 that recommended the transfer of \$1,400,000 from the Health Insurance Trust Fund to the Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**
14. **Order No. 07-1001727** – Transfer \$56,500 to fund Firefighters Contract. The Finance Committee reviewed the Mayor's letter dated November 15, 2007 requesting the transfer from Fringes to Hazmat Pay and Clothing. **Recommendation of the Finance Committee is to approve 4-0.**



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
(508)460-3775 FAX (508)624-6504
DECEMBER 3, 2007

Regular meeting of the City Council held on Monday December 3, 2007 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Katz, Ferro, Juare, Schafer, Webster, Clancy and Towle. Meeting adjourned at 9:00 p.m.

ORDERED: Minutes, City Council meeting, NOVEMBER 19, 2007, **FILE**; adopted.

ORDERED: Now being the time set for the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, December 3, 2007 at 8:00 p.m. in Council Chambers, 2nd Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2008. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing adjourned at 8:35 p.m.

PRESENTATION & RECOMMENDATION MADE BY ANTHONY TRODELLA & THE BOARD OF ASSESSORS

ORDERED: That the following transfer of \$1,000,000.00 (one-million dollars) from Undesignated Funds to reduce the FY2008 Tax Levy, **APPROVE**; adopted.

FROM:

Acct. # 100-35900 \$1,000,000.00
Undesignated Fund

TO:

To Reduce Tax Levy \$1,000,000.00

ORDERED: That the following transfer of \$255,690.65 from Sale of Graves, Aquifer Protection, and Traffic Enforcement to reduce the FY2008 Tax Levy, **APPROVE**; adopted.

FROM:

Acct. # 27000-33020 \$55,345.03
Sale of Graves

Acct. # 61000-31200 \$180,452.00
Aquifer Protection

Acct. # 27000-33080 \$19,893.62
Traffic Enforcement

TO:

To Reduce Tax Levy \$255,690.65

12

ORDERED: That the following percentage of FY2008 Tax Levy, **APPROVE**; adopted.

Residential	54.7301
Open Space	00.0078
C.I.P.	45.2621

ORDERED: That the residential tax exemption for owner-occupied, residential properties for Fiscal Year 2008 be and is eight percent (8%), **APPROVE**; adopted.

ORDERED: That the following budget transfer in the amount of \$1,000,000.00 (one-million dollars) which would move funds from Undesignated Funds to Stabilization, **APPROVE**; adopted.

FROM:

Acct. # 100-35900	\$1,000,000.00
Undesignated Fund	

TO:

Acct. # 836000-11515	\$1,000,000.00
Stabilization	

ORDERED: That the following budget transfer in the amount of \$45,000.00 which would move funds from Firefighter Salary to Firefighter Regular OT, refer to **FINANCE COMMITTEE**; adopted.

SUSPENSION OF THE RULES REQUESTED – GRANTED; TO ALLOW THE TRANSFER TO BE ACTED UPON IN THE YEAR 2008.

FROM:

Acct. # 12200001-50450	\$45,000.00
Firefighter Salary	

TO:

Acct. # 1220003-51300	\$45,000.00
Firefighter Regular OT	

(Councilor Juare abstained)

ORDERED: That the following transfer of \$137,467.00 from Undesignated Fund to Claims & Judgments, refer to **FINANCE COMMITTEE**; adopted.

SUSPENSION OF THE RULES REQUESTED – GRANTED; TO ALLOW THE TRANSFER TO BE ACTED UPON IN THE YEAR 2008.

FROM:

Acct. # 100-35900	\$137,467.00
Undesignated Fund	

TO:

Acct. # 11510006-57600	\$137,467.00
Claims & Judgements	

ORDERED: That the Alternative Order of Taking by Eminent Domain Concerning Land Owned by Hillside School on Robin Hill St., refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

MOTION:

To move agenda item #8, communication from the Planning Board recommending the change in Zoning of Map 62, Parcel 1 from "Rural Residence" to contiguous "Business" Zone, with Order No. 07-1001666 - Reports of Committees, **APPROVE**; adopted.

13

ORDERED: That the Communication from Attorney Jack Milgram, requesting to withdraw the Special Permit of Ming Wang to convert the former State Armory Building located at 358-364 Lincoln St. into twelve residential condominiums, **APPROVE WITHOUT PREJUDICE**; adopted.

ORDERED: That the Communication from Robert Norton, 68 Whitewood Rd., Milford, MA re: complaint of civil fine pertinent to the sign ordinance, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, November 5, 2007, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, October 23, 2007, **FILE**; adopted.

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

REPORTS OF COMMITTEES:

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

Order No. 07-1001682A – Petition of Mass Electric to install stub pole #82-#84 to support existing pole #82 on Farm Rd. **Recommendation of the Public Services Committee is to approve 3-0 subject to the granting of the DPW road opening permit and all of the regulations and conditions set forth by the DPW and final plan submission and approval by December 10, 2007.**

Order No. 07-1001734 – Application of National Grid to install new pole #21-#50 and relocate pole #21 on Maple St. **Recommendation of the Public Services Committee is to report out of committee without recommendation 3-0 subject to the conditions set forth in the DPW road opening permit.**

Councilor Juaire reported the following out of the Open Space Committee:

Order No. 07-1001711 – Communication from David B. Perini, Commissioner of the Executive Office for Administration and Finance, Division of Capital Asset Management, re: surplus state owned real property located in the City of Marlborough. **Recommendation of the Open Space Committee is to approve 3-0.**

Councilor Towle reported the following out of the Public Safety Committee:

Order No. 07-1001663 – City Emergency Management Coordinator, Don Cusson, who spoke at the September 24, 2007 meeting to provide and update of the City's R911 system. **Recommendation of the Public Safety Committee is to table 2-0 in committee.**

/4

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

Order No. 07-1001666 – Application for Zoning Amendment from Attorney Arthur Bergeron for 890 Post Rd. LLC, which owns real property shown on Assessor's Map 62 Parcels 1 and 24. Parcel 1 which extends from the Boston Post Road north to the City's Easterly Treatment Plan, is bisected by a zone line, making the rear of the property, which is landlocked, borders the Treatment Plan and is zoned Rural Residential, useless. Pursuant to MGL C. 40A, S. 5, the petitioner is requesting that the rear of the land shown on Assessor's Map 62 Parcel 1 be rezoned from Rural Residence to Business. **Recommendation is to approve 4-0.**

Agenda item #8 which was moved to Reports of Committees is a Communication from the Planning Board regarding **Order No. 07-1001666 recommending the change in zoning of Map 62 Parcel 1 from "Rural Residential" zone to a contiguous "Business" zone.**

Order No. 07-1001650A – Application of First Student Inc. for outdoor storage of vehicles (school busses) on Hayes Memorial Dr. **Recommendation is to approve 2-1. (Councilor Clancy and Towle in favor and Councilor Pope opposed).**

Councilor Ossing reported the following out of the Finance Committee:

Order No. 07-1001706 - Transfer \$1,400,000 from Health Insurance Trust Fund to Stabilization Account. The Finance Committee reviewed the Mayor's letter dated October 24, 2007 that recommended the transfer of \$1,400,000 from the Health Insurance Trust Fund to the Stabilization account. **Recommendation of the Finance Committee is to approve 5-0.**

Order No. 07-1001727 – Transfer \$56,500 to fund Firefighters Contract. The Finance Committee reviewed the Mayor's letter dated November 15, 2007 requesting the transfer from Fringes to hazmat Pay and Clothing. **Recommendation of the Finance Committee is to approve 4-0. Councilor Juaira abstained.**

Order No. 07-1001522 – Retirement Board recommendation which will allow creditable service for employment as a Call Firefighter or Reserve Police Officer. **Recommendation of the Finance Committee is to approve 4-0. Councilor Juaira abstained.**

15

Suspension of the Rules requested – granted.

ORDERED: That the following budget transfer in the amount of \$10,500.00 which would shift funds from Undesignated Funds to Temporary Clerical Help, **APPROVE**; adopted.

FROM:

Acct. # 100-35900 \$10,500.00

Undesignated Fund

TO:

Acct. # 11210002-50586 \$10,500.00

Temporary Clerical Help

(Councilor Pope & Schafer opposed)

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned 9:00 p.m.

21



IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 19, 2007

ORDERED:

That there being no objection thereto set **MONDAY, DECEMBER 17, 2007** as date for a **PUBLIC HEARING** on Petition of National Grid to install new pole #21-50 and relocate pole #21 on Maple St., be and is herewith refer to **DPW ENGINEERING to provide comments to the City Council prior to the hearing, & PUBLIC SERVICES COMMITTEE.**

ADOPTED

ORDER NO. 07-1001734

22

Thomas, Lisa

From: City Council
Sent: Friday, December 07, 2007 12:42 PM
To: lthomas@marlborough-ma.gov
Subject: FW: NGrid Maple Street petition - Order No. 07-1001734
Attachments: 175 Maple Street.tif

Lisa,

Please place Mr. Dascoli's email on the City Council agenda of December 17, 2007.

Thank you,

Karen Boule

From: Dascoli, Jim
Sent: Friday, December 07, 2007 11:11 AM
To: City Council
Cc: Cullen, Thomas; Lashmit, Tom; Josephson, Marcia; Bolduc, Tracy L.; 'Robinson, Donald E.'
Subject: Order No. 07-1001734

Council,

Engineering has reviewed and approved the proposed utility pole installation work on Maple Street. I have attached the plan that National Grid will be working off of. At this time, Engineering does not need any further information regarding the proposed work. A Road Obstruction Permit will need to be obtained from the engineering department prior to any installation or removal of utility poles.

If you have any questions/concerns, please feel free to contact Engineering (508)624-6910 ext. 7200.

Jim Dascoli

City of Marlborough

Department of Public Works

31



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

December 13, 2007

Arthur Vigeant
President
Marlborough City Council

RE: Order 07-1001650
Special Permit Application
First Student Inc.
Hayes Memorial Drive

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 decision on the special permit application for a school bus depot submitted by First Student Inc. ("First Student") for Hayes Memorial Drive in Marlborough.

First Student's application seeks a special permit for "outdoor storage of vehicles (school buses) accessory to proposed use as allowed by special permit in an Industrial District" for land purportedly located on Marlborough Assessors Map 99, Parcel 1 and Map 88, Parcel 35. While an issue arose before Urban Affairs Committee as to how properly to characterize the primary use of the site, First Student verbally agreed at Committee to authorize the City Council to specially permit the entire site. Further, it was determined at Committee that the relevant site was located only on Marlborough Assessors Map 99, Parcel 1, not also Map 88, Parcel 35; and that that site was zoned industrial, not limited industrial.

Accordingly, I recommend that the following revisions be made:

- Finding of Fact ("FOF") 2. Add second sentence: "The premises are located in an industrial zoning district."

- FOF 3. Add a second sentence: "The portion of the premises for which Applicant is the prospective owner is "the Site" and is further described as follows:

A certain parcel of land located in the Commonwealth of Massachusetts, County of Middlesex, City of Marlborough, situated on the southwesterly sideline of Hayes Memorial Drive, and is shown on "Plan of Land in Marlborough, MA, by Precision Land Surveying, Inc.," a copy of which plan is contained in the files of the City Council, more particularly bounded and described as follows:

Beginning at a point on the southwesterly sideline of Hayes Memorial Drive, said point being the most northerly corner of the parcel; thence running

S 15°52'59"E 407.87' by the southwesterly sideline of Hayes Memorial Drive to a point; thence turning and running

S 74°07'01"W 68.48' to a point; thence turning and running

N 69°34'30"W 242.69' to a point; thence turning and running

S 75°45'53"W 408.94' to a point; thence turning and running

N 15°45'50"W 408.03' to a point; thence turning and running

N 74°08'13"E 315.57' to a point; thence turning and running

S 82°18'33"E 388.86' to the POINT OF BEGINNING.

Containing 275,992 square feet or 6.336 acres, more or less."

Please note that Applicant needs to provide the Council with a copy of "Plan of Land in Marlborough, MA, by Precision Land Surveying, Inc.," as set forth above.

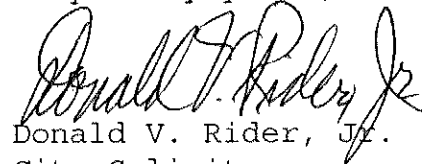
- FOF 5. Change "parcels" to "parcel," as per discussion above.
- FOF 8. Change "Site" to "the specially permitted use of the Site."
- Condition 14. Add "do not change the size of the Site by more than 2%."

- Condition 17. Clarify that the cleaning of the catch basins is to be done by the Applicant.
- Condition 21. Add "Further, no school bus washing will occur outside of the facility."
- Condition 24. Clarify Wards 3 and 4 Councilors.
- Condition 33. As per discussion at Committee, add:

If Applicant fails to be awarded the school bus transportation contract with the Marlborough Public Schools in future years, Applicant agrees that it shall not use the site to provide school bus transportation on behalf of any other school district (except Assabet Valley Regional Vocational School District) during those years, without first seeking and obtaining an amendment by the City Council to this special permit.

I have enclosed both a tracked and a clean version of the proposed decision reflecting the recommendations noted above. With those recommendations, I certify that the Council's proposed decision is in proper legal form.

Very truly yours,


 Donald V. Rider, Jr.
 City Solicitor

Enclosures

cc: Aldo A. Cipriano, Esquire

DECISION ON A SPECIAL PERMIT WITH FINDINGS OF FACT AND RULINGS
CITY COUNCIL ORDER 07-1001650

Deleted: FINAL DRAFT
Deleted: PROPOSED

- (1) First Student Inc. having its principal place of business at 68 Industrial Boulevard Suite 6, Hanson, Massachusetts 02341 is hereinafter referred to as the Applicant.
- (2) Owner of the premises at Hayes Memorial Drive Map 99 Parcel 1 is Arturo J. Gutierrez Trustee of Marlborough Northborough Land Realty Trust with an address of 1 Wall Street, Burlington. The premises are located in an industrial zoning district.

Formatted: Font: (Default) Times New Roman

Applicant is a prospective owner of a portion of the premises located at Hayes Memorial Drive which will consist of an approximately 6.3 acre lot pursuant to Purchase and Sale Agreement dated August 3, 2007. The portion of the premises for which Applicant is the prospective owner is "the Site" and is further described as follows:

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

A certain parcel of land located in the Commonwealth of Massachusetts, County of Middlesex, City of Marlborough, situated on the southwesterly sideline of Hayes Memorial Drive, and is shown on "Plan of Land in Marlborough, MA, by Precision Land Surveying, Inc.," a copy of which plan is contained in the files of the City Council, more particularly bounded and described as follows:

Formatted: Font: (Default) Times New Roman

Beginning at a point on the southwesterly sideline of Hayes Memorial Drive, said point being the most northerly corner of the parcel; thence running

S 15°52'59"E 407.87' by the southwesterly sideline of Hayes Memorial Drive to a point; thence turning and running

S 74°07'01"W 68.48' to a point; thence turning and running

N 69°34'30"W 242.69' to a point; thence turning and running

S 75°45'53"W 408.94' to a point; thence turning and running

N 15°45'50"W 408.03' to a point; thence turning and running

N 74°08'13"E 315.57' to a point; thence turning and running

S 82°18'33"E 388.86' to the POINT OF BEGINNING.

Containing 275,992 square feet or 6.336 acres, more or less.

(3) On or about August 14, 2007, Applicant filed with the City Clerk of the City of Marlborough an Application for a special permit for outdoor storage of school buses in an Industrial Zone, a use incidental to a proposed use which is a school bus maintenance facility and driver training and staging area. Pursuant to Article V. Section 200-17 of the Zoning Code of the City of Marlborough, applicant agrees that the entire subject parcel site of the proposed project, regardless of the specific use of any portion thereof, may be made subject to conditions set forth in this special permit.

Deleted: .

(4) The principal use, with outdoor storage, will be located on approximately a 6.3 acre lot to be created from the subject parcel.

Deleted: s

(5) Applicant will be acquiring a portion of the existing lot for its school bus facility operations.

(6) In conjunction with the special permit application the applicant on or about August 14, 2007 filed an original and twelve copies of the following:

- (a) Application to the City Council for Issuance of a Special Permit;
- (b) Special Permit Application Certification by Planning Department;
- (c) Certified copies of Abutter's Lists for the City of Marlborough;
- (d) Summary Impact Statement;
- (e) Site Plans; and
- (f) Filing fee in the amount of \$500 (collectively, the "Documents") and which documents are incorporated herein and become part of this decision.

(8) The specially permitted use of the Site will consist of a new two story office building with accessory maintenance bays containing 20,800 square feet of floor area with outdoor storage of school buses and parking for motor vehicles together with an above ground diesel fuel storage tank.

Deleted: Site

(9) The Urban Affairs Committee review was conducted on October 23rd, 2007, October 30th, 2007, November 13th, 2007, November 20, 2007, November 27, 2007 and November 30, 2007 and voted the project favorably to the full City Council as Special Permit granting authority.

(10) The Site Plan was certified by the City Planner for the City of Marlborough as Having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

(11) 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 special permit application and the City Clerk caused to be advertised said date in the Metro West Daily News and sent notice of hearing to abutters entitled to notice under law.

- (12) The Marlborough City Council pursuant to M.G.L. c.40A, held a public hearing on September 24, 2007, concerning this application, which was concluded on that evening,
- (13) Applicant presented testimony at the September 24, 2007 public hearing detailing the application, describing its impact upon municipal services, the neighborhood and traffic at the public hearing. Detailed Plans were submitted displaying the project layout, access and driveway layout, drainage and landscaping all of which are part of this record of proceedings.
- (14) Applicant provided further oral testimony and written documentation to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts of the proposed project, the adequacy of the proposed parking at the site, proposed building construction and site modifications, landscaping, drainage, lighting, and other improvements to the Site.
- (15) By its submittals as reviewed, the applicant has conformed to the provisions of the City Zoning Ordinance Sections 200-17 and 200-18, and all requirements of Chapter 200 of the City Code entitled "Zoning".

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

- A) The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.
- B) The Council finds that the proposed use of this site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough and that the use sought and its impact and characteristics are not in conflict with public health safety, convenience, and welfare and is not detrimental or offensive. The City Council makes these determinations subject to the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.
- C) The City Council finds that it may issue the Special Permit, subject to such terms and conditions, as it deems necessary, to encourage the most appropriate use of the Site and promote the health and general welfare of the citizens of the City of Marlborough, in making available school bus storage and maintenance facilities together with driver staging and training.
- D) The City Council, pursuant to the authority of M.G.L. c.40A GRANTS the Applicant a Special Permit to construct an outdoor storage facility for

school buses that would serve Marlborough residents, as per the application documents, the findings, and plans submitted to the City Council and the City Council's Urban Affairs Committee, and SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:

- (1) Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and 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 prepared by Tetra Tech Rizzo, dated May 17, 2007 and Architectural Plans prepared by Integrated Design Group Inc. dated November 20, 2007 and filed with the Special Permit Application, as amended during the application/hearing process before City Council and/or the City Council's Urban Affairs Committee.
- (2) The issuance of a Special Permit is further subject to completion of detailed and technical site plan review in accordance with the City of Marlborough Ordinance prior to the issuance of the actual Building Permit, and the Permanent Occupancy Permit shall not be issued until all conditions are complied with by Applicant, provided, however, that temporary occupancy will issue upon a determination by the Building Inspector that the site is substantially complete. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and Plans submitted, reviewed and approved by City Council as special permit granting authority. Any violation of a condition of site plan approval shall be a violation of this special permit.
- (3) Prior to the issuance of any Permanent Occupancy Permit for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless weather is prohibitive in which case landscaping and planting installation shall be complete by June 30, 2009.
- (4) In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the Commissioner of Public Works shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.
- (5) All terms, conditions, requirements, approvals, plans and drawings and renderings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.

38

- (6) The applicant will comply with all applicable state and local laws, ordinances and regulations, in order to remove any and all trees and vegetation within any city-owned property including, but not limited to, the layout of Hayes Memorial Drive.
- (7) Upon final acceptance to the completed landscaping improvements as shown on the approved plan, the proponent shall be responsible for maintaining all areas within the site and within the adjoining layout of Hayes Memorial Drive in accordance with the approved plan as determined by City Council and Site Plan Review Committee.
- (8) The entrance display sign will be of wooden construction, double sided and installed along the Hayes Memorial Drive traveled way upon Applicant's property. The sign is to be painted with flat tone paint without gloss and with exterior illumination only.
- (9) All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance, and shall be as shown on the plan.
- (10) All illuminations of individual parking area light fixtures shall not exceed 400 watt fixtures and shall be screened from abutting property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.
- (11) Applicant shall, at the time of application for a Building Permit, pay the sum of \$1,500.00 to the City of Marlborough Inspectional Services Funds to offset the increase in cost associated with the project's construction such as materials 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.
- (12) In recognition and consideration of the anticipated Site and traffic impacts of the proposed project and in mitigation thereof, the Applicant shall provide 50 school bus trips for use by the City of Marlborough School Department and Recreation Department. These 50 trips will comprise 40 School Day Trips and 10 Full Day Trips. School Day Trips are defined as those trips leaving and returning within the normal school day so that there is no schedule overlap between the normal busing responsibilities and those required for the day trip. Full Day Trips are defined as those trips extending into normal busing schedules.

50% of the trips will be available for use within the first year following occupancy of the facility and the balance available of the following year. Trips will be limited for use within the State of Massachusetts or within

a 75 mile radius of the City of Marlborough. A single "Trip" shall be defined as use of a single bus and driver for a period not to exceed 10 hours. Use of the provided Trips will be at the discretion of the Superintendent of Schools or Designee but are intended to be divided between the School Department and Recreation Department on a 4 to 1 basis. Trips shall be coordinated and scheduled through the Marlborough School bus facility and are redeemable for as long as the proposed facility is in operation. Applicant also agrees to a mitigation payment of \$20,000.00 for traffic enforcement purposes related to school bus safety whereby a first payment of \$10,000.00 will be made upon issuance of the permanent occupancy permit for the Site. Thereafter, the second payment of \$10,000.00 is to be made within one year after such occupancy issuance.

- (13) All plans, photo renderings, site evaluations, briefs and other documentation 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 a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- (14) Reasonable engineering changes excluding architectural changes as submitted may be made to said plans by the Site Plan Review Committee and Marlborough Conservation Commission so long as said changes do not change the use of the Site as approved herein, do not change the size of the Site by more than 2%, do not increase the impervious area of the Site by more than 2 %, do not reduce the green area by more than 2 %, do not alter traffic flow, do not increase the size of the building shown on the plan, or deviate from the conditions or purpose of the Special Permit as granted. No changes shall be made that would result in a lesser number of trees and bushes on the Site than that which is displayed on the Landscape Plan as filed.
- (15) The 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 before the City Council and/or the Urban Affairs Committee, and in compliance with the Conditions of the Grant of the Special Permit.
- (16) The existing catch basins and all drainage structures and detention facilities shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be developed by applicant, with report given to the City Engineer and Conservation Commission by June 1st, of each year. The catch basins are to be cleaned

Formatted: Font: (Default) Times New Roman

by Applicant when debris buildup is within 24 inches of the pipe invert to remain functioning properly.

(17) All maintenance of school buses will be conducted inside the facility except for non-mechanical minor repairs which may be conducted on the facility site. Only applicant's school buses are to be stored or maintained on the site. Disabled or abandoned school buses will not be stored on the Site for more than a three week period. In the event that Applicant does not vacate its school bus maintenance facility in Framingham, MA within six months of issue of temporary occupancy, Applicant shall forthwith apply to the City Council for an amendment to this special permit seeking to reduce the scope of the use of the Site relative to school bus maintenance.

(18) No direct sale of school buses shall occur on the Site.

(19) School buses and other vehicles permitted on the Site by this special permit may only be parked within designated parking spaces.

(20) Not more than four school buses will be taken from the Site Facility to bus driver's homes for overnight parking. Further, such number will be reduced when such drivers leave the employ of Applicant. School buses based at the Site Facility will not be permitted to be parked upon public ways during the day.

(21) No painting or body shop repair will be permitted on the facility site. Further, no school bus washing will occur outside of the facility; school bus washing will occur only within the washing bay. No excessive noise shall be permitted on the facility site. Buses will be permitted idling consistent to ensure roadworthiness of vehicles, pursuant to 310 CMR 7.11(1)(b) and M.G.L. c. 90 sec 16A as amended.

Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman
Deleted: S

(22) No more than 100 school buses shall be permitted on the site at any time. The site shall not be utilized for rental or lease or sale by any other school bus or motor transport company other than Applicant. Applicant shall not store, maintain, rent, lease or operate any commercial buses on or from the Site.

(23) Applicant shall maintain on Site security measures for surveillance of activities so as to deter improper entry to the Site. A gate will also be installed near the bus storage area to control unauthorized access to the site.

(24) The Applicant will meet on an annual basis, unless otherwise requested by any City Councilor, with the Wards 3 and 4 Councilors to discuss any general or specific citizen's issues of concern that arise with respect to

Deleted: ,
Deleted:

the Site and address and resolve said concerns in a timely fashion including, without limitation, the road training of bus drivers.

- (25) Pollution Control Hoods will be utilized in all catch basins. A cement concrete pad will be installed under the diesel fuel tank and fueling area.
- (26) Snow storage is to be provided within paved areas on-site, but not within 20 feet of the wetlands. The Applicant may elect to utilize off-site storage. Snowmelt runoff is to be directed toward catch basins.
- (27) Applicant shall provide as-built Plans for the Site prior to the issuance of an occupancy permit.
- (28) Pursuant to the provisions of M.G.L.c.90 sec.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 regulations of the Marlborough Sign Ordinance.
- (29) Applicant agrees to plant and maintain the project landscaping as shown on a site plan submitted to the City Council entitled: Landscaping plan dated November 1, 2007 and revised November 13, 2007. Further Applicant agrees to preserve when possible any trees in excess of 4" caliper within the first 50' feet of the Site along Hayes Memorial Drive, except those trees located on the area that will be used as the entry to the Site as shown on the Site Plan submitted to the City Council and Urban Affairs Committee.

- (30) The project shall be sufficiently screened with landscaping so that the building and storage areas are not significantly visible from Hayes Memorial Boulevard. The Site Plan Review staff are authorized to assure that this condition is implemented through the Site Plan Review process. In addition, following the construction of the project, but before final signoff is approved by Site Plan Review staff prior to occupancy, the Site Plan Review staff shall again review the adequacy of the landscaping that was planted in conformance with the project's Site Plan. The Site Plan Review staff shall determine whether the planted landscaping is adequate to screen the site and, if staff determines that it is not, they shall have the authority to require reasonable landscaping changes to assure that the project's building and storage areas are not significantly visible from Hayes Memorial Boulevard.

Deleted: -
 Deleted: -

(31) Water and sewer services provided to the Project shall be subject to current citywide water and sewer charges subject to annual adjustment by the Commissioner of Public Works. Water and sewer connections shall be subject to a separate approval process and conditions.

(32) In accordance with the provisions of M.G.L. c.40A sec.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. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

(33) If Applicant fails to be awarded the school bus transportation contract with the Marlborough Public Schools in future years, Applicant agrees that it shall not use the site to provide school bus transportation on behalf of any other school district (except Assabet Valley Regional Vocational School District) during those years, without first seeking and obtaining an amendment by the City Council to this special permit.

Deleted:

Formatted: Indent: Left: 0.75"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

**DECISION ON A SPECIAL PERMIT WITH FINDINGS OF FACT AND RULINGS
CITY COUNCIL ORDER 07-1001650**

- (1) First Student Inc. having its principal place of business at 68 Industrial Boulevard Suite 6, Hanson, Massachusetts 02341 is hereinafter referred to as the Applicant.
- (2) Owner of the premises at Hayes Memorial Drive Map 99 Parcel 1 is Arturo J. Gutierrez Trustee of Marlborough Northborough Land Realty Trust with an address of 1 Wall Street, Burlington. The premises are located in an industrial zoning district.

Applicant is a prospective owner of a portion of the premises located at Hayes Memorial Drive which will consist of an approximately 6.3 acre lot pursuant to Purchase and Sale Agreement dated August 3, 2007. The portion of the premises for which Applicant is the prospective owner is "the Site" and is further described as follows:

A certain parcel of land located in the Commonwealth of Massachusetts, County of Middlesex, City of Marlborough, situated on the southwesterly sideline of Hayes Memorial Drive, and is shown on "Plan of Land in Marlborough, MA, by Precision Land Surveying, Inc.," a copy of which plan is contained in the files of the City Council, more particularly bounded and described as follows:

Beginning at a point on the southwesterly sideline of Hayes Memorial Drive, said point being the most northerly corner of the parcel; thence running

S 15°52'59"E 407.87' by the southwesterly sideline of Hayes Memorial Drive to a point; thence turning and running

S 74°07'01"W 68.48' to a point; thence turning and running

N 69°34'30"W 242.69' to a point; thence turning and running

S 75°45'53"W 408.94' to a point; thence turning and running

N 15°45'50"W 408.03' to a point; thence turning and running

N 74°08'13"E 315.57' to a point; thence turning and running

S 82°18'33"E 388.86' to the POINT OF BEGINNING.

Containing 275,992 square feet or 6.336 acres, more or less.

314

- (3) On or about August 14, 2007, Applicant filed with the City Clerk of the City of Marlborough an Application for a special permit for outdoor storage of school buses in an Industrial Zone, a use incidental to a proposed use which is a school bus maintenance facility and driver training and staging area. Pursuant to Article V. Section 200-17 of the Zoning Code of the City of Marlborough, applicant agrees that the entire subject parcel site of the proposed project, regardless of the specific use of any portion thereof, may be made subject to conditions set forth in this special permit.
- (4) The principal use, with outdoor storage, will be located on approximately a 6.3 acre lot to be created from the subject parcel.
- (5) Applicant will be acquiring a portion of the existing lot for its school bus facility operations.
- (6) In conjunction with the special permit application the applicant on or about August 14, 2007 filed an original and twelve copies of the following:
 - (a) Application to the City Council for Issuance of a Special Permit;
 - (b) Special Permit Application Certification by Planning Department;
 - (c) Certified copies of Abutter's Lists for the City of Marlborough;
 - (d) Summary Impact Statement;
 - (e) Site Plans; and
 - (f) Filing fee in the amount of \$500 (collectively, the "Documents") and which documents are incorporated herein and become part of this decision.
- (8) The specially permitted use of the Site will consist of a new two story office building with accessory maintenance bays containing 20,800 square feet of floor area with outdoor storage of school buses and parking for motor vehicles together with an above ground diesel fuel storage tank.
- (9) The Urban Affairs Committee review was conducted on October 23rd, 2007, October 30th, 2007, November 13th, 2007, November 20, 2007, November 27, 2007 and November 30, 2007 and voted the project favorably to the full City Council as Special Permit granting authority.
- (10) The Site Plan was certified by the City Planner for the City of Marlborough as Having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- (11) 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 special permit application and the City Clerk caused to be advertised said date in the Metro West Daily News and sent notice of hearing to abutters entitled to notice under law.

- (12) The Marlborough City Council pursuant to M.G.L. c.40A, held a public hearing on September 24, 2007, concerning this application, which was concluded on that evening,
- (13) Applicant presented testimony at the September 24, 2007 public hearing detailing the application, describing its impact upon municipal services, the neighborhood and traffic at the public hearing. Detailed Plans were submitted displaying the project layout, access and driveway layout, drainage and landscaping all of which are part of this record of proceedings.
- (14) Applicant provided further oral testimony and written documentation to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts of the proposed project, the adequacy of the proposed parking at the site, proposed building construction and site modifications, landscaping, drainage, lighting, and other improvements to the Site.
- (15) By its submittals as reviewed, the applicant has conformed to the provisions of the City Zoning Ordinance Sections 200-17 and 200-18, and all requirements of Chapter 200 of the City Code entitled "Zoning".

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

- A) The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.
- B) The Council finds that the proposed use of this site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough and that the use sought and its impact and characteristics are not in conflict with public health safety, convenience, and welfare and is not detrimental or offensive. The City Council makes these determinations subject to the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.
- C) The City Council finds that it may issue the Special Permit, subject to such terms and conditions, as it deems necessary, to encourage the most appropriate use of the Site and promote the health and general welfare of the citizens of the City of Marlborough, in making available school bus storage and maintenance facilities together with driver staging and training.
- D) The City Council, pursuant to the authority of M.G.L. c.40A GRANTS the Applicant a Special Permit to construct an outdoor storage facility for

school buses that would serve Marlborough residents, as per the application documents, the findings, and plans submitted to the City Council and the City Council's Urban Affairs Committee, and SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:

- (1) Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and 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 prepared by Tetra Tech Rizzo, dated May 17, 2007 and Architectural Plans prepared by Integrated Design Group Inc. dated November 20, 2007 and filed with the Special Permit Application, as amended during the application/hearing process before City Council and/or the City Council's Urban Affairs Committee.
- (2) The issuance of a Special Permit is further subject to completion of detailed and technical site plan review in accordance with the City of Marlborough Ordinance prior to the issuance of the actual Building Permit, and the Permanent Occupancy Permit shall not be issued until all conditions are complied with by Applicant, provided, however, that temporary occupancy will issue upon a determination by the Building Inspector that the site is substantially complete. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and Plans submitted, reviewed and approved by City Council as special permit granting authority. Any violation of a condition of site plan approval shall be a violation of this special permit.
- (3) Prior to the issuance of any Permanent Occupancy Permit for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless weather is prohibitive in which case landscaping and planting installation shall be complete by June 30, 2009.
- (4) In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the Commissioner of Public Works shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.
- (5) All terms, conditions, requirements, approvals, plans and drawings and renderings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.

- (6) The applicant will comply with all applicable state and local laws, ordinances and regulations, in order to remove any and all trees and vegetation within any city-owned property including, but not limited to, the layout of Hayes Memorial Drive.
- (7) Upon final acceptance to the completed landscaping improvements as shown on the approved plan, the proponent shall be responsible for maintaining all areas within the site and within the adjoining layout of Hayes Memorial Drive in accordance with the approved plan as determined by City Council and Site Plan Review Committee.
- (8) The entrance display sign will be of wooden construction, double sided and installed along the Hayes Memorial Drive traveled way upon Applicant's property. The sign is to be painted with flat tone paint without gloss and with exterior illumination only.
- (9) All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance, and shall be as shown on the plan.
- (10) All illuminations of individual parking area light fixtures shall not exceed 400 watt fixtures and shall be screened from abutting property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.
- (11) Applicant shall, at the time of application for a Building Permit, pay the sum of \$1,500.00 to the City of Marlborough Inspectional Services Funds to offset the increase in cost associated with the project's construction such as materials 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.
- (12) In recognition and consideration of the anticipated Site and traffic impacts of the proposed project and in mitigation thereof, the Applicant shall provide 50 school bus trips for use by the City of Marlborough School Department and Recreation Department. These 50 trips will comprise 40 School Day Trips and 10 Full Day Trips. School Day Trips are defined as those trips leaving and returning within the normal school day so that there is no schedule overlap between the normal busing responsibilities and those required for the day trip. Full Day Trips are defined as those trips extending into normal busing schedules.

50% of the trips will be available for use within the first year following occupancy of the facility and the balance available of the following year. Trips will be limited for use within the State of Massachusetts or within

a 75 mile radius of the City of Marlborough. A single "Trip" shall be defined as use of a single bus and driver for a period not to exceed 10 hours. Use of the provided Trips will be at the discretion of the Superintendent of Schools or Designee but are intended to be divided between the School Department and Recreation Department on a 4 to 1 basis. Trips shall be coordinated and scheduled through the Marlborough School bus facility and are redeemable for as long as the proposed facility is in operation. Applicant also agrees to a mitigation payment of \$20,000.00 for traffic enforcement purposes related to school bus safety whereby a first payment of \$10,000.00 will be made upon issuance of the permanent occupancy permit for the Site. Thereafter, the second payment of \$10,000.00 is to be made within one year after such occupancy issuance.

- (13) All plans, photo renderings, site evaluations, briefs and other documentation 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 a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- (14) Reasonable engineering changes excluding architectural changes as submitted may be made to said plans by the Site Plan Review Committee and Marlborough Conservation Commission so long as said changes do not change the use of the Site as approved herein, do not change the size of the Site by more than 2%, do not increase the impervious area of the Site by more than 2 %, do not reduce the green area by more than 2 %, do not alter traffic flow, do not increase the size of the building shown on the plan, or deviate from the conditions or purpose of the Special Permit as granted. No changes shall be made that would result in a lesser number of trees and bushes on the Site than that which is displayed on the Landscape Plan as filed.
- (15) The 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 before the City Council and/or the Urban Affairs Committee, and in compliance with the Conditions of the Grant of the Special Permit.
- (16) The existing catch basins and all drainage structures and detention facilities shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be developed by applicant, with report given to the City Engineer and Conservation Commission by June 1st, of each year. The catch basins are to be cleaned

3/19

by Applicant when debris buildup is within 24 inches of the pipe invert to remain functioning properly.

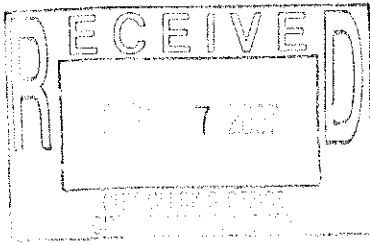
- (17) All maintenance of school buses will be conducted inside the facility except for non-mechanical minor repairs which may be conducted on the facility site. Only applicant's school buses are to be stored or maintained on the site. Disabled or abandoned school buses will not be stored on the Site for more than a three week period. In the event that Applicant does not vacate its school bus maintenance facility in Framingham, MA within six months of issue of temporary occupancy, Applicant shall forthwith apply to the City Council for an amendment to this special permit seeking to reduce the scope of the use of the Site relative to school bus maintenance.
- (18) No direct sale of school buses shall occur on the Site.
- (19) School buses and other vehicles permitted on the Site by this special permit may only be parked within designated parking spaces.
- (20) Not more than four school buses will be taken from the Site Facility to bus driver's homes for overnight parking. Further, such number will be reduced when such drivers leave the employ of Applicant. School buses based at the Site Facility will not be permitted to be parked upon public ways during the day.
- (21) No painting or body shop repair will be permitted on the facility site. Further, no school bus washing will occur outside of the facility; school bus washing will occur only within the washing bay. No excessive noise shall be permitted on the facility site. Buses will be permitted idling consistent to ensure roadworthiness of vehicles, pursuant to 310 CMR 7.11(1)(b) and M.G.L. c. 90 sec 16A as amended.
- (22) No more than 100 school buses shall be permitted on the site at any time. The site shall not be utilized for rental or lease or sale by any other school bus or motor transport company other than Applicant. Applicant shall not store, maintain, rent, lease or operate any commercial buses on or from the Site.
- (23) Applicant shall maintain on Site security measures for surveillance of activities so as to deter improper entry to the Site. A gate will also be installed near the bus storage area to control unauthorized access to the site.
- (24) The Applicant will meet on an annual basis, unless otherwise requested by any City Councilor, with the Wards 3 and 4 Councilors to discuss any general or specific citizen's issues of concern that arise with respect to

the Site and address and resolve said concerns in a timely fashion including, without limitation, the road training of bus drivers.

- (25) Pollution Control Hoods will be utilized in all catch basins. A cement concrete pad will be installed under the diesel fuel tank and fueling area.
- (26) Snow storage is to be provided within paved areas on-site, but not within 20 feet of the wetlands. The Applicant may elect to utilize off-site storage. Snowmelt runoff is to be directed toward catch basins.
- (27) Applicant shall provide as-built Plans for the Site prior to the issuance of an occupancy permit.
- (28) Pursuant to the provisions of M.G.L.c.90 sec.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 regulations of the Marlborough Sign Ordinance.
- (29) Applicant agrees to plant and maintain the project landscaping as shown on a site plan submitted to the City Council entitled: Landscaping plan dated November 1, 2007 and revised November 13, 2007. Further Applicant agrees to preserve when possible any trees in excess of 4" caliper within the first 50' feet of the Site along Hayes Memorial Drive, except those trees located on the area that will be used as the entry to the Site as shown on the Site Plan submitted to the City Council and Urban Affairs Committee.
- (30) The project shall be sufficiently screened with landscaping so that the building and storage areas are not significantly visible from Hayes Memorial Boulevard. The Site Plan Review staff are authorized to assure that this condition is implemented through the Site Plan Review process. In addition, following the construction of the project, but before final signoff is approved by Site Plan Review staff prior to occupancy, the Site Plan Review staff shall again review the adequacy of the landscaping that was planted in conformance with the project's Site Plan. The Site Plan Review staff shall determine whether the planted landscaping is adequate to screen the site and, if staff determines that it is not, they shall have the authority to require reasonable landscaping changes to assure that the project's building and storage areas are not significantly visible from Hayes Memorial Boulevard.

321

- (31) Water and sewer services provided to the Project shall be subject to current citywide water and sewer charges subject to annual adjustment by the Commissioner of Public Works. Water and sewer connections shall be subject to a separate approval process and conditions.
- (32) In accordance with the provisions of M.G.L. c.40A sec.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. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.
- (33) If Applicant fails to be awarded the school bus transportation contract with the Marlborough Public Schools in future years, Applicant agrees that it shall not use the site to provide school bus transportation on behalf of any other school district (except Assabet Valley Regional Vocational School District) during those years, without first seeking and obtaining an amendment by the City Council to this special permit.



41

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
November 19, 2007
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, November 19, 2007 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Philip Hodge, Clyde Johnson, Robert Hanson, and Sean Fay. Also present: City Engineer Thomas Cullen.

MINUTES

Meeting Minutes November 19, 2007

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

To accept and file the meeting minutes of November 5, 2007.

CHAIR'S BUSINESS

Correspondence from Arthur Bergeron

Mr. Bergeron asked for the Planning Board to make a recommendation to change the Zoning of Map 62 Parcel 1 which is now "Rural Residence" zone to be rezoned to be contiguous "Business" zone. Mr. Fay did comment that the land is landlocked and that it makes sense to make it all one zone.

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

To send to correspondence to the City Council to **recommend** the change in zoning of Map 62 Parcel 1 from "Rural Residence" zone to a contiguous "Business" Zone.

APPROVAL NOT REQUIRED PLAN

107 Phelps Street

Mr. Fay left the room as he is an abutter to the property.

Attorney Douglas Rowe presented to the Planning Board the plan for 107 Phelps Street. He stated that his client is to grant a municipal utility easement to the City of Marlborough for Parcel B. Mr. Rowe stated that the Department of Public Works Commissioner, Ronald LaFreniere, has reviewed the plan and approved the plan. The City Engineer has not reviewed the plan himself and would like to review the plan.

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

To accept and refer the proposed plan to the City Engineer for his review and recommendation at the next meeting on Monday December 3, 2007.

PUBLIC HEARING

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Cullen state that the Berlin Farms was still in the process of completing the changes to the plans and he has not received them. The Fiddlehead bond monies have been secured and the account has been established, he hopes this can be finished before the winter starts. He has sent correspondence to the developer for Acre Bridge Estates on the necessary work that needs to happen in his subdivision and at the Cider Mill Estates Subdivision are preparing the roads for binders and sidewalks.

Apple Orchard Estates (Balcom & Miele Road)

Road acceptance and reduction of bond

The Developers are asking the Planning Board to be accepted as public ways and a return the outstanding bond monies.

City Council Correspondence

The City Council referred correspondence from the developers request for the road acceptance of Apple Orchard Estates.

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

To accept and file all correspondence and refer the correspondence to the City Engineer for his recommendation.

Crystal Ridge Estates (Danjou Drive)

Road acceptance and reduction of bond

The Developers are asking the Planning Board to be accepted as public ways and a return the outstanding bond monies.

City Council Correspondence

The City Council referred correspondence from the developers request for the road acceptance of Crystal Ridge Estates.

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

To accept and file all correspondence and refer the correspondence to the City Engineer for his recommendation.

Elm Farm Realty Trust (Cleversy Drive)

Road acceptance and reduction of bond

The Developers are asking the Planning Board to be accepted as public ways and a return the outstanding bond monies.

City Council Correspondence

The City Council referred correspondence from the developers request for the road acceptance of Elm Farm Realty.

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

To accept and file all correspondence and refer the correspondence to the City Engineer for his recommendation.

Howard Estates (Maurice Drive)

Correspondence from Legal Department

City Solicitor, Donald V. Rider, referred to the letter that the Planning Board sent to him asking to review the Correspondence from Cindy McQueen of Hornung and Scimone stating that a full review has been done of the title of property and no lot release was shown for lot 14. Mr. Rider determined that construction of Maurice Drive and the installation of municipal service did extend to Lot 14 and that there would be no reason not to approve lot 14 from the covenant.

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

To accept and file correspondence from the City Solicitor.

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

To release Lot 14 from the covenant.

O'Leary's Landing (Joseph North Road)

Road acceptance and reduction of bond

Mr. Cullen stated that there were some issues still pending and at this time he does not have a recommendation for the board.

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

To table the request until the next meeting on December 3, 2007.

44

Sterling Woods (Peltier Street, Brazeau Circle & Wyman Lane)

Request for Acceptance

The Developer is requesting for the Planning Board to initiate the acceptance of the project and a complete bond reduction.

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

To accept and file correspondence; and refer the correspondence to the City Engineer for his recommendation.

The Residences of Oak Crest (Graves Lane)

Correspondence from the City Solicitor

The City Solicitor has reviewed the performance tri party agreement. He did question the amount of \$108,000.00 for the performance bond and Mr. Cullen stated that was enough to complete the subdivision if needed. Mr. Rider recommended signing the covenant as long as the true form was signed by the developer and Clinton Savings Bank.

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

To accept and endorse the tri party agreement.

PENDING SUBDIVISION PLANS: Updates and Discussions

Mauro Farm (Cook Lane)

Correspondence from the City Solicitor

The City Solicitor has reviewed the Covenant and declared it proper to form. However there was question if Mauro Farms, LLC has be incorporated to date since they are listed on the covenant as successor in interest to Capital Group Properties, and referred to as Covenanter.

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

To accept and file correspondence from the City Solicitor.

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

To send correspondence to the developers Attorney asking when Mauro Farms, LLC will be viable and to provide documentation that is has been established.

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

Dorothy Magliozzi (30 Farm Road)

Correspondence from Legal Department

Mr. Rider responded to correspondence from the Planning Board asking if they had any authority on Scenic Roads pertaining to privately owned stone walls on the right of way. The Scenic Road

Act pertains to any "repair, maintenance, reconstruction or paving work" on a scenic road and the removing of the tree stumps, stone wall and debris would not fall into the scenic road acts' true to the meaning. Mr. Rider's answer was "no" that the Planning Board did not have any jurisdiction pertaining to the Scenic Road Act.

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

To accept and file correspondence and to thank Mr. Rider for his due diligence.

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

To send correspondence to Ms. Magliozzi stating after further review that the necessary work to be done on the scenic road is not within the jurisdiction of the Planning Board and to thank her for her cooperation.

SIGNS

INFORMAL DISCUSSION

Limited Development Subdivision

Abutters Literature

Upon question from Ms. Fenby, City Solicitor Rider duly noted that a response is needed for the above mention projects.

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



TRANS REPORT

DECEMBER 2007

THE NEWSLETTER OF THE BOSTON REGION METROPOLITAN PLANNING ORGANIZATION

GREENHOUSE GAS POLICY

Page 2

FREIGHT PLAN

Page 2

CNG TAX CREDIT

Page 2

NORTH END PARKS

Page 3

MPO ACTIVITIES

Page 3

MAVERICK STREET GATE TO LOGAN

Page 4

MEETING CALENDAR

For the most recent information on the following public meetings and others that may have been scheduled after TRANSREPORT went to press, go to www.bostonmpo.org or call (617) 973-7119.

AT THE STATE TRANSPORTATION BUILDING, 10 PARK PLAZA, BOSTON

December 6 (Thursday)

Boston Region MPO Transportation Planning and Programming Committee. Conference Room 4. 10:00 AM

Immediately followed by:

Boston Region MPO. Conference Room 4.

December 10 (Monday)

Boston Region MPO Open House. MPO Conference Room, Suite 2150. 12:00-2:00 PM and 5:30-7:00 PM

December 12 (Wednesday)

Massachusetts Bicycle and Pedestrian Advisory Board. EOTPW Conference Room 1. 1:00-3:00 PM

Regional Transportation Advisory Council. Conference Room 4. 3:00 PM

Calendar continued on p. 2

Regional Pedestrian Plan Kicks Off

PUBLIC INVITED TO TAKE SURVEY

With funding from the Boston Region MPO, the Metropolitan Area Planning Council (MAPC) is in the process of updating the Regional Pedestrian Plan, which will identify and recommend policies and practices to facilitate and encourage walking as a convenient, safe, and practical form of transportation throughout the 101 municipalities in the eastern Massachusetts region.

To kick off this work, MAPC is conducting a survey to identify the most important issues facing pedestrians in the region. Please take the survey at www.mapc.org/pedplan. The survey is anonymous, and takes about 5 to 10 minutes to complete.

For more information, write to pedplan@mapc.org.



RECEIVED
DEC 11 2007
CITY CLERK'S OFFICE
CITY OF BOSTON

THE BOSTON-REGION METROPOLITAN PLANNING ORGANIZATION INVITES YOU TO A TRANSPORTATION OPEN HOUSE

DATE	Monday, December 10
MIDDAY SESSION	12:00 PM-2:00 PM
EVENING SESSION	5:30 PM-7:00 PM
PLACE	MPO Conference Room, Suite 2150 State Transportation Building 10 Park Plaza, Boston

PRESENTATION SCHEDULE

12:00 PM and 5:30 PM	Welcome and Introduction
12:15 PM and 5:45 PM	I-495 Transit Study <i>Cathy Buckley Lewis, CTPS</i>
12:30 PM and 5:55 PM	I-93/Rte. 24 Interchange Study <i>Seth Asante, CTPS</i>
12:45 PM and 6:05 PM	Program for Mass Transportation <i>Elizabeth Moore, CTPS</i>
1:00 PM and 6:15 PM	Transportation Improvement Program <i>Hayes Morrison, CTPS</i>
1:15 PM and 6:25 PM	Suburban Mobility Program <i>Jonathan Belcher, CTPS, and Barbara Lucas, MAPC</i>
1:30 PM and 6:35 PM	Transportation Demand Management Program <i>Jonathan Belcher, CTPS, and Barbara Lucas, MAPC</i>
1:45 PM and 6:45 PM	Closing Comments and Questions

MPO to Amend TIP

On December 6, the Boston Region MPO's Transportation Planning and Programming Committee is scheduled to vote on a proposed amendment to the federal fiscal year (FFY) 2008 element of the FFYs 2008-2011 Transportation Improvement Program and Air Quality

Conformity Determination (TIP), the four-year capital spending program for the region's transportation system. (See the calendar for the meeting location.) Prior to this vote, the MPO held a 30-day public comment period that ended on December 4.

The members of the Boston Region MPO: Executive Office of Transportation, Cities of Boston, Newton, Salem, and Somerville, Federal Highway Administration, Federal Transit Administration, Massachusetts Bay Transportation Authority, Massachusetts Bay Transportation Authority Advisory Board, Massachusetts Highway Department, Massachusetts Port Authority, Massachusetts Turnpike Authority, Metropolitan Area Planning Council, Regional Transportation Advisory Council, Towns of Bedford, Framingham, and Hopkinton

Thomas, Lisa

w/ordu 1682

From: City Council
Sent: Wednesday, December 05, 2007 2:11 PM
To: lthomas@marlborough-ma.gov
Subject: FW: Order #07-100-1682A - NGrid Petition for Stub Pole on Farm Road

Lisa,

Please place the following email from Jim Dascoli of the City's Engineering Division on the City Council agenda of December 17, 2007. This approval was a condition contained in the December 3, 2007 report of the Public Services Committee

Thank you,

Karen Boule

From: Dascoli, Jim
Sent: Wednesday, December 05, 2007 7:52 AM
To: City Council
Cc: Cullen, Thomas; Josephson, Marcia; Lashmit, Tom; Bolduc, Tracy L.; 'Robinson, Donald E.'
Subject: Order #07-100-1682A

City Council,

Engineering is satisfied with a plan faxed and dated 12/4/07 provided by National Grid for new pole #82-84 on Farm Road. No further information is needed from National Grid with regards to the proposed work. A Road Obstruction Permit will need to be obtained from Engineering prior to work taking place.

If you have any questions, please feel free to contact our office at (508) 624-6910 ext. 7200.

James Dascoli

Engineering Division

Department of Public Works