



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

**MAY 9, 2016**

Regular meeting of the City Council held on Monday, MAY 9, 2016 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juairé, Oram, Ossing, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Meeting adjourned at 9:50 PM.

ORDERED: That the Minutes of the City Council meeting APRIL 25, 2016, **FILE**; adopted.

**Suspension of the Rules requested-granted to allow the Mayor to speak.**

ORDERED: That there being no objection thereto set **MONDAY, MAY 23, 2016** as date for a **PUBLIC HEARING** for the proposed FY17 budget as submitted by Mayor Vigeant in the amount of \$149,863,278 for review and appropriation in which this spending plan reflects an increase of 4.962% over the approved Fiscal Year 2016 budget, refer to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Police Department transfer request in the amount of \$74,094.54 which moves funds from Reserve for Salaries to various accounts as noted on the attached spreadsheet to fund the recently ratified collective bargaining agreement between the City and Command Officers Union for FY16, 17, & 18, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		Police				FISCAL YEAR:		2016	
FROM ACCOUNT:		TO ACCOUNT:							
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$520,539.84	\$74,094.54	11990006	57820	Reserve for Salaries	\$7,672.98	12100001	50500	Police Captains	\$38,855.67
	Reason:	Contractual Obligation			Reason:	Contractual Obligation			
					\$14,648.08	12100001	50510	Police Lieutenants	\$155,556.83
	Reason:				Reason:	Contractual Obligation			
					\$34,767.05	12100001	50820	Sergeants	\$130,515.94
	Reason:				Reason:	Contractual Obligation			
					\$5,324.22	12100003	51440	Education	\$235,814.15
	Reason:				Reason:	Contractual Obligation			
					\$1,422.67	12100003	51342	Longevity	\$50,469.51
	Reason:				Reason:	Contractual Obligation			

						\$645.66	12100003	51450	Night Diff.		\$48,182.16
	Reason:								Contractual Obligation		
						\$69.58	12100003	51410	First Responder		\$15,768.14
	Reason:								Contractual Obligation		
						\$517.64	12100003	51360	Training		\$10,074.08
	Reason:								Contractual Obligation		
						\$6,058.42	12100003	51310	OT - Regular		\$48,898.48
	Reason:								Contractual Obligation		
						\$56.50	12100003	51319	OT - Cell Watch		\$0.00
	Reason:								Contractual Obligation		
						\$822.77	12100003	51320	OT - Court		\$58,027.68
	Reason:								Contractual Obligation		
						\$2,088.97	12100003	51490	Holiday Pay		\$66,765.01
	Reason:								Contractual Obligation		
	\$74,094.54	Total				\$74,094.54	Total				

**Suspension of the Rules requested-granted to allow the Mayor to speak.**

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**An Act exempting certain positions in the City of Marlborough from the Civil Service Law.**

SECTION 1. Notwithstanding any general or special law to the contrary, the positions of sergeant, lieutenant and captain in the Marlborough Police Department, and all clerical, custodial, and technical positions in the City of Marlborough shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. This act shall not impair the civil service status of a person holding a position described in section 1 on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

**APPROVED;** adopted.

**Yea - Delano, Doucette, Elder, Tunnera, Clancy, Landers, Ossing, & Robey  
Nay - Irish, Juairé & Oram**

ORDERED: That the Communication from Solicitor Rider re: Q Café, LLC d/b/a Firefly's, Amended Special Permit, 350 East Main St., in proper legal form, Order No. 16-1006482B, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Solicitor Rider re: Marlborough Savings Bank, LED Sign Permit, 71 Boston Post Rd., East, Order No. 16-1006483A, **MOVED TO REPORTS OF COMMITTEE**; adopted.

**Councilor Delano recused.**

ORDERED: That the Communication from Assistant Solicitor Panagore Griffin re: Alteration and Relocation of the Layout of Court Street Extension in proper legal form, Order No. 16-1006476A, **MOVED TO ITEM 20**; adopted.

ORDERED: That the Communication from Assistant Solicitor Panagore Griffin re: Site Plan Approval with Conditions, Atrium Place, 21-29 South Bolton St., in proper legal form, Order No. 15/16-1006366B, **MOVED TO ITEM 21**; adopted.

ORDERED: That the Communication from Assistant Solicitor Panagore Griffin re: Proposed Zoning Amendment to Chapter 650-35 Hospitality and Recreation Mixed Use Overlay District (HRMUOD) in proper legal form, Order No. 16-1006443A, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Building Commissioner Camacho re: Site Plan Approval with Conditions, Atrium Place, 21-29 South Bolton St., Order No. 15/16-1006366B, **MOVE TO ITEM 21**; adopted.

ORDERED: That the Communication from the Planning Board re: Favorable Recommendation of the Proposed Zoning Amendment to Chapter 650-35 Hospitality and Recreation Mixed Use Overlay District (HRMUOD), Order No. 16-1006443A, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from the Retirement Board re: Proposed Increase, Cost-of-Living (COLA), to be discussed at their May 25, 2016 Board meeting, **FILE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealer's License, Post Road Used Auto Parts of Marlboro, Inc., 785 Boston Post Rd. East, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Department of Public Utilities, Condensed Financial Return for Year End December 31, 2015, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, April 4, 2016, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, March 22, & April 12, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, February 23, 2016, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessor's, April 13, 2016, **FILE**; adopted.

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

- a. Christin Olin, 608 Concord Rd., residential mailbox claim 2(a).
- b. Robert Malley, 459 Stratford Rd., Southfield, MA, pothole or other road defect.

Councilor Ossing reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee  
Monday May 2, 2016  
In Council Chambers**

Present: Chairman Ossing; Finance Committee members Councilors Robey, Oram, Irish and Doucette. Councilors Clancy, Elder and Landers were also in attendance. The meeting convened at 7:01 PM.

1. **Order No. 16-1006534 – Transfer \$650,000.00 from Undesignated Funds to Capital Outlay Downtown account.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting the transfer of \$650,000.00 from the Undesignated Funds account to be used to set up a new Downtown Stabilization Account for economic development in the downtown area. The Finance Committee voted 5 – 0 to approve the transfer.
2. **Order No. 16-1006535 – Transfer \$43,500.00 from Undesignated Funds to Open Space Stabilization account.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting the transfer of \$43,500.00 from the Undesignated Funds account to the Open Space Stabilization account. The Finance Committee voted 5 – 0 to approve the transfer.
3. **Order No. 16-1006536 – Transfer \$20,714.00 from Collector's Salary account to Various Salary accounts.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting the transfer of \$20,714.00 from the Collectors salary account to various salary line item accounts. The Finance Committee approved the reduction of the transfer by \$2,079.00 (eliminating the City Councilor Salary line item adjustment). The Finance Committee voted 5 – 0 to approve the transfer of \$18,635.00.
4. **Order No. 16-1006537 – Transfer \$10,480.00 from Events Coordinator to Fund Retirement in the Recreation Department.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting the transfer of \$10,480.00 from the Event Coordinator account to fund the Recreation Department Director and Sick Leave Buy Back accounts for a retirement in the Recreation Department. The Finance Committee voted 4-0 (Councilor Oram abstained) to approve the transfers.
5. **Order No. 16-1006538 – Rescind Various Bonds Totaling More Than \$13,000,000.00.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting various bonds totaling more than \$13,000,000.00 be rescinded. The bonds are no longer available to be bonded for the particular projects. Rescinding the bonds will strengthen the City's position financially by lowering the amount of debt authorized and outstanding. The Finance Committee voted 5 – 0 to approve the order to rescind the bonds.
6. **Order No. 16-1006539 – Grant for \$250,000.000 for DPW Parks and Playground Projects.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 requesting the approval of a \$250,000.00 grant for the DPW Parks and Playground projects. The Finance Committee voted 5 – 0 to approve the grant.

**The Finance Committee agreed to support suspending the rules at the May 9, 2016 City Council meeting to approve the grant.**

7. **Order No. 16-1006540 – Grant for \$1,119,210.00 for FY17 Chapter 90 Funds.** The Finance Committee reviewed the Mayor's letter dated April 21, 2016 identifying a \$1,119,210 FY17 Chapter 90 appropriation approved by the Legislature and signed by Governor Baker. The Finance Committee voted 5 – 0 to accept and place on file.
8. **Order No.16-1006512 – Transfer \$33,351.29 from Reserve for Salaries to Fire Department Sick Leave Buy Back.** The Finance Committee reviewed the Mayor's letter dated March 31, 2016 requesting the transfer of \$33,351.29 from the Reserve for Salaries account to the Fire Department Sick Leave Buy Back account to fund a retirement in the Fire Department. The Finance Committee voted 5 – 0 to approve the transfer.
9. **Order No. 15-1006349 – Review the Year to Date Budget Report for Gifts, Grants, Donations and Capital Accounts for City and Schools for FY2015.** The Finance Committee continued the review (tabled at the January 19, 2016 Finance Committee meeting) of the reports provided by the Mayor that identified the gifts, grants, donations and balances in the capital account in preparation for the FY16 Capital Bond request. The Finance Committee received updated information just prior to the meeting. The Finance Committee agreed to review the new information and discuss at a future Finance Committee meeting. The Finance Committee voted 5 – 0 to table the item in committee.

The Finance Committee discussed the meeting schedule to review the Mayor's FY17 budget. The initial dates for the Finance Committee budget meetings will start at 6 PM on May 11, 16, 17 and 18. The Finance Committee will conduct a meeting starting at 7 PM on May 12, 2016.

The Finance Committee meeting adjourned at 8:53 PM.

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

Meeting Name: City Council Public Services Committee

Date: May 2, 2016

Location: City Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 6:00 PM

Adjourned: 6:37 PM

Present: Chairman Landers; Public Services Committee Members Councilors Irish and Doucette

**Order No. 16-106542 - Application for Renewal of Junk Dealer's License, TVI, Inc. d/b/a Savers, 222A East Main Street.** Police Chief Leonard approved the CORI report for Roger Gauthier of Savers and has no objection to the renewal of their Junk Dealer License. David Manoogian, an Attleboro attorney representing Savers, and Roger Gauthier, Store Manager for Savers, appeared before the committee to request renewal of their Junk Dealer License. Mr. Gauthier explained their store had increased their business by fourteen percent over this time last year and they work with the local community by making payment to community organizations as well. Mr. Gauthier stated they process about seventy-five percent of what is donated, priced and sent to the sales floor, and the other twenty-five percent is sent for recycling to developing countries.

Chairman Landers read through the conditions and waivers that are a part of their license which are as follows:

Conditions

1. The license shall not be transferred without prior review and approval of the City Council.
2. The license hereby granted is issued to TVI, Inc. d/b/a Savers only and is applicable only to the 222A East Main Street location.
3. There will be no exterior storage, display or sales of merchandise, other than a recycle trailer, a cloth delivery trailer with items waiting to be processed, and a local trailer from one of Savers' charitable partners delivering merchandise to the store. No more than three such trailers and trucks shall be parked at the loading dock area in the rear of the building at any one time, and no such trailers or trucks shall be parked on any other side of the building at any time.
4. Donations shall take place only during the hours of operation which shall be 9:00 A.M to 9:30 P.M. Monday through Saturday and 10:00 A.M. to 7:00 P.M. on Sundays, and during the month of October from 9:00 A.M. to 10:00 P.M. Monday through Saturday and 10:00 A.M. to 10:00 P.M. on Sundays.
5. No Savers' donation boxes shall be permitted outside of the building.
6. No scrolling or rotating message signs shall be permitted as part of Savers' signage plans.
7. Glue boards shall be installed at locations within the business premises satisfactory to the Marlborough Board of Health and Savers, and a monthly monitoring program shall be implemented consisting of a log book for said glue boards satisfactory to the Board of Health.
8. This license shall be subject to revocation or suspension for noncompliance of the above conditions or other applicable local ordinances or state laws.
9. The waivers granted as part of this license shall no longer be applicable should Savers commence paying the general public for merchandise delivered without first obtaining the review and approval of the City Council.

Waivers

1. The waiver of Section 377-4 of the Ordinance as requested by Savers is not granted because Section 377-4 is not applicable to Savers' operations.
2. The waiver of Section 377-5 of the Ordinance is granted with respect to the last sentence thereof requiring the City Clerk to keep a list of persons employed by Savers. All other provisions of Section 377-5, other than the duty of the City Clerk to keep a record of the name and residence of each dealer, are not applicable to Savers.
3. The provisions of Sections 377-6, 377-7 and 377-9 of the Ordinance are waived in their entirety.

**Motion made by Councilor Irish, seconded by Councilor Doucette to approve the renewal of Junk Dealers/Second Hand License for Savers. The motion carried 3-0.**

**Order No. 16-1006518 - Application for Renewal of Junk Dealer's License, Tony Bitar, Hannoush Jewelers, 601 Donald Lynch Boulevard.** Police Chief Leonard has approved the CORI report for Antoine Bitar of Hannoush Jewelers and has no objection to the renewal of his Junk Dealers/Second Hand License. Mr. Bitar explained the second hand jewelry business is almost non-existent as he hardly buys any gold, maybe one or two transactions per month. They also have a repair business for jewelry and watches and can create custom pieces as requested by customers which is their advantage over competitors. **Motion made by Councilor Doucette, seconded by Councilor Irish to approve the renewal of Junk Dealers/Second Hand License for Hannoush Jewelers. The motion carried 3-0.**

**Order No. 16-1006519 - Application for Renewal of Junk Dealer's License, Best Buy Stores, LP #1966, 601 Donald Lynch Boulevard.** Police Chief Leonard has approved the CORI report for Sherein Khater of Best Buy Mobile and has no objection to the renewal of her Junk Dealers/Second Hand License. Ms. Khater explained she took over as manager of this location last year and they had a profitable year. Ms. Khater explained the process for trade-ins and they provide the customer with a Best Buy gift card for use in purchasing accessories or other items. **Motion made by Councilor Doucette, seconded by Councilor Irish to approve the renewal of Junk Dealers/Second Hand License for Best Buy Mobile. The motion carried 3-0.**

**Order No. 16-1006521 - Application for Renewal of Junk Dealer's License, Roman Kimyagarov, Arthur & Sons Shoe Repair, 107 Main Street.** Police Chief Leonard has approved the CORI report for Roman Kimyagarov of Arthur & Sons Shoe Repair and has no objection to the renewal of his Junk Dealers/Second Hand License. Mr. Kimyagarov explained he does a little gold and silver buying but a majority of his business is the shoe repair. His customers bring him items, such as shoes and leather jackets, purchased at Savers and he repairs the heels and zippers for those items. **Motion made by Councilor Irish, seconded by Councilor Doucette to approve the renewal of Junk Dealers/Second Hand License for Roman Kimyagarov of Arthur & Sons Shoe Repair. The motion carried 3-0.**

**Motion made by Councilor Doucette, seconded by Councilor Irish, to adjourn. The motion carried 3-0. The meeting adjourned at 6:37 PM.**



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

Meeting Name: City Council Urban Affairs Committee

Date: April 26, 2016

Location: City Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

**Councilor Delano & Councilor Oram recused.**

Convened: 5:18 PM

Adjourned: 8:27 PM

Present: Chairman Elder; Urban Affairs Committee Members Councilors Juaira, Tunnera and Landers; and Councilors Clancy, Doucette, and Oram

Absent: Councilor Delano recused.

Also Present: Rick Bennet (President, Marlborough Savings Bank); Joe Buchholz (Kay Gee Signs and Graphics); Donald Rider (City Solicitor, City of Marlborough)

**Order No.16-1006483 - Application for Special Permit for LED Sign Special Permit by Marlborough Savings Bank, 71 Boston Post Road East, to erect an electronic message board below the existing Marlborough Savings Bank (MSB) sign.** The Urban Affairs Committee met with Rick Bennet, President of Marlborough Savings Bank and Joe Buchholz of Kay Gee Signs and Graphics for a discussion an electronic message center for Marlborough Savings Bank at 71 Boston Post Road East. The requested sign was within allowable limits as permitted by the City of Marlborough Sign Ordinance and they requested permission to install the sign. Chairman Elder read the conditions for the applicant:

- A. The City Council, pursuant to its authority under the EMC and Digital Display sign Ordinance, hereby GRANTS the Applicant a special Permit for the Sign, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. The Sign shall be operated in accordance with the EMC and Digital Display Sign Ordinance of the City of Marlborough. The Sign shall conform to the Sign Ordinance of the City of Marlborough without a request, or need, for a variance.
  2. All plans and or other documentation provided by the Applicant as part of the Application, and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, including the plan entitled "Marlborough Savings Bank EMC Sign, prepared by Kay Gee Sign & Graphics, 200 Southbridge St., Auburn, MA 01501 Dated 2-29, 2016", 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.

**Motion made by Councilor Juaira, seconded by Councilor Landers, to approve the application. The motion carried 4-0 (Councilor Delano recused.)**

**Motion made by Councilor Elder, seconded by Chair, to adjourn. The motion carried 5-0. The meeting adjourned at 8:27 PM.**



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

Meeting Name: City Council Urban Affairs Committee

Date: May 3, 2016

Time: 5:30 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 5:30 PM

Adjourned: 8:17 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaira, Tunnera and Landers; and Councilors Doucette and Robey

Also Present: Jeff Newman (Signarama); Steve Uliss (Owner, Firefly's); Christopher Flood (Attorney, Law Offices of Flood & Favata); Donald Rider (City Solicitor, City of Marlborough); Arthur Bergeron (Attorney, Mirick O'Connell); Priscilla Ryder (Conservation Officer, City of Marlborough); Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough); Kevin Eriksen (General Counsel, Ryan Development LLC); Josh Fiala (Certified Land Use Planner & Registered Architect, MAPC)

**Order No. 16-1006541 - Application for LED Sign, GE Healthcare, 200 Forest Street to mount a white LED illuminated channel letter wall sign on their building.** Jeff Newman from Signarama of Framingham represented GE Healthcare of 100 Results Way, formerly 200 Forest Street, in their request for approval of a wall sign within the Results Way Mixed Use Overlay District. They proposed a LED illuminated channel letter sign mounted to the wall of tower five. The City of Marlborough Code Enforcement Officer supplied a letter to the Urban Affairs Committee that the sign met both the intent of the overlay district and development agreement for the project and there is no conflict with the existing sign ordinance. **Motion made by Councilor Elder, seconded by the Chair, to approve the application for the LED illuminated channel letter wall sign. The motion carried 5-0. Motion made and seconded to request a suspension of the rules at the next City Council meeting on May 9, 2016 to vote on the application. The motion carried 5-0.**

**Order No. 16-1006482 - Application for Special Permit, Q Cafe d/b/a Firefly's, 350 East Main St., to expand outdoor patio/deck area; add small bar; add serving cooking kitchen; add acoustic music; add televisions; add games; add fire pit; and add outdoor heating. The capacity is to remain the same.** The Urban Affairs Committee met with Steve Uliss, owner of Firefly's, and his attorney Christopher Flood regarding the application to expand Firefly's outdoor patio area. The committee and applicant discussed several areas of concern raised by abutters at their Public Hearing. The applicant informed the committee he had replaced the fence surrounding his property and ordered a new dumpster for his site to address those concerns. They then reviewed the draft special permit conditions and made several minor changes. **Motion made by Councilor Elder, seconded by Chair, to approve the amended special permit as amended. The motion carried 5-0. Motion made by Councilor Elder, seconded by Chair, to refer to the Legal Department to place in proper legal form and to request a suspension of the rules at the next City Council meeting to vote on the application.**

**Order No. 16-1006443 - Proposed Zoning Amendment by adding a new Section to Chapter 650 §35, HOSPITALITY AND RECREATION MIXED USE OVERLAY DISTRICT.** The Urban Affairs Committee met with Attorney Arthur Bergeron and Kevin Eriksen, General Counsel for Ryan Development, and reviewed the proposed zoning amendment for a new section to Chapter § 650-35 Hospitality and Recreation Mixed Use Overlay District. They reviewed several additions and removals to the proposed zoning ordinance in the draft document dated May 2, 2016. They approved the document as amended and will suspend the rules at the next City Council meeting on May 9, 2016 to go through the first three stages for enrollment and will take a final vote on the zoning ordinance at the May 23, 2016 City Council meeting. **Motion made by Councilor Juaire, seconded by Chair, to approve as amended. The motion carried 5-0. The Urban Affairs Committee agreed to support suspending the rules at the May 9, 2016 City Council for the purpose of the first three stages to enrollment of the zoning ordinance.**

**Motion made by Councilor Elder, seconded by Chair, to adjourn. The motion carried 5-0. The meeting adjourned at 8:17 PM.**

#### **Suspension of the Rules requested-granted**

ORDERED: That the City Council be notified that there is a request to place six freestanding signs (18 inches by 24 inches) one week before the Downtown Marlborough Car Show from May 29<sup>th</sup> through June 5<sup>th</sup>, 2016, as follows:

- Maple and Walker St. near Gold's Gym parking lot (Readable from both directions)
- Traffic Island at intersection of West Main and Mechanic St. (Readable when approaching from the West)
- Corner of Newton St. and Granger Blvd. (Readable from both directions)
- Comer of Route 20 and Farm Road (Readable when approaching from the West)
- Intersection of Concord St. and Boston Post Road (Readable when approaching from the east)

And directional signs with arrows to be placed the day of the show which is June 5<sup>th</sup>, which simply read "Show Cars" at the following locations:

- Comer of Bolton St. and Granger Blvd.
- Comer of Bolton and Main St.
- Comer of West Main and Mechanic St.
- At the Route 20 Exits of Route 495

**Councilor Delano recused.**

**APPROVED;** adopted.

#### **Suspension of the Rules requested-granted**

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Legislative Earmark Grant from the Commonwealth of Massachusetts, in the amount of \$250,000.00 awarded to DPW for various park and playground projects; adopted.

**Suspension of the Rules requested-granted**

ORDERED:

**DECISION ON A SIGN ORDINANCE SPECIAL PERMIT  
CITY COUNCIL ORDER NO. 16-1006483B**

The City Council of the City of Marlborough hereby GRANTS the application for a Sign Ordinance Special Permit to Marlborough Savings Bank (the "Applicant") for the property located at 71 Boston Post Road East in Marlborough Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

**FINDINGS OF FACT AND RULING**

1. The Applicant is the owner of the property located at 71 Boston Post Road East in Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 58, Parcel 55 (the "Site").
2. On March 2, 2016, the Applicant submitted to the City Clerk for the City of Marlborough an LED Sign Permit Application (the "Application"). The Applicant seeks a Sign Ordinance Special Permit pursuant to Section 526-13 of the Code of the City of Marlborough, entitled "Electronic Message Center Signs and Digital Display Signs" (the "EMC and Digital Display Sign Ordinance"), to operate a free-standing sign to include a light emitting diode message sign (the "Sign) at the Site.
3. The Sign overall is 21.25 square feet (8'1" wide by 2'7" high) with a double-faced color emitting diode message sign which has a display area of approximately 16.5 square feet (7'10" wide by 2'1" high) located below an internally illuminated sign on an free-standing pylon sign approximately 20' 4" high. The Sign installer is Kay Gee Sign and Graphics Company, 200 Southbridge Street, Auburn, MA 01501.
4. In connection with the Application, the Applicant has submitted schematic design plans of the Site and signage, which plans show the Sign and location of the Sign on the Site.
5. The Marlborough City Council held a public hearing on the Application on Monday, April 4, 2016.
6. The Applicant, through its representatives, presented testimony at the public hearing detailing the Sign. No individual in attendance at the public hearing spoke in opposition to the Sign.
7. The Applicant further presented its Application at the Urban Affairs Committee meeting held on April 26, 2016.

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

- A. The Applicant has complied with all the rules and regulations promulgated by the Marlborough City Council as they pertain to an application for a special permit under the EMC and Digital Display Sign Ordinance.
- B. The City Council finds that the sign complies with the standards set forth in Section 526-13B of the EMC and Digital Display Sign Ordinance.
- C. The City Council finds, pursuant to Section 526-13B(16) of the EMC and Digital Display Sign Ordinance, that: all other signage on the Site is in compliance with zoning requirements; the Sign does not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street; the Sign does not substantially block visibility of signs on abutting lots; the Sign does not substantially block solar access of, or view from, windows of residential dwellings on abutting lots; the proposed illumination is appropriate to the Site and is appropriately located with respect to the character of the surrounding neighborhood; the scale and/or location of the Sign is appropriate: and the dimensions of the Sign comply with the area limitations of the EMC and Digital Display Sign Ordinance.
- D. The City Council, pursuant to its authority under the EMC and Digital Display Sign Ordinance, hereby GRANTS the Applicant a special permit for the Sign, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
  1. The Sign shall be operated in accordance with the EMC and Digital Display Sign Ordinance of the City of Marlborough. The Sign shall conform to the Sign Ordinance of the City of Marlborough without a request, or need, for a variance.
  2. All plans and/or other documentation provided by the Applicant as part of the Application, and as amended during the Application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, including the plan entitled "Marlborough Savings Bank EMC Sign, prepared by Kay Gee Sign & Graphics, 200 Southbridge ST., Auburn, MA 01501 Dated 2-29, 2016", are incorporated into and become part of this Special Permit, and become conditions and requirements of the same, unless otherwise altered by the City Council.

**Yea: 8 – Nay: 0 – Abstain: 3**

**Yea: Elder, Tunnera, Irish, Clancy, Landers, Juair, Ossing, & Robey**

**Nay: 0**

**Abstain: Delano, Doucette & Oram**

**Suspension of the Rules requested-granted**

Motion made by Councilor Oram to propose a change to Condition 12, ..the applicant shall place a berm around all grease containers... “prior” to the issuance of a building permit – **DOES NOT CARRY.**

ORDERED:

**DECISION ON A SPECIAL PERMIT  
CITY COUNCIL ORDER NO. 16-1006482C**

The City Council of the City of Marlborough voted to **GRANT** an Amendment of the Special Permit to Q Café, LLC, d/b/a Firefly’s, 350 East Main Street, Marlborough, MA 01752 to expand the outdoor patio/deck area; add a small bar; add serving/cooking kitchen; add acoustic music; add televisions; add games; add natural gas fire pits; and add outdoor heating at 350 East Main Street, Marlborough, MA and did **GRANT** said Special Permit on May 9, 2016, as per City Council Order No. 16-1006482C.

The City Council of the City of Marlborough now hereby **GRANTS** the application for an Amendment of a Special Permit to Q Café, LLC, d/b/a Firefly’s, 350 East Main Street, Marlborough, MA, as follows:

**FINDINGS OF FACTS - RULINGS AND CONDITIONS**

1. The Applicant, Q Café, LLC, d/b/a Firefly’s is a duly organized and existing Delaware limited liability company, licensed to do business in Massachusetts with its principal place of business located at 350 East Main Street, Marlborough, MA 01752 (the “Site”). Steven Uliss is a manager of Firefly’s Restaurant and the applicant.
2. The owner of the Site is Commonwealth Club, LLC, a duly organized and existing Delaware limited liability company, licensed to do business in Massachusetts with its principal place of business located at 350 East Main Street, Marlborough, MA 01752.
3. The Applicant, in conjunction with the appropriate licenses and permits, seeks permission to amend an existing special permit in order to expand the deck/patio area to the restaurant; add a small bar; add serving/cooking kitchen; add acoustic music; add televisions; add games; add natural gas fire pits; and add outdoor heating (the “Project”).
4. On June 3, 2002, the Applicant was issued by the City Council for the City of Marlborough a special permit pursuant to Article V, Section 200-15, paragraph C(1) of Chapter 200, entitled “Zoning,” of the Code of the City of Marlborough (the “Original Special Permit”).
5. On March 3, 2016, the Applicant filed with the City Clerk of the City of Marlborough an application to amend the Original Special Permit pursuant to Article VIII, Section 650-59, paragraph A(1) of Chapter 650, entitled “Zoning,” of the Code of the City of Marlborough (the “Application”).

6. The Site is currently improved with an existing structure which houses a restaurant, bar, billiards recreation area and outdoor patio area, and will be further improved in accordance with the plan including the expanded deck/patio area.
7. The location of the expanded patio/deck will be within a small portion of the land on which the restaurant sits, attached to the existing structure and patio area with proper emergency exits, and will be surrounded by a six-foot-high fence and the north side and east side of the deck/patio and a four-foot-high fence on the south side facing Route 20.
8. The Application seeks the establishment of a family-oriented, outdoor dining area consisting of 2,840± square feet of outdoor dining with a kitchen, bar and recreational lawn area surrounded by existing stone retaining walls, as well as by additional shrubbery, to be placed along the fenced borders of the deck, front and side parking areas. The patio/deck area shall also have a six-foot-high railing and will contain seating for approximately seventy-five (75) people with downward-facing lighting, background music, acoustic music, natural gas fire pits, a recreational lawn area and outdoor heating.
9. The Building Commissioner, on behalf of the City Planner, has certified, pursuant to to Section 650-59C(7) of the Rules and Regulations promulgated by the City Council for issuance (including amendment) of special permits, that the site plan meets all prior referenced informational requirements of Section 650-59C(7); that the plan conforms in all respects to the Code of the City of Marlborough to the Rules and Regulations; and that any necessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals with any applicable appeal period therefor having run.
10. Pursuant to Section 650-59C(1) of said Rules and Regulations, the Applicant has distributed sets of Application material to the City officials listed therein.
11. Further, pursuant to the said Rules and Regulations and the provisions of M.G.L. c. 40A, as amended, the City Council established a date for a public hearing for the Application, and the City Clerk caused to be advertised said date in the Main Street Journal and sent written notice of said Public Hearing to those abutters entitled to notice under applicable law.
12. The Marlborough City Council pursuant to the appropriate provisions of MGL c. 40A, as amended, held a public hearing on the Application on April 4, 2016 and continued to April 25, 2016, when the hearing was closed.
13. The Applicant presented evidence at the public hearing detailing the Project and its limited impact upon municipal services, the neighborhood, and traffic and noise.
14. The Applicant's employees (i.e., host/hostess, wait staff, kitchen staff) will be present and in control of the outdoor patio/deck area as expanded.

**REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT**

The Marlborough City Council, having caused to establish a detailed record of its Conditions and Reasons for granting the Special Permit, makes the following findings:

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council for the Application to amend the Original Special Permit.
- B. The establishment of an outdoor dining area shall consist of 2,840± square feet of outdoor dining with a kitchen, bar and recreational lawn area surrounded by fencing to be placed along the two visible borders of the deck, near the front and side parking areas. The expanded patio/deck area shall also have a six-foot-high fence on the north side and east side and a four-foot-high fence on the south side facing Route 20. The expanded patio/deck will contain seating for approximately to seventy-five (75) people with down-facing lighting, background music, acoustic music, natural gas fire pits, a recreational lawn area and outdoor heating. The area will have an outdoor kitchen and bar. The expanded patio/deck is an appropriate modification of the Original Special Permit. This amendment would be in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to the appropriate terms and conditions provided below.
- C. The City Council pursuant to its authority under M.G.L. c. 40A, as amended, GRANTS the Application to amend the Original Special Permit to expand the current patio/deck as described above as per plans filed with the City Council and the City Clerk, including plans discussed at the Urban Affairs Committee meeting on May 3, 2016 (the “Amended Special Permit”), SUBJECT TO THE FOLLOWING CONDITIONS which shall apply to the Applicant, its successors and assigns:
  1. Construction of the expanded patio/deck on the Site is to be in accordance with all applicable building codes and zoning regulations in effect in the City of Marlborough and shall be built according to the site plan filed with the Application and as amended during the Application process and Site Plan Review.
  2. The issuance of the Amended Special Permit is further subject to detail review by the Marlborough Site Plan Review Committee, in accordance with c. 270 of the City Code for the City of Marlborough, prior to the issuance of the actual building permit. Said Site Plan Review shall be consistent with and in conjunction with this Amended Special Permit. All further reviews, additions and/or amendments for the purpose of Site Plan Review shall become part of the terms, conditions, maintenance and operation of the Site, and shall become conditions of this Amended Special Permit.



3. The issuance of the Amended Special Permit is further subject to review by the Marlborough Licensing Board as to all matters within the scope of the Applicant's common victualer all-alcoholic beverages license (including the proposed bar) as may be amended, and within the scope of by the Applicant's entertainment license (including the proposed outdoor acoustic music and the proposed televisions) as may be amended. All further reviews, additions and/or amendments for the purposes of the Licensing Board shall become part of the terms, conditions, maintenance and operation of the expanded patio/deck on the Site, and shall become conditions of this Amended Special Permit.
4. The issuance of the Amended Special Permit is further subject to review by the Marlborough Board of Health as to all matters governed by the Applicant's food establishment permit (including the proposed kitchen) as may be amended. All further reviews, additions and/or amendments for the purposes of the Board of Health shall become part of the terms, conditions, maintenance and operation of the expanded patio/deck on the Site, and shall become conditions of this Amended Special Permit.
5. Application and Documents: All plans, drawings and documentation provided by the Applicant as part of this Application or later filed with the Urban Affairs Committee are herein incorporated into and become part of this Amended Special Permit and become conditions and requirements of the same.
6. 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 may be applicable to the construction, maintenance, equipping and operation of the expanded patio/deck on the Site.
7. Public Peace and Good Order: In the event that the Chief of Police, in his reasonable sole opinion, determines that either the business of the Applicant is, or the clientele of the Applicant are creating a condition that is contrary to public peace and good order, the Chief shall, in writing, notify the Applicant and demand reasonable corrective measures be put into effect within seven (7) days. Upon the failure or inability of the Special Permit holder to correct such conditions, the Police Chief may require the Applicant to employ one or more Police Detail Officers, during such hours and days as the Police Chief, in the exercise of his sole discretion, determines to be necessary for the purpose of correcting the condition.

8. Abutter Conditions: The Applicant agrees to fulfill the following conditions set forth by the abutters to the expanded patio/deck to be constructed on the Site located at 350 East Main Street, Marlborough:
  - Expanded patio/deck to be surrounded by a fence that is six-foot-high and on the north side and east side and a four-foot-high fence on the south side facing Route 20 to serve as both a light and sound-absorbent barrier;
  - Additional shrubbery shall be installed on the south side of the expanded patio/deck facing Route 20 as an additional barrier along the four-foot-high fence, and the railing along the walkway leading to the main entrance of the restaurant shall remain and be properly maintained. The additional shrubbery and the railing shall serve as an additional barrier for the south side of the expanded patio/deck;
  - No additional lighting to be erected or added to existing parking lot lights except for some downward-facing, shielded lamps on the expanded patio/deck itself;
  - Noise created on, at or from the expanded patio/deck shall be in compliance with local City Ordinance;
  - There shall be no access to the expanded patio/deck from the parking lot, except emergency exit access only;
  - All emergency exits shall be in compliance with the Americans with Disabilities Act;
  - The expanded patio/deck and the area underneath it shall be kept clean and in compliance with all Board of Health requirements;
  - Occupancy on the expanded patio/deck shall still be limited to 75 patrons or as otherwise directed by the Marlborough Building Commissioner and shall be in compliance with the Marlborough Zoning Ordinance.
9. Except as may otherwise be modified by the Marlborough Licensing Board and/or the Marlborough Board of Health, the hours of operation of the expanded patio/deck shall be the same as the existing restaurant business, with seating up until 10:00 P.M. Sunday through Thursday and up until 11:00 P.M. Friday and Saturday.
10. The dumpster(s) on the Site shall have a cover and shall not be overfilled so that the dumpster lid cannot close.
11. The Applicant must keep all fencing on the Site in good repair at all times.

12. The Applicant shall not power-wash and flush any grease or other waste products into the storm drain(s). The Applicant shall place a berm around all grease containers, and also must properly dispose of materials from inside the catch basin(s) on a regular basis and in no case less than annually.
13. In compliance with fire safety regulations, the Applicant shall properly store and secure, and keep separated from public access, all gasoline, propane and other flammables and/or combustibles on the Site. Prior to being issued a certificate of occupancy for the patio/deck, the Applicant shall obtain a letter from the Fire Chief or his designee that the Applicant has properly stored, secured and kept separated from public access said flammables and/or combustibles.
14. All such conditions above shall be complied with prior to an issuance of an occupancy certificate from the Marlborough Building Commissioner.
15. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Amended Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Amended Special Permit has elapsed with no appeal having been filed. Applicant shall provide to the City Council's office, the City Solicitor's office and the Building Department a copy of the recorded Amended Special Permit.

**APPROVED;** adopted.

**Yea: 11 – Nay: 0**

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

**Suspension of the Rules requested-granted**

**ORDERED:** That the Application for LED Sign, GE Healthcare, 200 Forest St. to mount a white LED illuminated channel letter wall sign on their building, **APPROVED;** adopted.

**Suspension of the Rules requested-granted**

ORDERED:

THAT, PURSUANT TO SECTION 5 OF CHAPTER 40A OF THE GENERAL LAWS, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT CHAPTER 650 OF THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED BY ADDING A NEW SECTION 650-35, AS FOLLOWS:

**ARTICLE VI****§650-35 – HOSPITALITY AND RECREATION MIXED USE OVERLAY DISTRICT****A. Purpose and Objectives**

1. The Hospitality and Recreation Mixed Use Overlay District (herein, also a “HRMUOD”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the Hospitality and Recreation Mixed Used Overlay District are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting integrated, pedestrian friendly, mixed use development to allow for the development of, hospitality/hotel, recreation, retail and workplaces within close proximity of each other consistent with the stated economic development objectives of the City (collectively, herein “Mixed Use Developments” or “MUD”).
2. For the purposes of this Section, the HRMUOD shall be superimposed on the other districts existing at the time that any land in any said underlying district is also included in the HRMUOD, in accordance with the procedures set forth in Section C.3 below. The HRMUOD district is located on the southerly side of Boston Post Road West (Route 20) to the west of Glenn Street to Ames Street, containing approximately 43.6 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
3. For the purposes of the Zoning Ordinance, a “Mixed Use Development” or “MUD” shall include any eligible use set forth in Subsection E, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site subject to any restrictions and/or limitations set forth in the Development Agreement described in Subsection C(2) below. Accordingly, Mixed Use Developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking areas, to reduce traffic congestion, to reduce automobile trips, and accordingly to improve air quality.

**B. Authority of Permit Granting Authority**

1. The City Council shall be the Permit Granting Authority for Special Permit Approval in the HRMUOD where applicable. In all instances, a development which proceeds under the HRMUOD overlay is subject to Site Plan Approval in accordance §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for Special Permit, where applicable, and Site Plan Approval in the HRMUOD.

2. The City Council may elect to vary the dimensional and parking requirements of this Section by Site Plan Approval if, in their opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this Section. This authority continues subsequent to occupancy.

C. Master Concept Plan

1. The property owner/developer of the HRMUOD shall, prior to or simultaneously with the first application for approval of a site plan and/or special permit for the HRMUOD, where applicable, file the following with the City Council for approval:

A Master Concept Plan (“Master Plan”) which shall in a general manner show:

- (i) The location and areas of proposed development;
- (ii) Proposed open space (usable or natural);
- (iii) Proposed site access curb cuts off of Boston Post Road West;
- (iv) Proposed building “envelope(s)” where construction is anticipated to occur (excluding internal site driveways);
- (v) Proposed parcel interconnection for vehicular and pedestrian travel both within and to the site;
- (vi) Wetlands, water supply protection areas, riverfront zones and other significant natural resources, and the relationship of these resources to the proposed development, as well as a description of the mitigation of impacts on the resource;
- (vii) General locations of proposed bus stops and routes within the site, and commitments to the improvements (shelter, seating and signage) at these stops;
- (viii) In general, the stormwater management location and methods to be used;
- (ix) A master Signage Plan for the premises comprising the HRMUOD setting forth the types, locations and dimensions of signage among other issues at the properties comprising the HRMUOD;
- (x) A parking plan;
- (xi) A photometric plan; and
- (xii) A master Landscaping Plan for the premises comprising the HRMUOD.

A table showing approximate acres and calculations of the following:

- (i) Total land area of each development area (building envelope area);
- (ii) Total development limitations, if any, of uses in any developable area;
- (iii) Total maximum development (gross square footage/use limitations);
- (iv) Approximate number of parking spaces for the entire HRMUOD District; and
- (v) Approximate distribution and allocation of parking spaces relative to the proximity to the uses said parking spaces will be serving.
- (vi) Total impervious area and percentage of impervious area for each lot.
- (vii) Total temporary and permanent disturbance within the Water Supply Protection District's fifty-foot buffer area, and percentage of buffer area affected by temporary and permanent disturbance.

The Master Plan shall be approved by a super majority (2/3) vote of the City Council at a public meeting and shall thereafter become the general development plan governing development at the HRMUOD. The Master Plan may be amended from time to time by a super majority vote (2/3) of the City Council by application from the property owner/developer to reflect changing development conditions.

2. A Development Agreement, in recordable form and binding upon the property owner/developer, shall be required. The Development Agreement shall be approved by a super majority (2/3) vote of the City Council prior to the issuances of the first permit/site plan approval for development within the HRMUOD which shall contain, without limitation, the following:
  - a. Required mitigation (including traffic demand management initiatives), to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the HRMUOD progresses;
  - b. Restrictions on development areas and such other development limitations as may be agreed upon;
  - c. Proposed phasing of the development of the HRMUOD;
  - d. Obligations with respect to pedestrian and vehicular interconnectivity within the HRMUOD to facilitate pedestrian access and parking efficiencies;

- e. A requirement that the property owner/developer submit each proposed individual (or group of) building(s) for architectural review by the City Council prior to issuance of a building permit to ensure that the detailed building design will substantially conform in all material respects, including but not limited to building form, motif, shape, grouping of forms, materials and design with the details provided within the Master Plan and the Development Agreement. To the extent practicable, and provided the same are commercially reasonable, consistent with the proposed use and requirements of the applicable tenant, and in keeping with the details presented by the property owner/developer within the Master Plan and the Development Agreement, the property owner/developer will incorporate comments and input from Council; and
- f. The authority of the City Council to retain the necessary professionals to assist in their review of development applications.

The Development Agreement shall govern the implementation of the Master Plan and development at the HRMUOD.

3. Upon approval of the Master Plan by the City Council, or at such later date as may be specified in the Development Agreement, this Section (§650-35 et. seq.) of the Zoning Ordinance shall govern the development of all parcels within the HRMUOD, in accordance with the approved Master Plan. In the event that individual parcels comprising the HRMUOD are under the ownership of different entities each such entity shall be permitted to seek the approval of a modification (in accordance with the procedures of Subsection C.2., above) to the Master Plan and Development Agreement as it applies to each such parcel.
4. Separation of the HRMUOD into future separate parcels or leaseholds shall not release any of the owners or leaseholders from obligations under the Master Plan and Development Agreement.

D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-35 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting and Site Plan Approval Authority, if applicable. This Section (§650-35 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any MUD undertaken in the HRMUOD and supersedes any other provision of the Zoning Ordinance, as set forth in Section C.3 above; provided, however, that this Section supersedes §650-24 (Water Supply Protection District) only with respect to the fifty-foot no disturbance/buffer zone to a wetland, as set forth in Subsection K.3 below; and provided further, that the maximum total impervious surface coverage for the HRMUOD shall be 60% calculated on the entire land area of the HRMUOD and not on an individual lot basis. In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section shall govern and control.



E. Eligible Uses

Except as specifically provided herein, any uses which are not permitted, whether as of right or by a special permit, within the Limited Industrial District and within the Business District under § 650-17, Table of Use Regulation, of the Zoning Ordinance, shall be prohibited.

1. The following uses are permitted BY-RIGHT in the HRMUOD:

- a. Medical office and diagnostic medical laboratories appurtenant to offices of physicians, optometrists, dentists, and other medical professionals.
- b. Retail sales and services – up to 20,000 square feet of gross floor area per establishment and one (1) establishment of up to 85,000 gross square feet.
- c. Hotels (as defined below) containing not more than 250 keyed sleeping rooms with conference facilities and commercial uses.

For purposes of this subparagraph (c) a “hotel” shall be defined as:

“Hotel”

A commercial establishment offering lodging for travelers and other transient guests, that may include uses accessory to the principal use, such as meals, entertainment, retail stores, recreation facilities or other amenities, and subject to the following restrictions:

Individual rooms or lodging units shall not be occupied by guests as their sole residence. Guests may not occupy rooms or lodging units for more than six (6) months in any calendar year without a valid employment contract.

Notwithstanding anything contained herein, any hotel within which more than 10% of the keyed sleeping rooms have permanent cooking facilities shall require a Special Permit.

- d. Public or Private commercial recreation establishment, indoor/outdoor commercial recreation, recreation grounds, movie theatres or places of amusement.
- e. Offices, professional offices, banks, insurance and financial institutions.
- f. Consumer service establishments complimentary to the other principal uses.
- g. Restaurant, café with or without table service (including outside seating and service) with or without drive-thru, provided that said facilities have no dedicated driveway with a curb cut on a public way.
- h. Health, sports and fitness clubs (indoor and/or outdoor) and related facilities.
- i. Up to two (2) drive-through facilities associated with retail (e.g. banks; pharmacies), provided that said facilities have no dedicated driveway with a curb cut on a public way and integrate vehicular circulation with the surrounding site plan and circulation in an efficient manner.

- j. Up to two (2) drive-through facilities associated with food services, provided that said facilities have no dedicated driveway with a curb cut on a public way and integrate vehicular circulation with the surrounding site plan and circulation in an efficient manner.
  - k. Taxable schools for business, trade, music, dance, and television\or radio broadcasting studios (but not including towers).
  - l. Copy shops, newspaper offices.
  - m. Brew pubs.
  - n. Accessory research, experimental labs and light manufacturing incidental to a medical office, medical laboratories, professional office, or veterinary hospital.
  - o. Accessory solar energy installations.
  - p. Accessory sale of cigars incidental to a business engaged in the sale of beer, wine and/or alcohol.
  - q. Accessory uses.
2. The following additional uses are also permitted BY-SPECIAL PERMIT in the HRMUOD:
  - a. Any drive-through facilities associated with retail (e.g. banks; pharmacies) beyond the two (2) such facilities permitted by-right in the HRMUOD.
  - b. Any drive-through facilities associated with food services beyond the two (2) such facilities permitted by-right in the HRMUOD.
  - c. Retail sales and services in excess of 20,000 square feet of gross floor area per establishment (excluding the one establishment of up to 85,000 gross square feet noted in Subsection E.1. b., above).
  - d. Dry Cleaning
  - e. Veterinary Hospitals
  - f. Car Washes
  - g. Self Service Laundry
3. All uses not noted in Subsection E.1 and Subsection E.2 above shall be deemed prohibited in the HRMUOD, including but not limited to the uses listed below, except where so to deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation, permit or license, or any state or federal law or regulation:
  - a. Adult entertainment, including an adult bookstore, adult video store, adult paraphernalia store, adult movie theatre, or adult live entertainment establishment
  - b. Tattoo and body piercing parlors and shops
  - c. Dye Works
  - d. Biosafety Level 4 laboratories, as defined by the United States Center for Disease Control and Prevention
  - e. Establishments for construction in such services as, but not limited to, building, building maintenance, plumbing, landscaping, electrical, masonry, carpentry, well drilling
  - f. Electroplating, metal finishing
  - g. Hazardous and toxic chemical manufacturing

- h. Trucking terminal and distribution center
- i. Automotive sales and services
- j. Retail gasoline, oil and lubrication stations, and tire sales
- k. Commercial bakeries
- l. On site sales and rental of heavy machinery and vehicles
- m. Any activity or use directly or indirectly involving, without limitation, the dispensing, use, sale, growing, storage or transportation of medical marijuana, including any medical marijuana treatment center
- n. Any on-site facility or clinic devoted to the treatment of substance addiction, including any narcotic detoxification and/or maintenance facility
- o. Sales of tobacco products, e-smoking products, smoking accessories and paraphernalia, flavored tobacco products, vaping products, and similar products, excepting the sale of cigars within a hotel cigar bar which is accessible to adults only.

F. Dimensional Requirements

The HRMUOD shall be subject to the dimensional standards in accordance with Article VII of the Zoning Ordinance with the following exceptions:

- 1. The HRMUOD shall consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the Hospitality and Recreation Mixed Use Overlay District.
- 2. Minimum Lot Frontage measurement shall be no less than fifty (50) feet for any lot wholly located within the boundaries of the HRMUOD.
- 3. Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a HRMUOD.
- 4. Maximum building height in HRMUOD shall not exceed 80 feet.
- 5. Maximum Lot Coverage shall be calculated on the entire land area of the HRMUOD and not on an individual lot basis, and shall not exceed 60 percent of the total area of the HRMUOD.
- 6. Notwithstanding anything contained herein to the contrary, there shall be no setback requirements or planting strips required as to (i) internal lot lines within the HRMUOD, and (ii) parcels outside the HRMUOD that abut the HRMUOD along at least three (3) lots lines.

G. Parking, Curb Cut and Landscaping Requirements

Except as otherwise provided in this Section, parking and circulation requirements shall conform with the provisions of §650-47, §650-48 and §650-49 of the Zoning Ordinance.

1. General - In the HRMUOD adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal, for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the City Council shall consider complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.
2. Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses, but must be integrated into the surrounding site plan and oriented as to minimize visual impact of the garage on surrounding uses.
3. Parking in the HRMUOD shall be at a minimum of 1 parking space per 333 square feet of Net Floor Area. Each space shall be no less than 9' x 18' except that the use of compact spaces (no smaller than 8' x 16') may be utilized throughout the HRMUOD provided that no more than 33% of the total parking spaces within the HRMUOD shall be compact spaces. Aisle widths shall be a minimum of 11' for one way travel lanes and 22' for two way travel lanes. The Master Plan is required to show further detail and explanation as to the distribution and allocation of parking space supply relative to the net floor area of each building distributed on the site.
4. Landscaping Strips - Continuous landscaping strips shall be provided no less than 10 feet to the right of way line along Boston Post Road West (Route 20) not including the width of sidewalks, unless the sidewalk is constructed within the right of way.
5. Planting quantity and spacing along Boston Post Road West (Route 20):
  - a. Plantings shall consist of at least one tree per 50 linear feet of planting area length.
  - b. Plantings may be grouped, not evenly spaced, but groups of trees shall be spaced no further apart than 100 linear feet.
6. Location of landscaped islands in parking areas - Landscaped islands shall be contained within or project into a parking lot and be so located that some part of every parking space is not more than 90 feet from a landscaped area on the perimeter or interior of the parking lot.

7. Granting of Relief from Parking, Curb Cut and Landscaping Regulations - The City Council may, during the Site Plan Approval process, waive any of the foregoing requirements or the requirements of §650-47, §650-48, and §650-49 if it makes a finding that to do so will enhance the overall design of the HRMUOD.
8. In order to enhance the functionality of reduced parking requirements, parking for employees of retail, restaurant, and hotel establishments should be designated in areas of the site which are remote, retaining the most convenient parking locations for patrons of the development's establishments.

#### H. Signage

Except as otherwise provided in this Section, signage shall conform to the provisions of §526 of the City Code, the Sign Ordinance. In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any provision of §526 of the City Code, the provisions of this Section shall govern and control. Subject to approval by the City Council as part of the Signage Plan pursuant to Section C(1)(a)(ix), including but not limited to appearance, the following signs are allowed in the HRMUOD district:

1. A maximum of two (2) wall signs, individual letter signs, logo signs or projecting signs affixed to a building for each store, business or tenant. No sign shall project above the highest line of the roof, parapet or building. Each wall sign, individual letter sign, or roof sign shall not exceed an area of 2.5 square feet for each linear foot of the storefront, business front or occupied tenant space for each applicable business or tenant advertised. In the event that a storefront, business front or occupied tenant space occupies more than one front of a building, the longest front shall be utilized to calculate the total area per wall sign, individual letter sign, logo sign or projecting sign (up to a maximum of two (2)). The total area as calculated herein shall be the applicable maximum area for each sign and not split between the two.
2. Projecting signs shall not project more than 6 feet from the building, subject to approval by the City Council as part of the Signage Plan.
3. Illumination, including internal illumination with translucent faces, shall be permitted for wall signs, individual letter signs, logo signs or projecting signs provided under this Section.
4. Any business, tenant, or storefront may divide any allowed exterior sign(s) affixed to a wall of the building, to which it is entitled or hereinabove provided, into separate signs affixed to and parallel to such wall provided however that the aggregate area of the separate signs shall not exceed the maximum area allowed under this Section for a single exterior sign on the same front.

5. A lot in an HRMUOD Zoning District shall be allowed one free standing pole, monument, ground or pylon sign for every 933 linear feet of cumulative frontage on a street or way, provided that each freestanding sign shall be subject to the following dimensional and lighting requirements:
  - a. The total allowed illuminated cabinet square feet of signage shall not exceed 200 square feet per side, per free standing sign, exclusive of any electronic messaging board as provided in item (e) below and exclusive of any sign embellishments, structure and address panels located thereon;
  - b. The height of any freestanding sign shall not exceed thirty (30) feet from the ground measured directly at the sign base;
  - c. No freestanding sign shall be located closer than five (5) feet from any property line provided that there shall be no setback requirements to interior lot lines within the HRMUOD;
  - d. Signs, logos or cabinets may be either externally illuminated or internally illuminated with translucent or transparent faces; and
  - e. Electronic Messaging Boards shall be subject to the provisions of §526-13 of the City Ordinance, except as expressly approved by the City Council, provided however, that one (1), double sided, Electronic Messaging Board (“EMB”) in the HRMUOD shall be allowed by-right with a display area of up to sixty (60) square feet. Notwithstanding the provisions of §526-13 of the City Ordinance, the EMB within the HRMUOD may: 1) be located as the uppermost element of the pylon/monument sign upon which it is attached; 2) may display no more than four (4) colors from sunrise to sunrise within background, field and message during any single display or message; 3) may present logos; and 4) may have a minimum display time of twenty (20) seconds.
6. During construction, one free standing pole, ground, monument or pylon sign per 500 linear feet of cumulative frontage on a street or way, or wall sign where applicable, may be erected or installed advertising the rental, lease or sale of the premises, or portions thereof provided that said signs shall be removed within seven (7) days of the rental, lease or sale of the premises (or applicable portions thereof).
7. Wire frame signs and A-frame signs are prohibited.
8. The City Council may elect to vary the requirements of this Section by Site Plan Approval if, in their opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this Section. This authority continues subsequent to occupancy.

I. Application

1. Special Permits - An application for a Special Permit for a use in the Mixed Use Development in the HRMUOD shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance.
2. Site Plan Approval - An application for Site Plan Approval shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

J. Site Plan Approval Design Criteria

An application for Site Plan Approval under this Section shall adhere to the following design criteria, in addition to those specified in §270-2 of the Marlborough City Code:

1. Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
  - i. The placement of utilities and wiring underground, to the extent practical;
  - ii. The placement of HVAC equipment, fans, generators, and other site related structures and items so that they are not visible on roofs or building frontage areas, or that such features are suitably screened from view wherever reasonably practicable and where elevation permits;
  - iii. Pedestrian amenities - sidewalks to provide access from internal site uses to Route 20, between parking areas and uses, and between sites;
  - iv. Lighting – The Applicant shall consider the following standards when designing a lighting plan:
    - a. The use of lighting should be integrally designed as part of the built environment and should reflect a balance for the lighting needs with the contextual ambient light level and surrounding nighttime characteristics which are appropriate for the uses;
    - b. The lighting designers shall consider utilizing lighting designs with automatic controls systems wherever possible;
    - c. Architectural lighting may be utilized to highlight special site features and areas;
    - d. Landscape lighting may be utilized to accent landscaping and special site features;
    - e. All lighting proposed shall be sensitive to the night sky, utilizing Illuminating Engineering Society of North America (IESNA) guidance for any lighting design;
    - f. On-site lighting shall not be directed towards Glen Street;
    - g. A lighting plan, as applicable, shall be included with any application for Site Plan Approval.



K. Standards for Roadways, Drainage and Water Supply Protection

1. Roadways – Internal HRMUOD roadways shall be private ways and shall be maintained by the owners/developers of the HRMUOD and portions thereof. Private ways within the HRMUOD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the subdivision standards or dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners. The design of private ways and parking circulation should be as efficient as possible to reduce the overall development impact and area of impervious surfaces.
2. Storm Water Management System - The HRMUOD shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines and the City's Stormwater Ordinance (Ch. 271) and Water Supply Protection District ordinance (§650-24), as amended.
3. The HRMUOD shall comply with the provisions of §650-24 (Water Supply Protection District). The City Council may waive the provisions of §650-24 F(8) with regard to a fifty-foot no disturbance/buffer zone to a wetland within the Water Supply Protection District, if upon a review of additional information provided, a similar or greater protection is provided to the water supply with a buffer less than fifty feet but in no case less than twenty feet. Notwithstanding anything contained herein to the contrary, in no event shall the owner/developer be permitted to cause a temporary disturbance of more than 20% of the total area of the fifty-foot no disturbance/buffer zone located within the HRMUOD, and in no event shall the owner/developer be permitted to create a permanent encroachment of impervious surface of more than 6% of the total area of the fifty-foot no disturbance/buffer zone located within the HRMUOD. Additional on-site and off-site protection measures near the water supply may be required in exchange for encroachment into the fifty-foot wetland buffer.

L. Modifications

1. After approval, the owner/developer of the HRMUOD or any individual applicant may seek modifications to any approved Special Permits or Site Plan Approvals.
2. Special Permits – Major modifications to a Special Permit may be granted by a super majority (2/3) vote of the City Council, and minor modifications to Special Permit may be granted by the Building Commissioner. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested modification to a Special Permit is deemed to be a major or a minor. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce a material increase in impact on City services, the environment or the neighborhood. Where the effect of a modification to a Special Permit is quantifiable (by way of example only, modifications to building size or location, parking count or location, or other such quantifiable modification), it shall be presumed minor if the quantifiable effect does not result in a ten (10%) percent or greater variation from the applicable approval, provided however, that said modification would not result in a violation of any provision of this Section. If it is determined that a modification to a Special Permit is not minor, per §650-59 of the Zoning Ordinance, an application for a revised Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under §650-59 C(3)(f).
3. Site Plan Approvals – Major amendments to a Site Plan Approval may be granted by a majority vote of the City Council, and minor amendments to a Site Plan Approval may be granted by the Building Commissioner. It shall be a finding of the Building Commissioner, not subject to dispute by the applicant, whether a requested modification to a Site Plan Approval is deemed to be a major or a minor. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce a material increase in impact on City services, the environment or the neighborhood. Where the effect of a modification to a Site Plan Approval is quantifiable (by way of example only, modifications to building size or location, parking count or location, or other such quantifiable modification), it shall be presumed minor if the quantifiable effect does not result in a ten (10%) percent or greater variation from the applicable approval, provided however, that said modification would not result in a violation of any provision of this Section. If it is determined that a modification to a Site Plan Approval is not minor, an application for a revised Site Plan Approval shall be filed in accordance with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

**EXHIBIT A**

The newly established Hospitality and Recreation Mixed Use Overlay District shall include all or portions of the properties shown on the Zoning Map existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

Assessors Map 78, Parcel 12

Assessors Map 78, Parcel 14

Assessors Map 78, Parcel 38

Assessors Map 78, Parcel 39

Assessors Map 89, Parcel 77

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

**Yea: 11 – Nay: 0**

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

ORDERED: That the Communication from the Planning Board re: Favorable Recommendation of the Proposed Zoning Amendment to Chapter 650-35 Hospitality and Recreation Mixed Use Overlay District (HRMUOD), Order No. 16-1006443A, **FILE**; adopted.

ORDERED: Be it ordained by the City Council of the City Of Marlborough, under authority of Section 21 of Chapter 82 of the Massachusetts General Laws, that the common convenience and necessity require a certain portion of the layout of Court Street Extension, which layout was taken for highway purposes and accepted as a public way in 1981 by Order No. 21579 (recorded at the South Middlesex County Registry of Deeds in Book 14471, Page 257), to be altered and relocated as shown on the plan entitled "Plan of Alteration of a Portion of Court Street Extension," dated February 19, 2016 (the "Plan"), and further, that Court Street Extension is hereby altered, relocated, and laid out as a public way of the City of Marlborough, as shown on said Plan.

**Yea: 11 – Nay: 0**

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

ORDERED: That the Communication from Building Commissioner Camacho re: Site Plan Approval with Conditions, Atrium Place, 21-29 South Bolton St., Order No. 15/16-1006366B, **FILE**; adopted.

## ORDERED:

**Site Plan Permit #** \_\_\_\_\_  
**Site Plan Approval with Conditions**

**Applicant:** Bolton Granger Realty Trust, project known as “Atrium Place”

**Property Owner:** Bolton Granger Realty Trust; George Voyiatzis, Trustee

**Location:** 21-29 South Bolton Street (the “Site”) being shown as Parcels 145, 145A and 145B on Assessors Map 70, consolidated as a single lot as shown on a plan recorded with the Middlesex South Registry of Deeds in Plan Book 2016, Plan 206

**Zoning District:** Marlborough Village District (MV)

**Plans:** The following Site Plan Approval Final Conditions are based on a set of plans entitled “Atrium Place, Proposed Addition To: 21-29 South Bolton Street, Site Plan, Issued For Site Plan Review, latest issue 4-29-16, Assessors Map 70, Parcel 145, Property Owner: Bolton Granger Realty Trust, 29 South Bolton Street, Marlborough, MA 01752; Engineer: Christopher C. Charlton, PLS, Continental Land Survey, LLC, 105 Beaver Street, Franklin MA 02038; Developer: George Voyiatzis, 81 Carter Drive, Framingham, MA 01701; Architect: Nunes Trabucco Architects, 1410 Highland Avenue, Needham, Massachusetts 02492; Landscape Designer: Gino A. Pierdomenico, 298 S. Worcester Street, Norton, MA 02766, said plans being comprised of C1 (*hereinafter, “Sheet C1 Site Plan”*); E1 Existing Conditions Site Plan; E2 Site Plan (*hereinafter, “Sheet E2 Site Plan”*); E3 Perspective Views; E3.1 Elevations 1 & 2; E3.2 Elevations 3 & 4; E4 Ground Floor Plan; E4.1, Residential Floor Plan; E5 Proposed Landscape Development Plan, Hardscaping and Planting, and E5.1 Proposed Landscape Development Plan, Notes, Details & Specifications (*said E5 and E5.1 hereinafter, collectively, the “Landscape Plans”*) (*said set of plans hereinafter, collectively, the “Site Plans”*).

**SITE PLAN APPROVAL FINAL CONDITIONS:****A. Site Conformance:**

1. Construction of the Site shall be in conformance with the approved Site Plans, the provisions of Chapter 270 of the Code of the City of Marlborough, and the conditions stated herein.
2. All construction on the Site shall conform to the appropriate National, State and City of Marlborough codes and regulations in force for each respective discipline and be in accordance with the approved plans and permits. Codes and regulations shall include but are not limited to State Building, Plumbing, Wiring, NFPA, Zoning, DPW utility and roads, Noise and Signs.

**B. Prior to Issuance of a Building Permit:**1. Construction Staging and Safety Plan:

- a. The Applicant shall complete the project in accordance with a Construction Staging and Safety Plan (the “Construction Plan”) approved by the Building Commissioner, Fire Chief, Police Chief, and City Engineer, which shall be consistent with the photo rendering plans entitled “Crane Staging Plan, Plan date: 3-16-2016;” “Delivery Route for Modules, Plan date: 3-16-2016;” “Module Placement Plan 3-3-2016;” and “Material and Storage Plan 3-3-2016;” or as modified at the direction of the City officials listed above.
  - b. The Construction Plan shall provide detailed information concerning:
    - (i) areas of the Site and adjacent property that will be marked-off for the staging of a crane, construction vehicles, etc.;
    - (ii) traffic flow, pedestrian protection, blocked sidewalks, streets, etc.;
    - (iii) construction fencing to enclose material and equipment;
    - (iv) fencing and/or barricades to provide limits within the construction site for the separation of construction, pedestrian and vehicular traffic;
    - (v) dedicated illuminated and covered pedestrian walkways adjacent to the structure at egress paths in accordance with 780 CMR Massachusetts State Building Code and related Mass Amendments, including but not limited to Chapters 31, 32, 33, and 34, in effect at the time the building permit application is submitted; and
    - (vi) the life safety of the businesses inside the existing building on the Site and their ability to stay open during the construction, and the installation of the interior and exterior support systems.
2. Green Building: The building plans shall show compliance with Section 650-34 D.2. (m) of the Zoning Code of the City of Marlborough. Prior to the issuance of Building Permits, the Building Commissioner shall review the building plans to ensure that the design incorporates green building techniques.
  3. Rooftop Mechanicals: On the building plans, the elevation drawings shall show areas reserved for rooftop mechanicals and the elevator penthouse. Detail drawings illustrating the type, location, and dimensions of fencing/screening must be provided. The Building Commissioner shall confirm that the building drawings conform to the requirements of Section 650-34 D.2.(b) regarding screening of rooftop mechanical equipment.

**C. Construction:**

1. Preconstruction Meeting: Prior to the commencement of construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, Fire Chief, Police Chief, and the site contractor responsible for doing the work. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls.
2. Temporary Site Changes: Consistent with the photo rendering plans entitled “Crane Staging Plan, Plan date: 3-16-2016;” “Module Placement Plan 3-3-2016;” “Weed Street Traffic Detour, Plan date: 3.16.2016;” and “Material and Storage Plan 3-3-2016;” all areas for construction staging, crane placement, and offloading of concrete, steel and/or modular components shall be coordinated to maximize public safety and to minimize interference with the customary use of the public ways and Site. Temporary detours for parking and circulation are established in the aforementioned plans. The Police Chief shall have the discretion and authority to require additional protection and/or details as needed. The Applicant shall pay to the City the cost for every police detail which is provided by the Marlborough Police Department for the project.
3. Modular Component Placement: All modular construction components intended for erection on the Site shall be delivered, unloaded, lifted and transferred according to the photo rendering plan entitled “Module Delivery Route Plan, Dated 3-3-16;” and other conditions as by this Site Plan Permit.
4. OSHA: All Contractors shall abide by OSHA regulations as appropriate, including but not limited to OSHA – 29 CFR, Section 1926.
5. Safety Official: The Applicant / site contractor shall have on the Site at all times during construction, a qualified Construction Safety Official. Prior to the commencement of construction, Applicant shall provide to the Building Commissioner the name and contact information of said Construction Safety Official.
6. Hours of Operation: In accordance with Section 634-11 of the Code of the City of Marlborough, excavation machinery may be operated only during the normal workweek, from Monday through Saturday, except holidays, between the hours of 7:30 a.m. to 5:00 p.m.

**D. Storm Water:**

1. Siltation Control: The Applicant, Property Owner, and site contractor shall be responsible for notifying the Conservation Officer in an expeditious manner if there is any visible siltation to the existing drainage system. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.
2. Storm Water Maintenance Plan: Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide the City Engineer and the Conservation Officer with the final Storm Water Management Maintenance Plan. The name, address, and phone number of the contact person who will be in charge of authorizing the annual maintenance shall be provided to the Conservation Officer.
3. Maintenance Report: By June 1st of each year, an annual maintenance report shall be provided to the City Engineer and to the Conservation Officer reporting on maintenance and operation procedures, as outlined in the Storm Water Management Maintenance Plan, which have been met for that year. The reporting requirement will follow the issuance of an Occupancy Permit.

**E. Landscaping:**

1. Modifications: All modifications to the approved Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
2. Site Visit: Prior to the final signoff, the Landscape Architect shall provide an as-built planting plan and a letter of confirmation that the plan conforms to the approved plans. The Conservation Officer shall confirm by a site visit that the planting has been installed according to the approved Landscape Plans, or a revision of the Landscape Plans previously approved by the Conservation Officer.
3. Replacement of Plantings: Following 18 months of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Property Owner with a species of the same kind and size.
4. Mulch Placement: Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan.
5. Maintenance: Landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans at all times. Note that the magnolia trees flowers are slippery when they drop their pedals and will need to be cleaned up to prevent someone slipping on the sidewalk. In addition, tree branches extending over the sidewalk must have minimum branch heights of 7 feet to allow safe passage. This shall be an ongoing condition.
6. Maintenance of Landscaping on City Property: Prior to the issuance of a Certificate of Occupancy, the Applicant shall enter an agreement with the City regarding the maintenance of landscaped areas adjacent to the Site located on City property.

**F. Prior to Issuance of a Certificate of Occupancy:**

1. Payment in Lieu of Parking: As summarized in the ZONING REQUIREMENT TABLE on Sheet C1 Site Plan, the 18 parking spaces shown on Sheet E2 Site Plan shall count towards the total of 42 required parking spaces. The difference between the parking spaces provided and the parking spaces required, which is 24 spaces, will be addressed in strict accordance with Section 650-34 E(2)(b) of the Zoning Ordinance of the City of Marlborough. Per the Ordinance, a payment-in-lieu-of-parking equal to \$240,000 (\$10,000 for each of the 24 spaces required but not provided on the Site) shall be paid to the City of Marlborough prior to the issuance of the first Certificate of Occupancy for the project.
2. As-Built Plan: An as-built plan must be submitted to the City Engineer for review prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. The as-built plan shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website for the City of Marlborough.
3. Time for Completion: Work as provided for on the Site Plan shall be carried into effect and completed within three (3) years following the date of issuance of the Building Permit, unless the City Council has granted an extension of time for completion of the work in writing.
4. Signage. Pursuant to Section 650-35 I of the Code of the City of Marlborough, the City Council hereby retains jurisdiction over all signage of the project to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council which must meet the requirements of Section 650-34 I of the Code of the City of Marlborough.
5. Access Agreement: The Applicant shall secure any necessary rights across the parcel of land owned by the City of Marlborough along Court Street created by the Plan of Acceptance, dated February 15, 2016, in order to access the loading area and sidewalks, and in order to landscape and maintain said landscaping, as shown on the approved Site Plan. The City shall be held harmless for any activities of the Applicant on this parcel.

**G. General Provisions:**

1. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plan.
2. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.



3. Parking Areas: (i) Parking areas will be swept at a minimum semiannually, or more frequently if needed. (ii) Pursuant to the provisions of M.G.L. c. 90, § 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. The Applicant shall be responsible for providing, installing and maintaining all signage and/or markings required by the Marlborough Traffic Commission. Such signage and/or markings shall meet the standards of the Manual of Uniform Traffic Control Devices. (iii) Parking spaces located on the Site may not be reserved for use by the building's commercial businesses, and must be available for use by the residents of the Site at any time.
4. Deliveries: At no time shall delivery trucks, either during or after construction, stop on Court Street or restrict the flow of traffic in any way into the Court Street parking garage. In order to mitigate the impact on traffic flow on Weed Street, South Bolton Street, and Granger Boulevard, and the impact of noise to the residents of the Atrium, deliveries to the businesses on the Site by semi-trailers shall occur between 8:00 a.m. and 8:30 p.m. Daily deliveries to businesses on the Site by a small box truck, van or similar sized vehicle may not restrict the flow of traffic on Weed Street or Court Street, but may occur between the hours of 7:00 a.m. and 9:00 p.m. On-site trash collection shall occur twice a week between the hours of 7:00 a.m. and 9:30 a.m. All possible measures shall be taken to avoid noise and disturbances to the residents and neighboring businesses.

**APPROVED**; adopted.

**ORDERED**: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:50 PM.