



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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SEPTEMBER 23, 2013

Regular meeting of the City Council held on Monday, SEPTEMBER 23, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:10 PM.

ORDERED: That the minutes of the City Council Meeting September 9, 2013, **FILE AS AMENDED**; adopted.

ORDERED: That the minutes of the Joint Convention Meeting SEPTEMBER 11, 2013, **FILE AS AMENDED**; adopted.

ORDERED: That the **CONTINUED PUBLIC HEARING** On the Application for Special Permit from Luiza DeMoura of Jump in with Us, Inc. to develop an inflatable playground and to accommodate birthday parties for kids and families from Tuesdays to Sundays, 10:00 AM to 7:00 PM, Order No. 13-1005482A, **TABLED UNTIL NEXT CITY COUNCIL MEETING, APPROVED**; adopted.

Councilors Present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: That the Communication from the Mayor re: Fiscal Year 2013 Close-out, **FILE**; adopted.

ORDERED: That the Building Department transfer request in the amounts of \$800.00 and \$300.00 which moves funds from Contract Services to Assistant Wiring Inspector and from Professional & Technical to Assistant Plumbing Inspector respectively due to office coverages, **APPROVED**; adopted.

FROM:

Acct. 12410004-53140 \$800.00
Contract Services

Acct. 12410004-53180 \$300.00
Professional and Technical

TO:

Acct. # 12410001-50970 \$800.00
Assistant Wiring Inspector

Acct. # 12410001-50960 \$300.00
Assistant Plumbing Inspector

ORDERED: That the Communication from the Mayor re: Gift Acceptance from Partners Healthcare System, Inc. in the amount of \$750,000.00 specifically earmarked for renovation and/or replacement of a Senior Center in the City, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider re: Application for Special Permit from Attorney Schaffer on behalf of Irene Kantor to operate a Martial Arts Studio located within an Industrial District, 38 Brigham St., in proper legal form, Order No. 13-1005483B, **MOVED TO ITEM 18**; adopted.

ORDERED: WHEREAS the General Court enacted into law the FY11 State Budget (Chapter 131 of the Acts of 2010), and

WHEREAS, the provisions of Section 27 and 28 of Chapter 131 of the Acts of 2010 amend Section 101 of Chapter 32 by striking out in line 8 the words “six thousand” and inserts in place thereof the following words: - either \$6,000.00 or in a retirement system accepting the supplemental allowance as provided in this section, \$9,000.00, and

WHEREAS the Marlborough Retirement Board has voted to accept the supplemental allowance provisions of Sections 27 and 28 of Chapter 131 of the Acts of 2010, and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Marlborough that the City Council for the City of Marlborough hereby **APPROVES** the aforesaid acceptance by the Marlborough Retirement Board of Sections 27 and 28 of Chapter 131 of the Acts of 2010; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 7, 2013** as date for a **PUBLIC HEARING** on the Petition of NGrid and Verizon to install new Joint owned Pole #20 on the public way of Kings Grant Rd.; currently the conductors between Pole 19 and Pole 2 are hanging low, and were reported by the Fire Department as a safety issue. The new pole will alleviate the low hanging wires, and help maintain proper clearances of wires over the public way, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Special Permit from Attorney Gadbois on behalf of DBK Realty, LLC, to construct a facility at 1000 Nickerson Rd. to store and use toxic chemicals in the manufacture of small specialty parts for the medical instrument, airline and defense industries, **TABLED UNTIL NEXT CITY COUNCIL MEETING**; adopted.

ORDERED: That the Communication from Mirick O'Connell who is representing Annmarie Riley regarding an appeal from the granting of a variance by the Zoning Board of Appeals, case #1419-2013, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 21, 2013** as date for a **PUBLIC HEARING** Application for Fuel Storage License by Rinchem Company Inc., 111 Hayes Memorial Dr., to store flammable liquids, refer to **PUBLIC SERVICES COMMITTEE, AND ADVERTISE**; adopted.

ORDERED: That the Minutes, Planning Board, July 22, and August 26, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, June 12, 2013, **FILE**; adopted.

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

Order No. 13-1005455 - Communication from Tim Cummings re: Mass Development Urban Land Institute's Technical Assistance Program. The Committee listened to various members of the Urban Land Institute. Urban Land Institute members provided their opinions and insight as to what they learned during their brief visit to the City. President Pope and several councilors asked the presenters various questions.

Suspension of the Rules requested – granted

ORDERED: That the appointment of Thomas Golden to the Zoning Board of Appeals to fill the balance of the term of John Sahagian which is due to expire on May 5, 2017, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the appointment of Robert Levine as an Alternate member of the Zoning Board of Appeals to serve a two year term beginning from his date of confirmation by City Council, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Application for Secondhand Article Dealer's License, Theresa Denoncourt Smith, Hint of Class Consignment, 72B Hosmer St. with following conditions:

- 1) The license shall not be transferred without prior City Council approval.
- 2) The license is hereby issued to Theresa Denoncourt Smith, d/b/a Hint of Class Consignment only and is applicable only to the 72B Hosmer Street location.
- 3) There shall be no exterior storage, no outdoor displays or outdoor sales of merchandise.
- 4) The hours of operation are Monday through Friday from 10AM to 6PM and Saturday from 10AM to 6PM and Sunday 10AM to 4PM
- 5) The applicant shall contract in writing with a licensed pest management company to install glue boards at locations within the business premises satisfactory to the Marlborough Board of Health and implement a monthly monitoring program consisting of a log book for said glue boards satisfactory to the Board of Health
- 6) The license shall be subject to revocation for noncompliance of the above conditions or other applicable local ordinances or state laws.

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Petition of NGrid to install a Pull Box in the sidewalk at the intersection of Daniels Rd. and Graves Lane and to install 2-3" PVC duct bank in the sidewalk from existing Riser Pole to Pull Box with the following conditions:

- 1) Any necessary easements are to be obtained from affected property owners.
- 2) Street opening permit must be applied for by the proposed contractor performing the work.
- 3) The contractor performing the work must obtain a street opening bond with the City of Marlborough.

- 4) The contractor shall provide the Engineering Division preconstruction photos of driveways, sidewalks, lawn areas, wooden retaining wall, and roadway areas impacted by all construction activities.
- 5) The contractor shall coordinate with the affected residents to have irrigation systems flagged before trenching begins and provide them a timetable of the proposed work.
- 6) A proper staging area is to be located/acquired before work commences – material and equipment is not to be parked/stockpiled within the city right of way.
- 7) The contractor is to ensure residents are always able to enter and exit their driveways (have necessary steel plating on site and accessible).
- 8) Ensure construction safety controls are established (signage, drums, police details, etc...) and are in accordance with the latest MUTCD standards.
- 9) Trench backfilling, compacting, temporary, and final paving are to be done in accordance with the City of Marlborough standard trenching details.
- 10) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended.
- 11) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765.
- 12) Entire width of sidewalk (from back of curb to back of sidewalk) is to be included in final trench paving – any disturbed curbing is to be replaced.
- 13) All work shall be completed on or before November 30, 2013.

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED: That the application of AvalonBay Communities, Inc. (hereinafter “Avalon”), of 51 Sleeper Street, Suite 750, Boston, MA, for a Sewer Connection Permit with the following conditions:

1. The Avalon project shall consist of 350 luxury apartment (rental) units and appurtenant infrastructure as shown on Exhibit A, which is comprised of C5, 6, 7, & 9 of Site Plan amended 09/18/13, attached herewith. The breakdown of apartment units is as follows;
 - 144 one-bedroom units
 - 206 two-bedroom units
2. In accordance with the sewer connection permit application submitted by Avalon, the volume of sewage hereby authorized to be connected to the city’s sewerage system is 61,160 gallons per day.
3. All sewer lines, including mains and building services, shall be installed as shown on Exhibit A. No other sewer lines, including mains or building services, are hereby authorized.
4. All sewer lines, including mains and building services, shown on Exhibit A shall remain in private ownership. Maintenance and repairs to these lines shall remain the responsibility of Avalon and/or its heirs and assigns, in perpetuity.
5. In order to install all sewer lines, including mains and building services, shown on Exhibit A, Avalon shall be responsible for legally securing any and all private sewer easements and/or rights-of-way over property not under its control.

6. Any modification of the approved site plan for the Avalon project which otherwise reduces or increases the number of apartment units shown on Exhibit A or the breakdown of bedroom units provided in Condition 1 above, shall require Avalon and/or its heirs and assigns, to file amended sewer permit applications to both the City of Marlborough and MADEP.
7. This permit shall lapse for any individual building shown on Exhibit A, which has not been physically built and connected to the sewer lines also shown on Exhibit A within thirty (30) months after the date of final site plan approval of this project.

APPROVED; adopted.

Yea: 11- Nay: 0

Yea: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers

Suspension of the Rules requested – granted

Site Plan Approval Final Conditions

Site Plan Permit # SC 2013-0012

Location: AvalonBay Communities Inc., Results Way Mixed Use Overlay District

The following Site Plan Approval Final Condition are based on the plans titled:

Avalon Marlborough sheets TO.1 to TO.2, CO to C27, L1.1 to L1.6, L2.0, D1 to D2, A4.00 to A4.11 and A4.00A, dated 5/15/2013, last revised on 9/18/2013

Preconstruction meeting & Information:

1. Prior to construction the applicant, site contractor and erosion control expert shall meet with the City staff members of the Site Plan Review Committee at a regularly scheduled meeting to discuss: the construction phasing and sequencing, traffic issues, haul routes etc. to make sure everyone is on the same page before any construction work on the site begins.
2. Prior to construction a preconstruction meeting shall be held on site with the Building Commissioner, City Engineer, Conservation Officer and site contractor responsible for doing the work. At this meeting the City departments will review the plans, conditions, exchange contact information including emergency contact numbers and inspect erosion controls.
3. Prior to construction the applicant and site contractor will provide to the Chief of Police a map showing the defined haul routes for the large amounts of materials to be removed from the site. The Chief of Police will determine what, if any details or restrictions need to be placed on this plan.

Stormwater/erosion control:

4. The Applicant shall comply with the Order of Conditions issued by the Conservation Commission permit # DEP 212-1115.

5. The developer is required to hire an independent "Erosion Control Expert" to oversee the site work on the site. This individual(s) shall have a proven record of controlling sites of equal size and equal material type. The Conservation Officer and the City Engineer shall evaluate whether the individual(s) to be hired by the applicant has adequate experience before they are hired to work on this project. This erosion control expert shall be hired prior to construction and shall be an integral part of the preconstruction meeting.
6. This is a large project and the City Council wants to ensure that it can be controlled during construction. As such, only one phase can be developed at a time. One phase must be substantially stabilized prior to Applicant being granted permission to move to the next phase. Substantially stabilized means the following:

"All roadways shall be paved, with a binder course, and all other areas outside of the planned building pads (inclusive of a 10' perimeter of each pad), which are rough graded, must have erosion control measures in place (ex. tackifier, hay, mulch or some other device) to assure that storm water draining out of the detention basins is clean and clear of sediment. A site meeting with the City Engineer and Conservation Officer is required. This is to confirm that Phase 1 is stable and is held prior to any work commencing on Phase 2."
7. Dust from the construction site and dirty stormwater runoff MUST be controlled at all times.

Contaminated soils:

8. A small portion of the proposed sewer line connection at the corner of Simarano Drive and Forest Street goes through an undisturbed apple orchard area. As such the soils may be contaminated with arsenic and lead pesticide residues and must be tested by developer to determine if this is the case. Results of the soil test shall be provided to the Board of Health and Conservation Officer prior to doing any of the sewer work to determine if additional testing is needed. If it is determined that the soil is contaminated, then the following shall be provided to the City Engineer, Board of Health and Conservation Officer for review and approval prior to construction of the sewer line:
 - a. Soil management plan prepared by a Licensed Site Professional, including dust control and proper handling of contaminated soils.
 - b. A construction sequencing plan provided by the site engineer that is based on the soil management plan requirements to help guide construction accordingly and protect both construction workers and the public during construction.

Building Permit issuance and review:

9. Applicant shall pay the City of Marlborough, in addition to any permit fees or costs, seventy five thousand (\$75,000.00) dollars for the purpose of the Building Commissioner engaging the services of a third party consultant to review the building permit application, review reports and associated reviews incidental to the building permit, and to conduct inspections of the work performed under the building permit, and to report findings to the Building Commissioner.

10. Prior to the issuance of the building permit for the construction of a residential dwelling unit, the Applicant shall make a one-time payment of three hundred fifty thousand (\$350,000.00) dollars (as the “Residential Development Contribution”) to assist the City in the identification and implementation of zoning, economic and other strategies to foster professional, retail and commercial development incentives; all in accordance with paragraph numbered 4. of the Development Agreement dated May 7, 2013 between Atlantic-Marlboro Realty LLC and the City of Marlborough.

School Bus pick up and drop off:

11. The school bus pick up and drop off will be on the premises internal to the site as shown on the approved plans and will not be on Simarano Drive. In the event the “bus pick up and drop off” location changes, Applicant will construct a weather shelter for children to occupy during inclement weather events.

Landscaping:

12. All modifications to the Landscape Plan related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Director of Planning (or designee).
13. Prior to the final signoff, a registered landscape architect shall certify to the Director of Planning (or designee) in writing that the planting has been installed according to the approved landscape plan, or a revision of the landscape plan previously approved by the Director of Planning (or designee).
14. All landscaped areas shall be served by subsurface irrigation, or other means to ensure that the plants planted will survive. An irrigation plan shall be submitted to the Director of Planning (or designee) within 60 days of the date of the Site Plan Permit.
15. Following 18 months of the final signoff of the site work, any plant material that has died or is dying shall be replaced with a species of the same kind and size.
16. Any large rocks or boulders encountered while excavating the site shall be disposed of properly off site.
17. 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.

Prior to issuance of Occupancy Permit:

18. Prior to requesting the final Certificate of Occupancy, the Applicant or its agent shall clean the detention basin, all drainage pipes and catch basins of accumulated sediment and debris. All infiltration systems and water quality structures, rain gardens etc. shall also be inspected and cleaned as necessary. A site meeting with the Conservation Officer to inspect these structures is required before the Conservation Officer will provide a final signoff.
19. Interim as-built plans shall be submitted to the City Engineer prior to the issuance of an occupancy permit on a building and at the completion of each phase of the Project showing the critical utility connections to ensure that in the interim the City Engineer has all the utility tie information available.
20. When the Project is complete an as-built plan must be submitted to the City Engineer for review prior to issuance of a final Certificate of Occupancy (or temporary occupancy permit). The as-built plan shall be prepared in accordance with the As-Built Plan standards established by the City Engineer which can be found on the City’s web site.

21. Prior to the issuance of the final Certificate of Occupancy, the applicant shall provide the City Engineer and the Conservation Officer with the final Stormwater Management Maintenance Plan, as outlined in the Project's drainage report. 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.
22. An annual maintenance report shall be provided to the City Engineer and the Conservation Officer by June 1st of each year reporting on the maintenance and operation procedures, outlined in the Stormwater Management Maintenance Plan, which have been met for that year. This reporting requirement will follow the issuance of the occupancy permit.
23. The approved site plan shall be carried into effect and completed within three (3) years after the date of this issuance, except for good cause or unless the City Council has granted an extension in writing.
24. The approved site plan permits 350 multifamily residential units and 635 surface and enclosed parking spaces, along with a swimming pool, fitness center, and any various other uses accessory to the multifamily residential use permitted under Section 650-17 and Section 650-33(E) of the Code of the City of Marlborough (the "Code"), all substantially as shown on the approved site plan. Any material deviations from the approved site plan shall receive prior approval of the City Council. Any material modifications to the planting related to changes in the kind, size and placement of plant material shall receive prior approval of the Director of Planning (or designee).
25. This project shall comply with the Sign Ordinance without a variance.
26. No easement areas for bike and/or pedestrian recreation activities are required to be located on the property subject to the approved site plan, pursuant to the terms of that certain Development Agreement, dated as of May 7, 2013, by and between the City of Marlborough, Massachusetts and Atlantic Realty Marlboro LLC.

APPROVED; adopted.

Yea: 11- Nay: 0

Yea: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers

Suspension of the Rules requested – granted

ORDERED: That the Communication from Attorney Lombardo regarding the Fuel Storage Permit be removed from Committee as requested by the City Solicitor at this City Council meeting for Cumberland Farms, 412 & 418 Maple St., **APPROVED;** adopted.

MOTION made by Councilor Elder to **DENY** the Special Permit.

Councilor Ossing mentioned that the conditions are not in proper legal form.

Councilor Clancy remarked that this is a Fuel Storage Permit not a Special Permit, which does not necessitate that the document be in proper legal form. He also noted that this requires a simple majority vote to approve or deny.

Councilor Jenkins, Ward Councilor for the proposed location commented that he supports the neighborhood's opposition to this project for several reasons; the near proximity to a watershed area, proposed installation of diesel pumps, hours of operations, public safety concerns and no sidewalks to mention a few.

Councilor Oram clarified that if the vote is in the affirmative, it is to deny. He also requested a roll call vote.

Councilor Delano believes that the Council has made their will known pertinent to this matter through the public meetings, votes, and questions raised. This is not something that residents or Council wants. The two Ward Councilors for which this projects borders are opposed to it. The proposal would be located in an oddly aligned area in the City. The left hand turn into the gas station is a problem.

Councilor Elder remarked that although he is not the Ward Councilor, his ward abuts the proposed location. He has received negative input from his constituents. He also commented that the proposed conditions do not reveal whether the insurance the company will carry will be claims based or occurrence based.

Councilor Elder voiced that his vote will be to deny the Fuel Storage Permit; which will be in the affirmative.

ORDERED: That the Fuel Storage Permit with proposed conditions drafted by Attorney Lombardo for Cumberland Farms, 412 & 418 Maple St, **DENIED**; adopted.

Yea: 8- Nay: 3

Yea: Pope, Oram, Delano, Jenkins, Elder, Tunnera, Seymour & Landers

Nay: Clancy, Ossing, & Robey

ORDERED: That the Reappointments of William Brewin and Rustin Kyle as members of the Marlborough Public Library Board of Trustees expiring two years from date of City Council approval, **APPROVED**, adopted.

ORDERED: That the Reappointment of Deborah Fox as City Collector to serve a term of one year to take effect on the first Monday following her appointment, **APPROVED**; adopted.

ORDERED: That the Reappointment of Diane Smith as City Auditor for a term of three years, **APPROVED**; adopted.

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 13-1005483C**

The City Council of the City of Marlborough hereby GRANTS the application for a special permit of Irene Kantor, 28 Angelica Drive, Framingham, MA 01701, as follows:

FINDING OF FACTS-RULINGS AND CONDITIONS

1. The Applicant, Irene Kantor, is a manager of KI NEMA LLC, a duly organized and existing Limited Liability Company with its principal place of business temporarily located at 257 Maple St., Unit 1, Marlborough, MA 01752.
2. Pam Realty, Inc., with a principal office located at 171 Locke Drive, #102, Marlborough, MA 01752, is the title owner of the land and building located at 38 Brigham Street, Marlborough, MA 01752 and more particularly described as Map 104, Parcel 27 on the Marlborough Assessors Maps ("the Site").

3. The Applicant seeks permission to utilize the existing building as a family recreational establishment or facility, specifically, a martial arts studio d/b/a "New England Martial Arts." The Applicant, either as an individual or as a nominee LLC, intends to purchase the Site from the current owner and then to lease it to KI NEMA LLC.
4. The Applicant, Irene Kantor, a manager of KI NEMA LLC, on July 3, 2013 filed with the City Clerk of the City of Marlborough, an Application for a Special Permit pursuant to Chapter 650, entitled "Zoning," of the Code of the City of Marlborough, Article V, Section 650-17.
5. The Site was improved with parking, driveways and a building thereon in 1986 in accordance with a plan filed and approved by the Building Department at that time.
6. The location of New England Martial Arts will be within the majority of the existing vacant structure which previously housed a printer and contractor, now both closed.
7. Applicant's Application is for a Special Permit seeking the establishment of a family recreational establishment or facility which will utilize the existing large indoor open space for use as a Martial Arts Studio including accessory "as built" offices and lady's and men's bathroom facilities. The Site is situated in the Industrial zoning district. Private or commercial recreation establishments, such as proposed by Applicant, are allowable by special permit in the Industrial zoning district.
8. The City Building Inspector, on behalf of the City Planner, has certified pursuant to § 650-59.C (7) of the Rules and Regulations promulgated by the City Council for issuance of special permits, that the application is complete and conforms to said Rules and Regulations and that the site plan meets all prior referenced informational requirements of Rule 7 and that said plan conformed in all respects to the Code of the City of Marlborough as of the date of construction and improvement of the Site.
9. Pursuant to § 650-59.C(1)(c) of said Rules and Regulations, the Applicant has distributed sets of Application materials to the City officials listed therein.
10. Further, pursuant to the said Rules and Regulations and the provisions of MGL 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 MetroWest Daily News, and sent written notice of said Public Hearing to those abutters entitled to notice under applicable law.
11. The Marlborough City Council pursuant to the appropriate provisions of MGL c. 40A, as amended, held a public hearing on the Application on August 26, 2013.
12. The Applicant presented evidence at the public hearing detailing the project and its limited impact upon municipal services, the neighborhood and traffic.

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

The Marlborough City Council, having caused to be established 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 application of a special permit.
- B. The use of the existing building located at the Site for a family recreational establishment or facility is an appropriate use of said property and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions as hereinafter set forth.
- C. The City Council, pursuant to its authority under MGL c. 40A, as amended, **GRANTS** the Applicant a Special Permit to operate a private or commercial recreational establishment as per its Application filed with the City Council and City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS**, which shall also be applicable to Applicant's successors and assigns, and a violation of which shall be a violation of this Special Permit:
 1. Applicant shall comply with any and all requirements necessary to obtain a certificate of use and occupancy for the facility as it presently exists.
 2. Signage. Any signage installed or erected on the premises shall meet the requirements of the Sign Ordinance of the City of Marlborough without variance and shall not include flashing signs, message boards or LED signs. All such signs shall be illuminated only during hours of operation and shall be extinguished on or before 10:00 p.m.
 3. Application and Documents. All plans, drawings, site evaluations 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 a part of this Special Permit and become conditions and requirements of the same.
 4. Compliance with Local, State, and Federal Laws. The Applicant agrees to comply with all rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and the federal government as they may apply to the maintenance and operation of the facility.
 5. Public Peace and Good Order. In the event that the Chief of Police determines that either the business of the Applicant is, or the clientele of the Applicant are, creating a condition that is contrary to the public peace and good order, the Chief shall, in writing, notify the Applicant and demand that corrective measures be put into effect within seven (7) calendar days. Upon failure or inability of the Special Permit holder to correct such condition, 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 or her sole discretion, determines to be necessary for the purpose of correcting the condition.

6. Abutter Conditions. Following publication of the notice of Applicant's Application and notices of same having been sent by certified mail to abutters as required, no abutter has come forward on the record before, during or after the public hearing to raise any objection or to support or to question Applicant with respect to any aspect of the Application. In the interest of establishing and maintaining amicable relations with neighbors in the vicinity of the Site, Applicant agrees as follows:
- a. In the absence of prior written authorization from the City of Marlborough, no additional lighting will be erected or additional wattage added by the Applicant to the existing outdoor parking lot lighting, except for security lighting required by the City of Marlborough Police Department.
 - b. No delivery vehicles are required or will be needed by the Applicant in the operation of the business.
 - c. The operation of the business does not require the maintenance of a dumpster or other outside trash receptacle.
 - d. All martial arts activity shall take place inside the facility between the hours of 8:00 a.m. and 10:00 p.m., Monday through Saturday only, and all noise created by the operation of the business will at all times be in compliance with the City's noise ordinance.
 - e. All completed CORI forms shall be kept and maintained by Applicant and in accordance with Massachusetts law.
 - f. Accommodations for overflow parking shall be provided off-site for large competitions, tournaments and other like events, if any. A copy of the formalized agreement with any third party for off-site parking, if any, shall be provided to the Marlborough City Clerk. In the event the permit holder is unable to obtain a formalized off-site parking agreement with any third party, large competitions, tournaments and other like events requiring overflow parking shall not be held on the premises.
 - g. No on-street parking shall be permitted on Brigham Street or any other abutting side street or public way.
 - h. No alcoholic beverages shall be served on the premises.
7. Recordation. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for any permits concerning the family recreational facility. When the Applicant applies for its certificate of use and occupancy, Applicant shall provide a copy of the recorded Special Permit to the Building Inspector's office, as well as a copy to the City Council's office and to the City Solicitor's office

Yea: 11 – Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Robey & Oram

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:10 PM.