



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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AUGUST 27, 2007

Regular meeting of the City Council held on Monday August 27, 2007 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Katz, Ferro, Juare, Webster, Clancy and Towle. Councilors absent: Schafer. Meeting adjourned at 8:25 p.m.

ORDERED: Minutes, City Council meeting, August 20, 2007, **FILE**; adopted, as amended.

ORDERED: That the following transfer of \$405,000 from Robin Hill Stabilization to Robin Hill Water Line Account, **APPROVE**; adopted.

FROM:

Acct. # 83600-32712 \$405,000.00
Robin Hill Stabilization Fund

TO:

Acct. # 19300006-53965 \$405,000.00
Robin Hill Water Line Fund

ORDERED: That the Mayor responded with an update to Order No. 07100-1602 which had requested that she investigate the feasibility of housing and funding an office for the United States Office of Immigration and Customs Enforcement (ICE) in the City of Marlborough.

FURTHER:

Discussions with representatives of the Office of Immigration and Customs Enforcement have confirmed that ICE is in receipt of numerous similar requests and will be responding collectively to those communities who have inquired. Talks with these government officials have led Assistant Solicitor Panagore Griffin to form the impression that the City's request will not be granted.

Recently, Police Chief Leonard and I met with Bruce Foucart, Special Agent in Charge, Investigations, US Immigration and Customs Enforcement. Special Agent Foucart discussed various program options available:

- It was determined that the City of Marlborough does not meet the criteria necessary for 287G program training, and due to ICE budgetary constraints, the number of 287G training sessions has been reduced resulting in a more restrictive process on its part in determining selection for participation.
- While 287G training may not prove appropriate, Special Agent Foucart has suggested other offerings to the Police Department for training and community outreach which are currently under review.
- Special Agent Foucart graciously offered to make an appearance before City Council to brief you on the parameters of what ICE might be able to provide the City. My office will work with the Council to coordinate a mutually convenient date, **FILE**; adopted.

MOTION: Move agenda item #4, communication from Assistant City Solicitor re: Special Permit application, Robert Valchuis, 714 Farm Rd. to agenda item #9, **APPROVE**; adopted.

ORDERED: That the Sudbury Companies of Militia & Minute request permission to place a temporary sign on the city's property at the corner of Route 20 and Hagar Rd. from September 22-30, **APPROVE**; adopted.

ORDERED: That the Notice from Mosquito Control Project re: investigate resident's complaints about mosquitoes on the following dates: September 6, 12, 19 & 26; **FILE**; adopted.

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

REPORTS OF COMMITTEES:

Councilor Webster reported the following out of the Public Services Committee:
(Joint Discussion with Finance Committee)

Order No. 07-1001093A – re: Communication from Boston Scientific Corporation requesting extension of time for Sewer Connection Permit, 55 Boston Scientific Way – Mayor to provide sewer extension impact on TIF. **Recommendation of both committees is to approve.**

Councilor Ossing reported the following out of the Finance Committee:

Order No. 07-1001619 – re: Transfer \$51,000 from Hemenway Stabilization account to DPW. **Recommendation of the Finance Committee is to approve.**

Order No. 07-1001642 – re: That the City of Marlborough accept a donation in the amount of Ten Thousand (\$10,000.00) Dollars from Robert Valchuis for tree restoration relative to Farm Road. **Recommendation of the Finance Committee is to table – Order remains in committee. (to be placed on the September 10, 2007 agenda)**

Order No. 07-1001590A – re: Communication from the Mayor requesting transfer of \$210,000.00 from Stabilization Fund to Stabilization-Affordable Housing: \$210,000.00.

Recommendation of the Finance Committee is to approve the transfer in the reduced amount of \$52,500.00

Suspension of the Rules requested - granted

ORDERED: That the City of Marlborough accept the donation in the amount of \$200,000 from Hillside School for use in the Robin Hill Road water line installation project, **APPROVE**; adopted.

ORDERED: That the appointment of Laurie Fitzgerald to the Historical Commission, term to expire September 18, 2010; **APPROVE**; adopted.

ORDERED: DECISION ON A SPECIAL PERMIT FINDINGS OF FACT AND RULINGS CITY COUNCIL ORDER NO. 07-100-1559A

- (1) Robert Valchuis is the sole trustee of Lauren Elizabeth Realty Trust and is hereinafter referred to as the "Applicant".
- (2) Applicant is the Owner of the premises at 714 Farm Road, shown on the Marlborough Assessors Map as Parcel 15 on Map 73 hereinafter ("the Site").
- (3) On or about May 1, 2007 the Applicant filed with the City Clerk of the City of Marlborough an application for a Special Permit to construct a 10 unit Multi Family Condominium for over 55 year old residents.
- (4) The project, which is the subject of this Special Permit, consists of a Multi Family Condominium for over 55 year old residents with a preference for those current residents of the City of Marlborough.
- (5) The site is zoned Business B District and the proposed use for a Multi Family Condominium Complex is allowed with a Special Permit from the City Council as Special Permit Granting Authority.
- (6) 31 Parking spaces are provided for the Project including two handicapped spaces and are in accordance with the Zoning Ordinance requirements.
- (7) In connection with the Special Permit application, the Applicant filed, on or about May 1, 2007, an original and two copies of the following: (a) Application to the City Council for Issuance of a Special Permit (b) Special Permit Application Certification by Planning Department (c) Certified copies of Abutter's Lists for the City of Marlborough (d) Summary Impact Statement (e) Site Plans (f) filing fee in the amount of \$500 (collectively, the "Documents") and which Documents are incorporated herein and become part of this decision.
- (8) Urban Affairs Committee review was conducted on July 17, 2007, July 24, 2007 and August 14, 2007.
- (9) The Site plan was certified by the City Planner for the City of Marlborough as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- (10) Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the special permit application and the City Clerk caused to be advertised said date in the Metro West Daily News and sent notice of hearing to abutters entitled to notice under law.

- (11) The Marlborough City Council pursuant to Mass. Gen. Laws c.40A, held a public hearing on June 11, 2007, which was concluded on that evening, concerning this application.
- (12) The Applicant presented testimony at the June 11, 2007 public hearing detailing the application, describing its impact upon municipal services, the neighborhood and traffic at the public hearing. Detailed drawings were submitted displaying the condominium layout, access and driveway layout, drainage and landscaping all of which are part of this record of proceedings.
- (13) Applicant provided further oral testimony and written documentation to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts of the proposed project, the adequacy of the proposed parking at the site, proposed building construction and site modifications, landscaping, drainage, lighting, and other improvements to the Site.
- (14) By its submittals as reviewed, the applicant has conformed to the provisions of the City Zoning Ordinance Sections 200-17 and 200-18, and all requirements of Article VII thereof, together with the provisions of Section 200-18(9) subsection (e).

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

- A) The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.
- B) The Council finds that the proposed use of this site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The City Council makes this determination subject to the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.
- C) The City Council finds that it may issue the Special Permit, subject to such terms and conditions, as it deems necessary, to encourage the most appropriate use of the Site and promote the health and general welfare of the citizens of the City of Marlborough, in making available additional residential facilities.
- D) The City Council, pursuant to its authority Mass. Gen., Laws c.40A GRANTS the Applicant a Special Permit to construct a ten (10) unit Multi Family Condominium for over 55 year old residents with a preference for those current residents of the City of Marlborough, as per the application documents, the findings, and plans submitted to the City Council and the City Council's Urban Affairs Committee, and SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:
 - 1) Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and Commonwealth of Massachusetts. The project will comply with all building codes including without limitations all such building codes and

Federal and State regulations applicable to construction or building within the vicinity of airport facilities. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Site Plan prepared by Guerriere and Halnon Inc., dated May 16, 2006, filed with the Special Permit Application, as amended during the application/hearing process before City Council and/or the City Council's Urban Affairs Committee, and most recently revised February 13, 2007.

2) The issuance of a Special Permit is further subject to completion of technical site plan review in accordance with the City of Marlborough Ordinance prior to the issuance of the actual Building Permit, and the Permanent Occupancy Permit shall not be issued until all conditions are complied with by Applicant, provided however, that temporary occupancy shall issue upon a determination by the Building Inspector that the site is substantially complete. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and Plans submitted, reviewed and approved by City Council as special permit granting authority.

3) All project work will be as shown on a plan entitled, "Site Plan for The Farm Common Condominium over 55 Community", most recently dated February 13, 2007, as amended during the application/hearing process before the City Council and/or Urban Affairs Committee.

4) Prior to the issuance of any Permanent Occupancy Permit for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless weather is prohibitive in which case landscaping and planting installation shall be completed by June 30, 2008.

5) In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the Commissioner of Public Works shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.

6) All terms, conditions, requirements, approvals, plans, and drawings and renderings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.

7) The entrance display sign will be of wooden construction, double sided and installed along the Farm Road traveled way upon Owner's property. The sign is to be painted with flat tone paint without gloss and with exterior illumination only.

8) All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance, and shall be as shown on the plan by Gemini Signs and Letters entitled Farm Crossing dated July 31, 2007.

9) All illuminations of individual parking area light fixtures shall not exceed 200 watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.

10) In recognition of site impact of this project and in mitigation thereof, Applicant shall pay a mitigation fee to the City of Marlborough in the amount of **Ten Thousand (\$10,000.00) dollars**. Said payment to be due before the issuance of any Certificate of Occupancy. Said funds shall be utilized for appropriate public purposes **relative to the affordable housing fund**.

11) Applicant shall, at the time of application for a Building Permit, pay the sum of \$1,500 to the City of Marlborough Inspectional Services Funds to offset the increase in cost associated with the project's construction such as materials, staff, equipment and supplies relative to permitting, monitoring and inspection of the project. Issuance of a final Occupancy Certificate by the Building Commissioner shall be deemed to have demonstrated compliance with the terms of this Condition.

12) (a) All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

(b) Reasonable engineering changes may be made to said plans by the Site Plan Review Committee so long as said changes do not change the use of the Site as approved herein, increase the impervious area of the Site, reduce the green area, alter traffic flow, increase the size of the building shown on the plan, or deviate from the conditions or purpose of the Special Permit as granted.

13) The Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended, during the application/hearing process before the City Council and/or the Urban Affairs Committee, Site Plan Review, and in compliance with the Conditions of the Grant of the Special Permit.

14) The existing catch basins and all drainage structures and detention facilities shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be provided by applicant, with report given to the City Engineer and Conservation Commission by June 1st of each year. The catch basins are to be cleaned when debris buildup is within 24 inches of the pipe invert to remain functioning properly. Drainage from this site drains eventually into the Sudbury Reservoir, a backup water supply.

15) Snow storage is to be provided on-site, but not near the wetlands. The Applicant may elect to utilize off-site storage. Snowmelt runoff is to be directed toward catch basins.

16) Pursuant to the provisions of Mass. Gen. L. Ch. 90 Sec. 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. Applicant shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the regulations of the Marlborough Sign Ordinance.

- 17) Applicant agrees to plant and maintain the Project landscaping as shown on the Site Plan as submitted to the City Council and/or the City Council's Urban Affairs Committee and the Landscape Plan entitled "Landscape Plan Farm Commons MKA Landscape Architects dated February 13, 2007."
- 18) Water and sewer services provided to the Project shall be subject to current citywide water and sewer charges subject to annual adjustment by the Commissioner of Public Works. Water and sewer connections shall be subject to a separate approval process and conditions.
- 19) The property as approved by this Special Permit shall be utilized for a Multi Family Condominium for over 55 year old residents only and all such condominium documentation will include this restriction.
- 20) Upon conveyance and every reconveyance of condominium units, Buyers will be informed in writing by the Seller that they will be residing across the way on Farm Road from the Historic Marlborough Airport Facilities and that traditional Airport activities occur daily. The buyers signed acknowledgement of this fact will be placed on file with the condominium trustees.
- 21) 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 a Building Permit is issued. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.
- 22) On or before October 1, 2007, Applicant must provide to the Legal Department documentation which is satisfactory to the Legal Department and which shows that Applicant is the sole trustee of Lauren Elizabeth Realty Trust; provided, however, that if Applicant fails to provide such documentation on or before said date, the City of Marlborough shall not accept any application for site plan review, nor shall the City issue any building permit, until such time as Applicant does provide the documentation required herein.
- Yea: 9 – Nay: 0 – Abstained: 1 – Absent: 1
Yea: Katz, Ferro, Webster, Clancy, Towle, Ossing, Pope, Vigeant, Levy
Abstained: Juairé
Absent: Schafer
- ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned 8:25 p.m., **FILE**; adopted.