



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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

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

**DECEMBER 17, 2012**

Regular meeting of the City Council held on Monday, DECEMBER 17, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 10:45 PM.

ORDERED: That Council President Pope held a moment of silence for the Newtown CT. Victims; **FILE**; adopted.

ORDERED: That the Minutes of the City Council Meeting, DECEMBER 3, 2012, **FILE**; adopted.

ORDERED: That the **CONTINUED JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, DECEMBER 17, 2012 at 8:00 p.m. in Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street, Marlborough, MA to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2013. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing recessed at 8:32 p.m.; adopted.

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

ORDERED: That the **PUBLIC HEARING** On Proposed Zoning Amendments as follows: Adding to Section 650-5.B a definition for "Data Storage/Telecommunications Facility", Adding to the Table of Use Regulations, Section 650-17, a category for "Data Storage/Telecommunications Facilities" under "Industrial Uses", and Adding to Section 650-48.A a new item (15), Order No. 12-1005235, all were heard who wish to be heard, hearing recessed at 8:40 p.m.; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Cumberland Farms Inc., 412 & 418 Maple St. and Walker St. to construct a convenience store with gasoline sales on the subject parcels and to operate new facility from 5:00 AM to midnight, Order No. 12-1005220, X-12-1005081, all were heard who wish to be heard, hearing recessed at 9:50 p.m.; adopted.

ORDERED: That the transfer of \$34,850.00 (thirty four thousand eight hundred fifty dollars) from Sale of Graves to Reduce the FY2013 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 27000-33020 \$34,850.00  
Sale of Graves

TO:

To Reduce 2013 Tax Levy \$34,850.00

**Yea: 11 - Nay: 0**

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

ORDERED: That the transfer of \$376,801.00 (three hundred seventy six thousand eight hundred and one dollars) from Acquifer Protection to Reduce the FY2013 Tax Levy, **APPROVED**; adopted.

FROM:

Acct. # 61000-31200 \$376,801.00

Acquifer Protection

TO:

To Reduce 2013 Tax Levy \$376,801.00

**Yea: 11 - Nay: 0**

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

ORDERED: That the Residential Shift Factor of 1.47, **APPROVED**; adopted.

**Yea: 10 - Nay: 1**

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

**Nay: Oram**

ORDERED: That the following percentage of FY2013 Tax Levy, **APPROVED**; adopted.

Residential 52.3493 (Residential Property Valuation 67.5824% of total valuation)

**Yea: 11 - Nay: 0**

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

ORDERED: That the following percentage of FY2013 Tax Levy, **APPROVED**; adopted.

Commercial, Industrial, Personal 47.6507 (CIP Valuation 32.4176% of total valuation)

**Yea: 11 - Nay: 0**

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

ORDERED: That the Inter-Municipal Agreement-Town of Sudbury to staff their Veteran's Services office, X-12-1005212, **FILE**; adopted.

ORDERED: That the Municipal Aggregation Program, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

**Councilor Ossing abstained**

ORDERED: At President Pope's request to recess at 10:05 PM and returned to open meeting at 10:10 PM, **APPROVED**; adopted.

ORDERED: That the Marlborough Economic Development Corporation (MEDC) Master Plan., refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Sign Ordinance, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Appointment of Ron Guest as Parking Clerk effective January 2, 2013, **FILE**; adopted.

ORDERED: That item #11, Proposed Results Way Mixed Use Overlay District Zoning Ordinance in proper legal form, Order No. 12-1005154B, **MOVED TO ITEM 20**; adopted.

ORDERED: That Request for Proposals for Wireless Telecommunications Leasing Project at Fairmount Hill Water Tank, 115 Onamog St., refer to **WIRELESS COMMUNICATIONS COMMITTEE**; adopted.

ORDERED: That Communication from Attorney Bergeron re: Notice of Representation, 630 Forest Realty LLC, Verizon, and Partners Healthcare Systems regarding various zoning matters, **FILE**; adopted.

ORDERED: That Chapter 650 of the Code of the City of Marlborough, being the zoning ordinance, as most recently amended, be further amended as follows:

1) By adding to Section 650-17, Table of Use Regulations, an additional use, "Utility Service Vehicle Maintenance," said use to be allowed only in the Industrial zones; and

2) By adding to Chapter 650, Section 650-18(A) the following new section (41), as follows:

(41) Utility Service Vehicle Maintenance

(a) A utility company in the business of operating and maintaining a transmission system for the provision of telephone, internet, electric, or other utility systems and maintaining utility service vehicles for that purpose may provide a place for undertaking minor mechanical servicing for said vehicles in a building used by said utility company for other purposes, provided that:

(i) all said motor vehicle service shall be conducted indoors

(ii) any motor vehicle bays or doors providing access to said indoor area, shall be located so as to face away from all existing streets

(iii) the size of said motor vehicle service area shall not constitute more than 10% of the total space in said building used by said utility or more than 10,000 square feet, whichever amount of space is smaller

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR THE SECOND MEETING IN JANUARY, 2013**; adopted.

ORDERED: That the Communication from David Renzi and Linda Senecal re: Proposed Senior Center/Renzi Shoe Repair Shop Museum, refer to the **MAYOR**; adopted.

ORDERED: That the Minutes, Council on Aging, November 13, 2012, **FILE**; adopted.

ORDERED: That the Communication from Amica on behalf of Philip Lioio re: Sewer Backup, refer to **LEGAL DEPARTMENT**; adopted.

## Reports of Committees:

Councilor Clancy reported the following out the Urban Affairs Committee:

**Order No. 12-1005219** – The Urban Affairs Committee met on 12/5/12 at 6:07 PM reviewed Council Order No. 12-1005219: Communication from Attorney Arthur Bergeron with request by Breazzano Properties Corp, seeking permission for the transfer of ownership of Real Estate referred to as Old Lakeside Ave.

Members Present: Councilors Clancy, Landers, Robey and Tunnera; Councilor Elder absent due to illness

Also: Councilor Jenkins and City Solicitor Donald Rider

Applicants Present: Atty. Arthur Bergeron, Bruce Saluk, Mark Breazzano and Atty. Douglas Rowe

The land in question, containing 8,813 sq. ft., is often referred to as Old Lakeside Avenue and currently bisects other land belonging to Breazzano Properties Corp. on which are located both Allora Restaurant and Weichert Realtors. A similar request was made to the City of Marlborough in 2006 and was voted by the City Council not to convey the property to Breazzano Properties until a determination was made by the Commonwealth of Massachusetts addressing its legal interest in the property. In a memorandum by MassDOT Highway Division on 10/14/12 it was determined that the MassDOT did not own the subject parcels in Marlborough, Massachusetts based on the Discontinuance of Route 20, Chapter 151, Section 567 of the Acts of 1996, and the City of Marlborough is the owner of the subject parcels of land with authority to convey the ownership of the parcels. With that understanding, the applicant is willing to offer the sum of, not less than, \$15,000 for the transfer of ownership from the City of Marlborough to Breazzano Properties Corp. This offer is based on the assessed value of \$10,491, determined by the 8,816 sq. ft. at \$1.19. The transfer of ownership will have conditions similar to those attached by the City Council on the transfer of ownership of nearby property on 1/18/2001 to Gerald Seymour. These conditions are stated in the two orders which must be adopted by the City Council for the conveyance of the property. The City Solicitor will provide the orders in proper legal form for the City Council's action.

The first order declares that by a simple majority vote, the City's right, title and interest is available for disposition by sale, subject to restrictions, as determined, for the Discontinuance Area.

The second order authorizes the Mayor, by a two-thirds vote, to convey the City's right, title and interest, with restrictions to the Discontinuance Area, to Breazzano Properties Corp. of 193 Dutton Rd. Sudbury, MA for the sum of no less than \$15,000.

**Motion to approve the transfer, made by Councilor Tunnera, seconded by the Chair and the Request was approved 4-0.**

**The Urban Affairs Committee is requesting that a Suspension of the Rules be granted, so as to act on the conveyance at the December 17, 2012 regular meeting. By acting on it in this year, the conveyance, upon approval by the Mayor with a Release Deed, will then be placed on the tax roles for this coming year.**

**Suspension of Rules requested – granted**

**ORDERED:** That the DPW transfer request in the amount of \$52,725.22 which moves funds from Reserve for Salaries to various accounts as noted below to fund the Marlborough Public Works Equipment Operators Association Contract, refer to **FINANCE COMMITTEE**; adopted.

TRANSFER REQUEST									
DPW LABOR CONTRACT									
FROM ACCOUNT					TO ACCOUNT				
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT	ACCOUNT DISCRIP	AMOUNT	ORG CODE	OBJECT	ACCOUNT DISCRIP	AMOUNT AVAIL
\$ 624,992.00	\$ 52,725.22	11990006	57820	Resrv Salaries	\$ 16,111.00	14001301	50740	OPERATORS	\$ 392,845.00
					\$ 510.00		51430	LONG	\$ 363.49
					\$ 401.00		51920	SLBB	\$ 34,150.00
					\$ 3,362.00	14001403	50745	MOTOR OPS	\$ 84,087.00
					\$ 1,146.00		50760	WORKING FORE	\$ 29,351.00
					\$ 11.00		51430	LONG	\$ 1.00
					\$ 14,565.00	14001503	50740	OPERATORS	\$ 310,752.00
					\$ 241.00		51920	SLBB	\$ 14,412.00
					\$ 224.00		51430	LONG	\$ 4,606.00
					\$ 1,120.38	60081001	50750	OPERATORS	\$ 29,021.00
					\$ 10.42		51430	LONG	\$ 901.00
					\$ 1,120.38	60085001	50750	OPERATORS	\$ 28,020.00
					\$ 68.04		51430	LONG	\$ 2,955.84
					\$ 1,120.00	61090001	50460	WR READERS	\$ 28,020.00
					\$ 12,325.00	61090001	50740	OPERATORS	\$ 333,247.00
					\$ 200.00		51430	LONG	\$ 1,126.00
					\$ 190.00		51920	SLBB	\$ 33,637.00
				Total	\$ 52,725.22				\$ 1,327,495.33
Reason:	To fund DPW Labors Contract								

**Suspension of Rules requested – granted**

**ORDERED:** That the City Council of the City of Marlborough,

having determined, pursuant to M.G.L. c. 40, § 15, that the City’s right, title and interest, if any, in a portion of property discontinued by the Commonwealth of Massachusetts Department of Public Works as a state highway in 1972, held for general municipal purposes, and discontinued by the City Council as a public way in 2006 (Order No. 06100-1204A), which portion of property is located off Lakeside Avenue and is identified and described as a portion of the land shown as Parcel 40A on Map 80 of the Marlborough Assessors Map,

and being more particularly shown as “Discontinuance Area” on a plan entitled “Discontinuance Plan of Land in Marlborough, MA; Prepared for: David Breazzano, 193 Dutton Road, Sudbury, MA 01776; Prepared by: Bruce Saluk & Associates, Inc., Civil Engineers & Land Surveyors, 576 Boston Post Road East, Marlborough, MA 01752; Date: October 7, 2005; Revised: April 20, 2006; Revised May 17, 2006; Scale: 1” = 30’ ” (the “Plan”), said Plan to be recorded in the Middlesex South District Registry of Deeds,

is no longer needed for such purposes,

hereby declares, by a simple majority vote pursuant to M.G.L. c. 30B, § 16(a), that the City’s right, title and interest, if any, in said Discontinuance Area is available for disposition by sale, with the following restrictions on the subsequent use of said Discontinuance Area:

1. the City of Marlborough shall retain a perpetual utility easement right, consistent with said Order No. 06100-1204A, to access, repair and maintain certain stormwater drainage, water and sewer mains or other pipes and structures on or beneath portions of said Discontinuance Area and over land of Breazzano Properties, Corp. adjacent to said Discontinuance Area;
2. the use of the said Discontinuance Area shall be restricted to the provision of parking spaces, and, in light of the utility easement right retained by the City, said use shall be subject to the express approval of the Commissioner of the City’s Department of Public Works; and
3. the said Discontinuance Area shall not be considered a separate buildable lot.

**APPROVED;** adopted.

**Suspension of Rules requested – granted**

**ORDERED:** That the City Council of the City of Marlborough,

having declared in Order No. 12-1005219A that the City’s right, title and interest, if any, in said Discontinuance Area is available for disposition by sale,

now hereby authorizes the Mayor, by a two-thirds vote pursuant to M.G.L. c. 40, § 15, to convey the City’s right, title and interest, if any, in said Discontinuance Area to Breazzano Properties, Corp., of 193 Dutton Road, Sudbury, Middlesex County, Massachusetts, for at least the minimum amount of Fifteen Thousand and 00/100 (\$15,000.00) Dollars, and upon such other terms as the Mayor shall consider proper consistent with the intent of this Order.

**APPROVED;** adopted.

**Yea: 11 - Nay: 0**

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

**Suspension of Rules requested – granted**

ORDERED: That the Agreement to Extend Time Limitations on the Application for Special Permit from Logical Partners, LLC to extend time limitations for construction of three Townhouse Condominium Units at 126 Pleasant St. to February 28, 2013, until 5:00 PM, **APPROVED**; adopted.

**Councilor Tunnera abstained**

ORDERED: That the Marlborough Economic Development Corporation transfer request in the amount of \$277,099.00 which moves funds from Economic Development to MEDC Funding to fund their operations and special projects for the remainder of the fiscal year, **APPROVED**; adopted.

FROM:

Acct. # 27000099-42440	\$277,099.00
Economic Development	

TO:

Acct. # 11740006-53950	\$277,099.00
MEDC Funding	

ORDERED: That the School Department Supplemental Budget Request in the amount of \$2,581,967.00 for additional FY13 funding, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$2,581,967.00
Undesignated Funds	

TO:

Acct. # 13000006-57000	\$2,581,967.00
School Budget	

**Yea: 10 - Abstain: 1**

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

**Abstain: Oram**

ORDERED:

**ARTICLE VI**

**§650-33 – RESULTS WAY MIXED USE OVERLAY DISTRICT**

A. **Purpose and Objectives**

The Results Way Mixed Use Overlay District (herein, also a “RWMUOD”) 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 Results Way 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 housing, 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”).

For the purposes of this section, the RWMUOD shall be superimposed on the other districts existing at the time that any land in any said underlying district is also included in the RWMUOD. The RWMUOD district is adjacent to Simarano Drive to the west, Forest Street to the north, and Puritan Way and Results Way to the east as indicated on the City Zoning Map and more particularly described in Exhibit "A" annexed hereto and incorporated by reference herein.

For the purposes of the Zoning Ordinance, a "Mixed Use Development" or "MUD" shall include any eligible use set forth in Section 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 Section 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

The City Council shall be the Permit Granting Authority for Special Permit and Site Plan Approval in the RWMUOD. In all instances, a development which proceeds under the RWMUOD 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 and Site Plan approval in the RWMUOD.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially 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 RWMUOD shall, prior to or simultaneously with, the first application for approval of a site plan and/or special permit for the RWMUOD, file the following with the City Council for approval:
  - (a) 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 Simarano Drive and Forest Street; and
    - (iv) Proposed building "envelope(s)" where construction is anticipated to occur (excluding internal site driveways).

- (b) 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 (square footage/use limitations); and
  - (iv) Approximate number of parking spaces for the entire RWMUOD District.

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 RWMUOD. 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 binding upon the developer/property owner. 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 RWMUOD, which shall contain, without limitation:
  - (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 RWMUOD progresses.
  - (b) Restrictions on development areas and such other development limitations as may be agreed upon.
  - (c) Proposed phasing of the development of the RWMUOD.
  - (d) Obligations with respect to pedestrian and vehicular interconnectivity within the RWMUOD to facilitate pedestrian access and parking efficiencies.
  - (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications.

- (f) An agreement by the property owner/developer of the residential component of the property to make a one-time financial contribution to the City per residential unit developed at the RWMUOD for which a building permit is issued. This payment shall be due at the time of the issuance of the building permit for the unit(s). This amount to be used by the City acting by and through the City Council to assist in the identification and implementation of zoning, economic and other strategies to foster professional, retail and commercial development initiatives as well as the development of affordable housing which may include, without limitation, the preparation of a Housing Production Plan in accordance with the rules and regulations of the Massachusetts Department of Housing and Community Development (760 CMR 56.03(4)) and the funding of the implementation of the goals and objectives set forth in such plan.

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

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 (§650-33 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 (§650-33 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any MUD undertaken in the RWMUOD and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District, provided that the maximum total impervious surface coverage for the RWMUD shall be 60% calculated on the entire land area of the RWMUOD and not on an individual lot basis). In the event of any conflict between the provisions of this Section (§650-33 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 set forth below, all uses permitted in the Industrial and Limited Industrial Districts either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the RWMUOD. If a use requires a special permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

- (1) The following additional uses are also permitted BY-RIGHT in the RWMUOD:
- (a) Research and experimental labs (33)<sup>1</sup> research and development includes, without limitation, laboratories engaged in research, experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, pharmaceuticals, medicine and physics
  - (b) Medical office and diagnostic medical laboratories appurtenant to offices of physicians and dentists
  - (c) Associated/accessory research uses (35)<sup>1</sup>
  - (d) Advanced manufacturing which shall include high technology manufacturing such as, but not limited to, laser technology, robotics, nanotechnology and computer associated design and software development
  - (e) Multi-family dwelling – up to 350 dwelling units within the entire RWMUOD Zoning District including, without limitation, age restricted dwelling units
  - (f) Retail sales and services – up to 75,000 square feet of total gross floor area, up to 10,000 square feet of gross floor area per establishment
  - (g) Hotels and motels
  - (h) Hotels with conference facilities and commercial uses
  - (i) Car parking lots, garages - a structure or a group of structures that facilitate the parking of vehicles at ground level, above or below grade and shall include area for the parking vehicles at, above and/or below grade under a building or otherwise integrated into another structure
  - (j) Consumer service establishments complimentary to the other principal uses at the property
  - (k) Restaurant, café with or without table service (including outside seating and service)
  - (l) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities
  - (m) Self-service laundry

---

<sup>1</sup> Numbers in parentheses correspond to subsection numbers in §650-18, Conditions for Uses, as noted in §650-17, Table of Use Regulations.

- (n) Dry Cleaning (pick up and drop off only)
- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the RWMUOD:
- (a) Multifamily dwelling – more than 350 dwelling units within the entire RWMUOD Zoning District including, without limitation, age restricted dwelling units
  - (b) Drive through facilities associated with retail (e.g. banks; pharmacies) and food services
- (3) The foregoing Sections notwithstanding, the uses set forth as follows are expressly PROHIBITED in the RWMUOD:
- (a) Adult entertainment including an adult bookstore, video store, paraphernalia store, movie theatre, or 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 except by special permit as an accessory use to an otherwise permitted principal use
  - (g) Hazardous and toxic chemical manufacturing
  - (h) Trucking terminal and distribution center
  - (i) Automotive sales and/or service
  - (j) Retail gasoline, oil and lubrication stations
  - (k) Commercial bakeries
  - (l) On site sales and rental of heavy machinery and vehicles
  - (m) Laundry and dry cleaning establishment, except drop off and pick up operations and facilities designed to service residents of Multi-family dwelling

- (n) 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
- (o) Any on-site facility or clinic devoted to the treatment of substance addiction, including any narcotic detoxification and/or maintenance facility.

F. Dimensional Requirements

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

- (1) The RWMUOD shall consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the Results Way 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 RWMUOD.
- (3) Minimum Front Yard measurement shall be no less than thirty (30) feet for any lot wholly located within boundaries of a RWMUOD.
- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more MUD Structures. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.
- (5) Maximum building height in RWMUOD shall not exceed 80 feet, provided: (i) residential structures shall not exceed 70 feet; and (ii) no structure located within 120 feet from the centerline of Forest Street shall exceed 50 feet.
- (6) Maximum Lot Coverage shall be calculated on the entire land area of the RWMUOD and not on an individual lot basis, and shall not exceed 60 percent of the total area of the RWMUOD.

G. Parking and Curb Cut Requirements.

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

- (1) General - In the RWMUOD 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.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the RWMUOD.

#### H. Signage

Except as otherwise provided in this Mixed Use Ordinance, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the RWMUOD.

#### I. Application

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

The City Council in connection with a Special Permit and/or Site Plan application shall review such applications with respect to the following design criteria:

- (i) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
- (ii) Street façade and exterior walls visible from public ways;
- (iii) Public space;

- (iv) Scale of buildings; and
- (v) External Lighting

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted prior to the close of the public hearing/meeting.

J. Standards for Roadways and Drainage

- (1) Roadways – Internal RWMUOD roadways shall be private ways and shall be maintained by the owners/developers of the RWMUOD and portions thereof. Private ways within the RWMUOD, 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 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.
- (2) Storm Water Management System - The RWMUOD 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, as amended.

K. Amendments

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit and major or minor amendments to a site plan approval may be made by a super majority (2/3) vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a Special Permit are not minor, per Section 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 Subsection C(3)(f) of Section 650-59.

**APPROVED;** adopted.

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

ORDERED: That the City Council of the City of Marlborough,

having been notified by the Commissioner of Public Works, pursuant to M.G.L. c. 40, § 15, that the City's fee interest in a portion of municipal property taken for sewer purposes and located in part off Framingham Road, and identified and described as a portion of the land shown as Parcel 93A on Map 93 of the Marlborough Assessors Map,

and being more particularly shown as "Parcel 'D'" on a plan entitled "Plan of Land in Marlborough, MA, Owner: Celeste Walker, Executrix, 990 Center Street, Apt. #2, Jamaica Plain, MA 02130-3029, Prepared for: Melanson Development Group, Inc., P.O. Box 564, Woburn, MA 01801; Prepared by: Bruce Saluk & Associates, Inc., Civil Engineers & Land Surveyors, 576 Boston Post Road East, Marlborough, MA 01752; Date: November 29, 2010; Scale: 1" = 40'," containing 24,032 square feet (0.55 acres), more or less, said plan to be recorded in the South Middlesex Registry of Deeds,

is no longer needed for such purposes,

hereby declares, by a simple majority vote pursuant to M.G.L. c. 30B, § 16(a), that the fee interest in said Parcel D is available for disposition by sale, with the following restrictions on the subsequent use of said Parcel D:

1. the City reserves to itself a perpetual public sewer easement in, under, upon and through said Parcel D, for the purposes of maintenance, repair, construction or reconstruction of public sewer lines; for the installation, repair or replacement of additional sewer pipes or any other municipal utilities or services; and for passive recreation purposes; and
2. the City also reserves the right to excavate or disturb ground without responsibility for repairing the surface, whether with loam or seed, and hereby prohibiting the grantee, its heirs, successors or assigns from planting, installing or maintaining any bushes, plants, trees or a structure of any kind in or about said Parcel D, unless approved in advance by written approval of the Commissioner of Public Works of the City of Marlborough.

The above declaration shall be null and void unless, on or before January 1, 2014, the Marlborough Planning Board, pursuant to Chapter 650-28 of the Marlborough zoning ordinance, has granted to Melanson Development Group, Inc. an open space development special permit which incorporates said Parcel D as described above.

**NOT APPROVED;** adopted.

ORDERED: That the City Council of the City of Marlborough,

having declared in Order No. 12-1005149A, that the fee interest in said Parcel D is available for disposition by sale, with the use restrictions recited in said Order,

now hereby authorizes the Mayor, by a two-thirds vote pursuant to M.G.L. c. 40, § 15, to convey the City's fee interest in said Parcel D to Melanson Development Group, Inc., of 5 Robertson Way, Woburn, Middlesex County, Massachusetts, for at least the minimum amount of Thirty-Six Thousand and 00/100 (\$36,000.00) Dollars, and upon such other terms as the Mayor shall consider proper and consistent with the intent of this Order and at a sales price that would maximize the total economic return to the City.

**NOT APPROVED;** adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:45 PM.