



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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NOVEMBER 5, 2018

Regular meeting of the City Council held on Monday, November 5, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juaire, Oram, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Absent: Ossing. Meeting adjourned at 8:33 PM.

ORDERED: That the Minutes of the City Council meeting OCTOBER 15, 2018, **FILE**; adopted.

ORDERED: That the Minutes of the City Council meeting OCTOBER 29, 2018, **TABLED UNTIL THE NOVEMBER 19, 2018 CITY COUNCIL MEETING**; adopted.

ORDERED: That the City Council of the City of Marlborough, having, by Order No. 18-1007245C voted on October 15, 2018, approved a special permit to 27 Jefferson LLC to build and operate an 11-unit, 2-story multifamily condominium building to be located at 27 Jefferson Street in Marlborough; and

Having conditioned that approval on, in part, condition no. 16, which anticipates that the City Council consider assigning to the LLC, its successors and/or assigns, the easement rights granted to the City in 1940, as recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, to construct and maintain a retaining wall on a 3'-wide strip of land located at 27 Jefferson Street, 23 Jefferson Street, and 30 Highland Street (respectively, Marlborough Assessors Map 56, Parcels 160, 161, and 162); and

Having received notification from the Commissioner of the Department of Public Works that said retaining wall easement is no longer needed by the City of Marlborough for the purpose for construction and maintenance;

NOW, THEREFORE:

1. the City Council, acting pursuant to M.G.L. c. 40, § 15A, hereby transfers said easement from the DPW to the City Council for another specific municipal purpose, namely, assignment of said easement to 27 Jefferson LLC, its successors and/or assigns, such that the LLC, its successors and/or assigns, at their sole expense, shall:
 - a. perform any and all work in the future for the purposes of reconstructing, relocating, maintaining and/or repairing the retaining wall; and

- b. record the City's assignment at the Registry, with a copy of the recorded assignment provided to the City Council's office, the Engineering Division of the Department of Public Works, and the Legal Department; and
2. further, the City Council, acting pursuant to M.G.L. c. 40, § 3, hereby authorizes the assignment of said easement, for nominal consideration, to 27 Jefferson LLC, its successors and/or assigns, and hereby authorizes the Mayor to execute the assignment of easement and to do all things as may be necessary to carry out this order.

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED:

DECISION ON A SPECIAL PERMIT

Application of:
Garden Remedies, Inc.

Locus:
416 Boston Post Road
Map 73, Parcel 30

**DECISION ON A SPECIAL PERMIT
ORDER NO. 18-1007318E**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Garden Remedies, Inc. (the "Applicant") to build and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at 416 Boston Post Road, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation having a business address of 307 Airport Road, Fitchburg, MA 01420.
2. The Applicant is the prospective tenant of a commercial retail unit located at 416 Boston Post Road, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 73 as Parcel 30 (the "Site"). The Site's owner is Marlboro Square, LLC with a business address of 449 Boston Post Road, Marlborough, MA 01752
3. In accordance with Article VI, § 650-17, § 650-18(45), § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at the Site (the "Use").
4. The Site is located in the Business Zoning District with frontage on Boston Post Road (Route 20).
5. The overall Site has an area of 174,240 +/- square feet (4 acres).

6. The Use will occupy an existing retail unit at the Site with an area of 3,100 +/- square feet.
7. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit (“Application”) for the Use, as provided in this Decision.
8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, existing site plans for the Site in accordance with Rule 5 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of drawings of the exterior and interior of the unit associated with the Use (collectively the “Plans”).
9. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), 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 on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, August 27, 2018. The hearing was closed on that date.
12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
13. At the public hearing, eight members of the public spoke in favor of the Use. Two members of the public spoke in opposition to the Use.

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

- A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

- C. The City Council finds that the Site is located in the portion of the Business District along Massachusetts State Highway 20 (Boston Post Road) between the Sudbury town line and Phelps Street with frontage along Massachusetts State Highway 20 (Boston Post Road), in accordance with § 650-18(45)(a) and (b) and § 650-18(46)(a) and (b) of the Zoning Ordinance, and that the Site is not located within 500 feet of a school or daycare center, in accordance with § 650-32.F and § 650-32.F.1 of the Zoning Ordinance.
- D. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:
1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will provide a safe and convenient location for patients and adults to obtain medication and marijuana infused products.
 2. Traffic flow and safety, including parking and loading:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.
 3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.
 4. Neighborhood character and social structures:

Finding: The Use is consistent with the established retail area in the vicinity of the Site.
 5. Impacts on the natural environment:

Finding: The Use will have no greater impact than the established retail uses in the area.
 6. Potential fiscal impact, including impact on City services, tax base, and employment:

Finding: The Use will be revenue positive, with additional revenues coming from a local sales tax and host community agreement impact fees.
 7. Hours of operation:

Finding: The hours of operation of the Use are specifically conditioned below.

8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:

Finding: The provision of contact information is specifically conditioned below.

9. Requiring payment of a community impact fee:

Finding: The City and the Applicant have entered a host community agreement that requires the payment of impact fees in accordance with statutory requirements.

10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police who shall have the authority to disapprove the employment of any person(s) as a result of said background check:

Finding: This requirement is specially conditioned below.

13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises:

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: This requirement is specially conditioned below.

15. The ability for the Business to:

- a. provide a secure indoor waiting area for clients;
- b. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
- c. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals;
- d. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Business, and its impact on neighboring uses; and
- e. provide opaque exterior windows;

Finding: These requirements are specially conditioned below.

16. Signs and signage:

Finding: The signage shown on the Plans is appropriate for the Use.

17. Names of businesses, business logos and symbols, subject to state and federal law and regulations:

Finding: The name of the business, logos, and symbols associated with the Use, as provided in the Application and shown on the Plans, are appropriate for the Use.

E. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised 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.
5. Compliance with State Requirements. In accordance with § 650-18(45)(c) and § 650-18(46)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of a Medical Marijuana Treatment Center and/or an Adult Use Marijuana Retail Establishment.
6. Security.
 - a. As shown on the Plans, the Applicant, its successors and/or assigns, shall maintain a secure entrance lobby / waiting area providing a physical separation between the exterior door of the unit and interior areas of the unit where marijuana and marijuana infused products are dispensed and sold, with security personnel available during operating hours to screen individuals arriving at the unit, to ensure that interior areas of the unit are only accessible to qualified patients / caregivers or persons over the age of 21 and to ensure that no individuals pose a direct threat to the health or safety of others.
 - b. The Applicant, its successors and/or assigns, shall maintain a secure pick-up / drop-off area for patients, customers, and products.
 - c. As shown on the Plans, the Use shall have opaque exterior windows.
 - d. The Applicant, its successors and/or assigns, shall maintain adequate staffing so that patients and customers may make purchases in an efficient manner to avoid queuing and impacts on neighboring uses.
 - e. The Applicant, its successors and/or assigns, shall maintain surveillance cameras capable of 24-hour video recording, archiving recordings, and the ability to immediately produce images, in, on, around, or at the Use.
7. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use. Marijuana and marijuana products shall be pre-packaged and sealed prior to arriving at the Site. Any odors associated with marijuana and marijuana infused products shall be limited to the interior of the unit. There shall be no onsite consumption or use of marijuana or marijuana infused products associated with the Use.
8. Hours. The maximum hours of operation of the Use shall be Monday through Saturday, 10:00 a.m. to 8:00 p.m., and Sunday from 10:00 a.m. to 5:00 p.m.
9. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.

10. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.
11. Inspections and Records. The Applicant, its successors and/or assigns, shall make the Use available for regular inspections by City officials or their agents, and shall provide City officials or their agents with access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.
12. Background Checks. The Applicant, its successors and/or assigns, shall require that employees undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police, who shall have the authority to disapprove the employment of any person(s) as a result of said background check.
13. Unrelated Materials. The Applicant, its successors and/or assigns, shall not make available for sale as part of the Use any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.
14. Police Detail. The Applicant, its successors and/or assigns, shall employ a City of Marlborough Police detail at the Site during all operating hours for the first sixty (60) days after the commencement of operations, unless the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during certain times of the day. At the end of the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is still necessary during all operating hours or at certain times, then the Applicant, its successors and/or assigns, shall continue to employ a City of Marlborough Police detail until deemed unnecessary by the Chief of Police in a letter filed with the City Council. In the event a City of Marlborough Police detail is not available when required, the Applicant, its successors and/or assigns, shall obtain a private detail.
15. Partial Use: The Applicant, its successors and/or assigns, is not required to operate all portions of the Use simultaneously. The Applicant, its successors and/or assigns, may commence either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use upon receipt of all local and state permits and licenses for the respective portion of the Use, and commence the other portion of the Use at a later date. Similarly, if either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use ceases, either temporarily or permanently, the Applicant, its successors and/or assigns, may operate the other portion of the Use.

16. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex County 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 Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 10 – Nay: 0 – Absent - 1

Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.

Absent: Ossing

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Site Plan Permit -Site Plan Approval with Conditions – 28 South Bolton Street, Order No. 18-1007317, **MOVE TO ITEM 11**; adopted.

ORDERED: That the Communication from Attorney Pezzoni re: Proposed Zoning Amendment regarding Multifamily Retirement Community, X-Order No. 18-1007198G, **TABLED**; adopted.

ORDERED: That the Minutes, License Board, September 18, 2018 & September 26, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, July 25, 2018, **FILE**; adopted.

ORDERED: That the Minutes School Committee, September 25, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Retirement Board, August 28, 2018 & September 25, 2018, **FILE**; adopted.

Reports of Committees:

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

Meeting Name: City Council Public Services Committee

Date: October 30, 2018

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 6:30 PM – Adjourned: 7:09 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish (arrived 6:32 PM); and Councilors Delano, Dumais, Ossing, and Robey; John Ghiloni (Commissioner, Department of Public Works); Tom DiPersio (City Engineer, City of Marlborough); Donald Rider (City Solicitor, City of Marlborough); Brian Dugdale (Attorney, Goulston & Storrs); Michael Sabatino (Engineer, Eversource Energy)

Order No. 18-1007426: Communication from Goulston & Storrs regarding Request to Extend Sewer Connection Permit at Marlborough, 100 Campus Drive. Attorney Brian Dugdale appeared before the Public Services Committee on behalf of his client, Hines Global REIT Marlborough Campus I LLC, to request an extension of an existing Sewer Connection Permit for the Phase Two development of the Campus at Marlborough located at 100 Campus Drive. Phase One was completed in the 1990's and Phase Two was permitted in 2005. Mr. Dugdale explained the approval of the extension for the Sewer Connection Permit lets potential tenants know there is room for growth and the community supports these projects. Mr. Dugdale indicated they have received recent interest at the site and this extension will allow them to retain that interest from potential tenants.

Motion made by Councilor Doucette, seconded by the Chair, to approve the request to extend Sewer Connection Permit for the Campus at Marlborough. The motion carried 3-0.

Motion made by Councilor Doucette, seconded by the Chair, to request a Suspension of the Rules at the November 5, 2018 City Council meeting to vote on the Sewer Connection Permit for the Campus at Marlborough.

Reports of Committee Cont'd:

Order No. 18-1007427: Petition from Eversource Energy to install 775' of 6" IP plastic gas main as a system improvement on Stow Road from the intersection of Simpson Road to the intersection of Fitzgerald Road. Michael Sabatino an engineer from Eversource Energy appeared before the Public Services Committee and explained Eversource has a model that is reviewed yearly which depicts how projects are chosen. There is a significant pressure drop in this location as it is towards the end of the system. Along Stow Road on the Fitzgerald Road side there is better pressure than at the other end near Simpson Road and connecting those two systems would balance them out and provide better service to the affected customers on Simpson Road. There was a discussion regarding the timing of the project and Mr. Sabatino explained it was estimated to be a six-week project which would have its completion at mid-December and he understood if they requested it be delayed as it was not an emergency and could wait until the spring. City Engineer Tom DiPersio spoke about the road opening deadline of December 1st and how a road cannot be opened after that date unless it was an emergency and approved by the Commissioner of Public Works or the City Council, per city ordinance. Mr. DiPersio recommended, given the size of the project, the project be delayed until the following year. Chairman Landers read the project conditions as provided by the City Engineer:

If/when the Stow Road Project commences, it should be under the following conditions:

- The exact location of the new pipe in the roadway shall be pre-approved in the field by the Engineering Division prior to the start of work.
- A traffic management plan shall be submitted to the Engineering Division for approval prior to the start of work.
- Final trench/paving requirements will be set by the Engineering Division as conditions of the road opening permit.

Motion made by Councilor Irish, seconded by the Chair, to approve the petition with conditions from Eversource Energy to install 775' of 6" IP plastic gas main on Stow Road. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 7:09 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: October 30, 2018

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Convened: 5:35 PM – Adjourned: 5:56 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers and Doucette; Councilors Clancy, Dumais, Oram, Ossing, and Robey; Attorney Michael Norris; and Raphael Fischetti (Applicant)

Absent: Urban Affairs Committee Members Councilors Juairé and Tunnera

Reports of Committee Cont'd:

Order No. 18-1007387: Application for Special Permit from Attorney Norris, on behalf of Raphael Fischetti, to construct a new single-family dwelling at 89 Spring Street. The Urban Affairs Committee met with Attorney Michael Norris and applicant Raphael Fischetti for a discussion of their request for a special permit to construct a new single-family house at 89 Spring Street. The lot is small, the previous house was demolished by the City and the lot was sold to the applicant as a tax foreclosure property. The applicant wants to build a two-story house versus the previous one-and-a-half-story house which means exacerbating the pre-existing, non-conformity of the lot and requires a special permit by the City Council. Ward Councilor Irish was unable to attend the meeting but sent a letter to Chairman Delano explaining he had no objection to the project but asked about their plans for the driveway, landscaping, and stone wall. Mr. Fischetti explained the driveway will be repaved but no changes to its size or location are intended, the stone wall will be repaired, and the landscaping will be maintained in neat manner. The Councilors had no objections to the application as there was no opposition from the neighbors, but they required the following additional conditions as part of the special permit:

1. Repair and maintain the stone wall.
2. Driveway shall remain the same size.
3. The structure shall be limited to three-bedrooms and six rooms total.
4. No additions shall be allowed or other structures on the property.
5. Decks may only be attached on the rear side of the house.

Motion made by Councilor Doucette, seconded by the Chair to approve the Special Permit Conditions as amended. The motion carried 3-0 (Juaire and Tunnera absent).

Motion made by Councilor Doucette, seconded by the Chair to approve the Special Permit with Conditions as amended. The motion carried 3-0 (Juaire and Tunnera absent).

Motion made by Councilor Doucette, seconded by the Chair to request a Suspension of the Rules at the November 5, 2018 City Council Meeting to refer to the Legal Department to place in proper legal form. The motion carried 3-0 (Juaire and Tunnera absent).

Motion made and seconded to adjourn. The motion carried 3-0 (Juaire and Tunnera absent). The meeting adjourned at 5:56 PM.

Reports of Committee Cont'd:

Order No. 18-1007420: Communication from Councilor Ossing regarding Funding for New School, Library Renovation and West Side Fire Station.

Councilor Ossing presented to the Urban Affairs Committee a review of the upcoming bonds for the school, library, and fire station and their impact on the City's taxes and the potential revenue from projects before the City Council. The library bond must be approved by January 2019 or lose the State's matching funds and the fire station bond request is in process. There is a need for housing across the City and Councilor Ossing presented a table of potential projects that could pay for the bonds. How can the projects be bonded while being fiscally responsible, managing the City's budget, and providing the lowest possible tax rates. The discussion focused on potential projects and they should each be taken on their own merits not only for the present but the future.

Motion made by Councilor Juaire, seconded by the Chair to accept and place on file. The motion carried 4-0 (Tunnera absent).

Motion made and seconded to adjourn. The motion carried 4-0 (Tunnera absent). The meeting adjourned at 6:48 PM.

Councilor Robey reported the following out of the Legislative & Legal Affairs Committee:

City Council Legislative and Legal Affairs Committee

Tuesday, October 30 5:15 PM– In Council Chambers

Minutes and Oral Report

Present: Chairman Katie Robey, Councilor Delano and Councilor Landers.

Also present were Councilors Clancy, Dumais, Doucette, Oram, and Ossing.

Also in attendance was Marlborough Veteran's Agent Nick Charbonneau.

Order No. 18-1007436: That Section 9 of Acts of 2018, Chapter 218, re MGL Section 22 A1/2 of Chapter 40 be referred to the Legislative and Legal Affairs Committee and Traffic Commission. In August 2018, Governor Baker signed into law the BRAVE Act which amends several sections of MGL regarding veterans. The amendment to Section 22 A1/2 of Chapter 40 would add in a new Section 22 A3/4 and allow a municipality to designate a parking space at city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to Section 2 of Chapter 90. The parking space shall be available during the normal hours of business of city or town hall for use by veterans without charge. A sign shall be erected at the space bearing words "Veteran Parking Only-this space reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense." A violation of this subsection shall be punished by a fine of \$100 and the city or town may provide for the removal of a vehicle in the manner provided in Section 22D. The penalty shall not be a surchargeable offense under Section 113B of Chapter 175.

The committee discussed issues regarding a veteran parking in space whose car doesn't have the required plate and if we could double up with existing handicap parking space behind city hall and add veteran parking. As this was also referred to Traffic Commission and they were meeting the next day, it was decided to wait until they have met. Chairman Robey would attend and express that Legislative & Legal Affairs members were in favor of allowing this.

Reports of Committee Cont'd:

It was moved and seconded to table this matter until the Traffic Commission meets; the motion carried 3-0.

The committee adjourned at 5:35 pm.

Suspension of the Rules requested – granted

ORDERED: That the Communication from Goulston & Storrs, on behalf of Hines Global REIT Marlborough Campus I LLC, to extend sewer connection permit for Campus at Marlborough, 100 Campus Drive to December 2, 2020, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Application for Special Permit from Attorney Norris, on behalf of Raphael Fischetti, to construct a new single-family dwelling at 89 Spring Street, refer to **LEGAL TO PLACE IN PROPER LEGAL FORM**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the following Act of the Massachusetts Legislature be referred to the Legislative/Legal Affairs Committee and Traffic Commission for review and, if deemed appropriate, a suitable location chosen for such reserved parking space at the city hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90: SECTION 9. Chapter 40 of the General Laws is hereby amended by inserting after section 22A½ the following section: Section 22A¾. (a) A municipality may designate a parking space at the city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90. The parking space shall be available during the normal business hours of the city or town hall for use by such veteran without charge. The municipality shall erect and maintain a sign designating such a parking space that shall bear the words "Veteran Parking Only – this space is reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense". The parking space shall only be used by a veteran that meets the requirements of this subsection. (b) A violation of subsection (a) shall be punished by a fine of \$100 and the city or town may provide for the removal of a vehicle in the manner provided in section 22D. The penalty shall not be a surchargeable offense under section 113B of chapter 175, **APPROVED**; adopted.

ORDERED:

**CITY COUNCIL
MARLBOROUGH, MA**

Site Plan Permit # _____

Site Plan Approval with Conditions

Applicant: M & E Ventures Corporation, 4 Watkins Lane, Southborough, MA

Property Owner: M & E Ventures Corporation, 4 Watkins Lane, Southborough, MA

Location: 28 South Bolton Street (the “Site”) being shown as Parcels 212A, 213, 222, 224, and 528 on Assessors Map 70.

Zoning District: Marlborough Village District (MV)

Plans: The following Site Plan Approval Final Conditions are based on a set of plans entitled “Proposed Site Plan of 28 South Bolton Street in Marlborough, MA” by Connorstone Engineering, Inc., said plans being comprised of Sheets 1 through 7 with the last revision date of 9-18-2018 (said set of plans hereinafter, collectively, the “Site Plans”); a landscaping plan entitled “Proposed Landscaping Plan” by Timothy Burke Architecture, dated 9-5-2018 (hereinafter, “Landscape Plan”); and a set of eight (8) architectural drawings entitled “28 South Bolton Street” by Timothy Burke Architecture, dated 3-21-18 (hereinafter, “Architectural Drawings”), all of which plans are attached hereto as Exhibit “A.”

SITE PLAN APPROVAL FINAL CONDITIONS:

A. Site Conformance:

1. Construction on the Site shall be in conformance with the above approved Site Plans, Landscape Plan, Architectural Drawings, 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.
3. No cellular communication equipment, including but not limited to a tower, may be installed at the Site without the approval of the City Council, except for equipment serving the residents and businesses of the Site.

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") to be approved by the Building Commissioner, Fire Chief, Police Chief, and City Engineer. Said Construction Plan shall address the building demolition phase of the project, which may take place in advance of the construction phase and under a separate demolition permit.
- 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 construction vehicles, etc.;
 - (ii.) traffic management, detour routes if necessary, construction signage, 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; and
 - (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.

2. **Green Building:** The building plans shall show compliance with § 650-34D.(2).(m), concerning sustainable building design, 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 § 650-34D.(2).(b) of the Zoning Code of the City of Marlborough regarding screening of rooftop mechanical equipment.
4. **Footings:** If the footings for the proposed building will be located within the City of Marlborough public way layout, an easement from City Council must be obtained prior to the issuance of any building permits.
5. **Land Acquisition:** Prior to the issuance of a building permit for the construction of the building, the Applicant shall acquire title to the portions of the Site currently owned by the Commonwealth of Massachusetts, and rights from the Marlborough Community Development Authority, necessary to complete the improvements shown on the Site Plans.

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. A similar meeting shall be held prior to the commencement of demolition, which may take place under a separate demolition permit.
2. Use of Ways During Construction: Consistent with the Construction Plan, all areas for construction staging and offloading of building materials, as well as any excavations, long-term construction scaffolding, or other obstructions shall be coordinated to maximize public safety and to minimize interference with the customary use of public ways by vehicles and pedestrians. Permits are required for any street or sidewalk excavations or obstructions. 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. OSHA: All Contractors shall abide by OSHA regulations as appropriate, including but not limited to OSHA-29 CFR, Section 1926, as amended.
4. 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.
5. Hours of Operation: In accordance with § 431-3B. 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 7:00 a.m. to 7:00 p.m., except Sunday when all use is prohibited except with a variance from the Board of Health or as emergency work

D. Storm Water:

1. Siltation Control: The Applicant, Property Owner, and site contractor shall be responsible for protecting the City drainage system with erosion controls at all times during construction, and for notifying the Conservation Officer and the City Engineer 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.

E. Landscaping:

1. Modifications: All modifications to the approved Landscape Plan 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 in accordance with the approved Landscape Plans, or a revision, previously approved by the Conservation Officer, of the Landscape Plans.
3. Replacement of Plantings: Following 18 months of the date 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: At all times, landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans. This shall be an ongoing condition.

F. Driveway Design:

1. Through this decision, the City Council has determined that the alternative configuration of the proposed driveway shown on the Site Plans will adequately protect public safety and meets commonly employed engineering and planning standards, in accordance with § 650-49E. of the Zoning Code of the City of Marlborough.

G. Parking Garage:

1. The design of the parking garage access shall be such that entering and exiting from the garage is controlled by the Site's residents and business operators. The building design shall provide for adequate sight distances for vehicles exiting the garage to provide for pedestrian safety. The Applicant shall use appropriate signage at the entrance and exit to ensure pedestrian safety.
2. The parking garage is to be for the sole use of the residents of the Site. The parking garage is not intended for public use.

H. Prior to Issuance of a Certificate of Occupancy:

1. Payment in Lieu of Parking: The project contains 36 residential units, and therefore must either (i.) comply with parking space requirements, or (ii.) make a “payment in lieu of parking” for each space not provided, per § 650-34E. of the Zoning Code of the City of Marlborough. Required parking for the project is as follows:

1 bedroom units:	4 @ .75 spaces per unit =	3 spaces
2 bedroom units:	32 @ 1.25 spaces per unit =	40 spaces
Total Spaces Required		= 43 spaces

The difference between the number of parking spaces provided on the Site Plans (29) and the number of parking spaces required (43), which is 14 spaces, will be addressed in strict accordance with § 650-34E.(2)(b) of the Zoning Code of the City of Marlborough. Per said Code, a payment-in-lieu-of-parking equal to \$140,000 (\$10,000 for each of the 14 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. Work Within Public Way: All work within the public way layout, including but not limited to planting, repaving, pavement milling and overlay, pavement markings, etc., as shown on the approved plans, shall be completed prior to the issuance of the first Certificate of Occupancy.
3. Cotting Avenue Design: The Applicant shall work with the Police Department and City Engineer to meet with the Traffic Commission to consider changes to the design and direction of Cotting Avenue.
4. As-Built Plans: An as-built plan(s) must be submitted to the City Engineer for review prior to the issuance of the first Certificate of Occupancy or Temporary Certificate of Occupancy. The as-built plan(s) shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website of the City of Marlborough. An as-built landscape plan is also required to be submitted by the landscape architect as noted in section E.2. above.
5. Time for Completion: Work as provided for on the Site Plans 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 in writing an extension of time for completion of the work.
6. Signage: Pursuant to § 650-34I. of the Zoning 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 and must meet the requirements of § 650-34I. of the Zoning Code of the City of Marlborough.

7. Pedestrian Signal Improvements: Since residents of the proposed units may be parking in the nearby municipal parking garage and other off-site parking areas, there may be an increase in pedestrian crossings at the intersection of South Bolton Street and Granger Boulevard. To help ensure safety for pedestrian crossings, the Applicant shall upgrade the existing pedestrian signal heads at this intersection to ADA/MUTCD-compliant signals with countdown timers and audible push button systems. Submittals for the new signal equipment shall be approved by the City Engineer prior to construction.

I. General Provisions:

1. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Code as enacted by the City Council.
2. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.

APPROVED; adopted

ORDERED: That the Funding for a New School, Library Renovation and West Side Fire Station, **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:33 PM; adopted.