

Councilors-at-Large

Mark A. Oram
Michael H. Ossing
Samantha Perlman
Kathleen D. Robey



Ward Councilors

Ward 1 – Laura J. Wagner
Ward 2 – David Doucette
Ward 3 – J. Christian Dumais
Ward 4 – Teona C. Brown
Ward 5 – John J. Irish
Ward 6 – Sean A. Navin
Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

CITY OF MARLBOROUGH CITY COUNCIL MEETING MINUTES MONDAY, FEBRUARY 27, 2023

The regular meeting of the City Council was held on Monday, February 27, 2023, at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 8:33 PM.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, FEBRUARY 13, 2023, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Application for a Special Permit from Marquel Frink and Divino Oliveira on behalf of All Fur Love, to operate a dog grooming business to be located at 75 Lincoln Street, in proper legal form, Order No. 22/23-1008723, **MOVED TO ITEM 22 & FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Application for a Special Permit from Attorney Brian Falk, on behalf of Octo48, LLC d/b/a Action Precision Machining to convert a preexisting nonconforming warehouse use to a machine shop to be located at 269 Mechanic Street, in proper legal form, Order No. 22/23-1008741, **MOVED TO ITEM 23 & FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Application for a Special Permit from Attorney Terrence Morris, on behalf of 272 Lincoln LLC, to build a 12-unit multi-family dwelling with accessory parking to be located at 272 Lincoln Street, in proper legal form, Order No. 22/23-1008709, **MOVED TO ITEM 24 & FILE**; adopted.

Council Dumais Recused.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY MARCH 27, 2023**, as the **DATE FOR PUBLIC HEARING**, on Application for a Special Permit from Attorney Sem Aykanian, on behalf of SUCIU LLC, d/b/a Exela Storage, to add additional storage units to a nonconforming storage facility to be located at 846 Boston Post Road East within the Wayside District, referred to the **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY MARCH 27, 2023**, as the **DATE FOR PUBLIC HEARING**, on Application for a Special Permit from Connorstone Engineering, on behalf of Trombetta Family Limited Partnership, to allow the use of an existing Contractor/Landscape Contractor Yard within the LI district to be located at 655 Farm Road, referred to the **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) Conservation Commission, January 12, 2023.
- b) Historical Commission, December 15, 2022.
- c) Planning Board, December 5, 2022, December 19, 2022 & January 9, 2023.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

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

- a) Clarisse Sugar, 127 Worcester Road, Westminster, pothole or other road defect.
- b) Lorraine Watson, 80 Elm Street, #7, pothole or other road defect.

Reports of Committees:

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

**City Council Urban Affairs Committee
Thursday, February 23, 2023
Minutes and Report**

This meeting convened at 6:30 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov).

Urban Affairs & Housing Committee voting members present: Chairman Katie Robey, Councilor Doucette, Councilor Landers, Councilor Navin, and Councilor Wagner.

Other Councilors present: Irish and Ossing.

Others Present: City Solicitor Grossfield.

Order No. 23-1008816 Request for approval of a flat wall sign by Harry's Construction, 561 Boston Post Road east within the Wayside zoning district.

The Chair began by stating because this is a sign in Wayside District and the council is approving body, she wanted to be sure the owner had a business license in the city and was aware the site couldn't be used as a contractor's storage yard or have company vehicles parked overnight. After discussion with the building department, the chair is comfortable approving the sign permit pending final issuance of an occupancy permit.

Councilor Doucette moved to approve the sign permit for Harry's Construction pending final issuance of an occupancy permit; motion received a second and the vote carried 5-0.

Reports of Committee Continued:

Order No. 22-1008721 Communication from Solicitor Grossfield on behalf of Councilor Robey re: proposed amendments to Ch.650 Zoning relative to certain provisions concerning mixed use and affordable housing.

The Chair read the letter from the Planning Board after its December 19, 2022, public hearing where a recommendation to send a favorable recommendation carried 7-0. The board did recommend that 1) affordability be defined within the zoning amendment, 2) the possibility its passage may cause impediments to site developers be considered, and 3) the council consider changes may occur when new zoning for MBTA requirements is provided.

The chair also stated that this is under a time clock and that 90 days from the council public hearing is Monday, March 20 so this has to be taken up by our meeting on March 13th. The chair and President Ossing had met with the mayor on this and gotten some information and the chair had researched for information but did not want this to die in committee. Her goal with the amendments was to remove the buyout developers could use instead of providing affordable units, make housing built under site plan approval also require affordable housing, and to offer affordable housing to a range of incomes. She had asked the secretary to email councilors some information from the City of Waltham.

Discussion began on II §650-26 Affordable housing. After much discussion, it was agreed to:

- A. (1) amend the recommended language which was to strike “of 20 or more units” and replace with “of 8 or more units.”
- A. (1) (a) Number of affordable units. To strike everything in this including provision of payment in lieu of building and replacing it with language taken from Waltham’s Affordable Housing Provisions 9.142. this provision would be tweaked by Solicitor Grossfield but would require housing units of 8 or more to have 15% of total units sold or leased to families meeting specified guidelines and for any development with more than 18 units, to have 20% sold or leased to families meeting guidelines. Additional language would clarify that the units would be targeted for households earning less than 80% of the area median income as set by the US Department of Housing and Urban Development (HUD) within the Standard Metropolitan Statistical Area that includes Marlborough and that at least 1/3 of the units sold or leased would be to households earning less than 50% of the median income set by HUD.
- Strike A. (1) (f) in its entirety as language from Waltham would also include provisions for the units to have the affordable housing restriction run with the land in perpetuity.
- A. (3) Strike the suggested revision to the section until we can get clarification on retirement communities with affordable housing counting toward the city’s affordable unit count.

With the committee having no further questions or changes to the document, it was agreed to have Solicitor Grossfield work on a new draft incorporating these changes to the document, keeping this in committee and adding this to the upcoming March 6th Urban Affairs committee for final discussion and vote with it then on Council’s agenda for March 13th.

Councilor Doucette moved to adjourn; it was seconded and carried 5-0. The meeting was adjourned at 8:17 PM.

ORDERED: That the Transfer Request in the amount of \$100,000.00 which moves funds from PEG Funds to Marlborough Cable Trust to fund the balance of WMCT-TV FY 2023 budget, **APPROVED**; adopted.

Councilor Ossing filed a Disclosure of Appearance of Conflict of Interest for the record.

CITY OF MARLBOROUGH											
BUDGET TRANSFERS --											
	DEPT:	Mayor						FISCAL YEAR:	2023		
		FROM ACCOUNT:						TO ACCOUNT:			
Available											Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:			Balance
\$498,899.73	\$100,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$100,000.00	89000	25581	Marlboro Cable Trust			\$0.00
	Reason:	To fund the balance of WMCTS FY23 Budget									
	\$100,000.00	Total			\$100,000.00	Total					

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED That the sum of \$500,000.00 (five hundred thousand dollars) be and is hereby appropriated for sewer construction and/or reconstruction.

That to meet said appropriations, the Finance Director/Treasurer, with the approval of the Mayor, is hereby authorized to borrow the sum of \$500,000.00 under and pursuant to the provisions of Chapter 44, Section 8(14) of the Massachusetts General Laws, as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the City of Marlborough (the "City") therefor; that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED That the sum of \$1,000,000.00 (one million dollars) be and is hereby appropriated for water main construction and/or reconstructing.

That to meet said appropriations, the Finance Director/Treasurer, with the approval of the Mayor, is hereby authorized to borrow the sum of \$1,000,000.00 under and pursuant to the provisions of Chapter 44, Section 8(5) of the Massachusetts General Laws, as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the City of Marlborough (the “City”) therefor; that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED That the sum of \$8,770,000.00 (eight million seven hundred seventy thousand dollars) be and is hereby appropriated for street and infrastructure construction, reconstruction and/or rehabilitation.

That to meet said appropriations, the Finance Director/Treasurer, with the approval of the Mayor, is hereby authorized to borrow the sum of \$8,770,000.00 under and pursuant to the provisions of Chapter 44, Section 7(1) of the Massachusetts General Laws, as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the City of Marlborough (the “City”) therefor; that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Reappointment of Rene Perdicaro to the Community Development Authority for a term to expire March 9, 2024, **APPROVED;** adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of Joseph Delano to the Board of Registrars of Voters for a 3-year term to expire on April 1, 2024, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of Elizabeth Jalonski to the Board of Registrar of Voters for a 2-year term to expire on April 1, 2025, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Reappointment of Fred Haas to the Library Board of Trustees for a 3-year term to expire January 7, 2025, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Reappointment of Samantha Khosla to the Library Board of Trustees for a 3-year term to expire April 2, 2024, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of Dillon LaForce to the Planning Board for a 5-year term to expire February 1, 2027, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of John Harmon as Human Resources Director for term to expire 3 years from date of Council confirmation, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of Richard Tomanek to the Board of Health for 3-year term to expire on February 5, 2024, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED That the Appointment of James Fortin to the Planning Board, for a 5-year term to expire on February 1, 2027, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

IN CITY COUNCIL
DECISION ON A SPECIAL PERMIT
ALL FUR LOVE
ORDER NO. 22/23-1008723D

The City Council of the City of Marlborough hereby **DENIES** the Application for a Special Permit to Divino Oliveira and Marquel Frink (collectively, the “Applicant”) for a dog grooming business at 75 Lincoln Street, Marlborough, as provided in this Decision.

FINDINGS OF FACT

1. The Applicant, Divino Oliveira and Marquel Frink, are individuals with an address of 126 Main Street, Medway, MA 02053.
2. The Applicant is the prospective owner of the property located at 75 Lincoln Street, Marlborough, Massachusetts, being shown as Parcel 249A of Assessor Map 57 (the “Site”).
3. In accordance with unspecified sections of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes to change the current use at the Site to establish a new use, dog grooming business (the “Use”).
4. The Site is located in the Residence B Zoning District (“RB”).
5. The Site has an area of 10,714 SF +/- according to the application.
6. The Applicant filed with City Clerk of the City of Marlborough an Application for a Special Permit (“Application”) for the Use.
7. In connection with the Application, the Applicant submitted a certified list of abutters, and filing fees.
8. 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 the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough 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.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, December 5, 2022. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on December 5, 2022.
11. The Applicant presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, parking/traffic, and the neighborhood.
12. At the public hearing, one member of the public spoke in opposition to the Use.

13. The City Council's Urban Affairs Committee reviewed the Application. At its meeting on January 24, 2023, the Committee voted 5-0 to recommend denial of the special permit.
14. On February 13, 2023, the City Council referred the Urban Affairs Committee's recommendation to deny the special permit to the Legal Department to be placed in proper legal form.

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

- A. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **DENIES** the Applicant a Special Permit for a dog grooming business. The basis for the denial are the following reasons and findings:
 1. The Use is not permitted in the RB zoning district, and a special permit cannot authorize the Use under City Zoning Ordinance 650-16, 650-17. The Use is a change in use that must itself comply with current zoning.
 2. Under City Zoning Ordinance 650-12(b), the City Council considered whether this Application seeks to change a pre-existing non-conforming use to a new use, and if so, whether the Use would not be substantially more detrimental to the neighborhood than the existing use of the Site.
 3. The City Council finds that the Applicant did not establish whether there is a legal, pre-existing non-conforming use currently on the Site, which would allow for an application under Section 650-12(b) of the Zoning Ordinance. While the Application references an existing "mixed-use", it is not established whether any such mixed-use was lawfully established, and even if it was, that it had not been abandoned or not used for a period of two years or more.
 4. Subject to the above paragraphs 2 and 3, the City Council considered the impacts of the change in use for purposes of Section 650-12(b), and finds that the Use will be substantially more detrimental than the most recent use of the Site for the following reasons:
 - a. The Use proposes to establish a new commercial use of the Site as a dog grooming business. The Site is located in the RB zoning district, which is a residential zoning district that prohibits business uses with very limited exceptions. Dog grooming is not a use explicitly listed in the Zoning Ordinance's Table of Uses, Ordinance 650-17. Even if the Use arguably falls within another use category such as "consumer service establishments" or as part of a "mixed-use development", these types of uses are also prohibited in the RB zoning district.
 - b. Utilizing the Site for a type of business that has a significant number of customers on Site daily would result in a significant increase in the number of vehicles entering and exiting the Site from the most recent use of the Site for upholstery where customers did not regularly frequent the Site.
 - c. Lincoln Street already is a heavily traveled road, and the Use would add additional traffic entering/exiting the Site when compared to the most recent uses.

- d. The Use poses new detrimental impacts to the neighborhood in the form of noise from customers and dogs utilizing the parking lot on the Site, and odor due to any dog waste within the exterior of the Site. Adjacent uses to the Site are residential.

Each of the above stated reasons, individually, provides sufficient grounds for the denial of the special permit, and collectively, provides sufficient grounds for such denial.

- B. Incorporation of Submissions. All minutes, reports, documents, recordings, and submittals before, or made by, the City Council and/or the City Council's Urban Affairs Committee, are incorporated into this decision.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Motion by Councilor Robey, seconded by the Chair to amend condition number 4 by adding the following sentence at the end of the paragraph "The overnight parking of commercial vehicles (including trucks and trailers) on the Site is prohibited, except for commercial vehicles owned or used by the Applicant as part of the Use. Any currently parked commercial vehicles on the site shall be removed from the site prior to commencing Use operations." – Amendment **CARRIED.**

ORDERED:

**IN CITY COUNCIL
DECISION ON A SPECIAL PERMIT
OCTO48, LLC
ORDER NO. 22/23-1008741C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Octo48, LLC (the "Applicant") for a manufacturing use (precision instruments, tool and die) at 269 Mechanic Street, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Octo48, LLC, is a Massachusetts limited liability company with an address of 269 Mechanic Street, Marlborough, MA 01752.
2. The Applicant is the owner of the property located at 269 Mechanic Street, Marlborough, Massachusetts, being shown as Parcel 125 on Assessors Map 56 (the "Site").
3. In accordance with Article IV, Section 650-12.B, of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a change of the preexisting nonconforming warehouse use at the Site to a manufacturing use (precision instruments, tool and die) (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a commercial building to contain the manufacturing operation, loading areas, accessory parking, and landscaped areas.
4. 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.

5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled “Plan of Land, 269 Mechanic Street, Marlborough, Massachusetts” by Chappell Engineering Associates, LLC, dated September 7, 2022, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit (the “Plans”).
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site has an area of 32,814 square feet +/- as shown on the Plans.
8. The Site has hosted various manufacturing and warehouse uses since the early 1900s.
9. The Site was rezoned from Limited Industrial to Residence B in 2019. Following this Zoning Map amendment, the Site became preexisting nonconforming with respect to use, various dimensional controls, and parking.
10. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough 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, December 19, 2022. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on December 19, 2022.
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. As part of the public hearing, three residential abutters to the Site submitted letters in support of the Use. A letter with questions about the Use was submitted by a residential neighbor, whose opposition to the Use was noted at the public hearing.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS 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 special permit applications.
- B. The City Council finds that the proposed change to a manufacturing use (precision instruments, tool and die) would not be substantially more detrimental to the neighborhood than the existing warehouse use of the Site.
- C. The City Council finds that the preexisting nonconforming warehouse use of the Site has not been abandoned or not used for a period of two years or more.
- D. The City Council finds that the proposed Use is not enlarged to more than 25% of the floor and ground area of the preexisting nonconforming warehouse use, as no changes are proposed to the exterior of the building or the Site.

- 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 change the preexisting nonconforming warehouse use at the Site to a manufacturing use (precision instruments, tool and die) as shown on the Plans filed, **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 at the Site 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. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. 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. Site Plan Review shall consider among other things the adequacy of the Site's existing driveway for the Use, options to improve drainage behind the building in the vicinity of the rail trail, options for visual improvements along the rail trail, including plantings, and options to improve screening for abutting properties.
 3. 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.
 4. Operations. All manufacturing activities shall take place indoors. All loading and unloading shall take place within the Site and not on Mechanic Street. No deliveries of materials or equipment to the Site, and no shipments from the Site, shall be permitted on Saturday or Sunday. The maximum hours for manufacturing activities (excluding administrative and maintenance operations, and employees arriving and leaving before and after shifts) shall be Monday through Saturday from 7:00 AM to 6:00 PM. The overnight parking of commercial vehicles (including trucks and trailers) on the Site is prohibited, except for commercial vehicles owned or used by the Applicant as part of the Use. Any currently parked commercial vehicles on the site shall be removed from the site prior to commencing Use operations.
 5. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
 6. Signs. Signage at the Site shall comply with the City's Sign Ordinance, with any free-standing sign at the Site's driveway entrance being substantially the same as the sign shown in the photo.
 7. Noise and Air Quality. The Applicant shall comply with the City's Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.

8. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building 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: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED

**IN CITY COUNCIL
DECISION ON A SPECIAL PERMIT
272 LINCOLN LLC
ORDER NO. 22/23-1008709D**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to 272 Lincoln LLC (the "Applicant") for a 12-unit multifamily dwelling at 272 Lincoln Street, in the Neighborhood Business Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, 272 Lincoln LLC, is a Massachusetts limited liability company with an address of 11 Placid Road, Newton, MA 02459.
2. The Applicant is the owner of the property located at 272 Lincoln Street, Marlborough, Massachusetts, being shown as Parcel 523 and 523A on Assessors Map 69 (the "Site").
3. In accordance with Article V, Section 650-17, and Section 650-18.A(4), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a 12-unit multifamily dwelling at the Site (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a single building with 12 two-bedroom units, 24 accessory parking spaces (18 garaged and 6 open-air), a pocket park and other landscaped areas.
4. The Applicant, by and through its counsel, filed with the City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a civil plan set entitled "Proposed Multifamily Development – 272 Lincoln Street" with the last revision date of February 2, 2023, consisting of a Cover Sheet, Existing Conditions Plan, Site Layout Plan, Grading & Drainage Utility Plan, and Construction Detail Sheets and an architectural plan set entitled, "Proposed Multifamily Development for 272 Lincoln Street, Marlborough, MA" dated September 12, 2022", consisting of a Locus Map, Street Views, Parking Level Plan, Floor Plans and Building Elevations, Renderings and Perspectives, with the last revision date of February 9, 2023, (collectively the "Plans").

6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site, which is near the Assabet River Rail Trail, has an area of 18,409 square feet +/- as shown on the Plans.
8. The Site is located in the Neighborhood Business (NB) Zoning District.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough 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.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, November 21, 2022. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on that same date.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, two members of the public spoke in favor of the Use and 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 all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- 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, 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 for a multifamily dwelling at the Site, as shown on the Plans filed, **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 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 the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
 2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. 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.

3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plans', so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
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. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.
6. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties.
7. Screening for Abutters. The Applicant shall install solid fencing, and/or appropriate vegetated landscaping along the eastern side lot line of the site to screen areas of the Site used for parking and driveways from adjacent properties and shall maintain the fencing in good repair. The fencing shall comply with the requirements of all applicable City Ordinances.
8. Crosswalk Painting. Prior to the issuance of an occupancy permit for the Use, the Applicant shall repaint the crosswalks of the Assabet River Rail Trail on Lincoln Street and Cashman Street in a manner approved by the City Engineer.
9. Cashman Street Improvements. Prior to issuance of an occupancy permit for the Use, the sidewalk shall be designed and constructed by the Applicant in a manner that the travelled way of Cashman Street shall be widened by the Applicant to the maximum extent possible along the Site frontage while incorporating the sidewalk. Final details shall be approved by the City Engineer.
10. Billboard Signage. During demolition of the existing building on the Site and prior to the issuance of a building permit for the Use, the Applicant, at its expense, shall remove the existing billboard sign (including all components of the sign and all structures supporting or capable of supporting the sign) on the Site. No replacement or new billboard sign shall be allowed on the Site at any time.

11. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building 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 – Abstain: 1

Yea: Wagner, Doucette, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Abstain: Dumais.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

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