



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
Lisa M. Thomas  
140 Main St.  
Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**AUGUST 28, 2017**

Regular meeting of the City Council held on Monday, August 28, 2017 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Absent: Ossing. Meeting adjourned at 9:30 PM.

**ORDERED:** That the Minutes of the City Council meeting JULY 24, 2017, **FILE**; adopted.

**ORDERED:** That the **PUBLIC HEARING** On the Petition of NGrid to install 2 new poles and remove 1 pole along Boundary Street. Pole installs are part of a project to accommodate the expansion of Boundary Street, hearing recessed at 8:09 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juare, Oram, & Robey.**

**Absent: Councilor Ossing.**

**MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries**

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

**Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.**

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install 7 new poles and removing 5 poles along Boston Post Road West. Pole installs are part of a project to accommodate the expansion of Boston Post Road West, hearing recessed at 8:14 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.**

**Absent: Councilor Ossing.**

**MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries**

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

**Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.**

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install 1 new pole along Hayes Memorial Drive. Pole install is part of a project to accommodate the expansion of Boundary Street & Route 20-Boston Post Road West, hearing recessed at 8:16 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.**

**Absent: Councilor Ossing.**

**MOTION made by Councilor Landers to remove Petition from the Public Services Committee and Suspend the Rules to vote to Approve with the following Comment & Condition – Carries**

- 1) The DPW Engineering Division recommends approval of the new pole installation work, as its needed for the traffic & safety improvements.
- 2) The utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street.

**Councilor Elder requested to be recorded in opposition expressly under Suspension of the Rules.**

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment - Expansion and Modification of the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), hearing recessed at 8:25 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.**

**Absent: Councilor Ossing.**

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment - Brew Pubs, Wineries, Breweries & Distilleries), hearing recessed at 8:31 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram, & Robey.**

**Absent: Councilor Ossing.**

ORDERED: That the Communication from the Mayor re: Veto of Council Order 17-1006939A, pertinent to issuance of a letter of interest in TransitX, **FILE**; adopted.

**Councilor Oram opposed.**

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Department of Transportation (MassDOT) grant in the amount of \$388,710.00 to fund several complete street projects; adopted.

ORDERED:

### **Eminent Domain Order of Taking**

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in certain portions of land located on Hudson Street and Mechanic Street, as more particularly described herein, be taken for the purpose of the reconstruction, construction, repair and maintenance of roadway improvements on Hudson Street and Mechanic Street, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests or fee simple interest in the following described land, including all trees and other vegetation thereon.

### **DESCRIPTION OF LAND TAKEN**

**1. Street address: 8 Hudson Street, Marlborough, MA 01752**

Permanent easement for roadway widening purposes: Being an approximately 191.77 S.F. portion of the property located on 8 Hudson Street, Marlborough, MA, known and numbered as Map 56, Parcel 107 on the Assessors' Map of the City of Marlborough and shown as Parcel B on a plan entitled "Plan of Land in Marlborough, MA," dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

OWNER: Bryan Rijo  
8 Hudson Street  
Marlborough, MA 01752

**2. Street Address: 159 Mechanic Street, Marlborough, MA**

Temporary easement for construction purposes: Being an approximately 1,242.27 S.F. portion of the property located at 159 Mechanic Street, Marlborough, MA, known and numbered as Map 56, Parcel 101 on the Assessors’ Map of the City of Marlborough and shown as Parcel A on a plan entitled “Plan of Land in Marlborough, MA,” dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Hudson Street and Mechanic Street.

Permanent easement for roadway widening purposes: Being an approximately 686.39 S.F. portion of the property located at 159 Mechanic Street, Marlborough, MA, known and numbered as Map 56, Parcel 101 on the Assessors’ Map of the City of Marlborough and shown as Parcel C on a plan entitled “Plan of Land in Marlborough, MA,” dated April 30, 2016 and prepared by Thomas Dipersio, Jr. & Associates, Inc., 641 Concord Road, Marlborough, MA 01752, said plan to be recorded herewith.

OWNER: Victor Alecio  
 159 Mechanic Street  
 Marlborough, MA 01752

The ownership of said parcels and each of them are supposed to be as stated herein, but said easements and each of them are hereby taken whether the ownership is as stated herein or otherwise. We determine that the damages, set forth in the Table of Awards below, have been sustained by the owners of said parcels upon which said easements, so taken, are located.

**TABLE OF AWARDS**

The City Council hereby makes the following awards for damages for the owner or owners of record:

<b><u>OWNERS</u></b>	<b><u>MARLBOROUGH ASSESSORS’ MAP/PARCEL</u></b>	<b><u>AREA OF TAKING</u></b>	<b><u>AWARD</u></b>
Bryan Rijo Hudson Street Marlborough, MA 01752	56/107	191.77 S.F. +/- (permanent easement)	\$959
Victor Alecio 159 Mechanic Street Marlborough, MA 01752	56/101	1,242.27 S.F. +/- (temporary easement)	\$755
		686.39 S.F. +/- (permanent easement)	\$2,402

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

ORDERED: That the Communication from the Mayor re: School Project Update, **FILE & REFER TO THE MAYOR TO PLACE THIS SCHOOL PROJECT UPDATE ON THE SEPTEMBER 11, 2017 CITY COUNCIL AGENDA FOR THE PURPOSES OF THE MAYOR CONVENING HIS TEAM, INCLUDING SUPERINTENDENT GREULICH AND OTHER SCHOOL PERSONNEL TO COMPREHENSIVELY DISCUSS ITS STATUS WITH CITY COUNCIL;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, McDonald's USA, LLC, 250 Maple Street, to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane, in proper legal form, Order No. 17-1006907B, **MOVE TO REPORTS OF COMMITTEE;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, BSL Marlborough Development LLC, 421 Bolton Street, seeking permission to build and operate an assisted living facility with a special care unit, in proper legal form, Order No. 17-1006816C, **MOVE TO REPORTS OF COMMITTEE;** adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

I. Section 650-5, entitled "Definitions; word usage," is hereby amended:

- a. By deleting in subsection B thereof the definition of SELF-STORAGE FACILITY in its entirety and inserting in place thereof the following definition:

**SELF-SERVICE STORAGE FACILITY**

A building, group of buildings or other structure, whether permanent or temporary, having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for by customers for the storage of personal or business goods or property, and where the facility owner/operator has limited access to the units. A self-service storage facility shall be considered synonymous with a self-storage facility, self-storage warehouse, mini-warehouse and mini-storage.

II. Section 650-48, entitled "Off-street parking," is hereby amended as follows:

- a. By inserting in subsection A thereof new sub-subsections 17 and 18:

(17) A self-service storage facility shall provide a minimum of 1 parking space per employee and 1 parking space per 1,600 square feet of the facility.

III. Section 650-17, entitled “Table of Uses,” is hereby amended as follows:

- a. By regulating industrial uses so as to allow, by special permit, a self-service storage facility in the Business (B), Commercial Automotive (CA), Limited Industrial (LI) and Industrial (I) districts, as follows:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV
Self-service storage facility	N	N	N	N	N	N	N	SP	SP	SP	SP	N

Refer to **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY SEPTEMBER 25, 2017**; adopted.

ORDERED: That the Communication from Attorney Cipriano on behalf of Tiger Cat Properties LLC, re: request to extend time limitations on Application for Special Permit to construct a multifamily dwelling at 487 Lincoln Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Pat Scorzelli on behalf of Mina Property Group LLC, re: request to extend time limitations on Application for Special Permit to construct a commercial automotive facility at 408 Maple Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Mirick O’Connell on behalf of BSL Marlborough Development LLC re: request to extend time limitations on Application for Special Permit to construct a 52-Unit, 60,823 +/-square foot Assisted Living Facility with a Special Care Unit, 421 Bolton Street, until 10:00 PM on October 17, 2017, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney McCay, Mirick O’Connell, BSL Marlborough Development LLC, re: addressing two items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: Benchmark’s February 16, 2007 request to purchase or have City owned property abandoned for land off Bolton Street retaining a permanent sewer easement in the sewer line parcel and Benchmark’s requested acquisition of a drainage easement from the northern property line of 421 Bolton Street site to the proposed connection to existing catch basin, Order No. 17-1006816C, **TABLED**; adopted.

Note: Both of the requested agenda items are referenced but not attached in the proposed decision for Special Permit, Condition #9, ITEM 12 OF THIS AGENDA.

ORDERED: That the Communication from Attorney McCay, Mirick O’Connell, BSL Marlborough Development LLC, re: addressing three items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: traffic related memoranda referenced in the draft Special Permit Decision, Condition #10, the PowerPoint presentation prepared for the August 15, 2017 Urban Affairs Committee meeting and original signed extension agreement, Order No. 17-1006816C, **MOVE TO REPORTS OF COMMITTEE**; adopted.

## ORDERED:

1. That the Street for sewer purposes, said land being shown on City Assessor's Map No. 30 as Parcel No. 700 (the "Sewer Parcel"), and pursuant to M.G.L. c. 40, §§ 15 and 15A having received notification from the Commissioner of Public Works having charge of the Sewer Parcel that the City's fee interest in the Sewer Parcel is no longer needed for sewer purposes so long as the City retains an easement under the Sewer Parcel for sewer purposes in the area labeled "Proposed 30 FT Wide Sewer Easement" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering, the City Council hereby:
  - a. Pursuant to M.G.L. c. 40, § 15A, transfers the Sewer Parcel to the City Council for the purpose of disposition by sale;
  - b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Sewer Parcel is available for disposition by sale;
  - c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the Sewer Parcel at \$14,000 pursuant to a determination of value set forth in a November 1, 2016 appraisal by Kenneth J. Croft III, Esq. of Foster Appraisal & Consulting Co., Inc; and
  - d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor to convey the Sewer Parcel by sale, subject to the City's retention of an easement for sewer purposes consistent with this Order.
2. Having taken by eminent domain the fee interest in land located at 431 Bolton Street for school purposes, said land being shown on City Assessor's Map No. 30 as Parcel No. 12 (the "School Parcel"), and pursuant to M.G.L. c. 40, §§ 15 and 15A having received notification from the School Committee having charge of the School Parcel that a drainage easement within a 1,123 SF+/- area of the School Parcel labeled "Proposed 30 FT Wide Drainage Easement" on a plan entitled "Proposed Easement Sketch Plan" dated 8/16/2017 prepared by Bohler Engineering (the "Drainage Easement Area"), is not needed for school purposes, the City Council hereby:
  - a. Pursuant to M.G.L. c. 40, § 15A, transfers the Drainage Easement Area to the City Council for the purpose of disposition by sale;
  - b. Pursuant to M.G.L. c. 30B, § 16(a), declares that the Drainage Easement Area is available for disposition by sale;
  - c. Pursuant to M.G.L. c. 40, § 15, sets the minimum price to be paid for the Drainage Easement Area at \$0; and
  - d. Pursuant to M.G.L. c. 40, § 15, authorizes the Mayor to convey a drainage easement within the Drainage Easement Area by sale consistent with this Order.

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

ORDERED: That the Communication from Attorney Eriksen, Walker Realty LLC, on behalf of Walker Realty LLC, re: renderings of 21 Apex Drive, Order No. 16/17-1006443V, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Apex Sign Requests 21 & 160 Apex Drive, Order No. 16/17-1006443V, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to relocate 3 solely owned electrical poles 54, 55, & 56-1 on Maple Street (Route 85), refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to install 1 solely owned electrical pole on Framingham Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** Petition of NGrid to relocate 1 solely owned pole to be made jointly owned poles 37-84 and relocate 17 jointly owned poles on Maple Street (Route 85), refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 25, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of NGrid to relocate 2 poles and associated facilities on Maple Street/Framingham Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Central Mass Mosquito Control Project re: spraying program, **FILE & PLACE ON WEBSITE**; adopted.

ORDERED: That the Minutes Conservation Commission, June 15, 2017 & July 20, 2017, **FILE**; adopted.

ORDERED: That the Minutes Traffic Commission, June 28, 2017, **FILE**; adopted.

ORDERED: That the Minutes, License Board, May 31, 2017; June 12, 2017 & June 21, 2017, **FILE & REFER BACK TO LICENSE BOARD THE APRIL 26, 2017 MINUTES FOR AMENDMENT**; adopted.

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

- a. Arthur Correa, 114 Woodridge Road, residential mailbox claim 2(a).
- b. Tammy Chin, 750 Farm Road, #208, pothole or other road defect.
- c. Laura Butland, 44 Ferrechia Drive, pothole or other road defect.
- d. David D'Amico, 102 West Hill Road, pothole or other road defect & other property damage.
- e. Debbie Winske, 271 Farm Road, pothole or other road defect.

## Reports of Committees:

Councilor Elder reported the following out of the Operation & Oversight Committee:

Meeting Name: City Council Operations & Oversight Committee

Date: August 14, 2017

Location: City Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 6:02 PM – Adjourned: 6:55 PM

Present: Chairman Elder; Operations & Oversight Committee Members Councilors Robey and Landers; and Councilors Clancy and Doucette; Police Chief David Giorgi

**Order No. 17-1006972 - The Chief of Police appear before the Operations and Oversight Committee to discuss procedures involved in companies who are applying for door to door permits. It is furthered ordered that the Committee and Council review possible restrictions to the permitting process to help residents not be harassed by salesmen.** The Operations and Oversight Committee met with Police Chief David Giorgi for a discussion of the City's ordinance on Peddling and Soliciting (Chapter 468). Police Chief Giorgi explained the process (completed application, copy of identification, records check history, letter on company letterhead stating authority to solicit, \$25 fee per person, and passport size photo) and the permits are good for one year. An issue for the permit has been the size of the expiration date which the Police Department can enlarge on future issued permits. Chairman Elder noted that certain non-profit organizations and politicians are excluded from the ordinance and do not require permits. The committee then discussed the fee of \$25.00 has not been updated for at least the past twenty years and they increased the fee to \$35.00 and matched the violation amount to \$35.00 as well.

**Motion made by Councilor Robey, seconded by Chair, to amend Chapter 468, Section 17.B. to increase the fee to \$35.00 and increase the fine for Section 28.A. to be not less than \$35.00. The motion carried 3-0.**

**Motion made by Councilor Robey, seconded by Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 6:55 PM.**

Councilor Robey reported the following out of the Finance Committee:

**Marlboro City Council Finance Committee**

**Monday July 31, 2017**

**In Council Chambers**

Present: Chairman Ossing; Finance Committee Members Councilors Robey, Doucette and Irish. Councilor Oram was absent. Councilor Clancy and Delano were also in attendance. The meeting convened at 7:24 PM.

- 1. Order No. 17-1006975 – Salary Ordinance – Principal Assessor:** The Finance Committee reviewed the Mayor's letter dated July 20, 2017 requesting a revision to the salary ordinance to update the salary of the Principal Assessor. The Finance Committee voted 4 – 0 to advertise and approve the salary ordinance for the Principal Assessor.

## Reports of Committees Cont'd

**2. Order No. 17-1006978 – Proposed Orders to Enter into Purchase and Sales Agreement and Appropriation of Funds for Land Acquisition:** The Finance Committee reviewed the Mayor's letter dated July 20, 2017 requesting the approval of an order to acquire the parcel at 28 Witherbee Street. The acquisition of this parcel would potentially provide more design flexibility for the proposed renovation and addition to the Marlboro Public Library. The Finance Committee approved the following two orders 4 – 0:

- Order 17-1006978-1 to authorize the Mayor to enter into negotiations for the parcel at 28 Witherbee Street for parking and more design flexibility for the Library renovation project. The Finance Committee approved amending the order by adding the words “more than” in the last paragraph prior to the “25%”.
- Order 17-1006978-2 approving the additional use of the \$75,000.00 appropriated by Order 16-1006760B from the Undesignated fund for the purpose of providing the deposit to bind offers on the parcel of 28 Witherbee Street for parking and more design flexibility for the Library renovation project. The Finance Committee approved the scrivener's error to correct the various “Order” numbers listed in the order.

**The Finance Committee agreed to support suspending the rules at the August 28, 2017 City Council meeting to approve both orders.**

The Finance Committee adjourned at 7:58 PM.

## Reports of Committees Cont'd

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

Meeting Name: City Council Urban Affairs Committee

Date: August 15, 2017

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 5:33 PM – Adjourned: 6:40 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaire, Tunnera and Landers; and Councilors Clancy and Robey; Donald Rider (City Solicitor, City of Marlborough); Nathan Mahonen (**Bohler Engineering**)

**Order No. 17-1006907 - Application for Special Permit from Bohler Engineering on behalf of McDonald's USA, LLC to modify the existing drive-thru and associated menu boards and propose a new side-by-side drive-thru and menu boards to optimize circulation and restaurant operations at 250 Maple Street.** The Urban Affairs Committee met with Nathan Mahonen of Bohler Engineering for a discussion of McDonald's USA, LLC's application for a special permit for modification to an existing drive-through facility at the existing restaurant at 250 Maple Street. Since their last appearance before the Urban Affairs Committee on August 8, 2017, Mr. Mahonen conferred with City Solicitor Donald Rider regarding revisions to their proposed Decision on a Special Permit City Council Order No. 17-1006907A as discussed at that meeting. Those revisions included their agreement to install and maintain additional off-site plantings in an area off the southwesterly boundary of their site; the addition of no less than four arborvitae on each side of the existing trash enclosure; and the addition of no less than five No Loud Music Anytime signs on their site.

**Motion made by Councilor Elder, seconded by Chair, to approve the decision on a special permit as amended. The motion carried 5-0.**

**Motion made and seconded to request a suspension of the rules at the August 29, 2017 City Council meeting to approve this application. The motion carried 5-0.**

**Motion made and seconded to refer to the Legal Department to be placed in proper legal form for the August 28, 2017 City Council Agenda for approval. The motion carried 5-0.**

**Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:40 PM.**

## Reports of Committees Cont'd

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

Meeting Name: City Council Urban Affairs Committee

Date: August 22, 2017

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 5:31 PM – Adjourned: 7:10 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaire, Tunnera and Landers; and Councilors Doucette, Ossing and Robey; Donald Rider (City Solicitor, City of Marlborough); **Brian Falk (Mirick O'Connell); Eric Gardner (Benchmark Senior Living); Jesse Johnson (Bohler Engineering); Kevin Eriksen (Walker Realty LLC); Nicholas Harron (Evviva Cucina)**

**Order No. 17-1006816B - Application for Special Permit by Mirick O'Connell on behalf of BSL Marlborough Development LLC to construct a 52 unit, 60,823 +/- square foot Assisted Living Facility with Special Care Unit at 421 Bolton Street.** The Urban Affairs Committee met with attorney Brian Falk of Mirick O'Connell, Eric Gardner of Benchmark Senior Living, and Jesse Johnson of Bohler Engineering for a discussion of their application for a special permit to build and operate an assisted living facility with a special care unit at 421 Bolton Street. They reviewed the changes to the document titled, Decision on a Special Permit City Council Order No. 17-1006816D, dated 8/22/17, which were based upon discussions at the Urban Affairs Committee meeting held on August 15, 2017. The changes discussed were the mitigation payment section and traffic items moved from the Findings of Fact section into the Conditions section; the addition of a condition with respect to a job fair geared towards Marlborough residents; and the conveyance of ten acres of land to the City shall occur no later than sixty days after the issuance of the building permit rather than prior to the issuance of the final occupancy permit for the project.

**Motion made by Councilor Elder, seconded by Chair, to approve the decision on a special permit as amended. The motion carried 5-0.**

**Motion made by Councilor Elder, seconded by Chair, to request a suspension of the rules at the August 29, 2017 City Council meeting to approve this application. The motion carried 5-0.**

**Order No. 16/17-1006443T - Communication from Nicholas Harron regarding applicant's formal request for waiver pursuant to Section 650-35H.(8) to allow for three building signs for the proposed Evviva Cucina restaurant located at 142 Apex Drive, Order No. 16/17-1006443R.** The Urban Affairs Committee met with attorney Kevin Eriksen of Walker Realty LLC and Nicholas Harron of Evviva Cucina for a discussion of a waiver to allow for three building signs for the proposed Evviva Cucina restaurant located at 142 Apex Drive. Mr. Eriksen explained this request was like the previous one for the 110 Grill and this building was unique within the center as it is not just an end cap but a freestanding building with its four sides facing various areas internal to the site as well as Route 20. The waiver request was only for the allowance of a third building sign and all other elements of the signage were zoning compliant. The sign package as shown to the committee was their customary signage and would be installed as it appeared in the PowerPoint presentation.

Reports of Committees Cont'd

**Motion made by Councilor Elder, seconded by Chair, to approve the third sign as requested for the proposed Evviva Cucina restaurant. The motion carried 5-0.**

**Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:10 PM.**

**Suspension of the Rules requested – granted**

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, August 28, 2017 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, **“COMPENSATION SCHEDULE”**, having been read was ORDERED ADVERTISED as follows:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, SECTION 6, SALARY SCHEDULE AS FOLLOWS:

Position	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
		Start	6 months of service	1 year of service	2 years of service	3 yrs. of service	4 yrs. of service	5 yrs. of service
Principal Assessor	July 1, 2017	\$91,405.26	\$93,233.10	\$95,098.68	\$96,999.96	\$98,940.00	\$100,918.80	\$102,937.38

**ADVERTISED AS INDICATED ABOVE AND CANNOT BE FURTHER ADDRESSED UNTIL THE SEPTEMBER 25, 2017 CITY COUNCIL MEETING AS THE TEN DAY PERIOD AFTER ADVERTISEMENT WILL NOT BE MET FOLLOWING THE ADVERTISEMENT DATE OF SEPTEMBER 7, 2017.**

**Suspension of the Rules requested – granted**

ORDERED: That Pursuant to MGL c. 30B, § 16 (e)(2), the City Council of the City of Marlborough hereby determines that advertising for the proposed purchase of a parcel of land will not benefit the City's interest because of the unique qualities and location of the property as hereinafter defined:

The parcel identified on the Assessors Map of the City of Marlborough as Map 69 Parcel 235, containing 0.37 acres or 16,117.2 S.F., more or less, located at 28 Witherbee Street, Marlborough, MA, and further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 25364, Page 378. The persons having a beneficial interest in this parcel, as tenants by the entirety, are Paulo S. Ribeiro and Katherine R. Ribeiro;

The above-identified parcel satisfies the requirements of said M.G.L. c. 30B, § 16 (e)(2), because:

(i) the parcel is uniquely situated because it is located within close proximity to the existing Marlborough Public Library, which does not currently have sufficient parking to meet the requirements of the Board of Library Commissioners in relation to the proposed renovation and addition project; (ii) the only way to increase the amount of parking is to purchase parcels uniquely located either adjacent to, or within close proximity of, the Marlborough Public Library; and (iii) the proposed acquisition of the subject parcel will increase parking for access to, and increased usage of, the Marlborough Public Library. In addition, the acquisition of the parcel would potentially provide more design flexibility for the proposed renovation and addition to the Marlborough Public Library.

It is further ordered that the Mayor is authorized to negotiate and enter into a purchase and sale agreement for the above-identified parcel, subject to the following conditions: (i) that, in accordance with M.G.L. c. 43, § 30, the purchase price of any parcel shall not exceed more than 25% of the average assessed value of the parcel during the previous three years; (ii) that the City's performance under any purchase and sales agreement will be contingent upon a favorable vote of the City Council authorizing the City to acquire the parcel for the amount stated in the purchase and sales agreement; and (iii) that the City's performance under any purchase and sales agreement will be contingent upon a favorable vote of the City Council authorizing the appropriation of sufficient funds for the purchase of the parcel. As of this date, the average assessed value of the above-described parcel for the previous three years has been calculated as \$383,600.

**APPROVED;** adopted.

**Suspension of the Rules requested – granted**

ORDERED: That pursuant to Mass. Gen. Laws c. 43, § 30, the City Council, by a two-thirds vote of all its members hereby authorizes the additional use of the \$75,000 appropriated by Order No. 16-1006760B from the Undesignated Fund (Account Number 10000-35900), said amount having been appropriated for purposes of binding offers by the City on purchase and sales agreements for the four (4) parcels described in Order No. 16-1006760A and Order No. 16-1006760B and relating to the proposed renovation and construction of an addition to the Marlborough Public Library and the need for additional public parking thereat, for like purposes, which are

- (1) a binding offer by the City on a purchase and sales agreement concerning a parcel, said additional parcel being the subject of Order No. 17- 1006978-1A and described below:

The parcel identified on the Assessors Map of the City of Marlborough as Map 69 Parcel 235, containing 0.37 acres or 16, 117.2 square feet of land, located at 28 Witherbee Street, Marlborough, MA, and further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 25364, Page 378. The persons having a beneficial interest in this parcel are Paulo S. Ribeiro and Katherine R. Ribeiro.

and

- (2) a binding offer or offers on any additional purchase and sales agreement(s) for parcels relating to said above-described purposes without the need for any additional vote or votes of the City Council regarding the use of said \$75,000, conditional upon an affirmative vote or votes of the City Council authorizing the Mayor to enter into said additional purchase and sales agreement(s).

**APPROVED;** adopted.

MOTION made by Councilor Delano to Suspend the Rules to address the Special Permit, by Mirick O'Connell on behalf of BSL Marlborough Development LLC to construct a 52 unit, 60,823 +/- square foot Assisted Living Facility with Special Care Unit at 421 Bolton Street in proper legal form, from Urban Affairs Committee – **DOES NOT CARRY.**

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, BSL Marlborough Development LLC, 421 Bolton Street, seeking permission to build and operate an assisted living facility with a special care unit, in proper legal form, Order No. 17-1006816C, **FILE;** adopted.

ORDERED: That the Communication from Attorney McCay, Mirick O'Connell, BSL Marlborough Development LLC, re: addressing three items pertinent to the Application for Special Permit for BSL Marlborough Development LLC, 421 Bolton Street: traffic related memoranda referenced in the draft Special Permit Decision, Condition #10, the PowerPoint presentation prepared for the August 15, 2017 Urban Affairs Committee meeting and original signed extension agreement, Order No. 17-1006816C, **FILE;** adopted.

ORDERED: That the Communication from City Solicitor Rider re: Application for Special Permit, McDonald's USA, LLC, 250 Maple Street, to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane, in proper legal form, Order No. 17-1006907B, **FILE**; adopted.

**Suspension of the Rules requested – granted**

ORDERED:

IN CITY COUNCIL  
DECISION ON A SPECIAL PERMIT

Special Permit  
McDonald's USA, LLC  
Order No. 17-1006907C

Locus:  
250 Maple Street  
Assessors Map 82, Lots 156 and 157B

**DECISION ON A SPECIAL PERMIT  
CITY COUNCIL ORDER NO. 17-1006907C**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to McDonald's USA, LLC for modification to an existing drive-through facility at the existing restaurant at 250 Maple Street, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

**FINDINGS OF FACT AND RULING**

1. McDonald's USA, LLC, One McDonald's Plaza, Oak Brook, IL 60523, has a Northeast Region office located at 690 Canton Street, Westwood, MA 02090, and is hereinafter referred to as the "Applicant."
2. The Applicant is a subsidiary of McDonald's Corporation, One McDonald's Plaza, Oak Brook, IL 60523 which owns the premises known and numbered as 250 Maple Street, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 82, Lots 156 and 157B (hereinafter, the "Site"). As the operator of the existing McDonald's restaurant and drive-through located at the Site, the Applicant proposes to remodel the restaurant and reconfigure the existing drive-through to add a second drive-through lane at the Site (hereinafter, the "Project").
3. Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Sections 650-14.B and 650-17 of the Zoning Ordinance of the City of Marlborough (2008 Code), Applicant is seeking permission for the expansion of an existing drive-through facility.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.

5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled "Site Development Plans for Proposed McDonald's with Drive-Thru, Location of Site: 250 Maple Street (Route 85), City of Marlborough, Middlesex County, Massachusetts, Map 82, Lot 156", prepared for McDonald's, drawn by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=20', dated April 20, 2017, most recently revised August 10, 2017 (hereinafter, the "Plans").
6. The Plans were certified by the Building Inspector 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.
7. 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 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.
8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, July 24, 2017.
9. Applicant, through its civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.
10. The Applicant intends that the proposed drive-through addition will greatly improve overall operation and efficiency on-site. The Applicant represents that the additional order station will allow order times to be reduced and traffic to move more smoothly through the queue to ultimately reduce on-site stacking.

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

- A. 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 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 Applicant a Special Permit to expand the existing drive-through as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

1. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.
2. 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. 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 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. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. 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 Applicant's facility.
4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough. It is a further condition that the location of the signage shall not be substantially different than that shown on the Plans submitted herewith, allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. All illuminations of individual parking lot light fixtures shall not be modified from the existing condition without prior approval by the Site Plan Review Committee.
7. There shall be no overnight parking at the Site, except that parking which is incidental to the continued 24-hour Site operations shall be allowed.

8. Applicant, its successors and/or assignees agrees to maintain the Project landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee, as may be amended during Site Plan Review.
  - a. Upon the completion of the proposed Maple Street improvements, to be constructed by others, Applicant, its successors and/or assigns shall install and maintain additional plantings off the southwesterly boundary of the Site, between the Site and the new sidewalk in the area designated on Sheet C-4 of the Plans. These plantings shall be a maximum height of thirty-six (36) inches so as to not impede sight distances. The final species and number of plantings shall be reviewed and approved by the City Engineer and Conservation Officer during construction, as will the plantings' future maintenance to be performed by Applicant, its successors and/or assigns.
9. No less than four (4) arborvitaes shall be installed and maintained on each side of the existing trash enclosure as shown on the Plans.
10. The drive-through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and in full compliance with the noise ordinance of the City of Marlborough. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential zoning district, in accordance with the noise ordinance of the City of Marlborough.
11. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
12. Notwithstanding condition #1 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, or increase the size of the building shown on the Plans.
13. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.
14. The hours of operation for the restaurant will continue to be 24 hours per day, 7 days per week.
15. The hours of operation for the drive-through facility will continue to be 24 hours per day, 7 days per week.

16. As designated on Sheet C-4 of the Plans, Applicant shall erect no less than five (5) No Loud Music Anytime signs which advise its customers that loud vehicle music shall not be permitted at any time of any day (24 hours per day, 7 days per week).
17. Any work performed within the public way on Maple Street shall be done by Applicant, its successors and/or assigns during off-peak hours and, prior to commencement of such work, Applicant, its successors and/or assigns shall provide to the Engineering Division of the City's Department of Public Works for its approval a traffic management plan relating to the said work.
18. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.
19. During construction, no vehicles shall be staged on public ways.
20. In accordance with the provisions of M.G.L. c. 40A, § 11, 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 Applicant, its successors and/or assigns has applied to the Building Commissioner for a building permit concerning the Project. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office, the Building Department and the City Council immediately subsequent to recording.

**Yea: 10 – Nay: 0**

**Yea: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey**

**Absent: Ossing**

MOTION made by Councilor Delano to Suspend the Rules to remove from TABLE, Order No. 17-1006963, advertise a public hearing for October 16, 2017, refer to Urban Affairs Committee and Planning Board, the Code of the City of Marlborough, as amended, be further amended by amending the Zoning Map established by Chapter 650 Zoning Article III Establishment of Districts Section 650-8 "Boundaries Established; Zoning Map". Said Zoning Map is amended by superimposing the Retirement Community Overlay District over Assessors Map 73, Parcels 52 and 53, and Assessors Map 85, Parcels 14 and 15 - **DOES NOT CARRY**.

ORDERED: That the Communication from Code Enforcement Officer, Pam Wilderman, re: Sign Request, Hilton Garden Inn, 170 Forest Street, **TABLED UNTIL THE SEPTEMBER 11, 2017 CITY COUNCIL MEETING**; adopted.

ORDERED: That the Revised Color Renderings for proposed office building to be constructed at 11 Apex Drive, Order No. 16/17/-1006443, **APPROVED**; adopted.

ORDERED: Be it ordained by the City Council that in accordance with § 650-35, Hospitality and Recreation Mixed Use Overlay District (HRMUOD), of the City Code the City Council hereby grants the following waiver for Walker Realty LLC and 110 Grill AC Marlboro LLC (hereinafter collectively the "Applicant") in connection with the proposed 110 Grill restaurant to be located at 115 Apex Drive, Marlborough:

1. In accordance with § 650-35.H(8), a waiver of the requirement set forth in § 650- 35.H(1) of the City Code that a maximum of two (2) wall signs be affixed to a building for each tenant, having found that based upon the proposed signage plans and other information submitted by the Applicant such waiver will enhance the overall design of the tenant space and will not derogate from the intent of the HRMUOD.

**APPROVED;** adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:30 PM.