



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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**SEPTEMBER 9, 2019**

Regular meeting of the City Council held on Monday, September 9, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 8:24 PM.

City Council President Clancy recognized new Police Officer Alex Sleeper who recently joined the department.

**ORDERED:** That the Minutes of the City Council meeting, AUGUST 26, 2019 **FILE**; adopted.

**ORDERED:** That the CONTINUED PUBLIC HEARING On the Petition from Massachusetts Electric and Verizon New England, to install a new Pole 8-5 at 150 Hayes Memorial Drive to service a new customer, Order No. 19-1007739A, all were heard who wish to be heard, hearing closed at 8:05 PM; adopted.

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

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$7,500.00 from Digital Federal Credit Union (DCU) for the Police Department to assist community support initiatives like the Summer Youth Academy; adopted.

**Councilor Delano recused.**

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$20.00 from WAITT (We're All In This Together) on behalf of IC Federal Credit Union for the Police Department as a community donation; adopted.

**ORDERED:** That the Reappointments to the Commission on Disabilities of Debra McManus, Anne Ryan, and Laura Kyle, for three-year terms from date of confirmation, in addition to John Usinas and Cheryl Soucy for two-year terms from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

**ORDERED:** That the Appointment of John Welch, Jr. to the Parks & Recreation Commission for a three-year term from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit from St. Mary's Credit Union, to build and operate a drive-thru facility for a bank and a drive-thru facility for a coffee shop- restaurant at 133 South Bolton Street, in proper legal form, **MOVED TO REPORTS OF COMMITTEE**; adopted.

**Councilor Delano recused.**

ORDERED: That the Communication from Attorney Brian Falk, on behalf of Vincenza Sambataro, re: Request to Extend Time Limitations on the Application for Special Permit to construct a Mixed-Use Development in the Marlborough Village District consisting of both residential and commercial space, 161-175 Main Street, until 10:00 PM on November 19, 2019, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 21, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Sign Special Permit, from Dan Corbin on behalf of Blue Hills Fuels LLC, (Gulf Station), 114 East Main Street, refer to **URBAN AFFAIRS COMMITTEE, ADVERTISE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 21, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of One Energy, Inc., to authorize the alteration of a preexisting nonconforming gas station use, to a gas station, convenience store and restaurant/café use at 121 Bolton Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

ORDERED: That the Minutes, School Committee, June 25, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Cultural Council, August 5, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Commission on Disabilities, June 4, 2019 & July 2, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, July 22, 2019, **FILE**; adopted.

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

- a) Arnalda Ann Cross, 26 James Avenue, pothole or other road defect.
- b) Patrick Holaday, 158 Albion Street, Somerville, other property damage and/or personal injury.
- c) Elyse Probst, 22 Broad Street, #225, other property damage and/or personal injury.

## Reports of Committees:

Councilor Tunnera reported the following out of the Personnel Committee:

City Council Personnel Committee

September 4, 2019

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

Convened: 6:00 PM – Adjourned: 6:17 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Doucette, and Robey.

Also Present: City Solicitor Jason Grossfield

**Order No. 19-1007755: Communication from the Mayor, regarding the appointment of Jason (Jay) Piques to the position of Assistant City Solicitor for a term of three years effective on the date of confirmation.** Jason (Jay) Piques, for the past seven years, worked at the Office of the Attorney General, first as a paralegal and then eventually as Assistant Attorney General, in the abandoned housing initiative. The primary focus of that group was to work with municipalities across the Commonwealth dealing with longstanding vacant, blighted properties with code violations. Mr. Piques always had an interest in public service at both the state and municipal levels and would like to continue that service. His law interests have leaned towards housing, property, and zoning. He is looking forward to the fast pace of city government.

**Motion made by Councilor Irish, seconded by Councilor Landers, to approve the appointment of Jason (Jay) Piques to the position of Assistant City Solicitor for a term of three years effective on the date of confirmation. The motion carried 3-0.**

**Motion made by Councilor Landers, seconded by Councilor Irish, to request a Suspension of the Rules at the September 9, 2019 City Council Meeting to vote on the appointment of Jason (Jay) Piques to the position of Assistant City Solicitor. The motion carried 3-0.**

**Motion made by Councilor Landers, seconded by the Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 6:17 PM.**

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

City Council Urban Affairs Committee

August 27, 2019

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

Convened: 5:33 PM – Adjourned: 6:04 PM

Present: Chairman Juair (Acting); Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; Councilors Clancy, Dumais, and Ossing; Jeffrey Cooke (Building Commissioner, City of Marlborough); Thomas DiPersio (City Engineer, City of Marlborough); Brian Falk (Mirick O'Connell); Jim Petkewich (Senior Vice-President, St. Mary's Credit Union); Randy Miron (Bohler Engineering)

Absent: Councilor Delano (recused)

## Reports of Committee Continued:

**Order No. 19-1007720: Application for Special Permit from Attorney Brian Falk, on behalf of St. Mary's Credit Union, for two drive-through facilities associated with a bank and coffee shop building to be located at 133 South Bolton Street.**

The Urban Affairs Committee met with attorney Brian Falk, Jim Petkewich, Senior Vice-President of St. Mary's Credit Union, and Randy Miron of Bohler Engineering to discuss St. Mary's Credit Union's application for a special permit for two drive-through facilities for a bank and coffee shop for their location at 133 South Bolton Street. They had previously met on August 13, 2019 where they discussed the width of the drive-through path as well its overhang, the appearance of their signage, overnight parking, pedestrian safety improvements, speaker system noise, drive-through hours, dumpster pick-up times and its screening, and lighting for the site. The applicant submitted a draft Special Permit Decision based upon those discussions and the following items summarize those to be included and updated from both meetings.

- The drive-through window lane widths shall be a minimum of 10 feet; bypass lanes shall have width of 12 feet whenever possible.
- One freestanding sign shall be utilized for the two (SMCU & Starbucks) businesses. A special permit is required for an Electronic Message Board (EMC) or Digital Display (DDS) Sign.
- The applicant shall not permit overnight parking at their site.
- The pedestrian safety improvements shall be addressed during the Site Plan Review process, subject to Traffic Commission review and approval.
- The drive-through speakers shall minimize the noise emanating from them and be in full compliance with the noise ordinance of the City of Marlborough.
- The drive-through hours of operation shall not exceed 5:00 a.m. to 11:00 p.m. but the ATM may operate 24-hours per day.
- There will be no trash pickup before 7:00 a.m. or after 6:00 p.m. Monday through Saturday with none on Sunday. They also agreed to screen the dumpster with cement blocks and landscaping.
- The lighting shall be downward facing and shielded to minimize the impacts on neighboring properties.

**Motion made by Councilor Tunnera, seconded by the Chair, to approve as amended. The motion carried 4-0.**

**Motion made, seconded, to adjourn. The motion carried 4-0. The meeting adjourned at 6:04 PM.**

**Suspension of the Rules requested – granted.**

ORDERED: That the Appointment of Jason (Jay) Piques to the position of Assistant City Solicitor for a term of three years effective on date of confirmation, **APPROVED**, adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit from St. Mary's Credit Union, to build and operate a drive-thru facility for a bank and a drive-thru facility for a coffee shop- restaurant at 133 South Bolton Street, in proper legal form, **FILE**; adopted.

**Councilor Delano recused.**

**Suspension of the Rules requested – granted.**

ORDERED:

**DECISION FOR SPECIAL PERMIT****ST. MARY'S CREDIT UNION**

**133 South Bolton Street**

**Marlborough, MA**

**CITY OF MARLBOROUGH**

**CITY COUNCIL ORDER NO. 19-1007720B**

**DECISION ON AN APPLICATION FOR SPECIAL PERMIT**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to St. Mary's Credit Union (the "Applicant") to build and operate a drive-thru facility for a bank and a drive-thru facility for a coffee shop restaurant at 133 South Bolton Street and 31 and 35 John Street, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, St. Mary's Credit Union, is a state-chartered credit union with a mailing address of 133 South Bolton Street, Marlborough, MA 01752.
2. The Applicant is the owner of the property located at 133 South Bolton Street and 31 and 35 John Street, Marlborough, MA, shown on Assessor's Map 70 as Parcel 242A and on Map 82 as Parcels 112 and 113 (collectively, the "Site").
3. In accordance with Article V, Sec. 650-14(B)(2), Sec. 650-17, and Sec. 650-18(31) of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to build and operate at the Site a drive-thru facility for a bank with two (2) service lanes, and a drive-thru facility for a coffee shop restaurant with one (1) service lane (the "Use"), which is permissible by special permit.
4. The Site is located in the Business District.
5. The Site has an area of 62,630 square feet +/- as per the Plans referenced in paragraph 7 below.

6. 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.
7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a detailed site plan entitled “Special Permit Plans for St. Mary’s Credit Union” by Bohler Engineering dated June 6, 2019 (the “Plans”).
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 Rule 4, items (a) through (m), of 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 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, July 22, 2019. The hearing was closed on that 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, three (3) 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 to build and operate a drive-thru facility for a bank and a drive-thru facility for a coffee shop restaurant 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; Compliance 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. The Applicant agrees to comply with all municipal, state, and federal rules, regulations, statutes, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
2. 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. 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 make 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, increase the size or shape of the building, or alter the fencing bordering the Site, 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 Use 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. Parking. The Applicant shall not prohibit persons using the City's John Street Playground from parking at the Site subject to the reasonable rules and regulations of the Applicant. The Applicant shall not permit overnight parking at the Site.

7. Pedestrian Safety Improvements. The Applicant shall address pedestrian safety improvements within the right of way near the Site during the Site Plan Review process, subject to Traffic Commission review and approval where applicable.
8. Drive-Thru Speakers. The drive-thru facilities shall employ speaker systems of a quality that seeks to minimize the noise emanating from the speaker system and shall operate in full compliance with the Noise Ordinance of the City of Marlborough. The drive-thru speaker systems 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.
9. Drive-Thru Hours of Operation. The hours of operation of the bank and coffee shop drive-thru facilities shall not exceed 5:00 a.m. to 11:00 p.m, except that an automated teller machine (ATM) within the bank drive-thru may operate 24 hours per day.
10. Trash Area. No trash pickup shall occur on Sunday. On Monday through Saturday, no trash pickup shall occur before 7:00 a.m. or after 6:00 p.m. The Applicant shall address the screening of the Site's trash area during the Site Plan Review process, provided that the trash area shall be concealed with concrete, cement, brick, or similar materials and landscaped to screen the trash area from neighboring properties.
11. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process.
12. Signs. The Site shall not contain more than one free-standing sign. This limitation shall not apply to on-premises directional and traffic safety signs.
13. Drive-Thru Lane Widths. The Site's drive-thru lanes shall have a width of at least ten (10) feet, including at the areas located adjacent to the drive-thru windows, and bypass lanes shall have a width of twelve (12) feet wherever possible.
14. 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.

**APPROVED;** adopted.

**Yea: 9 – Nay: 1 – Abstain: 1**

**Yea: Doucette, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.**

**Nay: Dumais**

**Abstain: Delano**



**Suspension of the Rules requested – granted.**

ORDERED: That the Communication from City Clerk, Steven Kerrigan, re: Advertising Error – Public Hearing Home Office/Home Occupation, Order No. 19-1007756, **FILE**; adopted.

**Suspension of the Rules requested – granted.**

ORDERED: That the PUBLIC HEARING set for **SEPTEMBER 23, 2019**, On the Proposed Zoning Amendment relative to the definition of Home Office/Home Occupation, Order No. 19-1007756, **RESCHEULED TO OCTOBER 7, 2019**; adopted.

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:

1. Section 650-5(B), entitled “Definitions; word usage,” is hereby amended, as follows (new text shown as underlined, deleted text shown as ~~strikethrough~~):

**HOME OFFICE / HOME OCCUPATION**

An occupation customarily conducted in the place of residence of the operator or of a professional person, or in a building accessory thereto, such as dressmaking, millinery, home cooking, handcraft, specialized cultivation and propagation of houseplants, insects, fish, birds and animals, limited to one litter at a time, or the offices of a physician, surgeon, dentist, real estate agent, teacher, clergyman, artist, lawyer, architect, musician, landscape architect, land surveyor, City planner, broker, engineer, beautician or member of any other recognized profession including an office for an off-premises business, provided that not more than three persons are engaged in the activity on the premises at any one time.

**HOME OCCUPATION**

See definition of “home office / home occupation.”

ORDERED: That the Transfer Request in the amount of \$220,000.00 from PEG Funds to IT Equipment, to fund upgrades throughout the city, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	IT					FISCAL YEAR:	2020		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$238,060.67	\$220,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$220,000.00	19300006	58618	IT Equipment		\$0.00
	Reason:	Use PEG funds for upcoming projects and various equipment purchases								
	\$220,000.00	Total			\$220,000.00	Total				

ORDERED: That the City Council for the City of Marlborough hereby revokes the License to Encroach, dated June 14, 1999 (Adopted by Order No. 99-8201), and any and all permission to use real property pursuant to said license, effective immediately; adopted.

**Suspension of the Rules requested – granted.**

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Notice of Intent Pursuant to MGL, c 61A §14 to Sell Land and Convert Use, **FILE**; adopted.

ORDERED: That the Communication from Attorney Geoffrey Smith on behalf of Heritage Farm, LLC re: Notice pursuant to MGL, c 61A, §14 of intent to sell land and convert use, 339 Boston Post Road East, identified as Parcels 72-35, 73-26A, 73-28, 73-24 & 73-26, **FILE**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:24 PM; adopted.