



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
Steven W. Kerrigan  
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Marlborough, MA 01752  
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**OCTOBER 7, 2019**

Regular meeting of the City Council held on Monday, October 7, 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 9:38 PM.

ORDERED: That the Minutes of the City Council meeting, SEPTEMBER 23, 2019, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment relative to the definitions of Home Office/Home Occupation, Chapter 650, §5, Order No. 19-1007756A, all were heard who wish to be heard, hearing closed at 8:04 PM; adopted.

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

ORDERED: That the PUBLIC HEARING On the Application for Flammable Solids Storage License, Ambri, Inc., 53 Brigham Street, Order No. 19-1007758, all were heard who wish to be heard, hearing closed at 8:07 PM; adopted.

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

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from Post Road Realty, LLC to construct a multi-family residential project known as the Green District in the Executive Residential Overlay District (EROD) which will consist of 475 units in two buildings at 107 Simarano Drive, Map 116, Parcels 5, 11 & 12, Order No. 19-1007762, all were heard who wish to be heard, hearing closed at 8:33 PM; adopted.

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

ORDERED: That the Communication from the Mayor, re: Certification of Free Cash in the amount of \$13,319,020.00, **FILE**; adopted.

ORDERED: That the Communication from the Mayor, re: Solect Energy Solar Proposal, **FILE**; adopted.

ORDERED: That the Reappointments of Brenda Costa, Rose Marie Elwood, Jeanne McGeough, Leslie Biggar and Patricia Gallier, to the Council on Aging Board, for three-year terms from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Nicholas Evans to the Historical Commission for a three-year term from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Wayne E. Stanley, Sr. to the Commission on Disabilities for a two-year term from date of confirmation, and withdrawal from consideration for reappointment of Anne Ryan refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Councilor Ossing, re: Municipal Aggregation – Twenty-four (24) Month Fixed Price Contract with Inspire, November 2019 through October 2021, **FILE**; adopted.

ORDERED: That the City Council of the City of Marlborough, pursuant to the provisions and conditions of MGL c. 40, § 8C, does hereby accept from Northborough Capital Partners, LLC, a Rhode Island limited liability company the attached deed of land in Marlborough, County of Middlesex, Commonwealth of Massachusetts, shown as “OPEN SPACE” on Sheet 2 of 2 in a plan entitled “DEFINITIVE PROPERTY PLAN - GOODALE ESTATES - MARLBOROUGH, MA” Prepared for: Paul & Alex Ricciardi, 101 Adams Street, Quincy, MA 02189; Prepared by: Bruce Saluk, & Associates, Inc., 576 Boston Post Road East, Marlborough, MA 01752; Dated: July 19, 2016; Revised: September 22, 2016 and October 14, 2016, which plan is recorded in the Middlesex South District Registry of Deeds as Plan No. 1099 of 2016 (the “Plan”) to which reference is made for a more particular description of said “OPEN SPACE” parcel.

Said Open Space parcel contains 5.06 acres, more or less, according to said Plan.

Said Open Space parcel is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation.

And further, that the City accepts a payment of \$5,000.00 to be allocated to the City’s Conservation Maintenance Fund as required by the Special Permit granted by the Planning Board for the Open Space Development at Goodale Street, in accordance with MGL c. 44, s. 53A, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Site Plan Approval for E on Main to build a mixed-use development within the MV District, 161-175 Main Street, in proper legal form, Order No. 18/19-1007135C, **MOVED TO ITEM 30**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit for E on Main to build a mixed-use development within the MV District, 161-175 Main Street, in proper legal form, Order No. 19-1007571E, **MOVED TO ITEM 31**; adopted.

ORDERED: That the Proposed Zoning Amendment relative to creating the Route 20 East Zoning District, refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, OCTOBER 28, 2019**; adopted.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE MASSACHUSETTS 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 650-7, entitled “Districts Enumerated,” is hereby **amended** as follows:

(1) By deleting from the first sentence the number “13” and by inserting in place thereof the number “14”.

(2) By inserting at the end of the list of District types, the following:

Route 20 East Zoning District            R20E.

II. Chapter 650 is hereby amended in 650 Attachment 1 (§ 650-17), entitled “Table of Uses,” by **inserting** the highlighted portions and text of Exhibit “A” attached to this order, inserting under the heading entitled “Zoning District Abbreviations” a new zoning district abbreviation as follows: “R20E”, and beneath the new district abbreviation R20E column the text as shown on said Exhibit “A”.

III. Chapter 650 is hereby amended by **inserting** a new §40, entitled “Special Provisions Applicable to the Route 20 East Zoning District (R20E)”, as follows:

**§ 650-40. Special Provisions Applicable to the Route 20 East Zoning District (R20E)**

Within the Route 20 East Zoning District (R20E), the following provisions govern. Where these provisions conflict with other sections of the Zoning Ordinance, the provisions of this section shall apply.

A. **Purpose and vision.** The purpose of the Route 20 East Zoning District is to encourage compact mixed-use development that encourages walking and biking with development that will enhance compatible land uses and encourage desired growth patterns to improve a traditionally automobile-oriented commercial corridor for the benefit of public health, safety and welfare, by promoting integrated, pedestrian-friendly, commercial mixed-use development including retail, housing, and workplaces within close proximity to each other that are consistent with the stated economic development objectives of the City, contribute to enhanced streetscape, and designed to further promote livability and quality of life within the district.

(1) Commercial mixed-use development.

- (a) For the purposes of this Zoning District, a commercial mixed-use development shall include any eligible use set forth in Subsection E below, which shall be commingled into a single structure or multiple structures with other eligible uses on the same property. Accordingly, commercial mixed-use developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking area and driveway curb cuts, to reduce automobile trips and traffic congestion, and accordingly to improve air quality.
- (b) All developments shall be designed to be pedestrian-friendly and that shall include site design, building layout, and pedestrian circulation features and amenities in compliance with the design standards of this Zoning District. Pedestrian-friendly developments shall benefit the public health, safety and welfare, through the encouragement of walking and physical activity.

**B. Site plan review.** Projects within the Route 20 East Zoning District shall be subject to site plan review as provided in § 270-2, entitled “Site plan review and approval,” of the Marlborough City Code.

(1) Applicability.

- (a) In all instances, a development which proceeds within the Route 20 East Zoning District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code.
- (b) Site plan review applies to both as of right and uses available by grant of a special permit within the Route 20 East Zoning District. Site plan review applicability includes, but is not limited to, new construction of any building or structure; addition to an existing building or structure; and increase in area of on-site parking or loading areas. [See § 270-2(3).]
- (c) Site plan review shall be conducted administratively, as provided in § 270-2, except for multifamily uses, hotel uses, and for those projects over 10,000 square feet, which projects shall undergo administrative site plan review with final review and approval by the City Council.
- (d) The City Council may elect to vary the dimensional and parking requirements of this section by site plan approval if, in its opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.

**C. Special permit granting authority.** The City Council shall be the special permit granting authority within the Route 20 East Zoning District.

**D. Exclusivity/control.** This section of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the Route 20 East Zoning District and supersedes any other provision of the Zoning Ordinance. In the event of any conflict between the provisions of this section and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.

- E. Eligible uses.** Except as specifically provided herein, any uses which are not permitted, whether as of right or by a special permit, within the Route 20 East Zoning District (R20E) under § 650-17, Table of Use Regulations, of the Zoning Ordinance, shall be prohibited. Uses allowed as of right and uses allowed by special permit are encouraged to be combined as a commercial mixed-use development. All uses noted as not permitted shall be deemed prohibited, except where to so deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation, permit or license, or any state or federal law or regulation.
- F. Dimensional requirements.** Dimensional requirements are set forth in § 650-41, Table of Lot Area, Yards and Height of Structures,” as specified for the R20E. The special permit height of 85 feet shall step down to 52 feet when the building is within 50 feet setback from a property line that abuts a residential district.
- G. Parking, curb cut and landscaping requirements.** Except as otherwise provided in this section, parking, circulation and landscape requirements shall conform with the provisions of § 650-47, § 650-48 and § 650-49 of the Zoning Ordinance.
- (1) Parking locations.
    - (a) Parking shall be located to the side and/or rear of all new building structures that front on Route 20 East, an existing connecting street, or a new internal access street.
    - (b) Parking may be provided at ground level, underground, or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses but must be integrated with the surrounding site plan and oriented so as to minimize visual impact of the parking garage on surrounding uses.
  - (2) Parking access. Where a proposed parking lot is adjacent to an existing parking lot of a similar use, providing vehicular and pedestrian connections between the two parking lots shall be required. This access shall allow vehicular circulation between parking areas without the need to travel on Route 20. This access shall allow the unobstructed flow of pedestrians between adjacent properties, businesses, and parking areas. A sidewalk shall be provided on at least one side of the driveway.
  - (3) Parking requirements. Parking in the R20E shall be provided at a minimum of 1 parking space per 250 square feet of net floor area for retail and restaurant uses. Parking for other commercial uses shall be provided at a minimum of 1 parking space per 350 square feet of net floor area. Parking for residential units shall be provided at a minimum of 1 parking space per unit.
  - (4) Curb cuts. Curb cuts shall be minimized. To the extent feasible, vehicular access shall be provided through one of the following methods:
    - (a) Through the use of a common driveway serving multiple lots, or
    - (b) Through the use of an existing side or rear street.

**H. Design standards.** In addition to the following design standards which apply to all developments within the Route 20 East Zoning District, Route 20 East commercial mixed-use development that includes residential development shall incorporate design guidance from the City of Marlborough Multifamily Development Review Criteria and Design Guidelines as adopted by the City Council.

(1) Site layout

- (a) Site and building layout. Buildings shall be located in close proximity to streets with the primary building frontage(s) oriented to street frontage(s) and to define outdoor spaces in coordination with adjacent buildings located on the same property or abutting property.
- (b) Site and parking layout. Parking shall be located to the rear or to the side of buildings that front on a street. Where an existing parking lot is in front of a building that will be redeveloped, landscaping shall be placed to screen parking and enhance the visual appeal of the site and street frontage. Where a new parking lot is to the side or rear of a building, but adjacent to a street, landscaping shall be used to screen the parking and reduce the visual impact of the parking as viewed from the street.
- (c) Site buffer. The setback abutting an existing residential or industrial use shall include landscape plantings and features that screen and separate adjacent residential or business uses from new commercial mixed-use development. This requirement does not need to be provided where adjacent to an existing commercial mixed-use development, retail, or restaurants.

(2) Pedestrian and bicycle circulation

- (a) Pedestrian circulation. Safe, convenient, and attractive pedestrian circulation shall be incorporated into the site plan design. Where appropriate, new pedestrian and bicycle paths shall connect the site with abutting sidewalks, trails, amenities, or parks to promote pedestrian and bicycle circulation and safety. Where appropriate, pedestrian access should be expanded into a shared-use path to provide safe, convenient, and attractive bicycle access. Where parking is located to the rear of the building, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.
- (b) Pedestrian connections. Sidewalks shall provide access from internal site uses, building entries, and parking areas to Route 20 and between adjacent sites.
- (c) Bicycle amenities. All developments shall include provisions for the parking of bicycles at locations that are safely separated from vehicular and pedestrian circulation and convenient to building entries. Bicycle racks shall be placed as to not obstruct pedestrian walkways or impede the parking area for automobiles.

(3) Outdoor Pedestrian Spaces

- (a) Useable Outdoor Pedestrian Space. Buildings and site features shall be arranged to create functional public and private outdoor spaces, including sidewalks, patios, entryways, courtyards, and other types of spaces. Useable and accessible outdoor pedestrian space shall be provided and integrated with the site plan and building design. Such outdoor pedestrian spaces shall enhance visual connections between buildings, streets, open spaces, and pedestrian circulation. Outdoor pedestrian spaces shall be set back from major vehicular ways and be of a scale that is appropriate to the anticipated level of foot traffic.
- (b) Location of outdoor seating. Outdoor seating areas may be provided for restaurants, cafes, coffee shops, or other establishments with seating and may overlap with outdoor pedestrian spaces. Outdoor pedestrian spaces and seating areas shall be oriented to street frontage, with side streets and secondary access streets the preferred locations and integrated with the streetscape. Amenities and seating shall not reduce the required sidewalk widths or impact pedestrian or bicycle circulation.

(4) Building design

- (a) Mixed-uses. Route 20 East Zoning District shall benefit from mixed-use development that combines several uses that are allowed as of right or by special permit in the district. These uses could be provided in a cluster of separate buildings or combined vertically in a single building. A mix of uses in close proximity shall be used to create smaller, walkable clusters that enhance the Route 20 East corridor and provide opportunities for residents and patrons to circulate between uses without the use of a vehicle.
- (b) Façade step back. A step back in the façade of a building shall occur at the upper floor(s) for all buildings above 3-stories in height. For example, the fourth story of a 4-story building shall be recessed from the lower 3-stories of the primary façade with a step back. Or, the fourth and fifth story of a 5-story building shall be recessed from the lower 3-stories of the primary façade with a step back. 5 feet shall be the minimum step back.
- (c) Multiple buildings. In mixed-use developments with multiple buildings, recurring forms and materials shall be used to unify the development while establishing an overall hierarchy of buildings for visual interest and orientation.
- (d) Define corners. Prominent corners of sites and buildings should be defined and celebrated by the layout and design of the building(s). Prominent building corners may use design elements such as towers, arches, unique building massing, or roof forms to serve as identifiable and memorable landmarks.
- (e) Roof forms. Gable, hip, mansard, gambrel, stepped, and peaked roofs add variety and interest to buildings and shall be incorporated into mixed-use developments. Flat roofs may be incorporated into the roof design with other roof forms and features.

- (f) Blank walls. Large portions of building facades which are unarticulated or blank walls shall be avoided through the careful placement of doors, windows, façade features, and transitions in façade materials and finishes.
- (g) Design quality. Building massing and façade design shall be of a high quality with well composed and articulated building forms using a variety of techniques to create visual interest and character with architectural details, vertical and horizontal projections and recesses, changes in height, roof forms, cornice treatments, pilasters, window reveals, materials, colors, and prominent building entrances or other design features.
- (h) Building materials. Use of traditional, natural, and sustainable building materials such as wood, brick, and stone shall be preferred over other synthetic materials.

**I. Signage.**

- (1) Except as otherwise provided in this section, signage shall conform to the provision of Chapter 526 of the City Code, the Sign Ordinance.
  - a. Sign quality. Signs and sign locations shall be an integral part of a high-quality development, designed to be consistent with the scale and style of the associated buildings. Sign design and materials shall relate to the building and site elements.
  - b. Integrated signs. Signs mounted on buildings shall be integrated with the architectural design of the building and should not be located to cover or obscure architectural elements. The building design should offer an integrated location on the building façade to receive signs. For buildings with multiple tenants, a consistent and integrated location on the building façade should be designed to receive signs for each separate tenanted space.
  - c. Awnings. Awnings, trellises, or canopies are encouraged above windows, doors, and entrances to provide shade and architectural relief from flat facades while providing an alternative location for signage.

**J. Application.**

- (1) Special permits. An application for a special permit for a use in a development in the Route 20 East Zoning District shall comply with the requirements of § 650-59 of the Zoning Ordinance.
- (2) Site plan approval. An application for site plan approval in the Route 20 East Zoning District shall comply with the requirements of Chapter 270 of the City Code, Article II, Permits and Approvals, § 270-2.

**K. Site plan; Special Permit approval review criteria.**

- (1) Review criteria. The City Council in connection with a special permit and/or site plan application in the Route 20 East Zoning District shall review such applications with respect to the following review criteria:



- (a) Compliance of the design with the Design Standards in the above subsection H;
  - (b) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
  - (c) Scale of buildings relative to surroundings and relative to City of Marlborough Multi-family Development Review Criteria and Design Review Guidelines;
  - (d) Quality of design and materials for building facades visible from public ways;
  - (e) Quality of design and materials for public space; and
  - (f) Placement of utilities and wiring underground, to the extent practical.
- (2) Submission requirements:
- (a) Site plan depicting proposed development, buildings, parking, vehicular, pedestrian, and bicycle circulation, open space;
  - (b) Building elevations;
  - (c) Landscape plan;
  - (d) Lighting plan with photometrics; and
  - (e) Site and building signage plan.
- (3) Public presentation. Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted prior to the close of the public hearing/meeting.

**L. Standards for roadways and drainage.**

- (1) Roadways. Internal Route 20 East Zoning District roadways shall be private ways and shall be maintained by owners/developers of the Route 20 East Zoning District and portions thereof. Private ways within the Route 20 East Zoning District, to the extent feasible, shall be constructed using the methods and materials prescribed in the City of Marlborough Subdivision Regulations, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.

- (2) Stormwater management system. Developments proposed in the Route 20 East Zoning District shall have a stormwater management system designed in accordance with the City of Marlborough Subdivision Regulations, the Department of Environmental Protection's Storm Water Handbook, and the Standards and the City's Stormwater Ordinance (Chapter 271 of the City Code), as amended. The stormwater design shall infiltrate all stormwater on site and avoid run-off onto adjacent properties and is encouraged to integrate bioswales, rain gardens, or other surface stormwater treatment features that are integral to the function of the site's stormwater management and highlighted as a landscape feature.

**M. Amendments.** After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a special permit and major or minor amendments to a site plan approval may be made by a super majority (2/3) vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the surrounding neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for a revised special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3) of § 650-59.

IV. Chapter 650 is hereby amended by **inserting** into 650 Attachment 2 (§ 650-41), entitled "Table of Lot Area, Yards and Height of Structures," the text as shown in highlighted format in Exhibit "B" attached hereto.

V. The Zoning Map described in § 650-8 is amended as shown on the accompanying Map (Exhibit "C"). The newly established R20E shall include all or portions properties as shown in highlighted format on the Map as existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

74-2A	73-25	72-30
73-15A	73-40	72-35
73-43	73-17	73-59
72-36	73-26A	73-31B
72-28	73-35A	73-57
73-24	73-31A	73-44
73-701	73-39C	73-33
73-26	73-32	73-55
72-16B	73-27	73-39B
73-42	72-15	73-700
73-41A	73-29A	73-35
73-41	73-28	74-4
73-21	72-14	73-39A
73-39D	73-54	73-37A
73-22	72-29A	74-3A
73-20	72-29	74-3
73-16	73-54A	73-36
73-23	72-13	73-38

73-37B	73-31	61-2A
73-37	61-27	61-17
59-18	73-58	61-17A
59-12	61-27A	62-20
59-17C	59-8	62-23
59-11	60-1	62-2
59-17B	59-10	62-21
59-17	59-14	61-28
59-17A	60-24	62-2B
59-16	60-31A	62-13
59-4	61-3	61-29
59-4F	60-30A	61-29A
59-4D	61-12	61-701
59-4E	61-6	62-24
59-4C	60-31	59-7
59-4B	61-2	59-9
59-11A	61-5	61-10
59-5B	61-19	61-8
59-5A	74-2	61-1
59-5	61-18	61-14
59-5C	61-25B	61-28A
72-31	61-31	62-2A
60-26	61-22A	61-9A
60-38	62-14	61-15
60-25	61-22	61-32
60-27	61-30	62-1
60-28	61-25A	61-700
60-29	61-23	61-9
73-56	61-25	61-7
73-30	61-21	62-22
74-5	61-34	48-32
	61-20	

VI. The effective date of these amendments shall be the date of their passage.

ORDERED:

**First Amended**

**License to Encroach on Public Sidewalk and Indemnification**

WHEREAS, Lost Shoe Brewing and Roasting Company currently holds a license pursuant to Council Order No. 19-1007671A (the “License”) granting permission to use the License Area for the limited purpose of outdoor dining on food and/or beverages associated with the Licensee and to place tables and chairs thereon for said purpose between May 1<sup>st</sup> and September 30<sup>th</sup>, and seeks to expand this use year round;

WHEREAS the City of Marlborough (hereinafter, the “City”) wishes to allow the Lost Shoe Brewing and Roasting Company to use the License Area for table service of food and/or beverages;

NOW, THEREFORE, the City of Marlborough, by and through its City Council (hereinafter, “the City”), amends the License to Lost Shoe Brewing and Roasting Company, LLC d/b/a Lost Shoe Brewing and Roasting Company as follows:

A) Paragraph 2 is deleted and replaced with the following:

The license shall be effective from the date of approval by the City for a one (1) year term. Thereafter, subject to the terms and conditions of this license, this license shall run from year to year. Licensee shall be responsible for snow and/or ice removal, if Licensee places tables and/or chairs on the License Area when snow or ice is present.

B) All other terms of said License remain binding.

**APPROVED;** adopted.

ORDERED: That the Request for Sign, Approach Student Center, 58 Apex Drive, within the HRMUOD, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation on the Proposed Zoning Amendment as revised to Chapter 650 §12, Nonconforming Uses, Order No. 19-1007673C, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 18, 2019** as **DATE FOR PUBLIC HEARING** On the Application for LED Sign Special Permit from Poyant Signs on behalf of McDonalds, 155 Boston Post Road West, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

ORDERED: That the Communication from Attorney Brian Falk on behalf of Vincenza Sambataro, re: Proposed Additional Conditions for the Special Permit for E on Main, Order No. 19-1007571E, **MOVED TO ITEM 31**; adopted.

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH HEREBY ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP, SECTION 650-8, AS FOLLOWS:

That rear land at 269 Mechanic Street currently owned by Carmi Greb, LLC on Assessors Map 56, Parcel 125 presently zoned Limited Industrial be rezoned as Residential B as it is contiguous to the Assessors Map 56, Parcels 131, 130, 129, 128, 127, and 123, that are all currently zoned Residential B and a parcel containing 432 s. f. to the rear of the building on land known as the Assabet River Rail Trail currently owned by the City of Marlborough be rezoned to Residential B. The area to the rear of Map 56, Parcel 125, being a rectangle parcel 4.40' on the northerly side to and 1.86' on the southerly side a distance of 142.39'.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, OCTOBER 28, 2019;** adopted.

ORDERED: That the Communication from Attorney Brian Blaesser on behalf of Cameron General Contractors, re: Request to Extend Time Limitations, on the Application for Special Permit to construct a Senior Independent Living Multifamily Community, pursuant to the provisions of the Retirement Community Multifamily Overlay District, 90 Crowley Drive, until 10:00 PM on October 29, 2019, **APPROVED;** adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 18, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of 119 Ash Street, LLC (David Skarin) to convert a preexisting, nonconforming contractor's yard to an 11-unit residential townhouse project, and convert an existing single family home to a two-family dwelling, to be known as Trailside Terrace at 19 Ash Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE;** adopted.

ORDERED: That the Minutes, School Committee, August 27, 2019 & September 10, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Commission on Disabilities, August 6, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Library Trustees, September 3, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Municipal Aggregation Committee, August 21, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Planning Board, September 9, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Traffic Commission, August 28, 2019, **FILE;** adopted.

## Reports of Committees:

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

Meeting Name: City Council Public Services Committee

Date: September 30, 2019

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

Convened: 7:47 PM – Adjourned: 8:00 PM

Present: Chairman Landers; Public Services Committee Members Councilors

Doucette and Irish; Others in Attendance: Councilors Dumais and Robey

**Order No. 19-1007739A: 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.**

Albert Galvin, Design Engineer, National Grid explained the job is for a new three-phase commercial customer by installing an intermediary pole to keep the balance of the line spans on the street in order and stable. It can be brought across the street to a pole on their property and underground will be run from there. Chairman Landers visited the site earlier in the day and confirmed its location on their site and Hayes Memorial Drive.

City Engineer DiPersio was unable to attend the meeting and provided his comments on the petition in an email to the committee which read that the new pole should not be located within the City sewer easement. It should not be a problem to install it in a favorable location for the applicant that is outside of the easement. He suggested the pole location be marked out for approval by his office prior to the start of work.

**Motion made by Councilor Doucette, seconded by Councilor Irish, to approve Order No. 19-1007739A with the following condition: The new pole should not be located within the City sewer easement. The pole location shall be marked out for approval by the City Engineer prior to the start of work. Motion carried 3-0.**

**Motion made by Councilor Irish, seconded by Councilor Doucette, to adjourn. The motion carried 3-0. Meeting adjourned at 8:00 PM.**

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: September 30, 2019

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

Convened: 6:15 PM – Adjourned: 6:35 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers;

Councilors Clancy, Doucette, Juare, Ossing, and Robey

Reports of Committee Continued:

**Order No. 19-1007789: Communication from the Mayor, regarding Reappointment of Elizabeth Evangelous to the Board of Registrars for a term of three-years to expire on April 1, 2022.**

Betty Evangelous has enjoyed the past seven years of being on the Board of Registrars and feels as though she is giving back to the City and is looking forward to serving the City Clerk's Office to the best of her capacity. City Clerk Steven Kerrigan explained the law requires representation from the two major political parties and no more than two of the registrars may be members of the same party. Mrs. Evangelous serves as the Democratic representative, former City Councilor Cindy Zomar serves as the Republican representative, and Linda Clark is the third member who is Unenrolled. One of the primary responsibilities of the registrars is to serve at an election recall event which occurred last year in the State's Third District Primary. They also review challenges to nomination papers and, after investigation, determine their validity.

**Motion made by Councilor Irish, seconded by Councilor Landers, to approve the reappointment of Elizabeth Evangelous to the Board of Registrars for a term of three-years to expire on April 1, 2022. The motion carried 3-0.**

**Order No. 19-1007777: Communication from the Mayor, regarding 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.**

John Usinas, Laura Kyle, Cheryl Soucy, and Debra McManus appeared before the Personnel Committee and introduced themselves and gave a brief overview of their background and work as part of Marlborough's Commission on Disabilities. Councilor Doucette is the City Council representative on the Commission on Disabilities and has worked closely with the other members and he spoke of their dedication to address the issues within the City.

**Motion made by Councilor Irish, seconded by Councilor Landers, to approve the reappointments to the Commission on Disabilities of Debra McManus and Laura Kyle, for three-year terms from date of confirmation, also John Usinas and Cheryl Soucy for two-year terms from date of confirmation. The motion carried 3-0.**

**Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:35 PM.**

Councilor Juaire reported the following out of the Operations & Oversight Committee:

Meeting Name: City Council Operations & Oversight Committee

Date: September 30, 2019

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

Convened: 6:38 PM – Adjourned: 7:43 PM

Present: Chairman Juaire; Operations & Oversight Committee Members Councilors Robey and

Landers; and Councilors Clancy, Doucette, Dumais, Irish, Oram (arrived 6:50 PM), and Ossing; Police Chief David Giorgi

Reports of Committee Continued:

**Order No. 19-1007772: That Marlborough Police Chief David Giorgi discuss the City's contract with Critter Control and the department's Policy and Operating Procedures for Animal Control with the Operations and Oversight Committee in light of recent communications from residents about animals that have been found roaming the City.**

The Operations and Oversight Committee met with Police Chief David Giorgi and Charlie Boulmetis of the Critter Control franchise for this area (the City's Animal Control contracted vendor) to discuss the policy and operating procedures for the City's Animal Control services. This issue was brought to City Councilors' attention when they were contacted by concerned residents about the lack of available Animal Control services outside standard operating hours. Chairman Juare received questions from those residents which he forwarded to the Police Chief prior to the meeting. Chief Giorgi explained he received some of the same inquiries regarding the department's responses to certain situations. Chief Giorgi has discussed with Mr. Boulmetis coverage required under his contract and ways to improve the overall response to animal calls. The City's contract with Critter Control goes back to 1992. Chief Giorgi explained the department has taken steps to rectify issues brought to his attention.

Critter Control is contracted to work Monday through Friday, 8:00 AM to 4:30 PM. After that time, a resident would call the police station for any type of animal incident and department employees have, on occasion, provided misinformation on what to do with the animal. The Chief has taken steps to remedy that, both internally within the department by educating their employees and also by providing as much information as possible to the public so the public is aware of what Critter Control is required to do, when they are required to respond, what types of calls they can respond to and when officers will respond. The Chief has posted on their Facebook page and website, a document which shows the Critter Control contract and their services, the department policies on the responsibilities of the dispatchers, supervisors, and patrol officers. This information was also provided to all the command officers, supervisors, and dispatchers so they would be aware of their roles and responsibilities. Part of correcting the problem is to abide by their own policies. Chief Giorgi admits they may not have done their best in past instances but, moving forward, their aim is to improve their response to animal control concerns.

**Motion made by Councilor Robey, seconded by Chair, to accept and place on file the Order submitted by Councilor Robey. The motion carried 3-0.**

**Motion made by Councilor Robey, seconded by Chair, to adjourn. Meeting adjourned at 7:43 PM.**

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

Meeting Name: City Council Urban Affairs Committee

Date: October 01, 2019

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

Convened: 5:36 PM – Adjourned: 6:30 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juare, Landers, Doucette, and Tunnera; Councilors Clancy and Ossing; Thomas DiPersio (City Engineer, City of Marlborough); Priscilla Ryder (Conservation Officer, City of Marlborough)



Reports of Committee Continued:

**Order No. 19-1007703: Application for Special Permit from Attorney Brian Blaesser, on behalf of Cameron General Contractors, to construct a Senior Independent Living Multifamily Community, pursuant to the provisions of the Retirement Community Multifamily Overlay District, 90 Crowley Drive.**

The Urban Affairs Committee met with attorneys William Pezzoni (represented property owner) and Brian Blaesser (represented applicant), property owner Jon Delli-Priscoli, and transportation consultant, Bob Michaud of MDM Transportation Consultants, Inc. for a final review of the special permit application to construct a Senior Independent Living Multifamily Community at 96 Crowley Drive. The address was changed from 90 Crowley Drive to 96 Crowley Drive at the request of the City.

The applicant appeared before the Site Plan Review Committee earlier in the day and their draft decision reflects the requested changes by the Site Plan Review Committee. One of the changes was in regard to the Panther Trail which ensured the applicant would construct and maintain their portion of the trail and the other was about the sidewalk and that they connect to the future sidewalk at 92 Crowley Drive. Mr. Delli-Priscoli will provide a letter to the City indicating he will complete that connection because Cameron General Contractors cannot receive their occupancy permit without that connection due to the special permit condition.

They discussed traffic concerns at Crowley Drive and the applicant agreed to add a condition that they are responsible for putting in a rumble strip and painting in the private portion as shown on Map 10, and also if they are refused by the state, provide that documentation to the City Engineer and they will do the painting as requested and maintain either or both of those items.

Their continued discussion reviewed the special permit conditions. There were no changes to conditions one through four (Construction in Accordance with Applicable Laws, Compliance with Applicable Laws, Site Plan Review, and Modification of Plans). The following are comments on the remaining conditions:

5. Incorporation of Submissions. Chairman Delano requested the applicant compile a list of all their submissions, plans, and letters and create an addendum with their order, numbered, and provide copies of all updated documents, including any corrections, to the Legal Department.

6. Trail Construction and Grant of Easement. It states the applicant shall construct and maintain a walking trail which was added by the Site Plan Review Committee and the language indicating the City was responsible shall be removed.

7. Landscape Buffers. Shall include language in the last line, “may require adjustments to the plan as needed.”

8. Driveway Entrance and Signage. The signage is so noted in the plans, specifically signage that indicates where people should go and what they should do. It is noted on the plan dated 09/27/2019. They shall include language the plans shall be recorded with the Middlesex Registry of Deeds following approval by the City Engineer and City Solicitor.

Reports of Committee Continued:

9. Sidewalk Connections. The addition is “said connections shall be made prior to issuance of the first certificate of occupancy.”

10. Prior to First Occupancy Permit. No changes.

11. Landscape Surety. The applicant must replace landscaping plantings that have died, a standard condition.

12. Emergency Access. This item is included in the conditions and reflected in the most recent plans dated 09/27/2019. Also, it shall be approved by the City Engineer similar to the change in condition eight, “...shall be recorded with the Middlesex Registry of Deeds following approval by the City Engineer and City Solicitor.”

13. Speed/MPH Board Signage on Fitchburg Street. The applicant shall include additional language to state exactly what equipment will be used and where it will be located on the site. The rumble strip and painting may also be referenced in this condition.

14. Fee in Lieu of Payment. Chairman Delano would like this payment to be directed into a “Public Safety Capital Stabilization Fund” to be spent on the construction of the new fire station on the west side of the City.

13. Job Fair. No changes.

14. Recording of Decision. No changes.

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

**Motion made by Councilor Juairé, seconded by the Chair, to request a Suspension of the Rules at the October 7, 2019 City Council meeting to refer to the Legal Department to place in proper form. The motion carried 5-0.**

**Motion made by Councilor Juairé, seconded by the Chair, to adjourn. The motion carried 5-0. The meeting adjourned at 6:30 PM.**

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

ORDERED: That the Application for Special Permit from Attorney Brian Blaesser, on behalf of Cameron General Contractors, to construct a Senior Independent Living Multifamily Community, pursuant to the provisions of the Retirement Community Multifamily Overlay District, 90 Crowley Drive, refer to **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE OCTOBER 21, 2019 COUNCIL MEETING**, adopted.

ORDERED: That by Order No. 18-1007366, the City Council of the City of Marlborough authorized the City to acquire 49 West Main Street, Marlborough, MA in the total amount of \$381,504.00 as provided in a Purchase and Sale Agreement (“Agreement”) for the purchase of said property and appropriated from Account No. 19300006-58595 (City Hall Equipment) the then-balance due on said purchase in the amount of \$362,504.00, the Mayor, upon negotiation of a First Amendment to the Agreement modifying certain terms of the Agreement, the City Council hereby:

- 1) Authorizes the City to acquire 49 West Main Street in the total amount of \$461,000.00 as provided in the First Amendment to the Purchase and Sale Agreement, to be funded from the above-referenced account; and
- 2) Affirms its authorization for the Mayor to accept a deed pursuant to MGL c. 40, § 3 for said property located at 49 West Main Street.

**APPROVED**; adopted.

**Yea: 11 – Nay: 0**

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

ORDERED: That no more than eight hundred thousand dollars (\$800,000.00) shall be expended from the Parks and Recreation Revolving Fund during fiscal year 2020, unless otherwise authorized by City Council and Mayor. This increases the limit from three hundred and fifty thousand dollars (\$350,000.00) as approved by the City Council on June 17, 2019, **APPROVED**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Site Plan Approval for E on Main to build a mixed-use development within the MV District, 161-175 Main Street, in proper legal form, Order No. 18/19-1007135C, **FILE**; adopted.

ORDERED: That the City Council of the City of Marlborough does hereby approve and adopt, pursuant to § 650-34.B(3) of the Marlborough Zoning Ordinance, the Site Plan Review Committee’s Site Plan Permit (plans attached), which sets forth the Committee’s recommend approval, with conditions, of the site plans submitted by Vincenza Sambataro, to construct a mixed use project at 161-175 Main Street, **APPROVED**; adopted.

**President Clancy declared the vote to be unanimous (11-0).**

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

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Additional Proposed Special Permit Conditions, for E on Main, 161-175 Main Street, in proper legal form, Order No. 19-1007571E, **FILE**; adopted.

ORDERED: That the Communication from Attorney Brian Falk on behalf of Vincenza Sambataro, re: Proposed Additional Conditions for the Special Permit for E on Main, Order No. 19-1007571E, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit for E on Main to build a mixed-use development within the MV District, 161-175 Main Street, in proper legal form, Order No. 19-1007571E, **FILE**; adopted.

ORDERED:

**IN CITY COUNCIL****DECISION ON A SPECIAL PERMIT  
VINCENZA SAMBATARO****CITY OF MARLBOROUGH  
CITY COUNCIL ORDER NO. 19-1007571F  
X 18/19-1007135****DECISION ON AN APPLIATION FOR SPECIAL PERMIT**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Vincenza Sambataro (the “Applicant”) to build and operate a Mixed Use Development at 161-175 Main Street, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, Vincenza Sambataro, is an individual with an address of 22 Indian Rock Road, Wayland, Massachusetts 01778.
2. The Applicant is the owner and prospective owner of the property located at 161-175 Main Street, Marlborough, Massachusetts, being shown as Parcels 76A, 77, 78, and 79 on Assessors Map 70, currently owned by the Applicant, and portions of Parcels 33A, 34, and 77A on Assessors Map 70 and portions of the adjacent stair property currently owned by the City of Marlborough (collectively, the “Site”).
3. In accordance with Article VI, Section 650-34, of the Zoning Ordinance of the City of Marlborough (“Zoning Ordinance”), the Applicant proposes to build a 97,891 square foot Mixed Use Development at 161-175 Main Street, in a building with 67 residential units, 43 on-site parking spaces, and street level commercial units (the “Use”).

4. For purposes of the Zoning Ordinance, the Site is located in the Marlborough Village District, with a small 98 square foot portion in the Business District.
5. The Site has an area of 21,650 square feet +/- as per the Site Plan referenced in paragraph 7 below, plus 1,592 +/- square feet not currently owned by Applicant.
6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit on February 20, 2019 (“Application”) for the following aspects of the Use:
  - A. A seventh (7<sup>th</sup>) story and a total building height of 81 feet, including within 50 feet of a residential zone, to accommodate a roof deck, authorized by special permit in accordance with Section 650-34.F(1) and Section 650-41, Attachment 2, Note 12;
  - B. Total lot coverage of 94%, authorized by special permit in accordance with Section 650-41, Attachment 2, Note 13;
  - C. A rear setback of 0 feet, authorized by special permit in accordance with Section 650-41, Attachment 2, Note 15;
  - D. A Mixed-Use Development over a 98 square foot portion of the Site zoned Business, authorized by special permit in accordance with Section 650-17, Attachment 1; and
  - E. Authorization for the issuance of building permits for more than 100 residential units in the Village District in a single calendar year, authorized by special permit in accordance with Section 650-34. G(1).
7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a detailed site plan entitled “E On Main” by Bruce Saluk and Assoc. Inc., said plans being comprised of Cover Sheet and Sheets EX, CI, C2, C3, C4, C5, C6, C7, and C8, with the last revision date of July 15, 2019 (said set of plans hereinafter, collectively, the “Site Plan”); and a set of twenty-one (21) architectural drawing sheets entitled “E on Main Retail and Residential” by JD LaGrasse & Associates, with the last revision date of July 12, 2019 (collectively with the Site Plan, the “Plans”), attached as “Attachment A.”
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, April 8, 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, two members of the public spoke in opposition to the Use.
13. The Applicant, through its representatives, submitted a shadow study dated April 30, 2019, demonstrating that the shadow cast by the proposed building on December 21 at 9:00 a.m., the date each year when shadows are the longest, would not impact the property located at 15 Grant Court.
14. The Applicant, through its representatives, conducted balloon tests on May 29, 2019 and July 23, 2019, to demonstrate the height of the proposed building, with notices of the balloon tests being mailed to property owners listed on the certified list of abutters and being posted on the City website.

**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 finds that public safety will not be impacted by a reduction of the underground rear setback to zero feet and the reduction will yield a better design for the Use.
- D. 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 Mixed Use Development 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 laws, codes, and regulations, including without limitation, Building Code and Zoning Ordinance, in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built in compliance with this Special Permit and according to the Plans as may be amended during Site Plan Review.
  2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the City Council in accordance with Section 650-34 of the Zoning 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 of this Special Permit and conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. 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. Conditions imposed by site plan review, as approved by the City Council, shall also be conditions of this Special Permit, and any violations of those conditions shall be violations of this Special Permit. Modification of site plan shall be permitted to the extent allowed by the ordinances of the City of Marlborough.
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. Noise. In addition to complying with all City ordinances and regulations concerning noise and nuisances, the Applicant, its successors and/or assigns, shall stipulate in the bylaws governing the Use that no individual(s) shall use the exterior areas of the building's roof deck or exterior patios and balconies of the building in such a way as to generate noise that unreasonably disturbs neighboring properties. Amplified sound shall not be permitted on the north side of the exterior area of the building's roof deck.
7. Roof Deck Use. The roof top and roof deck shall be for the exclusive use of the residents of the building on the Site and/or their guests and shall not be utilized for outside events or rented or leased.

- 7A. Roof Deck Occupancy. The maximum number of people allowed on the building's roof top and roof deck level at one time shall be 325.
- 7B. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties.
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.

**APPROVED**; adopted.

**Yea: 10 – Nay: 1**

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

**Nay: Irish**

**ORDERED:** There being no further business, the regular meeting of the City Council is herewith adjourned at 9:38 PM; adopted.