



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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OCTOBER 21, 2019

Regular meeting of the City Council held on Monday, October 21, 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 9:14 PM.

ORDERED: That the Minutes of the City Council meeting, OCTOBER 7, 2019, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Proposed Amendment to Chapter 526 "Signs", relative to electronic signage including, specific regulations for multi-product LED price pump topper and video graphics array (VGA) color screen signs at gasoline stations, Order No. 19-1007791, 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: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 526, ENTITLED "SIGNS," AS FOLLOWS:

I. Chapter 526, entitled "SIGNS", is hereby amended as follows (new text shown as underlined, deleted text shown as ~~striketrough~~):

A. Section 526-2, entitled "Definitions," is amended by **inserting** the following definitions:

GAS STATION MULTI-PRODUCT LED PRICE PUMP TOPPER: An EMC sign that incorporates light emitting diode (LED) to display exclusively digital gasoline prices on the top of a gasoline filling station pump.

GAS STATION VIDEO GRAPHICS ARRAY (VGA) COLOR SCREEN: A digital screen that displays video content and is placed on a gasoline filling station pump.

B. Section 526-13(B), entitled "Standards," relative to Electronic Message Center and Digital Display Signs," stating an EMC sign or Digital Display sign shall be allowed by special permit, but only pursuant to the following standards, is **amended** as follows:

(8) Effects. The EMC message or the digital display shall not grow, melt, X-ray, scroll, write on, travel, inverse, roll, twinkle, snow, rotate, flash, blink, move, spin, wave, rumble or present pictorials or other animation and/or intermittent illumination. Subject to the foregoing restrictions, temperature and time may change as necessary. The message shall be limited to alphanumeric characters, one color per message. Displaying videos or simulated images is prohibited on a Digital Display sign or EMC sign.

(9) Operational limitations. Such EMC sign or Digital Display sign shall contain static messages only and shall not have movement of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the slashing, scintillating or varying of light intensity.

(a) Sequential messages are prohibited. Only complete messages shall be allowed.

C. Section 526-13, entitled Electronic message center signs; digital display signs, is **amended** by inserting the following new sub-section E:

E. Gasoline Filling Stations. Notwithstanding anything to the contrary in Chapter 526, the following signs may be placed at a gasoline filling station and are exempt from the special permit requirement in §526-13, provided that said signs comply with the following regulations:

(1) One (1) Gas Station Multi-Product LED Price Pump Topper shall be permitted to be installed on the top of each pump and oriented to face the fueling vehicle. The LED digits shall not exceed eight (8) inches in height. The color of the LED digits for the price numerals only may be either: one color for all prices, or one color for gasoline price and one color for diesel price to conform with industry standards. No audio component or audio is permitted.

(2) One (1) Gas Station Video Graphics Array (VGA) Color Screen shall be permitted to be installed on each pump and oriented to face the fueling vehicle. The screen size shall not exceed twelve (12) inches diagonally. The screen shall only be in use during point of sale transactions for fueling and shall be used for video display, public service announcements, and point of sale transactions only. A gasoline filling station electing to install one or more screens shall not be permitted to maintain window signs with an aggregate display surface covering more than ten percent (10%) of the window area at the gasoline filling station. The screen shall be turned off outside of posted business hours. No audio component or audio is permitted.

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: That the PUBLIC HEARING On the Application for LED Sign Special Permit from Dan Corbin on behalf of Blue Hills Fuels LLC, (Gulf Station) 114 East Main Street, Order No. 19-1007779, all were heard who wish to be heard, hearing closed at 8:08 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 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, Order No. 19-1007780, all were heard who wish to be heard, hearing closed at 8:37 PM; adopted.

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

ORDERED: That the Transfer Request in the amount of \$150,000.00 from Undesignated Funds to Capital Outlay-DPW Projects, to fund mitigation payment pursuant to the Special Permit for the project at 421 Bolton Street, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	DPW				FISCAL YEAR:	2020		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$13,319,020.00	\$150,000.00	10000	35900	Undesignated Fund	\$150,000.00	19300006	58514	Capital Outlay-DPW Projects	\$0.00
	Reason:	<u>Mitigation funds from BSL per special permit conditions</u>							
	\$150,000.00	Total			\$150,000.00	Total			

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$300.00 from Eye Physicians of Marlborough & Worcester for the Police Department to fund community outreach initiatives; adopted.

- ORDERED: That the Communication from the Mayor, re: OPEB (Other Post-Employment Benefits) Trust Update, **FILE**; adopted.
- ORDERED: That the Resignation of Richard Collins from the Council on Aging Board, **FILE**; adopted.
- ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit for 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, in proper legal form, Order No. 19-1007703C, **MOVED TO ITEM 26**; adopted.
- ORDERED: That the Communication from City Clerk Steven Kerrigan, re: Municipal Election Call, **FILE**; adopted.
- ORDERED: That the Communication from the Planning Board, re: Favorable Recommendation and recommendation for clarifying language on the Proposed Zoning Amendment relative to the definitions of Home Office/Home Occupation, Chapter 650, §5, Order No. 19-1007756, refer to **URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 18, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Fuel Storage License by One Energy, Inc., for Underground Storage of 24,000 gallons of Gasoline and 4,000 gallons of Diesel Fuel, 121 Bolton Street, identified as Map 57, Parcel 289, refer to **PUBLIC SERVICES COMMITTEE & ADVERTISE**; 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 Marlborough Hospital & UMASS Memorial Realty, Inc., to add a new Women's Imaging Center, and seeking a finding to alter a preexisting nonconforming use and alter the preexisting nonconforming lot coverage from 48.2% to 49.2% at 157 & 209 Union Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.
- Councilor Robey recused.**
- ORDERED: That the Communication from Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid, re: Petition for approval of their 2016-2018 Energy Efficiency Three-Year Term Report, **FILE**; adopted.
- ORDERED: That the Communication from NSTAR Gas Company, d/b/a Eversource Energy, re: Petition for approval of its 2016-2018 Energy Efficiency Three-Year Term Report, **FILE**; adopted.
- ORDERED: That the Minutes, Council on Aging, September 10, 2019, **FILE**; adopted.
- ORDERED: That the Minutes, Fort Meadow Commission, September 20, 2018, May 16, 2019, June 20, 2019, July 18, 2019 & August 15, 2019, **FILE**; adopted.
- ORDERED: That the Minutes, OPEB Trustees, September 25, 2019 & October 4, 2019, **FILE**; adopted.
- ORDERED: That the Minutes, Recreation Commission, January 16, 2019, March 13, 2019, April 10, 2019 & June 5, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, September 17, 2019, **FILE**; adopted.

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

- a) Tammy Booth, 655 Boston Post Road, #2208, Sudbury, other property damage and/or personal injury.
- b) Alex Bogovich, 56 Nixon Road, Framingham, pothole or other road defect.
- c) David Mavretic, 208 Wilson Street, other property damage and/or personal injury.
- d) Jeffrey Simon, 30 Sheffield Terrace, pothole or other road defect.

Reports of Committees:

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

City Council Legislative and Legal Affairs Committee
Wednesday, October 16, 2019 7:40PM– In Council Chambers
Minutes and Report

Members Present: Chairman Robey, Councilor Landers and Delano
Other Councilors attending: Councilors Clancy, Irish and Doucette
Others attending: City Engineer DiPersio and Asst. Solicitor Jay Piques

Order No. 19-1007792: Communication from City Solicitor Grossfield regarding Proposed Acceptance of Utility Easement, 34 St. Martin Drive.

The Solicitor's September 18 letter was read into the record. Mr. DiPersio explained we need the 22' wide utility easement to finish work on D'Angelo Drive and an agreement has finally been made.

Councilor Delano moved to approve the Order for a Grant of Utility Easement with Marlborough Technology Partners LLC for land located at 34 St. Martin Drive; the motion was seconded and carried 3-0. There will be a request to Suspend the rules for action at the Monday, October 21st regular meeting.

Order No. 19-1007807: Communication from City Solicitor Grossfield regarding Acceptance of Open Space Parcel: Goodale Estates Subdivision/Open Space Development Special Permit.

The Solicitor's September 25, 2019 letter was read into the record. Mr. DiPersio explained that the Planning Board included a condition in the Special Permit for this subdivision that the developer would convey no less than 5.02 acres of land as Open Space and would pay to the city \$5,000 for a Conservation Maintenance Fund to support its maintenance.

Councilor Delano moved to approve the Order accepting 5.06 acres of land, more or less, shown as Open Space on plans for Goodale Estates. The Order places the property under the jurisdiction of Marlborough Conservation Commission to manage and control for purpose of promotion and development of natural resources watershed protection, passive recreation, and conservation and accepts payment of \$5,000 to be placed in a Conservation Maintenance Fund. The motion was seconded and approved 3-0.

Reports of Committee Continued:

It was moved and seconded to adjourn; motion carried 3-0. The meeting adjourned at 7:50PM.

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

Meeting Name: City Council Public Services Committee

Date: October 16, 2019

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

Convened: 7:55 PM – Adjourned: 8:14 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish; and Councilors Clancy and Robey

Order No. 19-1007758: Application for Fuel Storage License, Ambri, Inc., 53 Brigham Street.

The Public Services Committee met with Bob Cummings, consultant for Ambri Inc., Angela Goides and Shira Faigel of Ambri Inc., on their application for a fuel storage license. Ambri is a company that is in the process of manufacturing batteries for use on the power grid. This particular fuel is used in the manufacturing of batteries which are used for energy storage. There has been significant interest in this new technology from leading companies, and Ambri is ready to leave the research and development phase to enter the manufacturing phase which requires an increase in their calcium storage.

Applicants have met with Assistant Chief Flynn and Building Commissioner Cooke regarding the request. Mr. Cummings explained the fuel storage process and the safety procedures in place at the facility.

Chairman Landers read a communication from Assistant Chief Flynn which read: “This license change is for the storage of a Flammable Solid which is in the same code as Flammable Liquids (Fuel) storage. I have reviewed this with the company and the engineering/consulting firm that does this work for them. I have no objections to the increase.”

Motion made by Councilor Doucette, seconded by Councilor Irish, to approve. Motion carried 3-0.

Motion made by Councilor Irish, seconded by Councilor Doucette, to request a Suspension of the Rules at the October 21, 2019 City Council meeting to vote on the application for a fuel storage license. Motion carried 3-0.

Motion made by Councilor Doucette, seconded by the Chair, to adjourn. The motion carried 3-0. Meeting adjourned at 8:14 PM.

Reports of Committee Continued:

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: October 16, 2019

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

Convened: 5:30 PM – Adjourned: 5:56 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Delano, Doucette, Juaire, Ossing, and Robey (arrived 5:34 PM)

Order No. 19-1007803: Communication from the Mayor, regarding 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.

The Personnel Committee met with Brenda Costa and Patricia Pope, Councilor on Aging Director, regarding the reappointments of various board members. Ms. Pope explained the absence of the other members as their reluctance to drive at night. The Personnel Committee agreed to discuss their reappointments without their presence as a courtesy due to their commitment to the Council on Aging. Ms. Costa has served on the board for many years and stated it is an exciting time especially since the building of the new senior center with the opportunities and programs available to them. Ms. Pope discussed the construction of the greenhouse and the Hometown Hero banners on Main Street.

Motion made by Councilor Irish, seconded by Councilor Landers, to approve 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. The motion carried 3-0.

Order No. 19-1007790: Communication from the Mayor, regarding Reappointment of Pamela Wilderman to the Historical Commission for a three-year term from date of confirmation; and

Order No. 19-1007804: Communication from the Mayor, regarding Appointment of Nicholas Evans to the Historical Commission for a three-year term from date of confirmation.

The Personnel Committee met with Pamela Wilderman and Nicholas Evans regarding their appointments to the Historical Commission. Ms. Wilderman has worked for the City since 1997 and has an interest in the people and places of Marlborough. She further explained any place historically is the history of the people who have lived there and that can only be maintained if there is a belief that it is important. Captain Evans is a Captain in the U.S. Air Force and recently moved to Marlborough and is excited to get involved with his new community. He is attached to Hanscom AFB and administers the Air Force ROTC program at WPI. He purchased a home in Marlborough that dates back to 1890.

Motion made by Councilor Irish, seconded by Councilor Landers, to approve the reappointment of Pamela Wilderman to the Historical Commission for a three-year term from the date of confirmation. The motion carried 3-0.

Reports of Committee Continued:

Motion made by Councilor Irish, seconded by Councilor Landers, to approve the appointment of Nicholas Evans to the Historical Commission for a three-year term from the date of confirmation. The motion carried 3-0.

Order No. 19-1007805: Communication from the Mayor, regarding 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.

The Personnel Committee met with Wayne Stanley to discuss his appointment to the Commission on Disabilities. Mr. Stanley has lived in Marlborough since 1965, excluding his twenty-two years of service in the Air Force, and returned to Marlborough upon his retirement. He has been an active member of the community but has been looking for additional ways to give back to Marlborough. His firsthand experience living with disabilities makes him familiar with some of the challenges that disabled persons encounter on a daily basis.

Motion made by Councilor Landers, seconded by the Chair, to approve the appointment of Wayne E. Stanley, Sr. The Commission on Disabilities for a two-year term from the date of confirmation. The motion carried 3-0.

Order No. 19-1007778: Communication from the Mayor, regarding Appointment of John Welch, Jr. to the Parks & Recreation Commission for a three-year term from date of confirmation.

The Personnel Committee met with John Welch regarding his appointment to the Parks & Recreation Commission. Mr. Welch has lived in Marlborough for the past fourteen years and has two children in Marlborough Public Schools who both play sports. Therefore, he is involved with four different youth sports by coaching and serving on the board of one of the sports as their field coordinator for baseball, football, soccer, and lacrosse.

Motion made by Councilor Landers, seconded by the Chair, to approve the appointment of John Welch, Jr. to the Parks & Recreation Commission for a three-year term from date of confirmation. The motion carried 3-0.

Motion made by Councilor Irish, seconded by Councilor Landers, to adjourn. The motion carried 3-0. The meeting adjourned at 5:56 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: October 09, 2019

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

Convened: 5:30 PM – Adjourned: 6:07 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette (arrived 5:35 PM), and Tunnera; Councilors Irish and Ossing; Jeffrey Cooke (Building Commissioner, City of Marlborough)

Reports of Committee Continued:

Order No.19-1007791: Communication from City Solicitor Grossfield on behalf of Councilor Delano regarding Proposed amendment to Chapter 526, Signs re Electronic Signage for multiproduct LED PRICE PUMP TOPPER and video graphics array (VGA) color screen signs at gasoline stations.

Chairman Delano explained that all gas stations are moving towards video screens on their pumps, but they are not currently allowed per the City Code. His proposal will amend the sign ordinance to allow pump toppers, with certain limitations. The proposed ordinance will allow by right small LED electronic pump toppers that will display gas prices, all one color or one color for regular fuel and a different color for diesel fuel per industry standards. A small Video Graphics Array (VGA) color screen sign shall be allowed on each pump, no audio component or audio shall be permitted, among other conditions.

Motion made by Councilor Juaire, seconded by the Chair, to approve. The motion carried 4-1 (Tunnera opposed).

Order No.19-1007673B: Proposed zoning petition from Councilor Delano, as requested by Commissioner Cooke and Solicitor Grossfield amending Chapter 650-12. Nonconforming uses.

The Urban Affairs Committee met with Building Commissioner Cooke to discuss the proposed zoning petition which would put the City's zoning ordinance in conformity with Massachusetts General Law. Massachusetts General Law (M.G.L.) 40A discusses structures and uses, and Marlborough's code just talks about uses and this amendment would add structures. The Building Commissioner requested this update, so the City's zoning mirrors the State requirements.

Motion made by Councilor Doucette, seconded by Chair, to approve. The motion carried 5-0.

Order No.19-1007757: Application for Special Permit from Nicholas Masso on behalf of Indo Laboratories to operate a Marijuana Testing Laboratory at 257 Simarano Drive.

The Urban Affairs Committee met with Nicholas Masso, Chief Executive Officer (CEO), and Nicholas Bilotti, Chief Operating Officer (COO), of Indo Laboratories. They discussed the conditions for the Special Permit and requested the following:

- To Condition Eighteen which states the applicant's facility has been inspected by the Fire Chief and meets all safety and building codes shall include language referencing letter to that effect.
- Add an additional condition for a written security plan approved in writing by the Police Chief or his designee.
- For Condition Thirteen, it was requested they clarify when the samples are destroyed and if any product is not used for testing, it will be immediately destroyed.
- Add a statement that they will comply with all rules and regulations of the Board of Health.
- A last condition should be added that the applicant must record this decision.

The applicant shall modify the decision as requested by the committee and return to City Council and Solicitor to be placed in proper legal form.

Reports of Committee Continued:

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

Motion made by Councilor Juaire, seconded by the Chair, to adjourn. The motion carried 5-0. The meeting adjourned at 6:07 PM.

Suspension of the Rules requested – granted.

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that the permanent utility easement shown as “Proposed 22’ Wide Utility Easement”, constituting a portion of land located at 34 St. Martin Drive, Marlborough, Middlesex County, Massachusetts, on a plan entitled “Easement Plan of Land in Marlborough, MA” as referenced below, containing 1,595+/- square feet, (0.04 acres, more or less), according to the plan, be accepted as a municipal easement as shown on the plan and as hereinafter described:

DESCRIPTION

The 22’ wide utility easement shown as “Proposed 22’ Wide Utility Easement”, on a plan of land entitled “Easement Plan of Land in Marlborough, MA”, Prepared by: Bruce Saluk & Associates, Inc. Civil Engineers & Surveyors, 576 Boston Post Road East, Marlborough, MA 01752, Date: July 12, 2017, last revised September 17, 2019 (the “Plan”), said Plan to be recorded herewith. Easement containing 1,595+/- square feet (0.04 acres, more or less), according to the Plan. Being a portion of the property owned in Marlborough by the Grantor and described in a deed recorded in the Middlesex South District Registry of Deeds in Book 72843, Page 197.

IT IS THEREFORE ORDERED THAT:

The 22’ wide utility easement shown as “Proposed 22’ Wide Utility Easement” on the Plan, constituting a portion of land located at 34 St. Martin Drive, containing 1,595+/- square feet (0.04 acres, more or less), being a portion of the property owned by Marlborough Technology Partners, LLC, a Delaware limited liability company with the usual address of 2765 Sand Hill Road, Suite 200, Menlo Park, California 94025 and described in a deed recorded in the Middlesex South District Registry of Deeds in Book 72843, Page 197, be accepted as a municipal easement in the City of Marlborough.

APPROVED; adopted.

Suspension of the Rules requested – granted.

ORDERED: That the Application for Flammable Solids Storage License, Ambri, Inc., 53 Brigham Street, **APPROVED;** adopted.

Suspension of the Rules requested – granted.

ORDERED: That the Application for Special Permit from Nicholas Masso of Indo Laboratories, to operate an independent Marijuana Testing Laboratory at 257 Simarano Drive, as amended by the Urban Affairs Committee, refer to **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE OCTOBER 28, 2019 COUNCIL MEETING;** adopted.

ORDERED: 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, **FILE**; adopted.

ORDERED: That the Reappointment of Elizabeth Evangelous to the Board of Registrars for a term of three-years to expire on April 1, 2022, **APPROVED**; adopted.

ORDERED: That the Reappointments to the Commission on Disabilities of Debra McManus, 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, **APPROVED**; adopted.

ORDERED: That 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, **APPROVED WITH THE FOLLOWING CONDITIONS**; adopted.

- 1) The pole should not be located within the City of Marlborough sewer easement.
- 2) The pole location shall be marked out for approval by the City Engineer prior to the start of work.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Special Permit for 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, in proper legal form, Order No. 19-1007703C, **FILE**; adopted.

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT CAMERON GENERAL CONTRACTORS, INC.

CITY OF MARLBOROUGH CITY COUNCIL ORDER NO. 19-1007703D

DECISION ON AN APPLIATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Cameron General Contractors, Inc. to build a Senior Independent Living Multifamily Community (a/k/a Retirement Community – Multifamily) at 96 Crowley Drive, Marlborough, MA, as provided in this Decision and subject to the following Findings of Facts and Conditions:

FINDINGS OF FACT

1. The Applicant, Cameron General Contractors, Inc. with an address of 7101 S. 82nd Street I, Lincoln, NE 68516, is the purchaser of the real property located at 96 Crowley Drive (formerly known as 90 Crowley Drive), Marlborough, MA 01752 (the “Applicant”).
2. The Applicant is the contract purchaser of said real property which is described in a deed recorded with the Middlesex District Registry of Deeds at Book 62578, Page 190, and identified on the City of Marlborough Assessor’s Maps as Map #15, Parcel 23 and a portion of real property described in a deed recorded with the Middlesex District Registry of Deeds at Book 72053, Page 471, and identified on the City of Marlborough Assessor’s Map #15, Parcel 22 (collectively, the “Site”).
3. The Applicant, on or about May 29, 2019, filed with the City Clerk of the City of Marlborough an Application to City Council for Issuance of Special Permit (the “Application”) pursuant to Chapter 650 (Zoning Ordinance) of the Code of the City of Marlborough, specifically the provisions of Section 650-59 (Special Permit Procedures) and the provisions of Section 650-22(C) (Retirement Community-Multifamily Overlay District (RCO-MF)) for the development of a Senior Independent Living Multifamily Community a/k/a Retirement Community - Multifamily (the “Project”).
4. The Application consisted of an original and 2 copies of the following: (a) Special Permit Application to the City Council for Issuance of Special Permit; (b) Filing Fee check in the amount of \$3, 475.00; (c) Certification of Filing of all Municipal Tax Returns and Payment of all Municipal Taxes; (d) Assessor’s Certified List of Abutters; (e) Special Permit Summary Impact Statement; (f) Preliminary Site Plan; (g) preliminary ANR Plan for portion of property (Assessor’s Map # 15 Parcel 22); (h) Special Studies: (i) Traffic Impact assessment (Study); (ii) Utilities Assessment; (i) Certificate of Completeness of Application (collectively the “Application Documents”), which are incorporated herein and become a part of this Decision. Twelve (12) packages of the Application Documents with “reduced” size plans and two packages of the Application Documents with “full” size plans were delivered to the City Counsel and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer, and the Conservation Officer, all in accordance with Section 59 of chapter 650 of the Zoning Code of the City of Marlborough. Attached hereto as **“Attachment A”** are the following documents: Preliminary Site Plan for Pleasant Hill Retirement Community (last revised and dated October 10, 2019); Architectural renderings and elevations provided as part of Applicant’s presentation to the Urban Affairs Committee dated August 20, 2019 (collectively, the “Plans”).
5. In accordance with the Rules and Regulations of the City Council in Massachusetts General Laws Chapter 40A, Sections 9 and 11, the City Council established a date for a public hearing on the Application, cause to be advertised notice of said hearing on the date thereof and the Marlborough Enterprise. All necessary abutters, as certified by the Marlborough Office of the Assessor, were provided notice as required by law.

6. The Marlborough City Council held a public hearing on the Application on July 22, 2019 in accordance with the published notice (the “Public Hearing”). The time for the City Council to take final action on the Application is October 20, 2019.
7. The Applicant presented testimony at the Public Hearing, describing the Project in detail, addressing the information in the Special Permit Summary Impact Statement and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the public hearing.
8. Upon the closing of the Public Hearing, the City Council referred the Application to the City Council Urban Affairs Committee for review (Council Order No. 19-1007703).
9. The Urban Affairs Committee reviewed the Application, along with information and testimony from the July 22, 2019 Public Hearing, in meetings held on August 20, 2019 and October 1, 2019. At the conclusion of its meeting on October 1, 2019, the Urban Affairs Committee voted to recommend approval of the Special Permit subject to the conditions set forth herein and referred the Application back to the City Council for final decision.

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

- A. The City Council finds that it may grant a Special Permit subject to such terms and conditions as it deems necessary and reasonable to protect the interests of the citizens of the City of Marlborough (“City”).
- B. The City Council finds that the Application for Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough.
- C. The City Council makes each finding subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- D. The City Council finds that the Project complies with the standards of Section 650-22.C (Retirement Community-Multifamily Overlay District (RCO-MF)) as follows:
 1. Minimum parcel size: 10 acres; Project parcel size: 11.35 acres
 2. Maximum height: 3 stories; Project height: 3 stories
 3. Maximum density: 12 units/acre; Project density: 11.45 units/acre
 4. Unit types allowed: Studios, 1BR and 2B Units Project Unit types: Studios; 1BR and 2B Units
 5. Minimum Unit Living Area: 500 s.f, Maximum Unit Living Area: 1300 s.f. Project Range of Unit Living Areas: Minimum of 560 s.f. to Maximum of 1200 s.f.
 6. Maximum Lot Coverage: 40%; Project Lot Coverage: 37% (subject to any minor change based on adjustment of property lot line location resulting from final ANR Plan recorded)
 7. Minimum Frontage: 200 feet; Project Frontage: 200 feet (Crowley Drive)
 8. Minimum Setback (Front, Rear, Side): 50 feet; Project Setbacks: 50 feet (Principal Building)

9. Minimum Parking Ratio:1.0/Unit; Project: 1.1/Unit (for 130 units)
 10. Minimum Landscape Area per Sec. 650-22.C (ii)(13): $\pm 66,667$ s.f.(± 1.53 acres)
Project Landscape Area: $\pm 243,500$ s.f. (± 5.6 acres)
- E. The City Council finds, based upon the Special Permit-Summary Impact Statement, the Traffic Impact Analysis (TIA) prepared by MDM Transportation Consultants, dated May 9, 2019, including the MDM Memorandum dated May 9, 2019, to Ms. Priscilla Ryder, Coordinator/Site Plan Review Committee, re MEPA Sec. 61 Finding (EEA 12002), and related testimony at the Public Hearing, that the Project will be a low generator of traffic and will not have an adverse impact upon traffic in the surrounding area.
- F. The City Council finds, based upon the Special Permit-Summary Impact Statement and the report of the City Engineer to the Applicant's attorney dated September 11, 2018, confirmed at the Public Hearing, that connections to municipal water and sewer systems are available in Crowley Drive at the Site, and that the City water and sewer systems have the capacity to accommodate the Project.
- G. The City Council finds, based upon the Special Permit-Summary Impact Statement, and related testimony at the Public Hearing, that the proposed lighting of the exterior of the Project will comply with the City's Code requirements and will not adversely impact abutting properties.
- H. The City Council finds, based upon the Special Permit-Summary Impact Statement and related testimony at the Public Hearing, that the noise levels of the Project, when operational, will compare to noise levels of existing development in the surrounding area and that noise from the operation of one generator for emergency services, tested for 15 minutes once per month at 80 decibels, will not adversely impact abutting properties.
- I. The City Council finds, based upon the Special Permit-Summary Impact Statement and related testimony at the Public Hearing, that the Project will not cause any air pollution.
- J. The City Council finds, based upon the Special Permit-Summary Impact Statement and related testimony at the Public Hearing, that the Project will not involve the use or storage of any hazardous waste material on site.
- K. The City Council finds, based upon the findings of the 2013 *Marlborough Housing Supply/Demand Needs Analysis* (MAPC), the 2017 *Multifamily Market and Fiscal Impact Analysis* (RKG Associates) and the 2018 *Fiscal Impact Memorandum re Age-Restricted Independent Living Multifamily Rental Housing* (RKG Associates) that the Project will meet the intended goals and need for diverse types of housing in Marlborough by providing a senior independent living rental community for seniors in Marlborough that will also have a net positive annual fiscal benefit to the City.
- L. The City Council finds, based upon the Urban Affairs Committee's review of the Project with reference to the *Multifamily Development Review Criteria and Design Guidelines* (the "Housing Guidelines"), that the Project substantially corresponds to the Housing Guidelines.

- M. The City Council finds that the Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications, in accordance with the provisions of Massachusetts General Laws, c. 40A, §§ 9 and 11, as amended.
- N. 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 construct a senior independent living multifamily development a/k/a Retirement Community - Multifamily as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/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 pursuant to paragraph N(3).
 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 Project.
 3. Site Plan Review. The issuance of the Special Permit is further subject to final Site Plan Review in accordance with the City of Marlborough Zoning Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of final 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. Final Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
 4. Modification of Plans. Notwithstanding conditions #1 and #3 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 of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow, increase the size, shape or position of the building, or alter the landscaping bordering the property, all as shown on the Plans.
 5. 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, except as otherwise altered by the City Council. The attached Addendum provides a list of pertinent submittal documentation.

6. Trail Construction and Grant of Easement. As shown on the Plans, the Applicant shall construct and maintain a walking trail from Pleasant St. up to the sidewalk along Crowley Drive. This trail shall be a woods trail that is level horizontally and shall be 5' wide. The exact location and final surface shall be determined and finalized during the final site plan review process. A Trail Easement shall be granted by Applicant to the City of Marlborough to allow the public to pass and repass over the trail, in a form satisfactory to the City. This Trail Easement document shall be finalized and submitted to the City Council for approval prior to issuance of a building permit.
7. Landscape Buffers. The landscaping between the Project and the two adjacent business and industrial uses shall be thick enough to provide a buffer and screening for lighting and noise between these uses. The Site Plan Review Committee shall review the landscaping to ensure these functions are being met and may require adjustments to the plan as needed.
8. Driveway Entrance and Signage. The driveway entrance and signage as shown on the Plans shall be followed. The driveway access to the Project shall be the primary access. The driveway shall serve as an emergency access only to 92 Crowley Drive. Applicant shall obtain and prepare appropriate easement documents to implement this condition that shall be recorded with the Middlesex Registry of Deeds following approval by the City Engineer and the City Solicitor. Said easement documents shall be recorded prior to the issuance of a building permit.
9. Sidewalk Connections. There shall be pedestrian access from the Project by means of a sidewalk that shall connect to the sidewalk required pursuant to the approved site plan for 92 Crowley Drive. Said connection shall be made prior to issuance of the first certificate of occupancy. Also See Addendum, Item #15.
10. Prior to First Occupancy Permit. Prior to the issuance of the first occupancy permit, all items required as part of the Special Permit and site plan review must be completed. No partial certificates of occupancy shall be issued.
11. Landscape Surety. Following 18 months from the final signoff of the site work, any plant material that has died or is dying shall be replaced with a species of the same kind and size. A surety in the amount of 10% of the value of the site landscaping (including labor and materials) shall be presented to the Building Commissioner as a guarantee that any dead or dying plant material will be replaced within 18 months of the final signoff. The bond will be released once the Applicant certifies to the Conservation Officer that all dead and dying plant material has been replaced.
12. Emergency Access. As shown on the Plans, an emergency access with a knox box for emergency access is to be located at the north east corner of the Site with an exit onto the 100 Crowley Drive property. Applicant shall obtain and prepare appropriate easement documents to implement this condition that shall be recorded with the Middlesex Registry of Deeds following approval by the City Engineer and the City Solicitor. Said easement documents shall be recorded prior to the issuance of a building permit.

13. Speed Feedback Signs on Fitchburg Street. Applicant shall implement two Radar Speed Feedback Signs along Fitchburg Street, subject to approval by MassDOT District 3, as shown conceptually on the Plans. Such signs shall conform to applicable MassDOT requirements and shall be placed at such locations that correspond to the 25 MPH regulatory speed zone along Fitchburg Street, approximately 300 feet prior to Crowley Drive in the southbound travel direction and 240 feet prior to Crowley Drive in the northbound travel direction. The Applicant shall also remove, relocate or replace existing warning and/or regulatory signs within Fitchburg Street as required to accommodate the Radar Speed Feedback Signs and to meet applicable Manual on Uniform Traffic Controls (MUTCD) requirements subject to MassDOT District 3 review and approval.
14. Crowley Drive Pavement Marking, Sign and Island Improvements. Applicant shall implement pavement marking, sign and traffic rumble strip improvements within the private portion of Crowley Drive as shown conceptually on the Plans. These shall include a flush, scored concrete island separating eastbound and westbound travel lanes that extends from the location of the STOP line on Crowley Drive a distance of approximately 200 feet with a variable width ranging from 8 feet to 2 feet. Associated single yellow edge lines shall outline the flush scored concrete rumble strip along with single white edge line along the northerly curblin of Crowley Drive to provide an 18-foot-wide westbound travel lane. A 25 MPH speed advisory sign (MUTCD W13-1P (25) sign type) shall also be placed alongside the westbound travel lane approximately 160 feet from Fitchburg Street.
15. Access to Overflow Parking. In order to ensure that there is adequate visitor parking for the Project on weekends and holidays, if necessary, Applicant shall arrange with the owner of 100 Crowley Drive for the use of 12 parking spaces for visitor only “overflow” parking, as shown on the approved plans. A pathway from the Project to the area of the overflow parking shall be provided as shown on the Plans.
16. Fee in Lieu Payment. Pursuant to Section 650-26. A (1) (a) of the Zoning Ordinance, Applicant shall deposit in the City Public Safety Capital Stabilization Fund a fee in lieu calculated as 15% of 130 units at \$50,000 per unit, for a total amount of \$1,000,000 (one million dollars). Said deposit shall be made prior to the issuance of the first certificate of occupancy.
17. Job Fair. The Applicant shall conduct a job fair for the Project for Marlborough residents in coordination with the Marlborough Economic Development Corporation (MEDC) and/or the Chamber of Commerce.
18. Recording of Decision. 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 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, 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: 11 – Nay: 0

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

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:14 PM; adopted.