



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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Marlborough, MA 01752
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OCTOBER 28, 2019

Regular meeting of the City Council held on Monday, October 28, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juairé, Oram, Robey, Delano, Doucette, Tunnera, Irish and Landers. Absent: Ossing, and Dumais. Meeting adjourned at 8:53 PM.

ORDERED: That the Minutes of the City Council meeting, OCTOBER 21, 2019, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Amendment to the Proposed Rezoning of land off 269 Mechanic Street identified as Map 56, Parcel 125, Order No. 19-1007738C, all were heard who wish to be heard, hearing closed at 8:05 PM; adopted.

Councilors Present: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey.

Councilors Absent: Dumais & Ossing.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Amendment relative to creating the Route 20 East Zoning District, Order No. 19-1007716A, all were heard who wish to be heard, hearing closed at 8:05 PM; adopted.

Councilors Present: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey.

Councilors Absent: Dumais & Ossing.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$124,805.00 from the Executive Office of Public Safety and Security for the Police Department which will be used to offset overtime costs in the Public Safety Dispatching Center; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$35,964.84 from the Executive Office of Public Safety and Security for the Police Department as reimbursement for mandated training for Dispatch personnel; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount \$29,877.63 from the Executive Office of Public Safety and Security for the Police Department which will be used to purchase a new CAD system/EMD software to conduct dispatch quality assurance reviews; adopted.

ORDERED: That the Communication from the Mayor, re: Update on Library Renovation Project, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Amendment relative to the definitions of Home Office/Home Occupation, Chapter 650, §5, in proper legal form, Order No. 19-1007756C, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for LED Sign Special Permit from Dan Corbin on behalf of Blue Hills Fuels LLC, (Gulf Station) 114 East Main Street, in proper legal form, Order No. 19-1007779A, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Jay Piques, re: Application for Special Permit from Nicholas Masso of Indo Laboratories, to operate an independent Marijuana Testing Laboratory at 257 Simarano Drive, in proper legal form, Order No. 19-1007757B, **MOVED TO ITEM 24**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 18, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Application for Pool Table License by Adam Krasinski of Tackle Box Brewing Company LLC, 416 Boston Post Road East, refer to **PUBLIC SERVICES COMMITTEE & ADVERTISE**; adopted.

ORDERED: That the Application for Renewal of Livery License, Katsunori Tanaka, d/b/a Global Limousine & Tour Services, LLC, 17 Eager Court, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Amended Request for Signs, Approach Student Center, 58 Apex Drive, within the HRMUOD, **APPROVED**; adopted.

ORDERED: That the Minutes, Conservation Commission, July 25, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, October 7, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, October 1, 2019, **FILE**; adopted.

Suspension of the Rules requested – granted.

ORDERED: That the Transfer Request in the amount of \$322,873.25 which moves funds from Reserved for Salaries to various accounts within the Fire Department to fund the contract with the Firefighters Local 1714, for the period July 1, 2018 to June 30, 2021, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Comptroller					FISCAL YEAR:	2020		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$990,000.00	\$322,873.25	11900006	57820	Reserve for Salaries	\$16,702.67	12200001	50334	Battalion Chief		\$239,387.84
	Reason:	Fund contractual obligations				Reason:	Contractual Obligation			
					\$156,922.75	12200001	50450	Firefighters		\$2,472,816.18
	Reason:					Reason:	Contractual Obligation			
					\$14,617.33	12200001	50800	Fire Captains		\$219,147.72
	Reason:					Reason:	Contractual Obligation			
					\$1,887.50	12200001	50805	Fire Inspector		\$75,500.00
	Reason:					Reason:	Contractual Obligation			

						\$27,532.88	12200001	50810	Fire Lieutenants		\$405,154.29
	Reason:					Reason:	Contractual Obligation				
						\$224.00	12200001	51210	Civil Defense Director		\$8,960.00
	Reason:					Reason:	Contractual Obligation				
						\$4,299.95	12200003	51226	Fire Depart/First Responder		\$39,236.81
	Reason:					Reason:	Contractual Obligation				
						\$20,359.09	12200003	51300	Additional Gross Overtime		\$303,861.59
	Reason:					Reason:	Contractual Obligation				
						\$1,924.32	12200003	51324	Overtime/Vehicle Maintenance		\$26,100.85
	Reason:					Reason:	Contractual Obligation				
						\$3,451.41	12200003	51328	Call Fire Overtime		\$70,810.60
	Reason:					Reason:	Contractual Obligation				
						\$4,747.50	12200003	51412	Hazmat Pay		\$7,500.00
	Reason:					Reason:	Contractual Obligation				

						\$8,352.61	12200003	51430	Longevity		\$176,057.15
	Reason:					Reason:	Contractual Obligation				
						\$12,848.16	12200003	51440	Educational Incentive		\$253,762.58
	Reason:					Reason:	Contractual Obligation				
						\$6,279.49	12200003	51450	Night Shift Differential		\$58,325.20
	Reason:					Reason:	Contractual Obligation				
						\$9,227.66	12200003	51480	Emergency Medical Training		\$178,993.66
	Reason:					Reason:	Contractual Obligation				
						\$427.42	12200003	51481	Training Special Services		\$9,361.72
	Reason:					Reason:	Contractual Obligation				
						\$19,609.50	12200003	51490	Holiday		\$345,363.30
	Reason:					Reason:	Contractual Obligation				
						\$9,074.61	12200003	51920	Sick Leave Buy Back		\$184,000.00
	Reason:					Reason:	Contractual Obligation				
						\$4,384.40	12200003	51940	Clothing Allowance		\$74,262.86
	Reason:					Reason:	Contractual Obligation				
	\$322,873.25	Total				\$322,873.25	Total				

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: October 22, 2019

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

Convened: 5:33 PM – Adjourned: 5:55 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juairé, Landers, Doucette, and Tunnera; Councilors Clancy and Ossing; Jeffrey Cooke, Building Commissioner

Order No. 19-1007670: Application for Sign Special Permit from Atty. Elizabeth McDonough Noonan on behalf of Colbea Enterprises, LLC, 342 Boston Post Road East.

The Urban Affairs Committee met with Christine DiBiase of Adler, Pollock, & Sheehan on behalf of Colbea Enterprises on their application for a sign special permit for the Shell Station, 342 Boston Post Road. Chairman Delano explained that video display and pump topper regulations were approved at the City Council meeting on October 21, 2019 and no longer require approval for pump toppers which are allowed by right. The freestanding sign will comply with the sign ordinance and be turned off when the facility is closed. The petitioner has amended the Special Permit decision to remove language regarding pump toppers.

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

Order No. 19-1007779: Application for Sign Special Permit from Dan Corbin on behalf of Blue Hills Fuels, LLC (Gulf Station) 114 East Main Street.

The Urban Affairs Committee met with Suneet Sharma who appeared on behalf of Blue Hills Fuels on their application for a sign special permit for the Gulf Station at 114 East Main Street. The sign plan does not include an electronic message board; only changeable, electronic gas prices. The proposed sign meets the City's sign regulations according to the Building Department. The ordinance will allow two colors for gas prices, one for regular and another for diesel to conform with industry standards, upon the grant of a special permit. The gas pricing sign will be turned off when the station is closed. The station's video displays include audio which is not permitted and shall be turned off when the City Council votes on the permit. Mr. Sharma contacted the technicians who will be out this week to turn off the audio.

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

Motion made and seconded to request a Suspension of the Rules at the October 28, 2019 City Council meeting to vote on the Application for Sign Special Permit for the Gulf Station at 114 East Main Street. The motion carried 5-0.

Reports of Committee Continued:

Order No. 19-1007756A: Communication from City Solicitor, Jason Grossfield on behalf of Councilor Delano, regarding Proposed Zoning Amendment relative to the definition of Home Office/Home Occupation.

The Urban Affairs Committee met with Jeffrey Cooke, the City of Marlborough Building Commissioner, regarding the proposed zoning amendment adding Home Office to the Home Occupation definition. The changes to the DEFINITION were recommended by the Building Commissioner to allow him to issue business certificates for home offices, currently not permitted as written. The Commissioner is satisfied with the proposed language without further edit. The current zoning regulation contains explanatory language in the notes section so there is no need to further amend the proposed definition which simply adds Home Office to the longstanding definition of Home Occupation.

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

Motion made and seconded to request a Suspension of the Rules at the October 28, 2019 City Council meeting to vote on the Proposed Zoning Amendment relative to the definition of Home Office/Home Occupation. 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 5:55 PM.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for LED Sign Special Permit from Dan Corbin on behalf of Blue Hills Fuels LLC, (Gulf Station) 114 East Main Street, in proper legal form, Order No. 19-1007779A, **FILE**; adopted.

Suspension of the Rules requested – granted.

ORDERED:

**DECISION ON A LED SIGN SPECIAL PERMIT
IN CITY COUNCIL**

LED Sign Special Permit
Blue Hills Fuels, LLC – Gulf Station
Order No. 19-1007779B

**DECISION ON A LED SIGN SPECIAL PERMIT
CITY COUNCIL ORDER NO. 19-1007779B**

The City Council of the City of Marlborough hereby **GRANTS** the application for a Sign Ordinance Special Permit to Blue Hills Fuels, LLC – Gulf Station (the “Applicant”) for the property located at 114 East Main Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant is the owner of the property located at 114 East Main Street, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 57, Parcel 194 (the “Site”) and maintains a filling station with a convenience store and car wash.

2. The Applicant seeks a LED Sign Special Permit, pursuant to Section 526-13 of the Code of the City of Marlborough entitled, “Electronic Message Center Signs and Digital Display Signs” (the “EMC and Digital Display Sign Ordinance”), to operate a digital display sign (the “Sign”) at the Site (the “Application”).
3. The Sign is a 72.5” x 54.6” double-faced sign, with a monochrome digital display consisting of two (2) 20” x 42” LED Numerals displaying the price of fuel (the product specifications are attached hereto as Exhibit A). The total digital display area is 11.6 ft². The Sign is to be located below an internally-illuminated sign at the premises (as shown in Exhibit B).
4. In connection with the Application, the Applicant has submitted schematic designs of the Site and a sketch plan showing the location of the Sign on the Site (as shown in Exhibit C).
5. The Marlborough City Council held a public hearing on the Application on October 21, 2019.
6. The Applicant, through its representatives, presented testimony at the public hearing detailing the Sign. No individual in attendance at the public hearing spoke in opposition to the Sign.

**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 application for a special permit under the EMC and Digital Display Sign Ordinance.
- B. The City Council finds that the Sign complies with the standards set forth in Section 526-13.B of the EMC and Digital Display Sign Ordinance.
- C. The City Council finds, pursuant to Section 526-13.B(16) of the EMC and Digital Display Sign Ordinance, that: all other signage on the Site is in compliance with zoning requirements; the Sign does not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street; the Sign does not substantially block visibility of signs on abutting lots; the Sign does not substantially block solar access of, or the view from, windows of residential dwellings on abutting lots; the proposed illumination is appropriate to the Site and is appropriately located with respect to the character of the surrounding neighborhood; the scale and/or location of the Sign is appropriate; and the dimensions of the Sign comply with the area limitations of the EMC and Digital Display Sign Ordinance.
- D. The City Council, pursuant to its authority under the EMC and Digital Display Sign Ordinance, hereby GRANTS the Applicant a special permit for the Sign, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:
 1. The Sign shall be operated in accordance with the EMC and Digital Display Sign Ordinance of the City of Marlborough.

APPROVED; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Amendment relative to the definitions of Home Office/Home Occupation, Chapter 650, §5, in proper legal form, Order No. 19-1007756C, **FILE**; adopted.

Suspension of the Rules requested – granted.

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

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

HOME OFFICE / HOME OCCUPATION

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

HOME OCCUPATION

See definition of “home office / home occupation.”

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 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.

APPROVED; adopted.

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

ORDERED: That the Reappointment of Pamela Wilderman to the Historical Commission for a three-year term from date of confirmation, **APPROVED**; 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, **APPROVED**; adopted.

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

ORDERED: That the Appointment of Wayne E. Stanley, Sr. to the Commission on Disabilities for a two-year term from date of confirmation, **APPROVED**; adopted.

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

1. By amending § 650-12 (Nonconforming uses) as follows (new text shown as underlined, deleted text shown as ~~striketrough~~):

§ 650-12. Nonconforming uses.

- A. No building or other structure nor any land shall be used nor shall any building or other structure or part thereof be erected or altered except in conformity with the provisions of this chapter and any amendments thereof which apply to the district in which the building, structure or premises shall be located; provided, however, that this chapter shall not apply to the existing use of any building or structure or of land to the extent to which it was lawfully used at the time of the adoption of this chapter.

B. This chapter shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent. Pre-existing nonconforming structures or uses may be extended or altered, provided that the City Council determines, by the grant of a special permit, that expansion or alteration of a nonconforming use or structure is not substantially more detrimental to the neighborhood than the existing nonconforming use, except that an alteration, reconstruction, extension or structural change of or to a lawful pre-existing nonconforming single-family dwelling or two-family house shall be governed by Section 650-58B(3), and subject, however, to the following provisions:

- (1) ~~Such~~ Any nonconforming use or structure which has not been abandoned, or not used for a period of two years or more, shall lose its protected status and be subject to this chapter, except in the case of land used for agriculture, horticulture or floriculture for a period of less than five years.
- (2) Such use is not enlarged to more than 25% of the floor and ground areas of use existing at the time of adoption of the original Zoning Ordinance, or any amendments thereto, except that any nonconforming farm may be enlarged up to the total area owned by the nonconforming farmer at the time of adoption of this chapter, and there shall be no limit as to the expansion of farm buildings.
- (3) In case the use is destroyed or damaged by fire, explosion or other catastrophe to not greater than 75% of the fair market value of the building or structure, exclusive of foundation, based upon replacement cost immediately prior to such damage, the structure or use may be restored or rebuilt at the same location and used as previously, provided that:
 - (a) The building, structure or use of land as restored or rebuilt shall be no greater in floor or land area than the maximum permitted under Subsection B(3)(b) of this section.
 - (b) The restoration or rebuilding shall conform to this chapter so far as practicable and shall be completed within two years of the catastrophe, unless approved by the City Council in writing in accordance with Article VIII.
- (4) The building or structure is completed if a permit for construction was granted prior to the adoption of this chapter and construction is accomplished within two years after the date of adoption of this chapter.

- (5) The provisions of the above Subsection B(1), (2) and ~~(4)(3)~~ shall not apply to a single-family dwelling.

APPROVED; adopted.

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

ORDERED: Communication from Assistant City Solicitor, Jay Piques, re: Application for Special Permit from Nicholas Masso of Indo Laboratories, to operate an independent Marijuana Testing Laboratory at 257 Simarano Drive, in proper legal form, Order No. 19-1007757B, **FILE**; adopted.

ORDERED:

IN CITY COUNCIL

**DECISION ON A SPECIAL PERMIT
ARIES LABORATORIES LLC d/b/a INDO LABORATORIES.**

**CITY OF MARLBOROUGH
CITY COUNCIL ORDER NO. 19-1007757C**

DECISION ON AN APPLIATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Aries Laboratories LLC, d/b/a Indo Laboratories, (the "Applicant") to build and operate an Independent Marijuana Testing Laboratory at 257 Simarano Drive, Suite 100, Marlborough, Massachusetts, as provided in the Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Aries Laboratories LLC, d/b/a Indo Laboratories is a limited liability company organized, and existing under the laws of the Commonwealth of Massachusetts having a usual place of business at 257 Simarano Drive, Suite 100, Marlborough, MA 01752 (the "Applicant").
2. The Applicant is a lessee of the property located at 257 Simarano Drive, Suite 100, Marlborough, MA 01752, as shown on Marlborough Assessors Map 112 and Parcel 4 (the "Site"). The Site's owner is 257 Simarano LLC, with a business address of 336 Baker Avenue, Concord, MA 01742.
3. The Applicant, on or about August 2, 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 650-32, to permit the applicant to conduct a business with the purpose of operating a Independent Marijuana Testing Laboratory (the "Use").

4. The “Table of Uses” states that the intended use requires a Special Permit (SP)/ Zoning Relief issued by the Marlborough City Council.
5. The facility is located in the industrial (I) zoning district, Map 112, Parcel 4.
6. The Use will occupy an existing laboratory at the Site with an area of 10,565 +/- square feet.
7. The Special Permit application filed on August 2, 2019 consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement for the proposed use of a Marijuana Independent Testing Laboratory, (c) Filing Fee check in the amount of \$250.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Facility Site Plan (the “Plan”), and (h) Planning Department Certification. Twelve sets of documents were delivered to the City Council 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 Chapter 650 Section 650-59 of the Zoning Code of the City of Marlborough.
8. Under the provisions of Massachusetts General Laws Chapter 40A, on August 2, 2019, Applicant filed with the City Clerk to be placed on the City Council Agenda for August 23, 2019
9. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A Sections 9 and 11, the City Council established September 23, 2019 as the date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News and mailed said notice to those entitled thereto, all in accordance with Massachusetts General Laws Chapter 40A.
10. All abutters certified by the Office of the Board of Assessors of Marlborough were sent official legal notification of the Public Hearing, via certified mail. Prior to the Public Hearing on September 23, 2019, the green/white certified mail slips were submitted to the City Clerk’s office.
11. The Marlborough City Council held a public hearing on the Application on September 23, 2019 in accordance with the published notice, (the “Public Hearing”). The hearing was opened at the time provided for in the notice and following the completion of testimony the hearing was closed on said date.
12. The Applicant presented testimony at the Public Hearing detailing the business operational plans for facility, especially as it pertained to security, waste disposal, hiring practices, community and economic impact, 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. There was no opposition from the members of the public.
13. The Site has 24-hour off-site monitoring of security cameras, as well as multi-tiered levels of security clearance within the building.

14. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs and Housing Committee ("Urban Affairs") regarding the facility, operations, security and waste disposal.
15. 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.
16. According to the Applicant, the facility has been inspected and received written confirmation by the Fire Chief that all safety and building codes are met.

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

- A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit. The City Council finds that it may grant a Special Permit subject to such terms as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or General Laws. c. 40A, et. seq. 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 Applicant provided to Urban Affairs written and oral documentation as to the handling of the waste materials. In summation, all marijuana samples will be rendered unusable for human consumption immediately upon sample intake. All waste product is weighed and recorded prior to being destroyed. The waste material will be rendered unusable in an alcohol solution inside of a 55-gallon container. Any material not used for testing will be immediately treated in the same manner. The waste container will be stored within facility inside of a secured and monitored waste room. When the waste container reaches capacity, a licensed waste hauler will be scheduled to retrieve and remove the container from inside the facility.
- D. The applicant commits to work with city officials and the Marlborough Police Department to address any and all reasonable security concerns. Surveillance cameras shall be capable of twenty-four-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises.
- E. The City Council finds that the use of the Site for the purposes of a marijuana independent testing laboratory is an appropriate use and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The proposed business will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.

F. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:

1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.

2. Traffic flow and safety, including parking and loadings:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.

3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.

4. Neighborhood character and social structures:

Finding: The use is consistent with the area in the vicinity of the Site.

5. Impacts on the natural environment:

Finding: The use will have no greater impact than the established uses in the area.

6. Potential fiscal impact, including impact on City services, tax base and employment:

Finding: The Use will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.

7. Hours of operation:

Finding: The hours of operation of the Use are generally similar to other laboratory uses.

8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:

Finding: The provision of contact information is specifically conditioned below.

9. Requiring payment of a community impact fee:

Finding: Notwithstanding any terms negotiated in a Host Community Agreement, no impact fee shall be assessed by the City Council.

10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

11. Requiring regular inspections by City officials or their agents, and access of the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police who shall have the authority to disapprove the employment of any person(s) as a result of said background check:

Finding: All staff of Indo Labs comply with all Cannabis Control Commission hiring requirements including, but not limited to, any background and CORI check requirements. The requirements are specially conditioned below.

13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images in, on, around, or at the premises:

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: The Use shall not include retail sales of any kind.

15. The ability for the Business to:
 - i. provide a secure indoor waiting area for clients;
 - ii. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
 - iii. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals;
 - iv. adequately address issues of traffic demand, parking, and queuing especially at peak periods at the Business, and its impact on neighboring uses; and
 - v. provide opaque exterior windows;

Finding: The use is a laboratory. Further, security is specially conditioned below.

16. Signs and signage:

Finding: The signage shown on the Plans are appropriate for the Use.

17. Names of businesses, business logos and symbols, subject to state and federal law and regulation:

Finding: The name of the business, logos, and symbols associated with the Use, as provided in the Application and shown on the Plans, are appropriate for the Use.

- G. 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 operate an Independent Marijuana Testing Laboratory, **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 is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
2. 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 in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted reviewed and approved by the City Council as the Special Permit Granting Authority.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs, and other documentation provided by the Applicant as part of the Applications, 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. Compliance with State Requirements. In accordance with § 650-18(47)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of an Independent Marijuana Testing Laboratory.

6. Security. The Applicant has and shall continue to comply with the City Council requirement that a written Security Plan be approved and signed by the City of Marlborough Police Chief or his designee. Any substantive changes to Security Plan will receive written approval from Police Chief or his designee. The Applicant, its successors and/or assigns, shall utilize surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images in, on, around, or at the premises.
7. Processing. There shall be no retail sales permitted at the site. All waste product shall be rendered unusable in an alcohol solution inside of a 55-gallon container. Any material not used for testing will be immediately treated in the same manner. The waste container will be stored within the facility inside of a secured and monitored waste room. When the waste container reaches capacity, a licensed waste hauler will be scheduled to retrieve and remove the container from inside the facility.
8. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.
9. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.
10. Job Applicants. The Applicant commits to considering local applicants for employment and independent contract purposes. A job applicant's residency will be one positive consideration among many considerations such as experience and educational background.
11. Inspections and Records. The Applicant, its successors and/or assigns, shall make the Use available for regular inspections by City officials or their agents, and shall provide City officials or their agents with access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.
12. Background Checks. The Applicant, its successors and/or assigns, shall require that all staff of undergo a criminal background check, as required by the Cannabis Control Commission hiring requirements.
13. Compliance with Health Regulations. Applicant will comply with all current marijuana regulations and any future changes proposed and implemented by the City of Marlborough Board of Health.
14. Signs and Signage. The Applicant shall not utilize signs or signage that mention, imply, or refer to in any way, shape, or form, involvement in the marijuana business.

15. Recording of Decision. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant 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 Solicitor's Office, the Building Department, and the City Council's Office.

Yea: 9 – Nay: 0 – Absent: 2

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

Absent: Dumais, Ossing.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:53 PM; adopted.