



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
Steven W. Kerrigan  
140 Main St.  
Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**DECEMBER 2, 2019**

Regular meeting of the City Council held on Monday, December 2, 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 9:31 PM.

**ORDERED:** That the Minutes of the City Council meeting, NOVEMBER 18, 2019, **FILE**; adopted.

**ORDERED:** That the JOINT TAX CLASSIFICATION PUBLIC HEARING with Board of Assessors to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2020, Order No. 19-1007857, all were heard who wish to be heard, hearing closed at 8:46 PM; adopted.

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

**Assessor's Present: Arruda, Silverstein.**

**Assessor's Absent: Manzello.**

**ORDERED:** That the Transfer of \$53,850.00 (fifty-three thousand, eight hundred fifty dollars) from Sale of Graves to Reduce the FY 2020 Tax Levy, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Mayor's Office					FISCAL YEAR:		2020	
FROM ACCOUNT:							TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:	
\$53,850.00	\$53,850.00	27000	33020	Sale of Graves		\$53,850.00	To reduce FY20 Tax Levy			\$0.00
	Reason:	Sale of Graves revenue from FY19 to reduce FY20 tax levy								
	\$53,850.00	Total				\$53,850.00	Total			

**ORDERED:** That the Transfer of \$1,041,046.13 (one million, forty-one thousand, forty-six dollars & thirteen cents) from Overlay Reserve to reduce the FY 2020 Tax Levy, **APPROVED**; adopted.

		CITY OF MARLBOROUGH									
		BUDGET TRANSFERS --									
	DEPT:	Mayor's Office					FISCAL YEAR:		2020		
		FROM ACCOUNT:					TO ACCOUNT:				
Available											Available
Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:		Balance
\$1,041,046.13	\$1,041,046.13	10000	32200	Overlay Reserve		\$1,041,046.13	To reduce FY20 Tax Levy				\$0.00
	Reason:	Excess overlay from FY16 to reduce FY20 tax levy									
	\$1,041,046.13	Total				\$1,041,046.13	Total				

**ORDERED:** The Marlborough City Council votes in accordance with MGL, Chapter 40, §56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2020 tax rates and set the Residential Factor at 0.8039 with a corresponding CIP shift of 1.43 pending approval of the City's annual tax recap by the Massachusetts Department of Revenue, **APPROVED**; adopted.

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$200.00 from the Marlborough Junior Woman's Club for the Police Department to be used to offset the costs of running their R.A.D. (Rape Aggression Defense) program; adopted.

**ORDERED:** That pursuant to Section 14 of Chapter 40 of the General Laws, the Marlborough City Council hereby authorizes the Mayor to enter into a lease for a term of three (3) years for that parcel of land known as the "Union Common" shown as Assessors Map 70, Parcel 292, bounded by Main Street, Bolton Street, and High Street, and the land of John P. Rowe and Mildred M. Rowe, now or formerly, and Herman Sanders and Amanda Sanders, now or formerly, for the purposes of a public park, **APPROVED**; adopted.

ORDERED: That, due to the availability and suitability of a building located within the boundaries of Ward Five, namely the Masonic Lodge located at 8 Newton Street, to serve as an appropriate polling location for Ward Five, Precinct One and Precinct Two within the City of Marlborough, the City Council hereby determines, pursuant to MGL Chapter 54 §24, that the public convenience would be better served by relocating to the Masonic Lodge the polling places for the following precincts:

- Ward Five, Precinct One, the polling place for which is currently located in the Senior Center at 40 New Street.
- Ward Five, Precinct Two, the polling place for which is currently located in the Senior Center at 40 New Street.

**APPROVED;** adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, Order No. 19-1007780A, **MOVED TO ITEM 19;** adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Site Plan Approval from Post Road Realty, LLC, for the Green District project to be built in the Executive Residential Overlay District (EROD) at 107 Simarano Drive, in proper legal form, Order No. 19-1007763A, **MOVED TO ITEM 20;** adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, Order No. 19-1007762B, **MOVED TO ITEM 21;** adopted.

ORDERED: That there being no objection thereto set **MONDAY JANUARY 13, 2020** as the **DATE FOR PUBLIC HEARING** on the Petition from Massachusetts Electric, to install new underground equipment to feed street lights 52 through 57 from existing street light #24 on Donald J. Lynch Boulevard, refer to **PUBLIC SERVICES COMMITTEE;** adopted.

ORDERED: That there being no objection thereto set **MONDAY JANUARY 13, 2020** as the **DATE FOR PUBLIC HEARING** on the Petition from Massachusetts Electric, to install push brace #7-89 on Front Street which will enable National Grid to remove the pole to tree guy wire, refer to **PUBLIC SERVICES COMMITTEE;** adopted.

ORDERED: That the Communication from various residents of Mechanic Street re: Tunnera & Sons Roofing & Snow Removal Services, 260 Mechanic Street, **FILE;** adopted.

**Councilor Tunnera recused.**

ORDERED: That the Minutes, Board of Assessors, July 10, 2019, **FILE;** adopted.

ORDERED: That the Minutes, Parks & Recreation Commission, October 9, 2019, **FILE;** adopted.

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

- a) Jessica Carley, 181 Boston Post Road East, #76, pothole or other road defect.

Reports of Committees:

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

Meeting Name: City Council Public Services Committee

Date: November 25, 2019

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

Convened: 6:35 PM – Adjourned: 6:56 PM

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

**Order No. 19-1007823 (X 19-1007780): Application for Fuel Storage License, 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.**

The Public Services Committee met with attorney Brian Falk, Mark Diarbakerly of One Energy Inc., and engineer Paul Sylvia of Ayoub Engineering for a review of the application for the Fuel Storage License at 121 Bolton Street. There will be two brand new tanks, each 14,000 gallons are the latest state of the art tanks with a double wall fiberglass arrangement and more importantly are continuously monitored with an internal interstitial which means if any portion of the tank should leak, those monitors pick it up immediately and it is trapped in the space. Mr. Sylvia continued to review the additional safety features of the planned system. Mr. Diarbakerly reviewed additional systems in place to ensure the safety of the site.

**Motion made by Councilor Doucette, seconded by the Chair to approve the application. The motion carried 3-0.**

**The Public Services Committee agreed to request a Suspension of the Rules at the December 2, 2019 City Council Meeting to vote on the application.**

**Order No. 19-1007839: Application for Pool Table License, Adam Krasinski of Tackle Box Brewing Company LLC, 416 Boston Post Road East.**

The Public Services Committee met with Adam Krasinski of Tackle Box Brewing Company, LLC for a review of their application for a Pool Table License. Chairman Landers visited the site recently and was impressed with the business as were Councilors Irish and Doucette. Mr. Krasinski stated they did plan to charge for the games, likely to be a dollar per game and it will be per the honor system to just cover the costs of maintaining the tables.

**Motion made by Councilor Doucette, seconded by the Chair, to approve the application. The motion carried 3-0.**

**The Public Services Committee agreed to request a Suspension of the Rules at the December 2, 2019 City Council Meeting to vote on the application.**

**Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:56 PM.**

Reports of Committee Continued:

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

Meeting Name: City Council Urban Affairs Committee

Date: November 21, 2019

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

Convened: 5:30 PM – Adjourned: 7:23 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juairé, Landers, Doucette (left @ 6:22 PM), and Tunnera; Councilors Clancy, Irish, and Robey (arrived 5:38 PM); Tom DiPersio (City Engineer, City of Marlborough); Priscilla Ryder (Conservation Officer, City of Marlborough)

**Order No. 19-1007824: 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.**

The Urban Affairs Committee meet with attorney Brian Falk, Neal Emmer of LWDA Architects, and Randy Miron of Bohler Engineering for a review of the application for a special permit on behalf of Marlborough Hospital & UMASS Memorial Realty, Inc. They discussed the location of the proposed sidewalk to the site as there is currently none. Condition 7, Pedestrian Access, discusses that sidewalk and the committee would like the language changed so it is clear that the sidewalk must be approved by the Site Plan Review Committee and City Engineer.

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

**Order No. 19-1007809: 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.**

## Reports of Committee Continued:

The Urban Affairs Committee met with attorney Brain Falk, David Skarin, engineer Bruce Saluk, and architect Larry Reeves for a review of the application for a special permit of behalf of 119 Ash Street, LLC. Chairman Delano confirmed all units at the site were to be two-bedroom units. They discussed the view easement previously purchased by the City of Marlborough to allow for sight distance up Ash Street and it was confirmed that easement would be honored with the new construction. They reviewed the special permit decision conditions, conditions one through four are standard as is condition six, lighting. Condition seven, Screening for Abutters, was in response to a comment at the public hearing by a neighbor who requested additional screening for that portion of the property. Condition eight, Pedestrian Access to the Rail Trail was discussed earlier in the meeting. The following are additional conditions discussed that evening: the City's view easement and a landscaping plan will be designed to not interfere with it; a condition will be included on their obligation to maintain the landscaping alongside their portion of the rail trail with flowers, details to be worked out with the Site Plan Review Committee; and take into consideration any review of the traffic impact by the Site Plan Review Committee along Ash Street. The applicant also agreed to maintain the nearby crosswalk on Ash Street with a green visibility paint.

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

**Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 7:23 PM.**

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

ORDERED: That 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, **APPROVED**; adopted.

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

ORDERED: That the Application for Pool Table License for two (2) tables, by Adam Krasinski of Tackle Box Brewing Company LLC, 416 Boston Post Road East, **APPROVED**; adopted.

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

ORDERED: That 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 **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE DECEMBER 16, 2019 COUNCIL MEETING**; adopted.

**Councilor Robey recused.**

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

ORDERED: That 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 **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE DECEMBER 16, 2019 COUNCIL MEETING**; adopted.

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

ORDERED: That the Communication from the Planning Board, regarding their favorable recommendation of the Proposed Rezoning of land off 269 Mechanic Street identified as Map 56, Parcel 125, **FILE**; adopted.

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

ORDERED: That the Communication from the Planning Board, regarding their favorable recommendation with two (2) suggested changes on the Proposed Zoning Amendment relative to creating the Wayside Zoning District, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

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, **APPROVED**; 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:	Mitigation funds from BSL per special permit conditions								
\$150,000.00	Total				\$150,000.00	Total			

ORDERED: That the Communication from the Mayor, re: Update on Library Renovation Project be and is herewith **CARRIED OVER TO THE 2020-2021 LEGISLATIVE SESSION**; 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'.

**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 Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, Order No. 19-1007780A, **FILE**; adopted.

ORDERED:

**DECISION ON A SPECIAL PERMIT  
ONE ENERGY, INC.**

**CITY OF MARLBOROUGH  
CITY COUNCIL ORDER NO. 19-1007780B**

**DECISION ON AN APPLIATION FOR SPECIAL PERMIT**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to One Energy, Inc. (the "Applicant") to alter a preexisting nonconforming gas station use at 121 Bolton Street to a gas station, convenience store, and restaurant/café use, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, One Energy, Inc., is a Massachusetts corporation with an address of 420 Lakeside Avenue, Marlborough, MA 01752.



2. The Applicant is the prospective owner of the property located at 121 Bolton Street, Marlborough, Massachusetts, being shown as Parcel 289 on Assessors Map 57 (the "Site").
3. In accordance with Article V, Section 650-12.B, of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to alter a preexisting nonconforming gas station use at 121 Bolton Street to a gas station, convenience store, and restaurant/café (the "Use"). As shown on the Site Plan referenced in paragraph 5 below, the Use consists of five gas station pumps under a canopy, a building containing a convenience store and restaurant/café use, 24 parking spaces, and landscaped areas.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a detailed site plan entitled "Zoom Mart Special Permit Site Plan" by Ayoub Engineering, comprised of Sheets 0, 1, C-1, C-2, C-3, L-1, ER-1, TD-1, SG-1, SE-1, SD-1, SD-2, SD-2, SD-4, A1.0, A2.0, and A2.1, with the last revision date of November 8, 2019 (the "Site Plan"), attached as "Attachment A."
6. 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.
7. The Site is located in the Residence B Zoning District.
8. The Site has an area of 30,928 square feet +/- as shown on the Site Plan.
9. The Site's current gas station use is preexisting nonconforming, commencing prior to the adoption of the Marlborough Zoning Ordinance in 1956.
10. The Site is preexisting nonconforming with respect to lot coverage, having total impervious areas of 73.5% (the RB District has a maximum lot coverage of 30%). The Site Plan shows that the lot coverage associated with the Use would be 70.3%.
11. 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 be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
12. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, October 21, 2019. The hearing was closed on that date.
13. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

14. At the public hearing, three members of the public spoke in favor of the Use, one member of the public submitted a letter in favor of the Use, and no members of the public spoke in opposition to the Use.
15. The Applicant provided a certificate of insurance demonstrating liability insurance to cover potential claims from neighboring property owners with respect to the underground fuel storage tanks at the Site.

**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 alteration of the Site from a gas station to the proposed Use would not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- C. The City Council finds that the preexisting nonconforming gas station use has not been abandoned for a period of two years or more.
- D. The City Council finds that the proposed Use is not enlarged to more than 25% of the floor and ground area of the preexisting nonconforming gas station use at the Site.
- E. 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.
- F. 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 alter the preexisting nonconforming gas station use at 121 Bolton Street to a gas station, convenience store, and restaurant/café as shown on the Site Plan 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 Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Site Plan as may be amended during Site Plan Review.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Site Plan submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Site Plan.
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. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of business hours of operation of the Use, except for lighting necessary for security and emergency access.
7. Hours of Operation. The hours of operation of the Use shall not exceed 6:00 AM to 10:00 PM.
8. Seating. The Use may not include any tables with seating for customers.

9. Trash Area. No trash pickup shall occur on Sundays. On Monday through Saturday, no trash pickup shall occur before 7:00 AM or after 6:00 PM. The trash area shall be locked outside of business hours. The Applicant shall address the screening of the Site's trash area during the Site Plan Review process, provided that the trash area shall be concealed with concrete, cement, brick, or similar materials and landscaped to screen the trash area from neighboring properties.
10. Signs. The Site shall not contain more than one free-standing sign, substantially as shown on the Site Plan. This limitation shall not apply to on-premises directional and traffic safety signs. The Site's main free-standing sign and any other sign shall not be illuminated outside of business hours of operation of the Use.
11. Fencing. Prior to receiving a certificate of occupancy for the Use, the Applicant shall replace the perimeter fencing at the Site, substantially as shown on the Site Plan, and thereafter shall maintain the fencing in good repair. The perimeter fencing shall be six-foot white vinyl with decorative lattice along the top and shall comply with the requirements of all applicable City Ordinances.
12. Food Sales. The Use may include the sale of prepackaged food items, fresh food, and food prepared on site, provided that any food preparation area used by employees shall not contain large ovens or occupy more than 10% of the building's floor area. The Use shall not include a food delivery service.
13. No Outdoor Sales. With the exception of fuel, no items for sale shall be located or displayed outside the building.
14. No Vehicle Sales or Service. There shall be no vehicle sales or vehicle repairs at the Site.
15. Diesel Fuel Sales. Diesel fuel sales at the Site shall be limited to cars, light-duty trucks, lawn care equipment, and portable fuel containers. There shall be no high-speed diesel fuel dispensers at the Site capable of fueling large trucks.
16. Exterior Audio. The Site shall not use exterior audio speakers except as may be required for security, emergencies, handicapped accessibility, or to comply with State or City legal requirements.
17. Liability Insurance for Fuel Storage Tanks. The Applicant shall at all times maintain liability insurance in an amount not less than \$5,000,000 to cover potential claims from neighboring property owners with respect to the underground fuel storage tanks located at the Site. Upon request of the City, the Applicant shall provide evidence of such insurance.
18. DEP Site Closure. Prior to receiving a certificate of occupancy for the Use, the Applicant shall provide the City with a copy of the Permanent Solution Statement submitted to the Department of Environmental Protection by the Site's licensed site professional. The Applicant shall comply with all orders of the Department of Environmental protection with respect to the Site.

19. Curb Cuts. The Site shall have three (3) curb cuts, with two (2) along Bolton Street and one (1) along State Street. The Applicant shall address the final design of the Site's curb cuts during the Site Plan Review process.
20. 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.

**Yea: 11 – Nay: 0**

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

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Application for Site Plan Approval from Post Road Realty, LLC, for the Green District project to be built in the Executive Residential Overlay District (EROD) at 107 Simarano Drive, in proper legal form, Order No. 19-1007763A, **FILE**; adopted.

ORDERED: That the City Council of the City of Marlborough does hereby approve the Site Plan Permit which sets forth an Approval with conditions of the site plans submitted by Post Road Realty LLC, to construct a two-phase 475-unit multifamily dwelling residential project at 107 Simarano Drive, Marlborough, **APPROVED**; adopted.

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

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: 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, in proper legal form, Order No. 19-1007762B, **FILE**; adopted.

ORDERED:

**DECISION ON A SPECIAL PERMIT  
POST ROAD REALTY LLC**

**CITY OF MARLBOROUGH  
CITY COUNCIL ORDER NO. 19-1007762C**

**DECISION ON AN APPLICATION FOR SPECIAL PERMIT**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Post Road Realty LLC (the "Applicant") to build and operate a two-phase 475-unit multifamily dwelling residential project at 107 Simarano Drive, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, Post Road Realty LLC, is a Connecticut limited liability company with an address of 11 Unquowa Road, Fairfield, CT 06824.
2. The Applicant is the prospective owner of the property located at 107 Simarano Drive, Marlborough, Massachusetts, being shown as Parcels 5, 11, and 12 on Assessors Map 116 (the "Site").
3. In accordance with Article VI, Section 650-36.D(2), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to build and operate a two-phase 475-unit multifamily dwelling residential project at the Site, in two buildings with 677 on-site parking spaces, open areas, walking trails, and residential amenities (the "Use"). As shown on the Site Plan referenced in paragraph 7 below, the Use consists of two development phases: "Site 1" with 235 units and 354 parking spaces and "Site 2" with 240 units and 323 parking spaces.
4. The Site is located in the Executive Residential Overlay District, and the underlying zoning districts are Industrial and Limited Industrial.
5. The Site has an area of 1,873,840 square feet +/- as shown on the Site Plan referenced in paragraph 7 below.
6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and the following plans: (i) a detailed site plan entitled "Green District Special Permit and Site Plan Approval" by Hancock Associates, comprised of Sheets 1 through 32, with the last revision date of November 12, 2019 (the "Site Plan"); (ii) a set of architectural plans entitled "Green District" by Bargmann Hendrie + Archetype, Inc., comprised of Sheets A100, A101, A102, A200, A201, A202, and A300, with the last revision date of November 12, 2019; and (iii) a set of landscaping plans entitled "Green District" by Eric Rains Landscape Architecture, LLC, comprised of Sheets SPL-1.0, SPL-1.1, SPL-2.0, SPL-2.1, SPL-3.0, and SPL-3.1, with the last revision date of November 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 be 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, October 7, 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, no members of the public spoke in opposition to the Use.

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

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit to build and operate a two-phase 475-unit multifamily dwelling residential project 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 Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
  2. 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 650-36 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 through 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. In accordance with Section 650-36.H of the Zoning Ordinance, the Building Commissioner may approve minor modifications to the Special Permit and Site Plan.

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. The final architectural design of the Site shall be reasonably consistent with the Plans submitted by the Applicant. The final exterior features of the Site, including landscaping, shall be maintained in good condition and shall be reasonably consistent with the Plans submitted and representations made to 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. Affordable Units. (a) Ten percent (10%) of the dwelling units at the Site shall be made available as rental units at affordable prices to renters (whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development) in perpetuity or the longest period allowed by law (the "Affordable Housing Units"), in accordance with the provisions of Section 650-26 of the Zoning Ordinance and this condition. The Affordable Housing Units shall comply with all requirements for inclusion in the Subsidized Housing Inventory ("SHI") of the Commonwealth of Massachusetts Department of Housing and Community Development ("DHCD"). Prior to obtaining a certificate of occupancy for any unit within the Use, the Applicant, in coordination with the City and its Community Development Authority, shall file all required submissions to DHCD for inclusion of the Affordable Housing Units on the SHI and shall diligently take all actions necessary to include the Affordable Housing Units on the SHI, including without limitation, preparing and executing a regulatory agreement and declaration of restrictive covenants and/or any other restrictive instrument necessary to ensure compliance with said Zoning Ordinance and this condition, a marketing plan, and all other required documentation. All costs associated with complying with this condition, including but not limited to, the DHCD process, recording of all documents with the registry of deeds, and the marketing plan for the Affordable Units shall be borne by the Applicant.



(b) In lieu of requiring that fifteen percent (15%) of the dwelling units at the Site be made available at affordable prices to renters, the Applicant shall provide a payment to the City of \$50,000 per affordable dwelling unit that would have been otherwise required under Section 650-26 of the Zoning Ordinance. For Site 1 of the Use, the number of applicable units is 12, for a total payment of \$600,000. For Site 2 of the Use, the number of applicable units is 12, for a total payment of \$600,000. The payments required by this condition shall be made prior to the issuance of a building permit for Site 1 and Site 2, respectively, and shall be payable to a fund or funds designated by the City Council prior to submission of each payment.

7. Multifamily Unit Payments. To mitigate any impacts associated with the Use, the Applicant has agreed to provide a payment to the City of \$3,500 for each multifamily dwelling unit at the Site. For Site 1 of the Use, the total payment shall be \$822,500. For Site 2 of the Use, the total payment shall be \$840,000. The payments required by this condition shall be made prior to the issuance of a building permit for Site 1 and Site 2, respectively, and shall be payable to a fund or funds designated by the City Council prior to submission of each payment.
8. MetroWest/495 Transportation Management Association. To help promote alternative modes of transportation for residents of the Site, prior to the issuance of a building permit for Site 1 the Applicant shall join the MetroWest/495 Transportation Management Association.
9. Conservation Commission Approval. The Applicant shall obtain and comply with an Order of Conditions from the City's Conservation Commission.
10. 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.

**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 9:31 PM; adopted.