



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
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DECEMBER 16, 2019

Regular meeting of the City Council held on Monday, December 16, 2019 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 8:55 PM.

ORDERED: That the Minutes of the City Council meeting, DECEMBER 2, 2019, **FILE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$200,000.00 from the Commonwealth of Massachusetts awarded to the City of Marlborough, in the form of a budget earmark to fund a city shuttle service for one year; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$80,436.00 from the Executive Office of Elder Services awarded to the Council on Aging which will be used in enhancing the lives of Marlborough's seniors through programming, assistance and support services; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$8,900.00 from the Massachusetts Emergency Management Agency's Performance Grant Program which will be used to purchase cots, bedding and a storage trailer for the set-up of an emergency shelter; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$500.00 from Mr. Libby Ginnetti as a charitable donation to the Council on Aging; adopted.

ORDERED: That the Mayor is authorized, on behalf of the City, to: (1) execute a power purchase agreement (“PPA”); (2) execute a related lease pursuant to MGL Chapter 40, §14; and (3) enter into negotiations and execute a payment in lieu of tax agreement pursuant to MGL Chapter 59, §38H without further action by this body, for purposes an on-site renewable solar energy generating project upon four (4) school building rooftops, at the following locations:

- Sgt. Charles J. Jaworek Elementary School – Rooftop
- Francis J. Kane Elementary School – Rooftop
- Marlborough High School – Rooftop
- New Elementary School – Rooftop.

Said PPA and Lease are subject to approval by the School Committee.

APPROVED; adopted.

ORDERED: That the Communication from the Mayor, re: Right of First Refusal – Land off Boston Post Road East, from Heritage Farm, LLC, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Amendment to Chapter 650 relative to the creation of the Wayside Zoning District, in proper legal form, Order No. 19-1007716C, **MOVED TO REPORTS OF COMMITTEE**; adopted.

Councilor Doucette recused.

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: 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, in proper legal form, Order No. 19-1007824B, **MOVED TO ITEM 25**; adopted.

Councilor Robey recused.

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: 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, in proper legal form, Order No. 19-1007809B, **MOVED TO ITEM 26**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: Application for LED Sign Special Permit from Poyant Signs on behalf of McDonalds, 155 Boston Post Road West, in proper legal form, Order No. 19-1007808A, **MOVED TO REPORTS OF 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 a new pole and anchor #30-84 on Bigelow 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 Central MA Mosquito Control Project, re: Notice of 2020 Commission meeting dates, **FILE**; adopted.

ORDERED: That the Communication from NSTAR Gas Company d/b/a Eversource Energy re: Notice pursuant to MGL Chapter 164 §94 and 220 CMR 5.00 for Approval of General Increases in Base Distribution Rates for Gas Service, **FILE**; adopted.

ORDERED: That the Communication from New England Power Company and/or Massachusetts Electric Company d/b/a National Grid, re: Notice pursuant to 333 CMR 11.06, 45-day Public Notice of 2020 Yearly Operational Plan, **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JANUARY 27, 2020** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of Vedi Naturals LLC, to operate an Adult Use Marijuana Retail Establishment, 505 Boston Post Road West (Twin Boro Crossing), refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

ORDERED: That the Minutes, School Committee, October 15, 2019, October 29, 2019 & November 12, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, September 5, 2019, October 3, 2019, October 17, 2019, November 7, 2019 & November 21, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging Board, November 12, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Historical Commission, October 17, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, October 21, 2019 & November 18, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, October 30, 2019, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, November 26, 2019, **FILE**; adopted.

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

- a) Geren Kaplan, 17 Nancy Road, Milford, pothole or other road defect.
- b) Matt Kelley, 126 Crosby Road, residential mailbox claim (2a).

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: December 03, 2019

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

Convened: 5:30 PM – Adjourned: 5:52 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette (left @ 5:42 PM), and Tunnera; Councilors Clancy and Ossing

Order No. 19-1007808: Application for LED Sign Special Permit from Poyant Signs on behalf of McDonalds, 155 Boston Post Road West.

The Urban Affairs Committee met with Bethany Leonard of Poyant Signs who appeared on behalf of McDonalds, 155 Boston Post Road West, in their application for a LED Sign Special Permit to upgrade the existing menu boards to digital menu boards. The digital menu boards would change twice a day from breakfast to lunch and dinner, and the different seasonal specials would change as necessary. The lighting in the sign is regulated by a sensor so at night it will dim so it is not as bright to go with the ambiance of the surrounding area. The proposed menu boards are slightly smaller than what is currently there, and they will be in the same locations and facing the same angles, so there will be noticeable difference. The City's current EMC and Digital Display Sign Ordinance does not allow for pictures so their menu board would not be able to show pictures of menu items. The committee agreed to approve the LED Sign Special Permit with the condition that "The Sign shall be operated in accordance with the EMC and Digital Display Sign Ordinance of the City of Marlborough" with the understanding that a future City Council may amend the City's ordinance to allow for pictures on drive-through menu boards.

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

The Urban Affairs Committee agreed to request a Suspension of the Rules at the December 16, 2019 City Council meeting to vote on the application.

Order No. 19-1007716A: Communication from City Solicitor, Jason Grossfield, on behalf of Councilor Delano, regarding Proposed Zoning Amendment relative to creating the Route 20 East Zoning District, Order No. 19-1007716.

Reports of Committee Continued:

The Urban Affairs Committee met for a final review of the proposed zoning amendment relative to creating the Wayside District. The Urban Affairs Committee had previously met on November 7th, 21st, and 25th while the Planning Board held their public hearing on December 2, 2019 and provided their recommendation to the City Council that same evening. The Planning Board supported the Wayside District zone and would like it to see it extended at least to Phelps Street. There were some minor changes to the zoning language itself to clarify when the City Council is the special permit granting authority, they will not be the site plan review granting authority and that function will remain with the administrative Site Plan Review Committee. They also decided regarding signage, signs, logos or cabinets should be externally illuminated where possible, otherwise with translucent or transparent faces if no reasonable alternative is possible. Also, in this zone, the Building Commissioner shall be the decider of whether a requested change to a project is deemed to be a major or a minor amendment to the previously issued Special Permit or Site Plan permit. The committee agreed to request the City Solicitor place this item on the agenda for the December 16, 2019 City Council meeting.

Motion made by Councilor Juaire, seconded by Chair, to approve as amended. The motion carried 4-0 (Councilor Doucette recused).

Motion made and seconded to adjourn. The motion carried 4-0. The meeting adjourned at 5:52 PM.

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: Application for LED Sign Special Permit from Poyant Signs on behalf of McDonalds, 155 Boston Post Road West, in proper legal form, Order No. 19-1007808A, **FILE**; adopted.

Suspension of the Rules requested – granted.

ORDERED:

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

LED Sign Special Permit
McDonald's Restaurant
155 Boston Post Road West
Order No. 19-1007808B

**DECISION ON A LED SIGN SPECIAL PERMIT
CITY COUNCIL ORDER NO. 19-1007808B**

The City Council of the City of Marlborough hereby GRANTS the application for a Sign Ordinance Special Permit to McDonald's (the "Applicant") for the property located at 155 Boston Post Rd West, 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 lessee of the property located at 155 Boston Post Rd West, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 78, Parcel 15 (the “Site”) and maintains a stand-alone fast food restaurant with drive-through service lanes.
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; Digital Display Signs” (the “EMC and Digital Display Sign Ordinance”), to operate electronic message center signs (the “Signs”) at the Site (the “Application”).
3. The Signs are two menu boards each of which is no larger than 49.6” by 58” single-faced digital sign, with a display area of 19.8 square feet (the product specifications are as Attachment A) and two pre-sale boards 49.75” by 29.125”, with a display area of 9.9 square feet. The Signs are to be located in the same location as the existing pre-sale and menu boards.
4. In connection with the Application, the Applicant has submitted schematic designs of the Site and a sketch plan showing the location of the Signs on the Site (as shown in Attachment B).
5. The Marlborough City Council held a public hearing on the Application on November 18, 2019.
6. The Applicant, through its representatives, presented testimony at the public hearing detailing the Signs. No individual in attendance at the public hearing spoke in opposition to the Signs.

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 Signs 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 Signs do not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street; the Signs do not substantially block visibility of signs on abutting lots; the Signs do 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 Signs are appropriate; and the dimensions of the Signs 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 Signs, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. The Signs 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 to Chapter 650 relative to the creation of the Wayside Zoning District, in proper legal form, Order No. 19-1007716C, **FILE**; adopted.

Councilor Doucette recused.

ORDERED: That the language to the Proposed Zoning Amendment, relative to the creation of the Wayside Zoning District be amended as follows:

“For special permits, amendments may be granted by a two-thirds vote of the City Council. For site plan approvals, amendments may be granted by a majority vote of the City Council. The Building Commissioner shall be responsible for determining whether a project change is major or minor. Minor project changes may be made by the Building Commissioner, and major project changes by the permit granting authority.”

APPROVED; adopted.

Councilor Doucette recused.

Suspension of the Rules requested – granted.

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

- I.** Section 650-7, entitled “Districts Enumerated,” is hereby **amended** as follows:

- (1) By deleting from the first sentence the number “13” and by inserting in place thereof the number “14”.
- (2) By inserting at the end of the list of District types, the following:
Wayside Zoning District Wayside.

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

- III. Chapter 650 is hereby amended by **inserting** a new §37, entitled “Special Provisions Applicable to the Wayside Zoning District”, as follows:

§ 650-37. Special Provisions Applicable to the Wayside Zoning District

Within the Wayside Zoning District, the following provisions govern. Where these provisions conflict with other sections of the Zoning Ordinance, the provisions of this section shall apply.

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

(1) Commercial mixed-use development.

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

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

(1) Applicability.

- (a) In all instances, a development which proceeds within the Wayside Zoning District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code.
- (b) Site plan review applies to both as of right and uses available by grant of a special permit within the Wayside Zoning District. Site plan review applicability includes, but is not limited to, new construction of any building or structure; addition to an existing building or structure; and increase in area of on-site parking or loading areas. [See § 270-2(3).]

- (c) Site plan review shall be conducted administratively as provided in § 270-2, except for uses that are both over 10,000 square feet of building footprint and do not require a special permit, which projects shall undergo administrative site plan review with final review and approval by the City Council.
 - (d) The City Council may elect to vary the dimensional and parking requirements of this section by special permit or site plan approval if, in its opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.
- C. Special permit granting authority.** The City Council shall be the special permit granting authority within the Wayside Zoning District.
- D. Exclusivity/control.** This section of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the Wayside Zoning District and supersedes any other provision of the Zoning Ordinance. In the event of any conflict between the provisions of this section and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.
- E. Eligible uses.** Except as specifically provided herein, any uses which are not permitted, whether as of right or by a special permit, within the Wayside Zoning District under § 650-17, Table of Use Regulations, of the Zoning Ordinance, shall be prohibited. Uses allowed as of right and uses allowed by special permit are encouraged to be combined as a commercial mixed-use development. All uses noted as not permitted shall be deemed prohibited, except where to so deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation, permit or license, or any state or federal law or regulation.
- F. Dimensional requirements.** Dimensional requirements are set forth in § 650-41, Table of Lot Area, Yards and Height of Structures,” as specified for the Wayside Zoning District. The special permit height of 85 feet shall step down to 52 feet when the building is within 50 feet setback from a property line that abuts a residential district.
- G. Parking, curb cut and landscaping requirements.** Except as otherwise provided in this section, parking, circulation and landscape requirements shall conform with the provisions of § 650-47, § 650-48 and § 650-49 of the Zoning Ordinance.
 - (1) Parking locations.
 - (a) Parking shall be located to the side and/or rear of all new building structures that front on Route 20 East, an existing connecting street, or a new internal access street.
 - (b) Parking may be provided at ground level, underground, or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses but must be integrated with the surrounding site plan and oriented so as to minimize visual impact of the parking garage on surrounding uses.

- (2) Parking access. Where a proposed parking lot is adjacent to an existing parking lot of a similar use, providing vehicular and pedestrian connections between the two parking lots shall be required. This access shall allow vehicular circulation between parking areas without the need to travel on Route 20. This access shall allow the unobstructed flow of pedestrians between adjacent properties, businesses, and parking areas. A sidewalk shall be provided on at least one side of the driveway.
- (3) Parking requirements. Parking in the Wayside District shall be provided at a minimum of 1 parking space per 250 square feet of net floor area for retail and restaurant uses. Parking for other commercial uses shall be provided at a minimum of 1 parking space per 350 square feet of net floor area. Parking for residential units shall be provided at a minimum of 1 parking space per unit.
- (4) Curb cuts. Curb cuts shall be minimized. Vehicular access shall be provided through one of the following methods:
 - (a) Through the use of a common driveway serving multiple lots, or
 - (b) Through the use of an existing side or rear street, or
 - (c) Through the reduction in the number of existing curb cuts or the reduction of the width of existing curb cuts.

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

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

(2) Pedestrian and bicycle circulation.

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

(3) Outdoor Pedestrian Spaces.

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

(4) Building design.

- (a) Mixed-uses. Wayside Zoning District shall benefit from mixed-use development that combines several uses that are allowed as of right or by special permit in the district. These uses could be provided in a cluster of separate buildings or combined vertically in a single building. A mix of uses in close proximity shall be used to create smaller, walkable clusters that enhance the Route 20 East corridor and provide opportunities for residents and patrons to circulate between uses without the use of a vehicle.
- (b) Façade step back. A step back in the façade of a building shall occur at the upper floor(s) for all buildings above 3-stories in height. For example, the fourth story of a 4-story building shall be recessed from the lower 3-stories of the primary façade with a step back. Or, the fourth and fifth story of a 5-story building shall be recessed from the lower 3-stories of the primary façade with a step back. 5 feet shall be the minimum step back.
- (c) Multiple buildings. In mixed-use developments with multiple buildings, recurring forms and materials shall be used to unify the development while establishing an overall hierarchy of buildings for visual interest and orientation.
- (d) Define corners. Prominent corners of sites and buildings should be defined and celebrated by the layout and design of the building(s). Prominent building corners may use design elements such as towers, arches, unique building massing, or roof forms to serve as identifiable and memorable landmarks.
- (e) Roof forms. Gable, hip, mansard, gambrel, stepped, and peaked roofs add variety and interest to buildings and shall be incorporated into mixed-use developments. Flat roofs may be incorporated into the roof design with other roof forms and features.
- (f) Blank walls. Large portions of building facades which are unarticulated or blank walls shall be avoided through the careful placement of doors, windows, façade features, and transitions in façade materials and finishes.
- (g) Design quality. Building massing and façade design shall be of a high quality with well composed and articulated building forms using a variety of techniques to create visual interest and character with architectural details, vertical and horizontal projections and recesses, changes in height, roof forms, cornice treatments, pilasters, window reveals, materials, colors, and prominent building entrances or other design features.
- (h) Building materials. Use of traditional, natural, and sustainable building materials such as wood, brick, and stone shall be preferred over other synthetic materials.

I. Signage.

- (1) Except as otherwise provided in this section, signage shall conform to the provisions of Chapter 526 of the City Code, the Sign Ordinance.
 - a. Signage plan. A master sign plan for the premises shall be provided for review and approval by the City Council, setting forth the types, locations and dimensions of proposed signs.
 - b. A maximum of two wall signs, individual-letter signs, logo signs or projecting signs affixed to a building for each store, business or tenant. No sign shall project above the highest line of the roof, parapet or building. Each wall sign, individual-letter sign, or roof sign shall not exceed an area of 2.5 square feet for each linear foot of the storefront, business front or occupied tenant space for each applicable business or tenant advertised. In the event that a storefront, business front or occupied tenant space occupies more than one front of a building, the longest front shall be utilized to calculate the total area per wall sign, individual-letter sign, logo sign or projecting sign (up to a maximum of two). The total area as calculated herein shall be the applicable maximum area for each sign and not split between the two.
 - c. Projecting signs shall not project more than six feet from the building, subject to approval by the City Council as part of the signage plan.
 - d. Signs, logos or cabinets should be externally illuminated where possible, otherwise with translucent or transparent faces if no reasonable alternative is possible.
 - e. Any business, tenant, or storefront may divide any allowed exterior sign(s) affixed to a wall of the building, to which it is entitled or hereinabove provided, into separate signs affixed to and parallel to such wall; provided, however, that the aggregate area of the separate signs shall not exceed the maximum area allowed under this section for a single exterior sign on the same front.
 - f. A lot shall be allowed one freestanding pole, monument, ground or pylon sign for frontage on Route 20 East, provided that each freestanding sign shall be subject to the following dimensional and lighting requirements:
 - (i) The total allowed illuminated cabinet square feet of signage shall not exceed the total area allowed for a freestanding sign as per § 526-9C, exclusive of any sign embellishments, structure and address panels located thereon;
 - (ii) The height of any freestanding sign shall not exceed 30 feet from the ground measured directly at the sign base;
 - (iii) No freestanding sign shall be located closer than five feet to any property line;

- (iv) Signs, logos or cabinets should be externally illuminated where possible, otherwise with translucent or transparent faces if no reasonable alternative is possible; and
- (v) Wire frame signs and A-frame signs are prohibited.

J. Application.

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

K. Site plan; Special Permit approval review criteria.

- (1) Review criteria. In connection with a special permit and/or site plan application in the Wayside Zoning District, such applications shall be reviewed with respect to the following additional review criteria:
 - (a) Compliance of the design with the Design Standards in the above subsection H;
 - (b) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
 - (c) Scale of buildings relative to surroundings and relative to City of Marlborough Multi-family Development Review Criteria and Design Review Guidelines;
 - (d) Quality of design and materials for building facades visible from public ways;
 - (e) Quality of design and materials for public space; and
 - (f) Placement of utilities and wiring underground, to the extent practical.
- (2) Submission requirements:
 - (a) Site plan depicting proposed development, buildings, parking, vehicular, pedestrian, and bicycle circulation, open space;
 - (b) Building elevations;
 - (c) Landscape plan;
 - (d) Lighting plan with photometrics; and
 - (e) Site and building signage plan.

L. Standards for roadways and drainage.

- (1) Roadways. Internal Wayside Zoning District roadways shall be private ways and shall be maintained by owners/developers of the Wayside Zoning District and portions thereof. Private ways within the Wayside Zoning District, to the extent feasible, shall be constructed using the methods and materials prescribed in the City of Marlborough Subdivision Regulations, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Stormwater management system. Developments proposed in the Wayside Zoning District shall have a stormwater management system designed in accordance with the City of Marlborough Subdivision Regulations, the Department of Environmental Protection's Storm Water Handbook, and the Standards and the City's Stormwater Ordinance (Chapter 271 of the City Code), as amended. The stormwater design shall infiltrate all stormwater on site and avoid run-off onto adjacent properties and is encouraged to integrate bioswales, rain gardens, or other surface stormwater treatment features that are integral to the function of the site's stormwater management and highlighted as a landscape feature.

M. Amendments. After approval, the owner/developer may seek amendments to the approved permits. For special permits, amendments may be granted by a two-thirds vote of the City Council. For site plan approvals, amendments may be granted by a majority vote of the City Council. The Building Commissioner shall be responsible for determining whether a project change is major or minor. Minor project changes may be made by the Building Commissioner, and major project changes by the permit granting authority. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the surrounding neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for a revised special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3) of § 650-59.

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

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

| | | |
|-----------------------|--------|--------|
| Map and Parcel Number | 60-30A | 62-21 |
| 73-43 | 61-12 | 61-28 |
| 73-42 | 61-6 | 62-2B |
| 73-41A | 60-31 | 62-13 |
| 73-41 | 61-2 | 61-29 |
| 73-39D | 61-5 | 61-29A |
| 73-40 | 61-19 | 61-701 |
| 73-39C | 61-25B | 62-24 |
| 73-44 | 61-31 | 61-10 |
| 73-39B | 61-22A | 61-8 |
| 73-39A | 62-14 | 61-1 |
| 73-37A | 61-22 | 61-11 |
| 73-38 | 61-30 | 61-14 |
| 73-37B | 61-25A | 61-28A |
| 73-37 | 61-23 | 62-2A |
| 60-38 | 61-25 | 61-9A |
| 60-27 | 61-21 | 61-15 |
| 60-28 | 61-34 | 61-32 |
| 60-29 | 61-20 | 62-1 |
| 61-27 | 61-2A | 61-700 |
| 61-27A | 61-17 | 61-9 |
| 60-30 | 61-17A | 61-7 |
| 60-31A | 62-20 | 62-22 |
| 61-3 | 62-23 | 48-32 |
| | 62-2 | |

VI. Section 650-18, entitled “Conditions for Uses,” is hereby **amended** as follows (new text shown as underlined, deleted text shown as strikethrough):

1. *Paragraph (4) Multifamily dwelling.* One structure or multiple structures consisting of a multifamily dwelling containing three or more dwelling units on a single lot, provided that the lot meets all the requirements of Article VII and, in addition, has a landscaped area meeting all the requirements of § 650-18A(9)(e). The above provision shall not apply to mixed use or multifamily developments within the Marlborough Village District.
2. *Paragraph (42) Mixed use development, including multifamily residential uses,* shall not be subject to special permit provisions for multifamily uses. In the Wayside District, multifamily dwelling shall be allowed only as part of a “Mixed use development.” Mixed use development may include vertically mixed uses in a single building or horizontally mixed uses in which multiple buildings create the mix of uses on a single parcel. Each individual building may include a single use with multiple uses occurring next to each other and within multiple buildings on the single parcel.

3. *Paragraph (45)* Medical marijuana treatment centers:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Massachusetts State Highway Route 495, and within those portions of the B, Wayside, and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;

4. *Paragraph (46)* Adult use marijuana retail; marijuana accessories retail:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Interstate Highway Route 495, and within those portions of the B, Wayside, and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;

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

APPROVED; adopted.

Councilor Doucette recused.

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

ORDERED: That the Application for Livery License from Bismark Ohemeng d/b/a West Royal Car Service, 33 Paris Street, is carried over to the 2020/2021 Legislative Session, **APPROVED**; adopted.

(IN PUBLIC SERVICES COMIITTEE).

ORDERED: That the Application for a Livery License from Snold Benjamin d/b/a Ben Transportation, to operate at 98 Bolton Street, is carried over to the 2020/2021 Legislative Session, **APPROVED**; adopted.

(IN PUBLIC SERVICES COMIITTEE).

ORDERED: That the Application for Renewal of Livery License, Katsunori Tanaka, d/b/a Global Limousine & Tour Services, LLC, 17 Eager Court, is carried over to the 2020/2021 Legislative Session, **APPROVED**; adopted.

(IN PUBLIC SERVICES COMIITTEE).

ORDERED: That the Order related to creating the Alternative Energy Committee is carried over to the 2020/2021 Legislative Session, **DENIED**; adopted.

(IN WIRELESS COMMUNICATIONS COMIITTEE).

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: 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, in proper legal form, Order No. 19-1007824B, **FILE**; adopted.

Councilor Robey recused.

ORDERED:

**DECISION ON A SPECIAL PERMIT
MARLBOROUGH HOSPITAL AND UMASS MEMORIAL REALTY, INC.**

**CITY OF MARLBOROUGH
CITY COUNCIL
ORDER NO. 19-1007824C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Marlborough Hospital and UMASS Memorial Realty, Inc. (the "Applicant") to alter a preexisting nonconforming hospital use and to construct and operate an medical office/clinic use at 157 and 209 Union Street, Marlborough, MA, for a women's imaging center, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. Marlborough Hospital is a Massachusetts hospital corporation with an address of 306 Belmont Street, Worcester, MA. UMASS Memorial Realty, Inc., is a Massachusetts nonprofit corporation with an address of 306 Belmont Street, Worcester, MA. Marlborough Hospital and UMASS Memorial Realty, Inc. are together the "Applicant."
2. The Applicant is the owner of the property located at 157 and 209 Union Street, Marlborough, Massachusetts, being shown as Parcel 56 on Assessors Map 43 and Parcel 192 on Assessors Map 56 (the "Site").
3. In accordance with Article IV, Section 650-12.B, and Article V, Section 650-17, of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to alter a preexisting nonconforming hospital use and to construct and operate a medical office/clinic use for a women's imaging center at the Site (the "Use"). As shown on the Site Plan referenced in paragraph 5 below, the Use consists of a 4,060 square foot medical office/clinic building, 16 new parking spaces, and landscaped areas, to be incorporated as part of the larger Marlborough Hospital campus.
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 “Special Permit Plans for Proposed Women’s Center” by Bohler Engineering, comprised of Sheets 1 through 8, with 3 additional boundary and topographic survey sheets, with the last revision date of September 27, 2019 (the “Site Plan”), and architectural drawings by LWDA Design consisting of a floor plan and exterior views of the building, attached hereto 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 has an area of 861,512 square feet +/- as shown on the Site Plan.
8. The Site is located in the A-3 Residential Zoning District.
9. Section 650-17 of the Zoning Ordinance provides that a medical office/clinic use is allowed by special permit in the A-3 Zoning District.
10. The Site’s current hospital use is preexisting nonconforming, commencing prior to the adoption of the Marlborough Zoning Ordinance in 1956.
11. The Site is preexisting nonconforming with respect to lot coverage, having total impervious areas of 48.2% (the A-3 District has a maximum lot coverage of 30%). The Site Plan shows that the lot coverage associated with the Use would be 49.2%.
12. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
13. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, November 18, 2019. The hearing was closed on that date.
14. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
15. At the public hearing, one member of the public spoke in favor of the Use and 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 alteration of the Site to contain a medical office/clinic use with an increased lot coverage of 49.2% for the Use would not be substantially more detrimental to the neighborhood than the existing nonconforming use.

- C. The City Council finds that the preexisting nonconforming hospital 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 hospital 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 a preexisting nonconforming hospital use and to construct and operate a medical office/clinic use for a women's imaging center at the Site 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, shape, or position 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.
7. Pedestrian Access. As part of the Use, the Applicant shall construct a pedestrian walkway from Union Street along the new driveway for the Use, with the final details of the walkway to be approved by the Site Plan Review Committee and by the City Engineer.
8. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 10 – Nay: 0 – Abstain: 1

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

Abstain: Robey.

ORDERED: That the Communication from Assistant City Solicitor, Jason Piques, re: 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, in proper legal form, Order No. 19-1007809B, **FILE**; adopted.

ORDERED:

**DECISION ON A SPECIAL PERMIT
119 ASH STREET, LLC**

**CITY OF MARLBOROUGH
CITY COUNCIL
ORDER NO. 19-1007809C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to 119 Ash Street, LLC (the “Applicant”) to alter a preexisting nonconforming contractor’s yard use to an 11-unit residential townhouse project and to convert an existing single-family dwelling to a two-family dwelling at 19 Ash Street, Marlborough, MA, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. 119 Ash Street, LLC is a Massachusetts limited liability company with an address of 1 Turner Ridge Road, Marlborough, MA (the “Applicant.”)
2. The Applicant is the prospective owner of the property located at 19 Ash Street, Marlborough, Massachusetts, being shown as Parcel 29 on Assessors Map 43 (the “Site”).
3. In accordance with Article IV, Section 650-12.B, and Article V, Section 650-17 and Section 18.A(2), of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes to alter a preexisting nonconforming contractor’s yard use to an 11-unit residential townhouse project and to convert an existing single-family dwelling to a two-family dwelling at the Site (the “Use”). As shown on the Site Plan referenced in paragraph 5 below, the Use consists of six buildings with 13 two-bedroom units, 49 parking spaces (26 spaces in unit garages and 23 driveway 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 “Trailside Terrace, Marlborough, MA, Site Plan” by Bruce Saluk & Assoc., Inc, with the last revision date of November 12, 2019 (the “Site Plan”), and architectural drawings by Reeves Design Associates, attached hereto 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, which abuts the Assabet River Rail Trail, has an area of 84,379 square feet +/- and frontage on Ash Street, as shown on the Site Plan.
8. The Site is located in the A-3 Residential Zoning District.

9. The Site currently contains (i) a single-family dwelling constructed in the late 1700s with a floor area of 3,469 square foot +/- (not including basement rooms or open attic space), and (ii) a preexisting nonconforming contractor's yard, commenced 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 66% (the A-3 District has a maximum lot coverage of 30%).
11. The Site Plan shows that the lot coverage associated with the 11-unit residential townhouse portion of the Use (Lot 1 on the Site Plan) would be 51%, and the lot coverage associated with the two-family dwelling portion of the Use (Lot 2 on the Site Plan) would be 33%.
12. Section 650-17 and Section 18.A(2) of the Zoning Ordinance provide that a single-family dwelling existing at the time of the passage of the original Zoning Ordinance in 1956 may, by special permit, be converted to accommodate two families, provided that:
 - a. The house contains at least 1,800 square feet of gross floor area, not including basement rooms or open attic space;
 - b. The lot has an area of at least 10,000 square feet in the A-3 Zoning District;
 - c. The appearance and character of a single-family house is preserved; and
 - d. Stairways, unless on the rear of the building, shall be located within the walls of the building and, on corner lots, shall be within the walls of the building.
13. 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.
14. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, November 18, 2019. The hearing was closed on that date.
15. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
16. At the public hearing, one member of the public spoke in favor of the Use and 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 alteration of the Site to contain an 11-unit residential townhouse community would not be substantially more detrimental to the neighborhood than the existing nonconforming contractor's yard use.

- C. The City Council finds that the preexisting nonconforming contractor's yard 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 contractor's yard use at the Site.
- E. The City Council finds that the proposed two-family dwelling conversion meets the requirements of Section 18.A(2) of the Zoning Ordinance because (i) the current single-family dwelling existed at the time of the passage of the original Zoning Ordinance in 1956, (ii) the current single-family dwelling contains at least 1,800 square feet of gross floor area not including basement rooms or open attic space, (iii) the portion of the Site available for the proposed two-family dwelling conversion has an area of at least 10,000 square feet in the A-3 Zoning District, (iv) the appearance and character of the single-family dwelling will be preserved based upon the architectural drawings provided in Attachment A, and (v) stairways associated with the two-family dwelling conversion will be located within the walls of the building.
- F. 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.
- 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 alter a preexisting nonconforming contractor's yard use to an 11-unit residential townhouse project and to convert an existing single-family dwelling to a two-family dwelling at the Site 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, shape, or position of the buildings, 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.
7. Screening for Abutters. As part of the Use, the Applicant shall provide vegetated screening along the eastern side of the Site and shall install new or replacement fencing adjacent to the property at 212 Hudson Street, to screen the Use from abutting properties, with the final details of the landscaping and fencing plan to be addressed during the Site Plan Review process.
8. Pedestrian Access to Rail Trail. As part of the Site Plan Review process, the Applicant shall address pedestrian access from the Site to the abutting Assabet River Rail Trail.

9. Sight Line Easement Area. As part of the Site Plan Review process, the Applicant shall provide a landscaping plan deemed acceptable to the Site Plan Review Committee that does not interfere with the sight line easement held by the City over portions of the Site. This Special Permit does not authorize any interference with any easement rights, and Applicant acknowledges that certain Grant of Easement to the City dated December 7, 2005. As a condition of this special permit, the Applicant agrees that they shall maintain the area shown on a plan referenced in said easement and also shown in the Plans as the “municipal easement” or “city easement” area for the benefit of the City and agree that they shall not place any item on said area that shall be in excess of two (2’) feet in height. This shall include, but not be limited to, any manmade structure and any natural vegetation. The Applicant shall keep any vegetation in said area trimmed to prevent said growth from exceeding two (2’) feet in height. All vegetation, trees, shrubs, bushes, plants, walls, fences and any other item located within said area which exceeds two feet six inches (2’6”) in height shall be removed.
10. Trailside Landscaping and Maintenance. The Applicant shall provide landscaped areas featuring a variety of flower types along the Site’s boundary with the Assabet River Rail Trail, with a landscaping plan deemed acceptable to the Site Plan Review Committee through the Site Plan Review process. The Applicant shall be responsible for maintaining these landscaped areas in a manner deemed acceptable to the Site Plan Review Committee through the Site Plan Review process.
11. Crosswalk Painting. Prior to the issuance of an occupancy permit for the Use, or at such later time if authorized by the City Engineer, the Applicant shall repaint the crosswalk of the Assabet River Rail Trail on Ash Street in a manner approved by the City Engineer.
12. Ash Street Traffic. As part of the Site Plan Review process, the Applicant shall address any traffic impacts of the Use with respect to Ash Street.
13. 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, Juaire, Oram, Ossing & Robey.

City Council President Clancy read a proclamation from the City Council and presented it to outgoing Councilor-At-Large Peter J. Juaire.

City Council President Clancy read a proclamation from the City Council and presented it to outgoing Councilor-Ward 1 Joseph F. Delano, Jr.

City Council Vice-President Delano read a proclamation from the City Council and presented it to outgoing Councilor-Ward 6 and Council President Edward J. Clancy.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:55 PM; adopted.