



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Steven W. Kerrigan
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AUGUST 24, 2020

Regular meeting of the City Council was held on Monday, August 24, 2020 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Robey, Doucette, Dumais, Tunnera, Irish, Navin & Landers. Councilors Participating Remotely: Oram, Perlman, & Wagner. Meeting adjourned at 10:18 PM.

Council President Ossing explained that this meeting is being held under the Emergency Order of the Governor allowing relief from the Open Meeting Law (MGL c. 30A §20). The Emergency Order allows for remote participation by public bodies. President Ossing further stated that all votes of the City Council will be taken by roll call vote pursuant to 940 CMR 29.10.

The City Council President asked for a roll call to confirm attendance of all City Councilors.

Present: 11 – Absent: 0

Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Minutes of the City Council meeting, July 20, 2020, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the PUBLIC HEARING on the Proposed Amendment to Chapter 540 “Solid Waste”, making changes to the Resident Drop-Off Facility operations and associated fees, Order No. 20-1008042A, all were heard who wish to be heard, hearing closed at 8:45 PM; adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

President Ossing called a recess at 8:45 PM and returned to open meeting at 8:47 PM.

ORDERED: That the Communication from Councilor Ossing and Councilor Tunnera, re: Inspire Energy Contract Extension through January 2024, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Transfer Request in the amount of \$2,500,000.00 which moves funds from Undesignated Fund to various Capital Outlay accounts to fund Capital Improvement projects refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Various					FISCAL YEAR:	2021		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$5,580,425.00	\$2,500,000.00	10000	35900	Undesignated Fund	\$65,250.00	19300006	58512	Capital Outlay-Fire		\$0.00
	Reason:	To fund various capital requests				Personal Protective Equipment				
					\$65,000.00	19300006	58467	Capital Outlay-Public Facilities		\$0.00
						Cameras at 2 Fire Stations				
					\$218,000.00	19300006	58593	Capital Outlay-Police		\$0.00
	Reason:					Cruisers and Radios				
					\$1,930,810.00	19300006	58514	Capital Outlay-DPW Projects		\$0.00
	Reason:					Overlay and Mill work various roads				
					\$220,940.00	19300006	58731	Capital Outlay-DPW Equipmer		\$0.00
	Reason:					Freightliner w/lift				
	Reason:									
	\$2,500,000.00	Total			\$2,500,000.00	Total				

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Transfer Request in the amount of \$27,775.00 which moves funds from Reserved for Salaries to Sick Leave Buy Back to fund the sick leave buy back for three retirees from the Department of Public Works and Fire Department, **APPROVED**; adopted.

	CITY OF MARLBOROUGH BUDGET TRANSFERS --										
	DEPT:	Various					FISCAL YEAR:	2021			
		FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:		Available Balance
\$104,035.00	\$27,775.00	11990006	57820	Reserve for Salaries		\$19,775.00	14001303	51920	Sick Leave Buy Back		\$0.00
	Reason:	Sick Leave Buy Back due to retirements									
						\$3,000.00	60080003	51920	Sick Leave Buy Back		\$0.00
						\$5,000.00	12200003	51920	Sick Leave Buy Back		\$149,045.00
	Reason:										
	Reason:										
	Reason:										

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$5,000.00 from Baypath Elder Services for the Council on Aging to assist with the transportation needs of Marlborough seniors due to the COVID-19 pandemic; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Suspension of the Rules requested to allow the Mayor to speak – granted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: Pursuant to Chapter 125 §10 of the Code of the City of Marlborough, the Mayor is authorized to appoint Michelle Andrade as Public Health Nurse at the Step 2 rate (\$69,793.31), given the extensive experience which Ms. Andrade would bring to this position to the benefit of the City of Marlborough, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Reappointment of Chief David Giorgi as Keeper of the Lockup for a term of one year, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Reappointment of Dr. Joseph Tennyson to the Board of Health for a 3-year term, expiring the first Monday in February 2023 (February 6, 2023), **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Reappointments of Robert Fagone and Alan Slattery to the Historical Commission for 3-year terms respectively to expire from date of Council confirmation, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Reappointment of Linda Clark to the Board of Registrars for a 3-year term to expire on April 1, 2023, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Appointment of Michael Cabral to the Parks & Recreation Commission for a 3-year term to expire from date of Council confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Appointment of Emily Wilde to the Cultural Council for a 3-year term to expire from date of Council confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from the Mayor, re: FY 2020 MIA Rewards Credit, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from the Mayor, re: OPEB Update, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Amendment for Large-Scale Ground-Mounted Solar Photovoltaic Overlay District, in proper legal form, Order No. 20-1007975B, **MOVED TO REPORTS OF COMMITTEE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for Special Permit by Vedi Naturals LLC, to operate an Adult Use Marijuana Retail Establishment, 505 Boston Post Road West (Twin Boro Crossing), in proper legal form, Order No. 19/20-1007881E, **MOVED TO ITEM 29**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from City Clerk, Steven Kerrigan, re: State Primary Election Call, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from City Clerk, Steven Kerrigan, re: Update on Vote by Mail & State Primary Election, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 21, 2020** as the **DATE FOR PUBLIC HEARING**, on the Application for LED Sign Special Permit, from ViewPoint Sign & Awning on behalf of Dunkin Donuts, 269 East Main Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from Attorney Brian Falk on behalf of WP Marlborough MA Owner, LLC (Waypoint Residential), re: Project Name change from Volaris Marlborough to Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from Attorney Brian Falk on behalf of WP Marlborough MA Owner, LLC (Waypoint Residential), re: Request to Extend Time Limitations to November 18, 2020 at 10:00 PM, on the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, consisting of 188 units in 4 buildings at 339 Boston Post Road East (McGee Farm), **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communications sent to the City Council, re Application for Special Permit by WP Marlborough Owner, LLC, 339 Boston Post Road East (McGee Farm), **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Communication from Central MA Mosquito Control Project re: Personnel will be in the community responding to residents' concerns about mosquitos on various dates in August & September 2020, **FILE**; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) Conservation Commission, June 25, 2020 & July 23, 2020.
- b) Historical Commission, June 18, 2020.
- c) OPEB Trust, July 28, 2020.
- d) Planning Board, June 22, 2020.
- e) Traffic Commission, June 24, 2020.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

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

- a) Sara Bergeron, 63 East Dudley Street, residential mailbox claim (2a).

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Reports of Committees:

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

Meeting Name: City Council Urban Affairs Committee

Date: July 28, 2020

Time: 7:30 PM

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

The Chair opened the meeting.

As a member was participating remotely, Chair Robey called the roll.

Present: Doucette, Navin, Landers, and Robey; Wagner remotely.

Also present: Councilors Dumais, Irish and Ossing; Councilor Perlman (Remote) Tom DiPersio, City Engineer, Jason Grossfield, City, Solicitor and Mark Evangelous.

The Chair read thru the items on agenda and announced she would be reversing the order of items taking Valley Street first.

Order No. 20-1007976: Communication from Attorney Bourbeau on behalf of Marlborough HUB, LLC with Proposed Zoning Change of and off Valley Street being a portion of Map 82, Parcel 125 currently zoned Industrial to Residence C.

Public Hearing: June 22, 2020

Time Expires: September 21, 2020

The chair reviewed communications received, the Planning Board had given its unanimous approval of this petition and an email from Tom DiPersio recommending that the remainder of railroad land to north and to south also be included in the rezoning petition so there is no small landlocked parcel and one from Building commission Cooke expressing opposition to rezone the I zoning to RC.

There was much discussion on this parcel and our options.

Councilor Doucette moved, it was seconded to approve the request to rezone a portion of Map 82, Parcel 125 from Industrial to Residence C.

The Chair called the roll.

All in favor: Wagner/Remote; Navin, Doucette, Landers and Robey – Approved. 5-0

Order No. 20-1007975: Proposed zoning Amendment to Chapter 650 to add new section 38 to create Large-Scale ground Mounted Solar Photovoltaic Overlay District

Public Hearing: June 8, 2020

Time Expires: Sept. 6, 2020

Planning Board had given its unanimous approval with conditions that appropriate screening from abutting neighbors be included in the installation and the installation be sited to preserve the scenic view from rail trail. All councilors and managers received advance copies and managers have submitted additional comments. The draft zoning changes were reviewed against changes that were made to a new copy that included comments by Tom DiPersio and Priscila Ryder. There was discussion on the properties delineated in Exhibit A with final agreement to keep them both. A question arose on Section I Design Standard, subsection e where it was agreed to remove the last sentence which reads “any topsoil remaining after stabilization shall be stockpiled on site for use during decommissioning” and subsection d where it was agreed to add in “as appropriate” after word screened.

It was moved to refer the order as amended to legal to be placed in proper legal form and postpone the matter to the August 4 Urban Affairs meeting so the committee can review it and take a final vote.

The Chair called the roll.

All in favor: Wagner/Remote; Navin, Doucette, Landers and Robey – Approved. 5-0

Motion made, seconded, to adjourn. The Chair called the Roll:

All in favor: Landers; Navin; Doucette; Wagner/Remote; Robey – Adjourned at 9:04 PM

Meeting Name: City Council Urban Affairs Committee

Date: August 4, 2020

Time: 7:30 PM

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

The Chair opened the meeting.

As a member was participating remotely, Chair Robey called the roll.

Present: Chair Robey; Councilors Doucette, Navin, Landers and Wagner (Remote).

Also Present: Councilors Irish and Ossing Councilors Perlman & Oram (Remote) William Camuso, Assistant Solicitor Jason Piques

Order No. 20-20-1007948: Application for Electronic Message Board gas pricing sign from William Camuso for Lincoln 431 LLC, Shell Station.

Public Hearing: had been continued from March 23, 2020 and was closed July 20, 2020

The chair reviewed communications received from Melissa Irish, 46 Pleasant St. stating they are against the granting and one from Mr. Camuso showing the station with the band lighting on canopy turned off. Questions were asked about dimming of this LED sign; there is a sensor so that during day it can be intensified and lowered during night. It was also clarified that the sign's top part showing the Shell logo remains internally illuminated with the change to the 3 price panels which will become 2 smaller LED signs. It was pointed out by Jason Piques, Asst. Solicitor that having a condition related to canopy lighting in the LED Sign Permit would be difficult to enforce.

Councilor Doucette moved to approve the LED Sign Special Permit; 2nd by Chair. The 2 conditions were read into the record.

The Chair called the Roll.

All in favor: Wagner/Remote; Navin, Doucette, Landers and Robey – Approved 5-0

Chair will ask for a Suspension at Aug 24 Council meeting to refer to legal to be put in proper legal form for final vote on Sept. 14.

Order No. 20-1008046: Request from William Camuso on behalf of Camuso Enterprises, LLC to operate a gas station, Shell Station at 431 Lincoln St on a 24-hour basis pursuant to chapter 342, s.2 of the Code of the City of Marlborough

Chair stated she had talked to Commissioner Cooke and he is suggesting that the petitioner provide a current photometric planned provide an updated plan showing less illumination and less light going out past lot line. She also reviewed a condition suggested by legal department because of public safety issues at site: City Council reserves the right to review, modify, suspend, or revoke this permit for failure to comply with any terms and condition of the permit and/or maintain public health, peace or safety including but not limited to any extended hours operation which become a focal point for police attention.

The Chair reviewed the conditions from a 2002 order for Exxon to operate a station on Lakeside Avenue to see if those would be appropriate for this site. It was agreed that items 7 where 2 employees must be on the premises, one would pump gas for disabled/elderly and #8 petitioner shall have appropriate signs directing disabled/elderly customers to designated pump are not necessary for this site.

Councilor Doucette moved to have the petitioner provide a current photometric plan and an updated plan showing less illumination and less bleed, to have the chair create a draft order for discussion at next meeting with all the conditions and postpone in committee to a date to be set when petitioner has the information to finalize an appropriate condition.

The Chair called the Roll.

All in favor: Wagner/Remote; Navin, Doucette, Landers and Robey – Approved 5-0.

Order No. 20-1007975: Proposed Zoning Amendment to Chapter 650 to add new Section 38 to create Large-Scale Ground Mounted Solar Photovoltaic Overlay District

Public Hearing: June 8, 2020

Time Expires: Sept. 6, 2020

The Chair reviewed the document showing 2 items recommended from July 28th meeting and two additional changes made by Solicitor where a new viii was added to Section D, item 4b and a sentence that was at end of vii was moved to be a stand-alone sentence at end of Section.

Councilor Doucette moved to approve as amended the changes to Chapter 650 to insert a new Section 38 titled Large-Scale Ground Mounted Solar Photovoltaic Overlay District.

The Chair called the Roll.

All in favor: Wagner/Remote; Navin, Doucette, Landers and Robey – Approved 5-0

This will be in proper legal form on agenda, **Chair will ask for Suspension to vote on this at August 24 meeting.**

Motion made, seconded, to adjourn. The Chair called the Roll:

All in favor: Landers; Navin; Doucette; Wagner/Remote; Robey – Adjourned at 8:40 PM.

Councilor Navin reported the following out of the Veterans Affairs Committee:

Meeting Name: City Council Veterans Affairs Committee

Date: August 4, 2020

Meeting Convened: 7:00PM Meeting Adjourned: 7:22PM

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

Present: Chairman Navin; Veterans Affairs Committee Members Oram and Perlman(participating remotely); Also Present: Councilors Doucette, Robey, Landers, Irish and Ossing

Order No. 20-1008043A: Communication from Mayor Vigeant re: Additional information regarding naming of a field in honor of Disbursing Clerk 2nd Class Harold Cole

Chair Navin opened the meeting explaining the naming of the baseball field located behind the 1Lt. Charles Whitcomb School after Disbursing Clerk 2nd Class Harold Cole was postponed for additional information after questions were raised by the Veterans Council. The Mayor's letter and further materials from Veterans Director Hennessy were shared with the veterans' organizations. The Chair has since received communications in support from Veterans' Council President John Manning and past VFW and DAV Commander and past Marlboro Veterans Council President, Wayne E. Stanley for the proposed naming of the baseball field located at 25 Union Street after Disbursing Clerk 2nd Class Harold Cole.

Chair Navin submitted the communications have been distributed to all councilors and will be made available on the website for public information.

Committee members Oram and Perlman spoke in support of the naming of the baseball field in honor of Harold Cole.

Motion made by Councilor Perlman, seconded by Councilor Oram to recommend approval of the Order as submitted by the Mayor:

The baseball field located at 25 Union Street in honor of Disbursing Clerk 2nd Class Harold Cole, who served in the Naval Reserve during World War II and following honorable discharge, later reenlisted and was killed in a plane crash while on active duty.

The Chair called the Roll: All in favor – Motion carries. 3-0

Roll Call: Oram/Yes; Perlman/Yes; Navin/Yes

Motion made and seconded to adjourn. The Chair called the Roll: All in favor

Roll Call: Perlman/Yes; Oram/Yes; Navin/Yes

Meeting Adjourned at 7:22PM

Suspension of the Rules requested – granted.**Yea: 11 – Nay: 0****Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Application for LED Sign Special Permit, from William Camuso on behalf of Lincoln 431 LLC, (Shell Station) 431 Lincoln Street, refer to the **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE SEPTEMBER 14, 2020 COUNCIL MEETING**; adopted.

Yea: 11 – Nay: 0**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED: That the Communication from City Solicitor, Jason Grossfield, re: Proposed Zoning Amendment for Large-Scale Ground-Mounted Solar Photovoltaic Overlay District, in proper legal form, Order No. 20-1007975B, **FILE**; adopted.

Yea: 11 – Nay: 0**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.****Suspension of the Rules requested – granted****Yea: 11 – Nay: 0****Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

Motion by Councilor Robey to amend proposed section 650-38(I)(e) entitled “Top soil. It is the recommendation of the City Engineer that the proposed amendment would clarify top soil in section I Design Standards by striking out the current language in its entirety and replacing it with the following:

“Top soil. No top soil shall be removed from the site. No top soil shall be disturbed from existing areas except as part of an approved plan that is protective of the landfill cap. It is anticipated that the solar facility shall be constructed on the existing grade or on grades that have been built up from the existing grade.”

APPROVED; adopted.**Yea: 11 – Nay: 0****Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

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

1. That a new Section 38 be inserted into Chapter 650, as follows:

ARTICLE VI

§ 650-38 Large-scale Ground-mounted Solar Photovoltaic Overlay District

A. Purpose and Objectives:

- 1) The Large-scale Ground-mounted Solar Photovoltaic Overlay District (herein, also a “LGSPOD”) allows the application of supplemental land use controls within the boundaries of a certain overlay district as an alternative to land use controls that exist in the underlying district(s). The purpose of this section is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and which provide adequate financial assurance for the eventual decommissioning of such installations.
- 2) The provisions set forth in this section apply to the construction, operation and/or repair of large-scale ground-mounted solar photovoltaic installations.
- 3) This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

- B. Designation of overlay location; as-of-right use.** For the purposes of this Section, the LGSPOD shall be superimposed on the other district(s) existing at the time that any land in any said underlying district is also included in the LGSPOD, as designated by the Marlborough City Council in accordance with M.G.L. c.40A, §5, where ground-mounted large-scale solar photovoltaic installations may be sited as of right. Except as specifically provided herein, uses and provisions of Article V of Chapter 650 relating to the underlying zoning district not otherwise impacted by this Section shall continue to remain in full force and effect. In the event of any conflict between the provisions of this section and any other provisions of the Zoning Ordinance, the provisions of this Section shall govern and control. The LGSPOD overlay zoning district is located on parcels identified in Exhibit A annexed hereto and incorporated by reference herein, and as indicated on the Zoning Map of the City of Marlborough. Said map is hereby made a part of this chapter and is on file in the office of the City Clerk.

- C. Definitions. As used in this section, following terms shall have the meanings indicated: As-of-Right Siting: As-of-Right Siting shall mean that development under this section may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval, however said as-of-right development is subject to site plan review as provided under Chapter 270 Code of the City of Marlborough and this section. Projects cannot be prohibited but can be subject to reasonable regulation.

Large-Scale Ground-mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground, is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

Solar Photovoltaic Installation: A solar photovoltaic array that is constructed at a location where other allowable uses of the underlying property may occur.

Site Plan Review: Review by site plan review conducted administratively in accordance with the procedures as governed by § 270-2 of the Code of the City of Marlborough and this section.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Photovoltaic Array: An arrangement of solar photovoltaic panels.

- D. General Requirements for all large-scale ground-mounted solar photovoltaic installations. The following requirements are common to all large-scale ground-mounted solar photovoltaic installations to be sited in designated overlay locations:

1. Compliance with Laws, Ordinances and Regulations. The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable security, safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a large-scale ground-mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.
2. Building Permit and Building Inspection. No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
3. Fees. The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit.
4. Site Plan Review. Large-scale ground-mounted solar photovoltaic installations shall undergo site plan review prior to construction, installation or modification as provided in § 270-2 of the Code of the City of Marlborough and in this section, as follows:
 - a. General. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.
 - b. Required Documents. Pursuant to the site plan review process, the project proponent shall provide the following documents:

- i. A site plan showing:
 1. Property lines and physical features, paved areas, tree lines, monitoring wells existing and proposed, structures, fences, existing and proposed drainage improvements, including roads, for the project site;
 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation, fences or other screening structures;
 3. Drawings of the large-scale ground-mounted solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 4. One or three-line electrical diagram detailing the large-scale ground-mounted solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 5. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
 6. Name, address, and contact information for proposed system installer;
 7. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 8. The name, contact information and signature of any agents representing the project proponent;
 9. Emergency services access points and through points; and
 10. Stormwater Management. The project proponent shall design a stormwater management plan and provide details and supporting documents as necessary to comply with Massachusetts DEP Stormwater Policy and Marlborough Zoning Ordinance.
- ii. Documentation of actual or prospective access and control of the project site (see also sub-section E herein);
- iii. An operation and maintenance plan (see also sub-section F herein);
- iv. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- v. Proof of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property;
- vi. Description of financial surety that satisfies sub-section L herein;
- vii. A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required site plan review notification procedures and otherwise informs abutters within 300 feet of the property line of the project site; and
- viii. Copies of all applicable permit applications and final permits, including but not limited to: MassDEP, Electric Utility, Conservation Commission, Site plan review, etc.

Site plan review may waive documentary requirements as it deems appropriate.

- E. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed large-scale ground-mounted solar photovoltaic installation.

- F. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water management facilities, vegetation management, as well as general procedures for operational maintenance of the installation.
- G. Utility Notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to site plan review that the utility company that operates the electrical grid where the installation is to be located has been informed of the large-scale ground-mounted solar photovoltaic installation's owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- H. Dimension and Density Requirements.
- a. Setbacks. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
 - i. Front yard. Front yard depth shall be comprised of a no-clear vegetated buffer of not less than 50 feet and, as measured therefrom, a no-build buffer of not less than 50 feet. Site plan review may require plantings in the 50-foot no-clear vegetated buffer if none exist.
 - ii. Side yard. Side yard depth shall be comprised of a no-clear vegetated buffer of not less than 50 feet and, as measured therefrom, a no-build buffer of not less than 50 feet. Site plan review may require plantings in the 50-foot no-clear vegetated buffer if none exist.
 - iii. Rear yard. Rear yard depth shall be comprised of a no-clear vegetated buffer of not less than 50 feet and, as measured therefrom, a no-build buffer of not less than 50 feet. Site plan review may require plantings in the 50-foot no-clear vegetated buffer if none exist.
 - b. Appurtenant Structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
- I. Design Standards.
- a. Lighting. Lighting of large-scale ground-mounted solar installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the large-scale ground-mounted solar installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

- b. **Signage.** Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Chapter 526 of the Code of the City of Marlborough. A sign consistent with the City's sign ordinances shall be required to identify the owner and provide a 24-hour emergency contact phone number. Large-scale ground-mounted solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the large-scale ground-mounted solar.
 - c. **Utility Connections.** Reasonable efforts, as determined by site plan review, shall be made to place all utility connections from the large-scale ground-mounted solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - d. **Screening.** To the extent it is reasonably practicable as determined by site plan review, every abutting property, private way, private driveway, recreation area, and public way shall be visually screened from the project through any one or combination of the following: location, distance, plantings, existing vegetation.
 - e. **Top soil.** No top soil shall be removed from the site. No top soil shall be disturbed from existing areas except as part of an approved plan that is protective of the landfill cap. It is anticipated that the solar facility shall be constructed on the existing grade or on grades that have been built up from the existing grade.
- J. **Safety and Environmental Standards.**
- a. **Emergency Services.** The large-scale ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Chief of the Marlborough Fire Department. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. Every means of shutting down the large-scale ground-mounted photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - b. **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and ordinances. Land clearing details as well as habitat and pollinator details (which are common for these projects) shall be clearly presented in the site plan application.

K. Monitoring and Maintenance.

- a. Large-scale Ground-mounted Solar Photovoltaic Installation Conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access or through road(s). Landscaping and fencing, including vegetation used for screening, shall be maintained in good condition.
- b. Modifications. After the required permits, have been issued, the Building Commissioner may approve minor non-material modifications to a large-sale ground-mounted solar photovoltaic installation. All major material modifications to a large-scale ground-mounted solar photovoltaic installation made after issuance of the required permits shall require approval by site plan review.

L. Abandonment or Decommissioning.

- a. Removal Requirements. Any large-scale ground-mounted solar photovoltaic installation which has been discontinued by reaching the end of its useful life, reaching the end of a lease term without renewal or extension, or having been abandoned (as provided in paragraph L.b. herein) shall be removed as herein provided. The owner or operator shall physically remove the installation no more than 150 days after the date of said discontinued operations. The owner or operator shall notify site plan review by certified mail of the proposed date of discontinued operations. Within 150 days of discontinued operations, the project proponent shall present Decommissioning Plans, consisting of:
 - i. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iii. Restoration of all disturbed ground areas by loaming and seeding or other means suitable to site plan review. Stabilization or re-vegetation of the site as necessary to minimize erosion. Site plan review may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- b. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than six months without the written consent of the Building Commissioner. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove the installation.

- c. Financial surety. Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through a cash escrow account with interest retained for escalating decommissioning costs, bond or otherwise, to cover the cost of removal in the event that the City must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the City, but in no event in excess more than 125% of the cost of removal and compliance with additional requirements set forth herein, as determined by site plan review in consultation with the City Solicitor and Comptroller. Such surety will not be required for municipally owned or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The minimum financial surety to be provided shall be no less than \$70,000.00 per MW-DC installed. Additional financial surety may be required for appurtenant facilities such as battery storage. The amount shall include a mechanism for calculating increased removal costs due to inflation. Site plan review may request the proponent to provide an update of the fully inclusive estimate of costs associated with removal every five years following the issuance of a building permit. Site plan review may require the proponent to provide additional surety based on the updated cost estimate.

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

EXHIBIT A

The newly established Large-scale Ground-mounted Solar Photovoltaic Overlay District shall include all or portions of the properties shown on the Zoning Map existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

Assessors Map 30, Parcel 4

Assessors Map 30, Parcel 4C.

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Passage to Enroll, adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Passage to Ordain; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

No objection to passage in one evening.

Suspension of the Rules requested – granted**Yea: 11 – Nay: 0****Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED That pursuant to Chapter 551 §1, the City Council hereby approves that the baseball field, located at 25 Union Street, Marlborough, shall henceforth be named and known as Cole Field. Said naming is in honor of Disbursing Clerk 2nd Class Harold Cole, who served in the Naval Reserve during World War II and, following honorable discharge, later reenlisted and was killed in a plane crash while on active duty, **APPROVED**; adopted.

Yea: 11 – Nay: 0**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED That the Communication from Assistant City Solicitor Jason Piques, re: Application for Special Permit by Vedi Naturals LLC, to operate an Adult Use Marijuana Retail Establishment, 505 Boston Post Road West (Twin Boro Crossing), in proper legal form, Order No. 19/20-1007881E, **FILE**; adopted.

Yea: 11 – Nay: 0**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

ORDERED

IN CITY COUNCIL**DECISION ON A SPECIAL PERMIT
VEDI NATURALS LLC****DECISION ON A SPECIAL PERMIT
ORDER NO. 19/20-1007881F**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Vedi Naturals LLC (the "Applicant") to build and operate an Adult Use Marijuana Retail Establishment at 505 Boston Post Road West, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing limited liability company having a business address of 3 Craig Drive, Clinton, MA 01510.
2. The Applicant is the prospective tenant of a commercial retail unit located at 505 Boston Post Road West, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 88, Parcel 3 (the "Site"). The Site's owner is Sparte II Realty Trust, Eleni Karalis McGrail and Christofile Tsiantoulas, co-Trustees with a business address of 160 Edgell Road, Framingham, MA 01701.
3. In accordance with Article VI, § 650-17, § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to operate an Adult Use Marijuana Retail Establishment at the Site (the "Use").

4. The Site is located in the Business Zoning District with frontage on Boston Post Road West (Route 20).
5. The overall Site has an area of 87,555.6 +/- square feet.
6. The Use will occupy an existing retail unit at the Site with an area of 2,350 +/- square feet.
7. 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, as provided in this Decision.
8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, existing site plans for the Site in accordance with Rule 5 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of drawings of the exterior and interior of the unit associated with the Use (collectively the "Plans").
9. 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.
10. Pursuant to the Rules and Regulations of the City Council 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.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on January 27, 2020. The hearing was closed on that date.
12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
13. At the public hearing, one member of the public spoke in favor of the Use and one member 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 the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

- C. The City Council finds that the Site is located in the portion of the Business District along Massachusetts State Highway 20 (Boston Post Road West) between the Northborough town line and Massachusetts State Highway Route 495 with frontage along Massachusetts State Highway 20 (Boston Post Road), in accordance with § 650-18(46)(a) and (b) of the Zoning Ordinance, and that the Site is not located within 500 feet of a school or daycare center, in accordance with § 650-32.F and § 650-32.F.1 of the Zoning Ordinance.
- D. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:
1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will provide a safe and convenient location adults to obtain marijuana and marijuana-infused products.
 2. Traffic flow and safety, including parking and loading:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.
 3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.
 4. Neighborhood character and social structures:

Finding: The Use is consistent with the established retail area in the vicinity of the Site.
 5. Impacts on the natural environment:

Finding: The Use will have no greater impact than the established retail uses in the area.
 6. Potential fiscal impact, including impact on City services, tax base, and employment:

Finding: The Use will be revenue positive, with additional revenues coming from a local sales tax and host community agreement impact fees.
 7. Hours of operation:

Finding: The hours of operation of the Use are specifically conditioned below.
 8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:

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

9. Requiring payment of a community impact fee:

Finding: The City and the Applicant have entered a host community agreement that requires the payment of impact fees in accordance with statutory requirements.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

15. The ability for the Business to:

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

Finding: These requirements are specially conditioned below.

16. Signs and signage:

Finding: Prior to seeking an initial sign permit from the City, the Applicant, its successors and/or assigns, shall submit to the City Council renderings of its proposed signage, which shall comply with the City's Sign Ordinance.

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

Finding: Prior to commencing operations, the Applicant, its successors and/or assigns, shall submit to the City Council its business name, logos, and symbols, all of which shall comply with state and federal law and regulations.

E. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit to operate an Adult Use Marijuana Retail Establishment, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the 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. Compliance with State Requirements. In accordance with §650-18(46)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of an Adult Use Marijuana Retail Establishment.

6. Security.

- a. As shown on the Plans, the Applicant, its successors and/or assigns, shall maintain a secure entrance lobby and waiting area providing a physical separation between the exterior door of the unit and interior areas of the unit where marijuana and marijuana infused products are dispensed and sold, with security personnel available during operating hours to screen individuals arriving at the unit, to ensure that interior areas of the unit are only accessible to persons over the age of 21 and to ensure that no individuals pose a direct threat to the health or safety of others.
- b. The Applicant, its successors and/or assigns, shall maintain a secure pick-up/drop-off area for customers and products.
- c. The Use shall have opaque exterior windows.
- d. The Applicant, its successors and/or assigns, shall maintain adequate staffing so that customers may make purchases in an efficient manner to avoid queuing and impacts on neighboring uses.
- e. The Applicant, its successors and/or assigns, shall maintain surveillance cameras capable of 24-hour video recording, archiving recordings, and the ability to immediately produce images, in, on, around, or at the Use.

7. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use. Marijuana and marijuana products shall be pre-packaged and sealed prior to arriving at the Site. Any odors associated with marijuana and marijuana infused products shall be limited to the interior of the unit. There shall be no onsite consumption or use of marijuana or marijuana infused products associated with the Use.

8. Hours. The maximum hours of operation of the Use shall be Monday through Saturday, 10:00 a.m. to 8:00 p.m., and Sunday from 10:00 a.m. to 5:00 p.m.

9. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.

10. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to Massachusetts Cannabis Control Commission.

11. Inspections and Records. The Applicant, its successors and/or assigns, shall make the Use available for regular inspections by City officials or their agents, and shall provide City officials or their agents with access to the same records which are available for inspection to the Massachusetts Cannabis Control Commission.

12. Background Checks. The Applicant, its successors and/or assigns, shall require that employees undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police, who shall have the authority to disapprove the employment of any person(s) as a result of said background check.

13. Unrelated Materials. The Applicant, its successors and/or assigns, shall not make available for sale as part of the Use any materials or items unrelated to the purposes of licensure by the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.
14. Police Detail. The Applicant, its successors and/or assigns, shall employ a City of Marlborough Police detail at the Site during all operating hours for the first sixty (60) days after the commencement of operations, unless the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during certain times of the day. At the end of the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is still necessary during all operating hours or at certain times, then the Applicant, its successors and/or assigns, shall continue to employ a City of Marlborough Police detail until deemed unnecessary by the Chief of Police in a letter filed with the City Council. In the event a City of Marlborough Police detail is not available when required, the Applicant, its successors and/or assigns, shall obtain a private detail.
15. Boundary Street Entrance/Exit. Prior to receiving a certificate of occupancy for the Use, the Applicant, its successors and/or assigns, shall have the vegetation located north of the Boundary Street entrance/exit to the Site trimmed to improve sight distances for vehicles.
16. Parking Lot. Prior to receiving a certificate of occupancy for the Use, the Applicant, its successors and/or assigns, shall have the Site's parking lot restriped and parking lot accessibility signage updated, in accordance with the Zoning Ordinance, the City Code, and state regulations. As part of the Site Plan Review process, the Applicant shall review options to convert the former child play area at the Site to additional parking spaces.
17. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex County 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: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Landers to amend the naming of the new elementary school to include the word “elementary” in the name, so it will be called the Goodnow Brothers Elementary School.

APPROVED; adopted.

Yea: 7 – Nay: 4

Yea: Doucette, Tunnera, Irish, Navin, Landers, Oram, & Perlman

Nay: Wagner, Dumais, Ossing, & Robey.

ORDERED That pursuant to Chapter 551 §1, the City Council hereby approves the naming of the following public building and field:

- (i) The new elementary school, located at 441 Bolton Street, Marlborough, shall henceforth be named and known as the Goodnow Brothers Elementary School. Said naming is in honor of Theodore Goodnow, Andrew Goodnow, and Charles Goodnow, three brothers Killed in Action during the Civil War; and
- (ii) The softball field, located at 441 Bolton Street, Marlborough shall henceforth be named and known as Demers Field. Said naming is in honor of Lance Corporal Richard Demers, a United States Marine, Killed in Action during the Vietnam War.

APPROVED; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 10:18 PM; adopted.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.