

Councilors-at-Large

Mark A. Oram
Michael H. Ossing
Samantha Perlman
Kathleen D. Robey



Ward Councilors

Ward 1 – Laura J. Wagner
Ward 2 – David Doucette
Ward 3 – J. Christian Dumais
Ward 4 – Robert J. Tunnera
Ward 5 – John J. Irish
Ward 6 – Sean A. Navin
Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

CITY OF MARLBOROUGH CITY COUNCIL MEETING MINUTES MONDAY, APRIL 5, 2021

The regular meeting of the City Council was held on Monday, April 5, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin & Landers. Councilors Participating Remotely: Oram, Perlman & Robey. Meeting adjourned at 9:35 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.

Yea: 11 – Nay: 0

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

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, March 22, 2021, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Mayor Vigeant provided the City Council with an update on the vaccine rollout and the city's efforts regarding COVID-19.

ORDERED: That the PUBLIC HEARING on the Application for Special Permit from Attorney Brian Falk, on behalf of Global Montello Group Corp., to construct and operate a drive-thru facility to serve the current Alltown Convenience Store on the site, 656 Boston Post Road East, Order No. 21-1008215, all were heard who wish to be heard, hearing closed at 8:39 PM, adopted.

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

President Ossing called a recess at 8:39 PM and returned to open meeting at 8:40 PM.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Councilors Ossing and Tunnera, re: Municipal Aggregation – March 2021 Update, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from At-Large Councilor Kathleen Robey, re: Summary of comments made related to the Proposed Zoning Amendment to Chapter 650 §33 the Results Way Mixed Use Overlay District (RMUOD) with a Proposed Zoning Map Amendment, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$26,805.00 from Reserved for Salaries and Part Time Mail Clerk to fund vacation and sick leave buyback for two retiring employees from the Auditors Office, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Auditor					FISCAL YEAR:	2021		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$45,768.00	\$23,805.00	11990006	57820	Reserve for Salaries	\$18,600.00	11350001	50174	Procurement Officer		\$30,710.10
	Reason:							To cover vacation payout and overlap		
\$7,203.23	\$3,000.00	11330002	50588	Part Time Mail Clerk	\$5,000.00	11350003	51920	Sick Leave BuyBack		\$0.00
								To cover slbb payout		
					\$3,205.00	11350002	50770	Part Time Senior Clerk		\$2,431.20
	Reason:							To cover vacation payout		
	\$26,805.00	Total			\$26,805.00	Total				

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Presentation Materials relative to the Grant/Denial of Special Permits prepared for future Urban Affairs discussion, referred to the **URBAN AFFAIRS COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Brian Falk, on behalf of Speedy Auto Repair, Inc., to relocate an existing auto body shop from 315 Maple Street to 412-418 Maple Street in the Commercial Automotive Zoning District; with a land area of less than one acre in addition to a preexisting nonconforming structure on the site, in proper legal form, Order No. 20/21-1008162B, **MOVED TO ITEM 22 AND FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for Modification of Special Permit from Todd Wilson, on behalf of Diversified Funding Acquisition LLC/Atlantic Property Management, to add kitchenettes to existing guest rooms for use as an extended stay hotel and the conversion of manager's residence to a guest room for a total of 65 guest rooms at 880 Donald J. Lynch Boulevard (Quality Inn), in proper legal form, Order No. 21-1008171B, **MOVED TO ITEM 23 AND FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Assistant City Solicitor Jason Piques, re: Application for Sign Special Permit, from Serrato Signs, LLC on behalf of Starbucks (St. Mary's Credit Union), 133 South Bolton Street, in proper legal form, Order No. 21-1008199D, **MOVED TO ITEM 24 AND FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Request for Approval of a Flat Wall Sign, Best Value Kitchen & Bath, 796 Boston Post Road East, within the Wayside District, referred to the **URBAN AFFAIRS COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Retirement Board re: Notification to City Council that a cost of living increase (COLA) pursuant to MGL Chapter 32, §103(i) will be considered at the board's April 27, 2021 meeting, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Cultural Council, re: Grant Cycle Awards for 2020 – 2021, **FILE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY APRIL 26, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install a new pole 5 and anchor which will allow for the removal of the pole and tree guy wire at 43 Berlin Road, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Application for Renewal of Junk Dealer/Secondhand Dealer License, Antoine Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

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

- a) School Committee, March 9, 2021.
- b) Board of Assessors, January 26, 2021.
- c) Conservation Commission, March 4, 2021.
- d) Historical Commission, February 18, 2021.
- e) Library Trustees, February 2, 2021.
- f) Planning Board, March 8, 2021.
- g) Traffic Commission, February 24, 2021.
- h) Zoning Board of Appeals, March 16, 2021.

Yea: 11 – Nay: 0

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

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

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

- a) Francisco Colon, 656 Bolton Street, other property damage and/or personal injury.
- b) Keith Goodale, 139 Pleasant Court, other property damage and/or personal injury.
- c) Kim Ho, 79 Prospect Street, other property damage and/or personal injury.
- d) Jamie Andrade & Robert Preciado, 5 Springhill Avenue, other property damage and/or personal injury.
- e) Elizabeth Rew, 13 Vals Lane, other property damage and/or personal injury.

Yea: 11 – Nay: 0

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

Reports of Committees:

Councilor Dumais reported the following out of the Finance Committee:

**City Council Personnel Committee
March 29, 2021
Minutes and Report**

The meeting convened at 7:03 PM

All members of the Personnel Committee were present in the Chamber:

Chair Dumais, Councilors Landers and Doucette

Also Present in Chamber: Councilors Wagner, Tunnera, Navin, Irish, and Ossing and Mayor Vigeant. Councilors Perlman, Robey and Oram, and HR Director Purple participating remotely.

Order No. 21-1008232: Communication from Mayor Vigeant with appointment of Robert Gustafson to the Retirement Board for a three-year term effective on the date of Council confirmation replacing David Keene whose term expired on January 31, 2021.

Motion by Councilor Doucette to postpone; discussion with Mayor ensued, and Councilor Doucette withdrew his motion. Councilor Oram asked candidate if he could act without bias. Mr. Gustafson replied in the affirmative.

Motion by Councilor Landers to approve, seconded by Chair, to recommend approval of the appointment of Robert Gustafson to the Retirement Board for a three-year term effective the day after Council confirmation. Motion carried 3-0

Order No. 1008245: Communication from Mayor Vigeant with amendment to the City Code, Chapter 19, Boards and Commissions, Article VI, Youth Commission.

Mayor Vigeant addressed the changes which will define and simplify the ordinance to allow the efficient reactivation of the Youth Commission, adding it has been difficult to recruit residents to serve on many of the boards and commissions in the city, reducing the number of members from seven to five should make it easier to reactivate this commission. Councilor Robey clarified the purpose of the Youth Commission established in 1992 is for adult members who will work to enhance the quality of life for the city's youth; not related only to sports but a large umbrella of services, and to recommend changes to enhance their quality of life.

Reports of Committee Continued:

The Mayor confirmed there are no age restrictions on membership to the Youth Commission, and he has appointed youth members in the past.

Motion by Councilor Doucette, seconded by Chair, to postpone until the next meeting. Chair Dumais urged councilors to review the ordinance and be prepared to continue this discussion at the next meeting. The item remains in committee.

It was moved and seconded to adjourn; Motion carried 3-0.

Councilor Irish reported the following out of the Personnel Committee:

**City Council Finance Committee
March 29, 2021
Minutes and Report**

The meeting convened at 6:30 PM and was held virtually with Councilors attending in person and/or remotely per the Governor's orders and began with a Roll Call vote of committee members present. Chair Irish called the Roll – All members present: Chair Irish, Councilors Dumais and Tunnera in Chamber; Councilors Oram and Perlman participating remotely.

Also Present in Chamber: Councilors Navin, Ossing, Wagner, Landers and Doucette; Mayor Vigeant. Councilor Robey and HR Director Christine Purple participating remotely.

Order No. 21-1008242: Transfer in the amount of \$158,128.90 for the DPW as requested by Commissioner Divoll to fund the following: superannuation retirement, upcoming legal expenses, purchase of chemicals and maintenance at pump stations, costs for park maintenance projects and costs of scheduled weekend overtime at the west plant.

Motion by Councilor Oram, seconded by Chair, to recommend approval of the transfer. Chair Irish called the Roll: Motion carried 5-0

Order No. 21-1008244A: Communication from Mayor Vigeant requesting an amendment to the City Code, Chapter 67, Finance, section 28, Principal Assessor; powers and duties, to amend the qualifications of the Principal Assessor, together with a proposed, updated job description.

Answering Councilor Oram's inquiry why the city is considering a full-time employee in favor of the contract with a professional assessing company, the Mayor stated working with the company was unique with the ability to access diverse expertise and although successful, he is exploring options.

Motion by Councilor Tunnera, seconded by Chair, to recommend approval of the amendment to the City Code, Chapter 67, Finance, section 28, Principal Assessor, powers and duties.

Chair Irish called the Roll: Motion carried 5-0

Order No. 21-1008244B: Proposed Job Description for the position of PRINCIPAL ASSESSOR.

Motion by Councilor Perlman, seconded by Chair, to recommend approval of the job description as amended.

Reports of Committee Continued:

Per Chair Irish, the Principal Assessor is a 40-hour week position with minimum salary of \$97,435.48 to a maximum of \$109,773.45. Councilor Perlman suggested amendment to page 2 of the job description. **Supervision Received:** To add and/or Finance Director after Comptroller/Treasurer to complement makeup of the current Finance Team.

Chair Irish called the Roll: Motion carried 5-0

It was moved and seconded to adjourn; Chair Irish the Roll: Motion carried 5-0
The meeting adjourned at 7:01 PM

Councilor Wagner reported the following out of the Human Services Committee:

**City Council Human Services Committee
March 29, 2021
Minutes and Report**

The meeting convened at 7:42 PM

All members of the Human Services Committee were present in the Chamber:
Chair Wagner, Councilors Dumais and Irish

Also Present in Chamber: Councilors Ossing, Doucette, Landers, Navin, Irish. Councilors Perlman, Oram and Robey participating remotely; UMass representatives Jim Leary and Ellen Carlucci participating remotely.

Order No. 21-1008249: Ordered: That the Human Services Committee hold a public meeting to allow the Marlborough Hospital leadership to present additional details regarding the Mass General Brigham proposed expansion...submitted by Councilor Wagner

A PowerPoint presentation dated March 29, 2021 was submitted by hospital officials detailing the proposed plan by MGB (formerly 'Partners') listing its target communities, including Ashland, Berlin, Bolton, Framingham, Grafton, Hopkinton, Hudson, Marlborough, Milford, Northborough, Shrewsbury, Southborough and Upton and its impact on local healthcare institutions, especially Marlborough Hospital as a safety net hospital and UMass Memorial a safety net system (high public payer) per the Health Policy Commission.

The MGB Application is under review by the Massachusetts Department of Public Health. A public hearing will be held on April 6, 2021 from 6-9PM; written testimony will be accepted up to April 16, 2021.

Marlborough Hospital officials believe the proposed expansion will raise costs, worsen health care equity, and destabilize safety net providers.

Chair Wagner stated she was impressed by research that found Marlborough Hospital ranks 9th in the Commonwealth and 94th across the country for value of care for safety net hospitals.

Hearing no further input, Chair Wagner thanked hospital officials for bringing this information to the attention of the City Council.

Motion by Councilor Irish, seconded by Chair, to accept and file. Motion carried 3-0

It was moved and seconded to adjourn; Motion carried 3-0
The meeting adjourned at 8:20 PM

Motion by Councilor Wagner, seconded by the Chair to adopt the following:

Suspension of the Rules requested to allow a communication – granted.

Yea: 11 – Nay: 0

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

Motion by Councilor Wagner, seconded by the Chair to adopt the following:

ORDERED: That the Human Services Committee hold a public meeting to allow the Mass General Brigham Hospital Leadership to present additional details regarding the Mass General Brigham proposed expansion, referred to the **HUMAN SERVICES COMMITTEE**; adopted.

(Submitted by Councilor Wagner)

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the request of the Department of Public Works to create the new position of Resident Drop-Off Station Attendant to be included in the Marlborough Municipal Employee Association (MMEA) as outlined in the Job Description pursuant to Chapter 125 entitled “Personnel” §5 “Preparation of Classification Descriptions” of the Code of the City of Marlborough, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED “PERSONNEL,” §6 “SALARY SCHEDULE AS FOLLOWS:

I. By adding to the salary schedule referenced in Section 125-6, the following:

RESIDENT DROP-OFF STATION ATTEMNDANT

STEP/LEVEL	HOURLY RATE	DAILY RATE	PERIOD SALARY	ANNUAL SALARY
00	\$18.0000	\$144.0000	\$720.00	\$37,440.00
01	\$18.7500	\$150.0000	\$750.00	\$39,000.00
02	\$19.5313	\$156.2504	\$781.25	\$40,625.10
03	\$20.3451	\$162.7608	\$813.80	\$42,317.81

II. This ordinance shall supersede and replace any existing rate for said position (if applicable) in the current salary schedule.

Suspend First Reading; Adopt Second Reading; APPROVED.

Yea: 11 – Nay: 0

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

Passage to Enroll; APPROVED.

Yea: 11 – Nay: 0

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

Passage to Ordain; APPROVED.

Yea: 11 – Nay: 0

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

No objection to passage in one evening.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$243,000.00 from PEG fund to IT to fund various upgrades to equipment and software programs, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS -										
	DEPT:	IT					FISCAL YEAR:	2021		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$436,486.54	\$243,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$243,000.00	19300006	58618	IT Equipment		\$0.00
	Reason:	Use PEG funds for network monitoring system								
	\$243,000.00	Total			\$243,000.00	Total				

Yea: 11 – Nay: 0

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

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Christine Purple as Human Resources Director for a 3-year term effective day after Council confirmation, **APPROVED**; adopted.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
SPEEDY AUTO REPAIR, INC.**

ORDER NO. 20/21-1008162C

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Speedy Auto Repair Inc. (the “Applicant”) for an auto repair use at 412 – 418 Maple Street in the Commercial Automotive Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Speedy Auto Repair Inc., is a Massachusetts corporation with an address of 315 Maple Street, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 412 – 418 Maple Street, Marlborough, Massachusetts, being shown as Parcels 66A & 68 on Assessors Map 93 (the “Site”).
3. In accordance with Article V, Section 650-17 and Section 650-18.A(25), of the Zoning Ordinance of the City of Marlborough (the “Zoning Ordinance”), the Applicant proposes an auto repair use at the Site on a parcel with an area of less than one acre, and in accordance with Article IV, Section 650-12.B, of the Zoning Ordinance, the Applicant proposes a change in use of a preexisting nonconforming structure at the Site from retail / small engine repair to auto repair (the “Use”). As shown on the Plans referenced in paragraph 5 below, the Use consists of a building containing the auto repair operation, accessory parking, storage structures, 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, a site plan entitled “Existing Condition Plan of Land in Marlborough, MA” by Hancock Associates, with the last revision date of November 23, 2020, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of drawings of the exterior of the site (collectively the “Plans”) attached hereto as “Attachment A.”
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. The Site is located in the Commercial Automotive Zoning District.
8. The Site has an area of 33,059 square feet +/- as shown on the Plans.
9. The Site's principal building is a preexisting nonconforming structure with respect to the front yard setbacks. The Site is preexisting nonconforming with respect to lot coverage.
10. 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.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, January 25, 2021. The public hearing was held at the Marlborough City Hall, 140 Main Street, and by remote access in accordance with Section 17(d) of Chapter 53 of the Acts of 2020 and "An Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20" issued by Governor Charles D. Baker on March 12, 2020. The public hearing was conducted by remote participation, allowing the City Council, members of the public, and the Applicant to participate in the hearing through real-time audio and video conferencing, telephone access, and live internet streaming. The hearing was closed on January 25, 2021.
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, no members of the public spoke in opposition to the Use.

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

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed change in use of the Site from a retail/small engine repair use to an auto repair use would not be substantially more detrimental to the neighborhood than the existing use of the Site.
- C. 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.
- D. 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 for an auto repair use at 412 – 418 Maple Street on a parcel with an area of less than one acre, and a change in use of a preexisting nonconforming structure at 412 – 418 Maple Street from retail/small engine repair to auto repair as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.
2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, including the architectural impacts of the building and the use of storage structures, 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 Plans 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 approve engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.
6. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of the auto repair use operating hours, except for lighting necessary for security and emergency access.
7. Signs. Signage at the Site shall be flat wall signs and comply with the City's Sign Ordinance, specifically (but not limited to) Section 526-9, Nonresidence Districts, of the Code of the City of Marlborough. The LED sign on the south side of the building shall be removed prior to occupancy. No LED signs shall be allowed at the Site without the approval of the City Council.

8. Indoor Repairs. Auto repairs shall take place indoors, with the exception of minor, non-nuisance repair work and the temporary storage of vehicles undergoing repairs at the Site. The Applicant shall use and maintain in good working order an indoor paint spray booth or similar technology.
9. Fencing. The Applicant shall install solid fencing to screen areas of the Site used for the storage of vehicles under repair from the view of abutting properties and public ways and shall maintain the fencing in good repair. No other outdoor storage shall be permitted at the Site inside or outside of fenced areas. The fencing shall comply with the requirements of all applicable City Ordinances. Dumpsters shall be stored inside the fenced area. Fencing and gates at the Site shall be designed to prevent vehicles from using the Site as a pass-through between Maple Street and Walker Street.
10. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.
11. Paint, Solvents, and Hazardous Materials Waste. Any excess paint, solvents, or hazardous materials at the Site shall be stored in a secure container provided by a professional waste removal vendor, and the container shall be removed and replaced by the vendor as needed.
12. Curb Cuts. The Site shall have two (2) curb cuts, with one (1) along Maple Street and one (1) along Walker Street. The existing curb cut along Walker Street closest to the corner of Maple Street shall be eliminated.
13. Landscaping. The Applicant, its successor and/or assigns, shall improve the landscaping at the site, adding new landscaped areas as shown on the sketch plan attached hereto as "Attachment B." A detailed landscaping plan for the Site shall be reviewed and further conditioned during the Site Plan Review process. The landscaping shall be sufficient, in the opinion of the Site Plan Review Committee, to improve the aesthetics of the corner of Maple Street and Walker Street during all seasons with adequate trees and shrubs, and shall be more robust than is required by the Zoning Ordinance.
14. Parking. Parking areas for vehicles under repair, employees, and customers shall be orderly and in designated striped areas, to be defined during the Site Plan Review process. The Applicant, its successors and/or assigns, shall not park vehicles under repair or employee vehicles off of the Site along public ways.
15. Vehicle Sales. The Site may not be used for the sale of vehicles.
16. Storage Structures. The current use of the storage structures located on the Site as a self-service storage facility, defined in Section 650-5 of the Zoning Ordinance, shall be subject to Site Plan Review, taking into consideration parking requirements, landscaping, and screening.
17. Operating Hours. The maximum operating hours of the auto repair use shall be Monday through Saturday from 8:00 AM to 6:00 PM.

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
DIVERSIFIED FUNDING ACQUISITION LLC**

ORDER NO. 21-1008171C

The City Council of the City of Marlborough hereby **GRANTS** the application for a Modification of a Special Permit (hereinafter the "Special Permit Modification") to Diversified Funding Acquisition LLC, having a usual place of business at 63 Atlantic Avenue, Boston, Massachusetts 02110, and its successors or assigns, as provided in the Decision and subject to the following Findings of Facts and Conditions:

FINDINGS OF FACTS

1. Diversified Funding Acquisition LLC is a limited liability company authorized to do business in Massachusetts having a usual place of business at 63 Atlantic Avenue, Boston, Massachusetts 02110, hereinafter referred to as the "Applicant." Applicant is the prospective owner of the property.
2. Devki, LLC, is a limited liability company authorized to do business in Massachusetts having a usual place of business at 880 Donald J. Lynch Boulevard, Marlborough, MA 01752. Devki, LLC is the owner of the property known as 880 Donald J. Lynch Boulevard, Marlborough, Massachusetts, and shown on the City of Marlborough Assessor's Maps as Map 50, Parcel 4B (hereinafter referred to as the "Site").
3. On December 31, 2020, the Applicant filed with the City Clerk of the City of Marlborough an application (hereinafter referred to as the "Application") for a modification of a special permit under Chapter 650 (Zoning) of the Code of the City of Marlborough (hereinafter referred to as the "Zoning Ordinance"), Article VIII, Section 650-57. The Application seeks to modify the special permit granted by the City Council on October 6, 1986 (Council Order No. 1102B, Recorded with the Middlesex South Registry of Deeds at Book 18318 and Page 218) for a 64-room hotel on the Site (hereinafter the "Special Permit") as follows: (a) to approve the addition of kitchenettes to all guest rooms, and (b) to approve the conversion of the Manager's residence to a guest room, for a total of 65 guest rooms (the "Project"). The Project does not include any external changes on or to the Site or any expansion or alteration of the shape or size of the existing building on the Site (hereinafter the "Building").

4. The Application consisted of the following: (a) an Application to City Council for Issuance of a Special Permit; (b) a Special Permit Application Certification by the Planning Department; (c) a Special Permit Summary Impact Statement; (d) a Certification of Payment of Municipal Taxes; (e) a filing fee of \$250.00; and (f) Exhibits to the Application, including (i) a Special Permit Narrative, (ii) a copy of the Special Permit, as recorded, (iii) a copy of architectural drawings setting out the proposed interior improvements to the Building, (iv) a copy of the Building Commissioner's letter denying the application for a building permit until such time as the Applicant obtains the Special Permit Modification, and (v) a Certified Copy of the Abutters List from the City of Marlborough Assessor's Office.
5. The Planning Department certified the Application under the provisions of Article VIII, Section 650-57(C)(7) of the Zoning Ordinance as complying with the information requirements of the application rules and being complete and conforming to the Zoning Ordinance and the rules and regulations for submission of an application for a modification of a special permit.
6. Pursuant to the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A, the City Clerk established a date for a public hearing on the Application and caused to be advertised notice of said date and hearing in the appropriate newspaper and received confirmation that notice of said hearing was sent to abutters entitled to notice under law. Such notice was published, mailed, and posted in accordance with applicable law.
7. Pursuant to Massachusetts General Laws Chapter 40A, the City Council held a public hearing concerning the Application (hereinafter the "Public Hearing") on Monday, February 8, 2021.
8. The Applicant presented testimony at the Public Hearing detailing the Project, its impact upon municipal services, the neighborhood, and such other issues as the City Council deemed appropriate with due consideration to the concerns of members of the public.
9. The Applicant provided written and oral documentation and testimony to the City Council regarding (a) the improvements associated with the Project and (b) the Project's positive economic impact on the community. No person or organization spoke in opposition to the Application.
10. The Project is located on a 2.2±-acre parcel of land on the south side of Donald J. Lynch Boulevard. The Applicant seeks to improve a hotel that has been in operation on the Site for approximately 34 years.
11. The Site is zoned Limited Industrial, and the proposed use is allowed with a special permit from the City Council. The hotel use was authorized in 1986 by the Special Permit.
12. There will be no change to the size or shape of the Site, to the area covered by impervious surface, or to the size or shape of the Building.
13. The Project consists of adding kitchenettes to the 64 hotel rooms in the Building without changing the dimensions of those rooms and converting the manager's residence to a 65th hotel room, also with a kitchenette. Other minor interior changes are proposed that are consistent with use as a hotel.
14. The Site presently has 70 parking spaces and will still have 70 parking spaces if the Special Permit Modification is issued. The Zoning Ordinance requires one parking space per guest room. The conversion of the manager's residence to a guest room, for a total of 65 guest rooms, does not require additional parking spaces to be added to the Site.

15. The Site is connected to the municipal water system, but not the municipal sewer system; rather, sewage disposal is currently handled through an on-site septic system. As a condition of approval set forth below, the Applicant will connect the building to the municipal sewer system. This connection will not adversely impact the municipal sewer system.
16. The Project will not create any material change to (a) the existing traffic impacts of the hotel or (b) the impact per room on the municipal water system.
17. The proposed work includes necessary upgrades to the electrical utilities serving the building. After the interior remodeling work is complete, the electricity service will be adequate to supply power to the kitchenettes added to the existing hotel rooms.
18. The Project facilitates extended stays by hotel guests, who will contribute disposable income to the local business community by purchasing goods and services.
19. The Applicant produced a report dated March 5, 2021, from Eric M. Camiel, P.E., C.E.T., a professional fire protection engineer with the firm Jensen Hughes (hereinafter referred to as the "Fire Code Report"). The Fire Code Report presents the results of an on-site inspection and code review of the existing fire protection sprinkler system, specifically evaluating the impact of the proposed guest room alterations on the code compliance of the existing sprinkler system layout. The Fire Code Report finds that the installation of cabinetry in accordance with the plans appended to the Application will not adversely affect the existing sprinkler layout in five of the six types of proposed unit layouts, those five being Type A, B, C, E, and F Units. The Fire Code Report finds that the installation of cabinetry in accordance with the plans appended to the Application will obstruct the existing sidewall sprinkler located in one type of proposed unit layout, that being Type D Units. There are four (4) proposed Type D Units. The Fire Code Report notes that the Applicant will modify the sprinkler layout for Type D Units so that these units are code compliant after the alterations are complete.

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

- A. The City Council finds that it may grant the Special Permit Modification, subject to the terms and conditions set forth in this Decision, to encourage the most appropriate use of the Site and promote and conserve the health and general welfare of the inhabitants of the City of Marlborough.
- B. Pursuant to Massachusetts General Laws Chapter 40A, § 9, the City Council finds that the Project is in harmony with the general purpose and intent of the Zoning Ordinance. In addition, pursuant to Article VIII, Section 650-57(C)(12)(a) of the Zoning Ordinance, the City Council finds that the proposed Special Permit Modification is not in conflict with public health, safety, convenience and the welfare and is not detrimental or offensive. The Project does not produce a material increase in the scale of a development, nor does it produce a material increase in impact on municipal services, the environment, or the neighborhood. The City Council makes this determination subject to the completion and adherence by the Applicant to the conditions more fully set forth herein.
- C. The Applicant has complied with all of the relevant rules and regulations promulgated by the City Council as they pertain to the Application.

- D. Pursuant to its authority under General Laws Chapter 40A, the City Council **GRANTS** the Applicant the Special Permit Modification to convert the manager's residence to a guest room for a total of 65 guest rooms and to add kitchenettes to each of the guest rooms, and to make other modifications all as set out on the plans appended to the Application, subject to the following conditions (the "Conditions"):
- (1) Project Plans and Specifications. Construction of the interior improvements to the Building shall be in accordance with all applicable building codes and zoning regulations presently in effect in the City of Marlborough and the Commonwealth of Massachusetts
 - (2) The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Application, and in compliance with the Conditions.
 - (3) 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 Modification and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - (4) Notwithstanding Condition (2) and (3) hereof, changes may be made to said plans as approved by the Building Commissioner so long as said changes do not change the use of the Site as approved herein, or increase the size or shape of the Building.
 - (5) The Project shall be classified as Residential Group R-2 under the State Building Code and will receive a certificate of occupancy permitting guests to stay for longer than 30 days, but this classification does not prohibit guests from staying 30 days or less.
 - (6) Hazardous Waste. The Applicant shall comply with all directives by the Department of Environmental Protection of the Commonwealth of Massachusetts relative to the existence of any hazardous waste which may be located on the Site, including compliance with the provisions of Massachusetts General Laws Chapter 21E and any other laws and as they relate to the authority of the City of Marlborough Fire Chief.
 - (7) Compliance with Local, State and Federal Laws. The Applicant shall comply with all applicable rules, regulations and ordinances of the City of Marlborough and the Commonwealth of Massachusetts and Federal agencies as they may apply to the construction, maintenance, and operation of the Project, including, without limitation, the State Building Code.

- (8) Water-Sewer. The Applicant shall connect the existing building to the municipal sewer system within six (6) months of taking ownership of the Property, provided that this period may be further extended for good cause and with the consent of the City Council. Provided that it is feasible and legally permissible, the Applicant shall connect the building to the sewer system via the sewer line that serves the adjacent parcel with a street address of 876 Donald J. Lynch Boulevard, shown on the City of Marlborough Assessor's Maps as Map 50, Parcel 4A. If it is not feasible or legally permissible to connect via the service line at 876 Donald J. Lynch Boulevard, then the Applicant may connect to the municipal sewer system associated with Donald J. Lynch Boulevard, including excavating the road, if necessary, provided that the Applicant satisfy such conditions as are required by the Department of Public Works and are customary for similarly-situated connections. In either case, the Applicant shall present a design plan showing the proposed sewer connection for approval by the Department of Public Works and shall obtain all necessary permits and approvals prior to commencing the construction work on the sewer connection. The kitchenettes shall not include garbage grinders until the building is connected to the municipal sewer system. Water and sewer services provided to the Project shall be subject to applicable City-wide water and sewer charges subject to adjustment by the Commissioner of Public Works.
- (9) On Duty Employees: During the operation of the facility, at least one employee will be on duty at all times.
- (10) Fire Protection Sprinkler System: The Applicant shall adhere to the Fire Code Report and shall modify the sprinkler layouts in Type D Units so that, upon completion of the alterations to the four Type D Units, these units shall have fire protection sprinkler systems that are code compliant. Upon completion of these modifications, the Applicant shall submit a follow-up report to the Fire Department presenting the opinion of a professional fire protection engineer that the modified sprinkler layout for all four Type D Units is code compliant.
- (11) Recording of Special Permit. In accordance with the provisions of Massachusetts General Laws c. 40A, Section 11, the Applicant at his expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council's office, to the Building Department and to the City Solicitor's office.

Yea: 11 – Nay: 0

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

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A
LED SIGN SPECIAL PERMIT**

ORDER NO. 21-1008199E

The City Council of the City of Marlborough hereby **GRANTS** the application for a LED Sign Special Permit to St. Mary's Credit Union (the "Applicant") for the property located at 133/137 South Bolton Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings, Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant is the owner of the property located at 133/137 South Bolton Street, in Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 70, Parcel 242A, Map 82, Parcels 112 and 113 (the "Site") and maintains a credit union branch and café 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 an electronic message center sign (the "Sign") at the Site (the "Application").
3. The Sign is one menu board which is no larger than 34 inches wide by 45 inches tall (the product specifications are attached hereto as **"Attachment A"**).
4. In connection with the Application, the Applicant submitted a picture of the existing menu boards and drive thru at the Site, as well as a photo and drawing of the LED menu as proposed for the Site, attached hereto as **"Attachment B"**.
5. The Marlborough City Council held public hearings on the Application on Monday, February 22, 2021 and Monday March 8, 2021.
6. The Applicant, through its representatives, presented testimony at the public hearing detailing the proposed Sign. At the public hearing, one member of the public spoke against the Sign.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING

FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS

- A. The Applicant has complied with all the rules and regulations promulgated by the Marlborough City Council as they pertain to an application for an LED sign special permit under Section 526-13 of the Sign Ordinance.
- B. The Applicant received a sign variance dated January 25, 2021 from the Marlborough Planning Board to approve placement of the sign within 200 feet from the nearest point of an abutting residentially zoned district subject to certain conditions.
- C. The City Council finds that the proposed Sign complies with the standards set forth in Section 526.13.B of the Sign Ordinance.

- D. The City Council finds, pursuant to Section 526-13.B(16) of the Sign Ordinance, that: all other signage on the Site is in compliance with zoning requirements; the Sign does not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street; the Sign does not substantially block visibility of signs on abutting lots; the Sign does not substantially block solar access of, or view from, windows of residential dwellings on abutting lots; the proposed illumination is appropriate to the Site and is appropriately located with respect to the character of the surrounding neighborhood; the scale and/or location of the Sign is appropriate; and the dimensions of the Sign complies with the area limitations of the Sign Ordinance.
- E. The City Council, pursuant to its authority under Section 526-13 of the Sign Ordinance, hereby **GRANTS** the Applicant a LED Sign Special Permit for the Sign, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. The Sign shall be operated in accordance with the Sign Ordinance of the City of Marlborough, and in addition, the Sign shall be turned off when the café is not open for business.
 2. All plans and/or other documentation provided by the Applicant as part of the Application, and as amended during the Application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are incorporated into and become part of this LED Sign Special Permit, and become conditions and requirements of the same, unless otherwise altered by the City Council.
 3. The applicant will take measures necessary to ensure compliance with the City of Marlborough Noise Ordinance (Chapter 431 of the City Code) at the site.

Yea: 11 – Nay: 0

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

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 9:35 PM; adopted.

Yea: 11 – Nay: 0

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