

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, JUNE 7, 2021

The regular meeting of the City Council was held on Monday, June 7, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram & Perlman. Councilors Participating Remotely: Robey. Meeting adjourned at 9:22 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, May 24, 2021, **FILE**; adopted.

President Ossing called a recess at 8:02 PM to resolve a technical issue with the connection for Councilor Robey and returned to open meeting at 8:04 PM.

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 Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on Pole #19 within the layout of Boston Post Road West (Route 20), Order No. 21-1008294, all were heard who wish to be heard, hearing closed at 8:24 PM, adopted.

Councilors Present: 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 \$546,738.00 which moves funds from Economic Development to MEDC to fund the FY22 operations of Marlborough Economic Development Corporation, referred to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Mayor					FISCAL YEAR:		2021	
FROM ACCOUNT:							TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$1,030,154.10	\$546,738.00	27000099	42440	Economic Development	\$546,738.00	11740006	53950	MEDC Funding		\$0.00
Reason:		To allow the MEDC to continue it's work in promoting the economic development of the City for FY22								
	\$546,738.00	Total			\$546,738.00	Total				

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:

Suspension of the Rules requested to allow Conservation/Sustainability Officer Priscilla Ryder to speak regarding the open space acquisition – granted.

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 \$150,000.00 from Stabilization-Open Space to Open Space Acquisition to contribute to the purchase of 33+ acre parcel off Parmenter Road to enlarge Callahan State Park, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Mayor					FISCAL YEAR:		2021	
FROM ACCOUNT:							TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$629,483.26	\$150,000.00	83600	32918	Stabilization-Open Space	\$150,000.00	19300006	58170	Open Space Acquisition		\$0.00
	\$150,000.00	Total			\$150,000.00	Total				

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 City Council of the City of Marlborough hereby appropriates the sum of \$150,000.00 from the Open Space Acquisition Account, number 19300006 58170, for the purposes of contributing to the Commonwealth of Massachusetts' Department of Conservation and Recreation ("DCR") for the cost of acquisition of a parcel of land located off Parmenter Road, Marlborough (Assessor Map 109, Parcel 1) comprised of 33.39 +/- acres, further identified in a deed recorded in the Middlesex South District Registry of Deeds at Book 64087 Page 554 recorded in the Middlesex South Registry of Deeds and Land Court Certificate 257409 registered with Middlesex South Registry of Deeds. This appropriation is subject the Sudbury Valley Trustees contributing \$100,000 towards this purchase and the Commonwealth of Massachusetts proceeding with the purchase of the property with their contribution of \$1,250,000.

Said land will become part of Callahan State Park, protected in perpetuity, by DCR. Said land is to be acquired by DCR for the combined total sum of \$1.5 million, **APPROVED**; adopted.

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 Reappointments to the Conservation Commission of Karin Paquin for a term to expire on May 5, 2023, John Skarin for a term to expire on March 7, 2022 and Allan White for a term to expire March 2, 2024, referred to the **PERSONNEL COMMITTEE**; adopted.

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 Reappointments to the Parks & Recreation Commission of Robert F. Kays, William F. Doherty, Jr. and Mark A. Vital for 3-year terms respectively to expire on April 2, 2024, be and is herewith referred to the **PERSONNEL COMMITTEE**; adopted.

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 Communication from Solicitor Jason Grossfield, re: Proposed Ordinance Amendment to Chapter 270 "Building and Site Development" Article V "Fences" relative to §19 "Permit Required" and §24 "Easements and Rights-of-Way", in proper legal form, Order No. 21-1008221, be **MOVED TO ITEM 15** and **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 the Communication from Solicitor Jason Grossfield, re: Proposed Ordinance Amendment to Chapter 510 “Sewers” §2(D) “Use of Public Sewers” as submitted by Mayor Vigeant, in proper legal form, Order No. 21-1008230, be **MOVED TO ITEM 18** 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 Solicitor Jason Piques, re: Application for Special Permit from Calverde Naturals, LLC, to operate an Adult Use Marijuana Retail Establishment, 239 Boston Post Road West, in proper legal form, Order No. 21-1008214B, be **MOVED TO ITEM 19** 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 Canopy for the Drive-thru at Chick-fil-A, 36 Apex Drive within the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), 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 Doucette, seconded by the Chair to adopt the following:

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

- a) Conservation Commission, May 6, 2021.
- b) Cultural Council, May 4, 2021.
- c) Commission on Disabilities, March 8, 2021 & April 13, 2021.
- d) Traffic Commission, March 31, 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 CLAIM, refer to the **LEGAL DEPARTMENT**; adopted.

- a) Christopher King, 114 Kosmas 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:

City Council Urban Affairs Committee
Thursday, June 3, 2021; 7:00 PM
Via Teams & Council Chambers
Minutes and Report

Urban Affairs & Housing Committee members present were Chairman Katie Robey, Councilor Landers, Councilor Wagner, Councilor Doucette, and Councilor Navin. As all committee members were participating in Council Chambers, no Roll Call votes were required.

Other councilors present in Chambers were Councilor Irish, Councilor Ossing and Councilor Perlman and participating via Teams were Councilor Dumais and Councilor Oram.

Others attending this meeting are included with each order's information.

Order No. 21-1008266: Proposed rezoning of 290 Hudson St. identified as Map 43, Parcel 38 from Limited Industrial to Residence A-3 requested by Council Irish.

Councilor Irish had asked this be rezoned at the request of property owner. At one point the property was zoned residential and it's unclear how it got switched but the property is now considered pre-existing non-conforming. Rezoning this to match the adjacent residential property and those across Hudson St. would offer relief. The chair reminded committee that the Planning Board will be holding their Public Hearing on Monday, June 7. The committee could move to recommend approval pending the Planning Board's input.

Councilor Doucette moved to recommend approval pending the input from the Planning Board; the motion received a second. The vote was 5-0 in favor.

Order No. 21-1008275: Request to amend free standing gas pricing sign, Mobil, 656 Boston Post Road East within the Wayside Zoning District.

Attorney Falk and City Solicitor Grossfield were present via Teams to discuss this matter. The council approved an LED Sign Special Permit 17/18-1007068C for this site. There was no request to amend the Special Permit, the applicant submitted a sign permit indicating they were switching out the existing panels that read "Alltown" and "Autowash" and replacing them with ALLTOWNfresh. Handcrafted Kitchen & Market" and "ALLTOWN CARWASH."

Councilor Doucette moved to recommend approval of the changes to the sign; the motion received a second. The vote was 5-0 in favor. The Solicitor indicated he would submit an Order in proper form to reflect the changes when this is on the agenda for final vote.

Reports of Committee Continued:

Order No. 21-1008216: Proposed Zoning Map Amendment to the Results Way Mixed Use Overlay District and Proposed revisions to Chapter 650 §33 of the Zoning Code.

Peter Tamm, attorney with Goulston & Storrs was present via Teams. The council began reviewing this on May 11 with a lengthy discussion on hazardous and toxic chemicals and was postponed in committee. At the May 25th meeting the committee reviewed the proposed amendments which included language in A(2) specifying Subdistrict 1 which includes the original parcel described in Exhibit A and Subdistrict 2 which includes the new parcel described as Exhibit B; adding a new A(4) stating that within each subdistrict one MUD shall be permitted, which shall be subject to separate development agreement and master plan; changes throughout the document changing use of “the RWMUOD” to “each subdistrict” or the MUD within the applicable subdistrict; adding in C Master concept plan; development agreement a new (2)(c) stating each development agreement shall only apply to the applicable subdistrict; amending E eligible uses (1)(e) to specify that subdistrict 1 was allowed up to 350 dwelling units and subdistrict 2 would be allowed up to 100 dwelling units and (f) to clarify that each subdistrict is allowed up to 75,000 square feet of retail sales and service; and in E(2) clarifying that only subdistrict 1 would be allowed to have more than 350 dwelling units via a special permit.

At the request of the applicant, this was postponed in committee so language could be worked on for manufacturing and/or warehousing that may use and store hazardous or toxic chemicals. At the June 3 meeting, Section E, Eligible Uses (1) the following additional uses are also permitted by right in the RWMUOD was amended by adding a new item (o) to reflect the by right use of manufacturing and/or warehousing that may use and store hazardous or toxic chemicals. In E(2) which lists uses by special permit, the proposed language of (c) for subdistrict 2 only was removed and (d) regarding biosafety level 3 labs would become (c). The manufacturing of hazardous and toxic chemicals delineated in E(3)(g) would remain expressly prohibited with no amendments. Additional changes were made to language in Exhibit A specifying the map and parcel number in subdistrict 1 and a new Exhibit B specifying the map and parcel number in subdistrict 2. A GIS map reflecting the areas was also included.

There was a lengthy discussion about how to proceed as the last day to act on this is June 21 and there was concern that if the vote was taken on that date and a councilor objected to passage in one evening, then we would need to start all over with new public hearings. The agenda for the June 7 meeting was amended to have this item included but per our rules, there would need to be a vote to suspend the rules to vote on June 7. If there is not support to vote on the 7th, the Council President will add to the regular meeting schedule a meeting for June 14. That would allow final passage to take place on June 21 if needed or it could be completed on the 14th.

Councilor Doucette moved to recommend approval to proposed revisions to Chapter 650 §33 Results Way Mixed Use Overlay District and Zoning Map as amended; the motion received a second. The vote was 3-2 with Councilors Landers and Robey opposed.

Reports of Committee Continued:

Order No. 21-1008277: Application for Site Plan review from Attorney Brian Falk, on behalf of WoHo, to construct a mixed-use project within the Marlborough village District, 28 South Bolton Street.

The committee began discussion on May 25th with a presentation by the applicant on the project. There was lengthy discussion by all attendees on the look of the project and how they felt it met/didn't meet the design guidelines for Downtown Village. A decision was made to have the applicant take the comments and create an updated version which would be presented at Site Plan Review meeting on June 1 with comments from the SPRC to be forwarded for the June 3 Urban Affairs meeting. After a PowerPoint review of the new design, another lengthy discussion was held. The chair had reminded the public that this was not a special permit and therefore didn't require a public hearing. However, several members of the public had submitted emails to the council office asking the councilor to vote no and expressing their dislike of the design.

It was agreed that the applicant would create a final design using the version submitted on May 25th but incorporating the brick wall around the front and extending it in front of the garage as shown on the June 3 version. They may incorporate some color variations. Committee members would be polled to set up another meeting; this remains in committee.

It was moved and seconded to adjourn. The vote was 5-0 and the meeting adjourned at 9:28 PM.

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

ORDERED: That the Mayor's Office work with the City Clerk to provide the Council with a summary of vacancies and expired Board and Commission members and develop a clear process on our website by which residents can apply to join Boards and Commissions and see the responsibilities associated with that Board, referred to the **PERSONNEL COMMITTEE**, is **DENIED**; adopted.

Yea: 5 – Nay: 6

Yea: Wagner, Doucette, Navin, Oram, Perlman.

Nay: Dumais, Tunnera, Irish, Landers, Ossing & Robey.

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

ORDERED: At a regular meeting of the City Council held on Monday, JUNE 7, 2021, the following Proposed Amendment to Chapter 270 "Building and Site Development" Article V "Fences" relative to §19 "Permit Required" and §24 "Easements and Rights of Way", having been read was **ORDERED ADVERTISED**; adopted.

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 AS FOLLOWS:

- I. By amending Chapter 270, Article V (Fences), Section 270-19, entitled "Permit required", by **inserting** a new Section 270-19(D) to read as follows:
 - D. No permit shall be required under this article for the following fences, provided that the fence is in full compliance with all other provisions of this article and all other City ordinances: 1) a fence not exceeding three (3) feet in height which is erected to enclose a garden and complies with Chapter 650, Zoning, Section 650-45N (Sight Distance), or 2) a fence that is not located in the minimum front, side or rear yard areas as defined in Chapter 650, Zoning, Attachment 2.

II. Chapter 270, Article V (Fences), Section 270-24(A), entitled “Easements and rights-of-way” is hereby **amended** to read as follows:

A. On any lot subject to an easement where a fence will encroach upon or hinder the use of an easement area, the owner or applicant shall procure a release in writing from the holder of the easement, and said release shall be attached to the application for a fence filed with the Building Department.

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, Best Buy Stores LP #820, 769 Donald J. Lynch Boulevard, **APPROVED**; 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, ecoATM, LLC, 601 Donald J. Lynch Boulevard (kiosk in Solomon Pond Mall), **APPROVED**; adopted.

Yea: 10 – Nay: 1

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

Nay: Tunnera.

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

ORDERED: At a regular meeting of the City Council held on Monday, JUNE 7, 2021, the following Proposed Amendment to Chapter 510 “Sewers” §2(D) “Use of Public Sewers”, having been read was **ORDERED ADVERTISED**; adopted.

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 510, ENTITLED "SEWERS," AS FOLLOWS:

I. Chapter 510, entitled “Sewers”, Section 510-2, entitled "Use of Public Sewers.", subsection (D), is hereby amended to read as follows:

D. The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated with the City and abutting on any street, alley or right-of-way in which there is now or may in the future be located a public sanitary sewer of the City, are hereby required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within the following time limits:

- (i) Where said public sewer now exists at the time of the effective date of this clause, the connection shall be completed: (a) prior to transfer of the property, (b) prior to change in use of a structure as set forth in Chapter 650, Zoning, (c) prior to an increase in the sewage design flow applicable to a structure for purposes of Title 5, 310 CMR 15.000, of the State Environmental Code, or (d) upon failure of any system under said Title 5, 310 CMR 15.000, whichever shall occur first.
- (ii) Where said public sewer is constructed and/or located after the effective date of this clause, the connection shall be completed: Within 180 days after date of official notice by the commissioner that the public sewer is available for connection.

For purposes of this subsection, the term “transfer” shall mean the conveyance of any interest in real property, with or without consideration, including by deed, lease, or assignment, but excluding: (a) taking a security interest in a property, including but not limited to issuance of a mortgage; (b) refinancing a mortgage or similar instrument, whether or not the identity of the lender remains the same; (c) a change in the form of ownership among the same owners, such as placing the property within a family trust of which the owners are the beneficiaries, or changing the proportionate interests among a group of owners or beneficiaries; (d) adding or deleting a spouse as an owner or beneficiary; or a transfer between spouses during life, out right or in trust; or the death of a spouse; and (e) the appointment of or a change in a guardian, conservator, or trustee.

An exemption from the connection requirement in this section may only be granted upon application to the board of health, and with the recommendation of the city engineer for reasons of either: (a) extraordinary site conditions due to which the land cannot be drained into such sewer, or due to weather conditions limiting the ability to connect, provided that the exemption shall apply only until such incapacity is removed and subject to a private disposal system meeting all applicable requirements and any other conditions imposed by the board, or (b) for a period of five (5) years from the date of installation of a new or replacement private disposal system which fully complies with Title 5, provided that the exemption shall expire upon the failure of any such system under said Title 5.

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
CALVERDE NATURALS, LLC**

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008214C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Calverde Naturals, LLC (the “Applicant”) to build and operate an Adult Use Marijuana Retail Establishment at 239 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 corporation having a business address of 10 Briarwood Lane, Winchester, Massachusetts.
2. The Applicant is the prospective tenant of a commercial retail unit located at 239 Boston Post Road West, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 78 as Lot 2A (the “Site”). The Site is owned by R.K. Marlboro West, LLC, c/o RK Centers with a business address of 50 Cabot Street, Suite 200, Needham, MA 02494.
3. In accordance with Article V, § 650-17, § 650-18(A)(46), and Article VI, § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant seeks to operate an Adult Use Marijuana Retail Establishment at the Site within a single story building to be constructed by the Applicant consisting of approximately 2,800 square feet of floor area (the “Use”).
4. The Site is located in the Business Zoning District with adequate frontage on Boston Post Road West (Route 20).
5. The overall Site has an area of 208,005 +/- square feet.
6. The Use entails construction of a standalone building dedicated to the use to be constructed by the Applicant within an existing development pad at the Site with an area of 2,800 +/- square feet.
7. The Applicant, by and through its counsel, filed with the 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 the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of plans, photographs, and concept designs of the exterior and interior of the unit associated with the Use (collectively the “Plans”), attached hereto as “Attachment A.”
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 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 Monday, March 22, 2021. 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. The Applicant demonstrated that the proposed Use is not located within 500 feet of an existing public or private school providing education to children in kindergarten or grades 1 through 12 as required by § 650-32(F.1)(1) of the Marlborough Zoning Ordinance.
14. At the public hearing, there were no members of the public that spoke either in support of or 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) 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.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 for adults to obtain marijuana and marijuana infused products. The sales occurring within Marlborough (in lieu of neighboring communities) increases revenues to the City as a result of annual community impact payments that Calverde makes to the City based on a Host Community Agreement.

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. There are adequate parking spaces within the retail development to both comply with the requirements of the Zoning Ordinance and to meet the anticipated need of customers. The parking lot also includes a 30'x30' fenced loading zone adjacent to a dumpster pad which can be secured in accordance with Cannabis Control Commission security preferences to ensure the highest level of safety during the unloading of product deliveries to the site.

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. The proposed use will allow for the phased creation of over 30 jobs at the facility over the next three years. Calverde has committed to prioritize the hiring of local resident.

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 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 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 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: The signage shown on the Plans is appropriate for the Use.

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

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

- 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 including without limitation the regulations promulgated by the Massachusetts Cannabis Control Commission.
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 entry and exit vestibule 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. As shown on the Plans, the Use shall have opaque exterior windows.
 - c. 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.
 - d. 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, 9:00 a.m. to 10:00 p.m., and Sunday from 10:00 a.m. to 8:00 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 the 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 registration 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. Within the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during any hour of operation, then the Applicant shall stop employing a City of Marlborough Police detail. Otherwise, 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. Lapse of Special Permit. This Special Permit shall lapse if the Applicant fails to commence retail operations at the Site within three (3) years of the date of approval of the Special Permit, not including any time during an appeal under M.G.L. c. 40A § 17. The Applicant may with good cause, request the Council extend the provisions of this section.
16. 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 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 9:22 PM; adopted.

Yea: 11 – Nay: 0

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