

# CITY OF MARLBOROUGH MEETING POSTING

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

Meeting Name: City Council Urban Affairs Committee

Date: March 19, 2019

Time: 5:30 PM

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

2019 MAR 13 P 12:37

## Continued Review:

1. 12-03-2018 – **Order No. 18/19-1007452A (X19-1007198G):** Proposed Zoning Ordinance Amendment, Chapter 650 §22 & §5, relative to Multifamily Retirement Community, 90 Crowley Drive.  
-REFER TO URBAN AFFAIRS  
-PUBLIC HEARING: FEBRUARY 11, 2019
2. 12-17-2018 – **Order No. 18/19-1007500:** Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards.  
-REFER TO PLANNING BOARD AND URBAN AFFAIRS  
PUBLIC HEARING: FEBRUARY 11, 2019

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

PAGE 1

## ORDERED:

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

- I. Section 650-5, entitled "Definitions; word usage," is hereby amended, as follows:
- a. By amending the definition in subsection B of "HOME OCCUPATION," by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of "OUTDOOR STORAGE," by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor's storage yard or a landscape contractor's storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions: -

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR'S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor's storage yard. A contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

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## ORDERED:

**LANDSCAPE CONTRACTOR'S STORAGE YARD** – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

- II. Section 650-17, entitled "Table of Uses," is hereby amended by adding the following new uses:-

**RR A1 A2 A3 RB RC RCR B CA LI I MV NB**

Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Home Office (47)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Landscape Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N

- III. Section 650-18, entitled "Conditions for uses," is hereby amended as follows:

- a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:-

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- The home office use must be secondary to the principal use of the property as a residence.
- The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.





# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

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ORDERED:

- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Industrial or Limited Industrial zoning districts.
- (d) No more than 25% of the floor area of the residence is to be used for the purpose of the home office.
- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance and character of the residence or that of the accessory building if used for the home office.
- (f) Not more than two (2) commercial vehicles, including trailers, shall be permitted in connection with the home office, whether those vehicles are used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles, including trailers, may be permitted when the home office is on a property located in the Industrial or Limited Industrial zoning districts. No such vehicle shall exceed a gross vehicle weight rating (GVWR) of 14,000 pounds. No such vehicle, nor any vehicle owned or operated by any employee of the business associated with the home office, shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises.





# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

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ORDERED:

- (g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office be used for a contractor's storage yard or a landscape contractor's storage yard, except when such a yard is permitted by special permit in the Industrial or Limited Industrial zoning districts. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Saturday except from 7:00 a.m. until 7:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that all such activity, when permitted during these hours, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."
- b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards: -
- (48) Contractor's storage yards and landscape contractor's storage yards. Contractor's storage yards and landscape contractor's storage yards are allowed in certain zoning districts by special permit only. Applications for such a special permit shall comply with City Code Section 650-59, as well as with the following additional requirements and design standards.
- (a) Applications.
- (1) A scaled site plan shall show the following information:
- i. Outdoor storage areas for materials and equipment.
  - ii. Parking and maintenance areas for commercial vehicles.
  - iii. Location of all buildings and structures on the site.
  - iv. Vehicular and pedestrian circulation on the site, including points of access to the site from a public road, loading and unloading areas, and areas for employee and customer parking.
  - v. Required or proposed landscaping and buffer areas.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ DECEMBER 17, 2018  
PAGE 5

ORDERED:

- vi. Required or proposed screening and fencing of storage yards.
  - vii. Proposed lighting plan, including location and specifications of light standards, lighting fixtures and lighting directions.
  - viii. All residential abutters within 200 feet of the proposed site.
  - ix. Any other information as might reasonably be required by the City Council for use in making a thorough evaluation of the proposal.
- (2) A description of all vehicles, trailers, and equipment stored, maintained or used on site by the business.
  - (3) A description of all fuel, chemicals or commodities and the amount of each that will be stored on site by the business.
  - (4) The range of number of employees throughout the year and the average number of employees at any time.
  - (5) A noise mitigation plan.
- (b) Design Standards.
- (1) Proximity to existing residential zoning districts. The proposed storage yard shall be not less than two hundred (200) feet from a residential zoning district.
  - (2) Screening. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the equipment and/or materials stored therein.
  - (3) Minimum parcel size. The minimum area of the parcel shall be 22,500 square feet.
  - (4) Maximum size of storage area. The maximum size of the contractor's storage yard or landscape contractor's storage yard, when combined with all structures, parking and driveways on the lot being proposed for the storage yard, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the parcel is located.



## IN CITY COUNCIL

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Marlborough, Mass., DECEMBER 17, 2018

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### ORDERED:

- IV. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in existence in the City of Marlborough on the effective date of the above amendments to the Zoning Ordinance of the City of Marlborough, shall submit to the City Council a special permit application, conforming with the provisions of Section 650-18(48), within six (6) months of said effective date.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019.**

ADOPTED

ORDER NO. 18-1007500





City of Marlborough  
**Legal Department**

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
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7  
RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH, JR.  
CITY SOLICITOR  
2018 DEC 13 A 11:56  
CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS  
PARALEGAL

December 13, 2018

Edward Clancy  
President  
Marlborough City Council

RE: Proposed Zoning Amendment –  
Home Offices and Contractor Yards

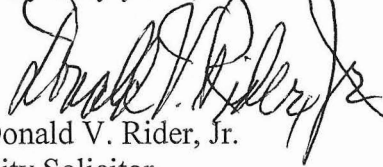
Dear President Clancy and Members:

Councilor Delano, in his capacity as Chairman of the Urban Affairs Committee, recently requested that a zoning amendment be proposed that would aim at regulating the presence of contractor yards in the various residential zoning districts, where a contractor's equipment and/or machinery can often be stored outdoors and thus detract from the way we want our residential neighborhoods to look. At the same time, there is a recognition that residents, including but not limited to contractors, often use a portion of their homes as an office for a business they run.

Accordingly, enclosed is the proposed zoning amendment. It tries to preserve the ability of residents to use a portion of their homes, or even an accessory building on their property like a garage, as a home office, while at the same time preserving the residential look and feel of residentially-zoned neighborhoods by having outdoor storage yards of contractors, including those of landscapers, be located in the Industrial and Limited Industrial areas of Marlborough when authorized by a City Council special permit.

Thank you for your attention to this matter.

Very truly yours,

  
Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor  
Jeffrey Cooke, Building Commissioner

URBAN AFFAIRS  
PLANNING BOARD  
ADVENTURE  
P/lt 2/11/19



*City of Marlborough*  
*Office of the Mayor*

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*Arthur G. Vigeant*  
MAYOR

*Nicholas J. Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

December 13, 2018

City Council President Edward J. Clancy  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Contractor Yards Zoning Amendment**

Honorable President Clancy and Councilors:

I am writing in support of the enclosed zoning amendment for contractor yards and home offices. My office worked in partnership with the Building Commissioner, City Solicitor, and Councilor Delano to develop the proposed zoning amendment.

I look forward to speaking in support of this proposal and answering any questions Councilors may have. If you have questions in the meantime, or require any additional information, please do not hesitate to contact me.

Sincerely,

**Arthur G. Vigeant**  
Mayor



## IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 11, 2019

PAGE 1

### ORDERED:

That the PUBLIC HEARING On the Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards, Order No. 18-1007500, all were heard who wish to be heard, hearing closed at 9:32 PM.

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

### PUBLIC SPEAKING IN FAVOR

Mayor Arthur Vigeant spoke in favor of the proposed zoning ordinance amendment and provided additional background on the reason for it. During code enforcement of existing contractor yards, it was discovered there is no City ordinance for contractor yards. Per City and State requirements, if there is no existing ordinance, then the use is not allowed in the community. The City decided to craft a contractor yard ordinance that could be put in place. This is not intended to go after the small business owner but to bring some rules and guidelines in place so the rules apply to everyone evenly. Mayor Vigeant stressed there is no current zoning in place and there are a lot of long-term contractors who would be grandfathered however that process will need to be better defined. There is still some work to be done as there are many types of contractor yards and they each need to be clearly defined for the ordinance. This is the first attempt at crafting an ordinance to allow contractor yards within the community and the Building Commissioner will be providing new definitions to the Urban Affairs Committee when they review the ordinance.

Councilor Delano explained there are two parts to this proposal, the first being there is no legal zone for these businesses. If nothing is done, many of these businesses will not have a legal status, the City wants a level playing field for each business and each having to operate under the same rules. How difficult do they make this process, do businesses under a certain size, not need to apply for a special permit. For those requiring special permits, can it be a reasonable process. They must have reasonable rules in place.

Councilor Doucette echoed that the City Council has to act and this is important for zoning and the existing businesses. He thanked everyone for appearing and providing feedback on the ordinance.

Neil Kunycky, 70 Jackson Circle, has lived at his residence for over twenty-six years and chose Jackson Circle because it was a peaceful residential neighborhood. Over the past fifteen years he has made numerous complaints to City officials regarding commercial activity in his neighborhood. He listed the numerous problems he has encountered in his neighborhood due to contractors running businesses out of their residences. Mr. Kunycky was in favor of the proposed zoning ordinance.





## IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 11, 2019  
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### ORDERED:

There is no one else speaking in favor. That part of the Public Hearing is closed.

### QUESTIONS FROM THE PUBLIC

Monique Duross, 261 Desimone Drive, had several questions.

1. What is the primary use that would allow a special permit license?
2. Does there need to be a business on the property already to be able to request this or will this be for any lot in the City?
3. What kind of things can be stored on the property?

She stated there are many questions still to be answered before moving forward with the zoning.

There are no further questions from the public. That part of the Public Hearing is closed.

### PUBLIC SPEAKING IN OPPOSITION

Patrick Mauro, 91 Royce Road, has a business, CMS Incorporated at 379 South Street. He was not in favor of more rules and regulations and did not support this proposal. A lot of the small contractors are customers of his and he supports them. He requested the City Council oppose this zoning proposal as it is written.

Paul DiTullio, 274 Brigham Street, owns DiTullio Construction and Lacombe Business Center which directly abuts the largest contractor storage yard in the City, the DPW Facility which is within two-hundred feet of a residential area. He provided a history of his property and business.

Dennis Demers, 49 Northboro Road East, currently runs his business out of that property and his family has owned that location for over one-hundred years. His neighbors moved in with him running the business knowing it was there. He was against this zoning proposal.

Allan White, 72 Berlin Road, owner of AF White Excavating Company, LLC runs his business out of his home on the property which was previously owned by his grandparents and parents. He stated they need to work together to accommodate the new residents as well as the longtime residents. He wondered if the City Council could grandfather the contractors who have a longtime presence in the City.

Gary Lynde, Lakeside Sewerage of 780 North Bigelow Street, was born in Marlborough and the only place he has had his business. He requested them to examine the grandfathering of long time business and he stated how his business is not conducive to seven-to-seven hours.

Gina DiMatteo, 721 and 729 Farm Road, explained her property is adjacent to the airport property and they are a contractor yard and host small businesses who occupy her building and park in the back of the building. She rents to people who are too large to run their businesses out of their homes and has owned the property since the 1960's. She is opposed to the ordinance as written and the special permit process is too burdensome for the businesses and the Council.



## IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 11, 2019

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### ORDERED:

David Veron, Veron Company of 112 Forest Street, sympathized with the gentlemen on Jackson Circle and explained he was located in a Limited Industrial Zone and the site plan requirement is too much for businesses to undergo. He was in support of the other business owners who spoke and opposed this proposal.

Charles Trombetta, 42 Whispering Brook Road, operates Trombetta's Farm on 655 Farm Road which includes contractor yards and spoke against the proposed zoning change.

Charlie Trombetta, 126 Shawmut Avenue, opposed the zoning proposal as it is currently written.

Toure Foster, 36 Bolton Street, owns and operates New England Enterprises, an excavating and landscaping contractor who operates in a Business Zoned District which would not allow their business. In addition to him, he employs one full-time and one part-time employee. As written, it is an overreaching burden to the small business owner.

Kristen Cappello, 29 Beverly Drive, run a family business, 495 Truck Center, with her husband and son and they also own four commercial properties on South Street and provide parking to contractors and auto businesses. She requested they change the proposed zoning to allow them to continue to provide this service.

James Cappello, 29 Beverly Drive, of 495 Truck Center, was opposed to the zoning as written.

Anthony Cappello, 29 Beverly Drive, of 495 Truck Center, opposed the zoning as written.

Laura Barsamian, 655 Farm Road, was opposed to the zoning proposal.

Richard Insani, 58 Concord Road, was opposed to the zoning proposal.

Melanie Lawrie, was opposed to the zoning proposal as it would harm the small business.

Rick DiMatteo, 721 and 729 Farm Road, was opposed to the zoning proposal as written.

Michael Monteiro, 667 Farm Road, was opposed to the zoning proposal as written.

Marianna Silverio, 499 Farm Road, was opposed to the zoning proposal as written.

There is no one else speaking in opposition. That part of the Public Hearing is closed.

### QUESTIONS FROM THE CITY COUNCIL

✓ Councilor Oram asked when this appears before the committee, that they review other City and Town ordinances and focus their attention on residential neighborhoods.

Councilor Juairé stated they are not here to put people out of business but put regulations in place to protect the residential neighborhoods.





## IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 11, 2019

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### ORDERED:

Councilor Robey had many questions regarding the zoning proposal:

- Why are they adding a new section to 655 which will add a home office exception to the definition for home office occupation.
- Why are the conditions for use, 650-18, for customary home occupations, three simple bullets, when the conditions for home office is seven.
- Why does the proposed language of the new paragraph 47 regarding non-residents working in a home office contain an exception unless it is located in the industrial or limited industrial zoning district. Will home offices in those zones be allowed to have more residents or less.
- Why is the proposed home office not allowed in Marlborough Village when the current customary home occupations is allowed in all zoning districts.
- Why does the proposed zoning language of paragraph 48 regarding Contractor Storage Yards and Landscaping Contractor Storage Yards state that applications for such special permit shall comply with City Code section 650-59 and then delineate a long list of additional requirements of which most are already listed in 650-59.
- Why does proposed new definition of both Contractor Storage Yard and Landscape Contractors Yards which will only be allowed by special permit in industrial and limited industrial state those yards shall not include outdoor storage as defined in section 655 which states outdoor storage may be permitted in business, commercial automotive, and industrial if it is an accessory to one of the permitted uses in the zoning district in which the main building and lot is located. The Table of Uses shows a special permit is already required for outdoor storage in land zoned limited industrial and industrial.
- Why can she currently park the vehicle of her employer, who is not a home occupation business, on the street fronting her residence but it is proposed no vehicle owned or operated by an employee of a home office is prohibited from parking on the street fronting the premises of where the home office is located.
- Why does the proposed language make an existing business, many of whom are a small family owned business, operating in apartments as well as single family owned homes, now require those businesses to go through the application process for a special permit, gather all the necessary material, hire someone to create a site plan, pay a fee between \$250-\$2500, and pay to send notices to abutters.
- Why would a City Council who is currently trying to relinquish their existing responsibility for single family, nonconforming special permits because they are busy as a City Council and those take up a lot of their time, make a whole new group of residents come before them for special permits.





## IN CITY COUNCIL

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Marlborough, Mass., FEBRUARY 11, 2019

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### ORDERED:

Councilor Doucette supports the zoning but stated it does require some changes as it is currently written. The City Council needs to listen to the residents and not place any undue burden of regulations on small businesses.

Councilor Landers stated it is up to the City Council to listen to the business owners and their concerns and work through it methodically when it is in committee.

Councilor Delano was glad for all the feedback from the business owners. Councilor Delano stated creating legislation is a long process and it is sometimes easier to remove items than add them in. This draft gets the process going and gives them a starting point.

There are no further questions from members of City Council. That part of the Public Hearing is closed.

That ends the entire Public Hearing. This is currently in the Urban Affairs Committee.

ADOPTED

ORDER NO. 18/19-1007500A



# City of Marlborough Planning Board

Administrative Offices  
135 Neil St.  
Marlborough, MA 01752

## PLANNING BOARD

Barbara L. Fenby, Chair  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Christopher Russ  
Matthew Elder

Krista Holmi, Administrator  
(508) 624-6910 x33200  
[kholmi@marlborough-ma.gov](mailto:kholmi@marlborough-ma.gov)

March 1, 2019

Mr. Edward Clancy  
Council President  
140 Main St.  
Marlborough, MA 01752

RE: Council Order No. 18-1007500 Proposed Zoning Amendment,  
Home Offices and Contractor and Landscaper Storage Yards

Honorable President Clancy and Members:

At its regularly scheduled meeting on February 25, 2019, the Planning Board took the following action regarding the above-referenced Council order:

On a motion by Mr. LaVenture, seconded by Mr. Hodge, the Board voted to forward the following comments to the City Council on the proposed zoning amendment:

The Board agrees that the City of Marlborough should regulate home offices and contractor and landscape contractor storage yards.

### Recommendations include:

- Requiring annual Code Enforcement review as a condition of any special permit and a certificate from Code Enforcement that the subject property is free from blight;
- Consider a more thorough ordinance that would permit Contractor Storage Yards and Landscaper Storage Yards as-of-right in Limited Industrial (LI) zones only;
- Reduce to the extent possible, the number of applicants requiring special permits. As written, the currently proposed ordinance places a potentially onerous burden on a large applicant pool. Requiring a special permit from all may also place an undue burden on the City Council;
- Clearly define the grandfather clause;
- Clarify the language in (47) Home Offices (c);
- Harmonize the current anti-blight ordinance with this current proposal;
- Consider additional site requirements to keep residential neighborhoods looking like residential neighborhoods.

Motion carried.

Should you need further information, don't hesitate to contact me.

Sincerely,

Barbara L. Fenby  
Chairperson

City Clerk