

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: October 29, 2019

Time: 5:30 PM

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 OCT 24 A 9:50

Continued Review:

1. 08-26-2019 – **Order No. 19-1007762 (X 19-1007763)**: Application for Special Permit from Post Road Realty, LLC to construct a multi-family residential project known as the Green District in the Executive Residential Overlay District (EROD) which will consist of 475 units in two buildings at 107 Simarano Drive, Map 116, Parcels 5, 11 & 12.
-Refer to Urban Affairs Committee
-Public Hearing: October 07, 2019
2. 08-26-2019 – **Order No. 19-1007763 (X 19-1007762)**: Application for Site Plan Approval from Post Road Realty, LLC for The Green District project to be built in the Executive Residential Overlay District (EROD), at 107 Simarano Drive.
-Refer to Urban Affairs Committee

New Business:

3. 09-09-2019 – **Order No. 19-1007780**: Application for Special Permit from Attorney Brian Falk, on behalf of One Energy, Inc., to authorize the alteration of a preexisting nonconforming gas station use, to a gas station, convenience store and restaurant/cafe use at 121 Bolton Street.
-Refer to Urban Affairs Committee
-Public Hearing: October 21, 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., AUGUST 26, 2019

ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 7, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Post Road Realty, LLC to construct a multi-family residential project known as The Green District in the Executive Residential Overlay District (EROD) which will consist of 475 units in *two buildings* at 107 Simarano Drive, Map 116, Parcels 5, 11 & 12, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE.**

Ninety days after public hearing is 01/05/20 which falls on a Sunday, therefore 01/06/20 would be considered the 90th day.

ADOPTED

ORDER NO. 19-1007762
X 19-1007763



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 7, 2019

ORDERED:

PAGE 1

That the PUBLIC HEARING On the Application for Special Permit from Post Road Realty, LLC to construct a multi-family residential project known as the Green District in the Executive Residential Overlay District (EROD) which will consist of 475 units in two buildings at 107 Simarano Drive, Map 116, Parcels 5, 11 & 12, Order No. 19-1007762, all were heard who wish to be heard, hearing closed at 8:33 PM.

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

PUBLIC SPEAKING IN FAVOR

Brian Falk, attorney from Mirick O'Connell, appeared on behalf of the applicant, Post Road Realty, LLC, the proponent of the Green District Residential Community. Mr. Falk introduced Andrew Montelli of Post Road Realty, LLC, members of their design team from Hancock Associates and Bargmann Hendrie + Archetype, Inc. (BH+A). This is an application for a Special Permit and Site Plan approval for the Green District Multifamily Community in the new Executive Residential Overlay District at 107 Simarano Drive. The City Council approved the new overlay district in June of this year. The Executive Residential Overlay District was designed to allow certain residential projects in a forty-three-acre area zoned Limited Industrial and Industrial in the southwest quadrant located at the corner of Simarano, Cedar Hill, and Route 495 Connector. The site's primary neighbors are commercial properties, though the Avalon is right up the road.

The Green District consists of two high end multifamily buildings connected with green spaces, trails, and high-quality amenities with a young professional workforce in mind. Phase one which is closer to Simarano will have two-hundred-thirty-five units, one-hundred-seventy-three of which are one-bedroom, forty-nine two-bedroom, and thirteen three-bedroom units. Phase two is closer to the neighboring Stone Gate community will have two-hundred-forty units of which one-hundred-seventy-five are one-bedroom, fifty-one two-bedroom, and fourteen three-bedroom units. There will be a total of seven-hundred-sixty-six parking spaces over the two building sites, which is more than required by zoning.

The Green District will incorporate many green design features. In addition to bringing high end housing options to Marlborough's workforce, they will be a great contributor to the City. They estimate real property tax revenue for the two phases at 1.4 million per year. In addition, they have agreed to make certain payments to the City associated with this project. To reduce the required number of affordable units at the property from fifteen to ten percent, the project plans to pay \$50,000 per reduced unit that is consistent with the affordable housing zoning ordinance and that total payment would be just over \$2.8 million. The payments may go to a City fund designated by the Council such as the City's Public Safety Capital Stabilization account with a preference a west side fire station.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 7, 2019

ORDERED:

PAGE 2

This is a large project and prior to applying for the Special Permit and Site Plan Approval, they met with the City's professional Site Plan Review Committee. They attended four meetings with that group and anticipate a recommendation from them later in the week, allowing them to begin working with the Urban Affairs Committee on further project review.

Project engineer Joe Peznola of Hancock Associates with offices at 315 Elm Street in Marlborough reviewed the Site Plan. The site is twenty-eight acres, bounded to the north by the off and on ramp system to Route 495 and Simarano, to west by Simarano, the south by Cedar Hill, the east by the Stone Gate property, and some property in Southborough. The project includes two main sites, each site will have a building. Site one is along Simarano Drive with parking fields along the main access road into the site by Simarano. There will be one access point which is coincident with the gravel roadway, built years ago for a Boston Properties project that never came to fruition. They created the design such that the spine road will be in the same general location and serve as the main entrance to project. Site one has two-hundred-thirty-five units and three-hundred-seventy-seven parking spaces and of those spaces, there will be some in small garage buildings scattered throughout the site. These one-story buildings will have upwards of six parking spaces inside them with demising walls between and tenants can rent those spaces. Access to the site is from the main access road in two locations along the east-west wing of the building. They have worked with the Fire Department to ensure the fire trucks can maneuver through the site and provide access everywhere they need to go to as well as hydrant locations and other site aspects that the Fire Department always look for. The site will feature a center courtyard and other amenities the landscape architect will review. Site two is two-hundred-forty units with three-hundred-eighty-nine parking spaces on that site. The access to site two is via the roadway that comes in off Simarano Drive, past site one to site two. Site two is proximate to the Stone Gate property and there is an emergency access that currently exists through this site through Stone Gate and it will continue to service the Stone Gate property as far as the ability to bring emergency vehicles through their site to continue to access at that location. Site two also had eight small one-story parking garages with six parking spaces in them. They have worked with the Fire Department to ensure access around the site is ample for their needs as far as maneuvering and hydrant locations. This site also features a center courtyard that the landscape architect will review.

Mr. Peznola stated they are fully compliant with all zoning requirements for the Executive Residential Overlay District (EROD). They have in excess of what is required for parking as the district requires one space per bedroom and site one has three-hundred-ten bedrooms and site two has three-hundred-nineteen and they have more than the required amount at each site. They are looking for one waiver, part of the parking lot at site one goes into the setback to Simarano Drive but it is in an area where there is a wide right of way and they are more than forty feet from the paved surface of Simarano Drive, so it is a nuance with regards to the configuration. Mr. Peznola concluded his overview of the site layout.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 7, 2019

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ORDERED:

Joel Bargmann of BH+A explained there are two buildings on either side of the central wetland that defines the property. Instead of trying to fight the wetlands, these buildings embrace the wetland, they anchor it, define the edges and courtyards and open up to it. The green features of the buildings are not just additive, it is respecting the site and trying to get the best of what is there. The building on Simarano Drive, is a little more urban with entry scape along the ground floor of the building, doors, entries, canopies, and awnings. The building that is on the other side, the inboard side of the wetland about three-hundred feet away is a more New England type structure, sort of Mills, Farmhouse architecture invocative of the far side of the wetland as opposed to the Simarano Drive side of the site.

Eric Rains, of **Eric Rains Landscape Architecture**, is the landscape architect for the site. Mr. Rains showed an image of the courtyard for building one and he explained they are taking advantage of the configuration of the building in that they want the amenity space, which is for the residents to have a direct connection to the natural components of the site, which are the wooded and wetland areas and the pond. The building is open, on the eastern side, and they laid out the amenities within the courtyard from that point moving inward. The courtyard could have elements such as a swimming pool, outdoor cooking area, lounging areas of various sizes, and oftentimes a fire element such as a fire pit. They make the spaces as flexible as possible, so that the residents can use them in as many ways as they like. Mr. Rains reviewed the area for building two. For building two, the opening is on the west side facing towards the natural elements of the pond and the wooded areas. Access for the residents could be through that area if they chose to leave the courtyard and enter the pedestrian trail. The courtyard for building two would contain similar elements as those for building one.

Andy Montelli of Post Road Residential gave a brief review of his history in Marlborough and the development of the Stone Gate project and his goals for this project. He explained for this project, the decision makers own the company and are located in the same area and not across the country. His belief was their customers for the Marlborough location are the same as the customers who live in Cambridge, Somerville, or South Boston except they happen to have a job located on the Route 495 corridor and not in the Sea Port District or Kendall Square. They are setting the bar for what they plan to build very high, at the same level as those building located close to Boston which are more expensive to build, require higher rents to pay off. They believe that market exists in Marlborough, but nobody has built for it yet. They believe they can build two communities to exceed what has been done to date in the 495 market. He provided examples of other projects he has built in the area. He spoke on the benefits of these buildings and their appeal to a wider market.

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



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 7, 2019

ORDERED:

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QUESTIONS FROM THE PUBLIC

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

PUBLIC SPEAKING IN OPPOSITION

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

QUESTIONS FROM THE CITY COUNCIL

✓ Councilor Juare was in favor of the mitigation money being put towards the much-needed west side public safety facility. He requested they provide information on the expected impact this type of facility will have on the school system when they appear before the Urban Affairs Committee. He did not anticipate a huge traffic issue due to its proximity to 495.

✓ Councilor Landers was impressed with the apartment part of the building and especially the courtyards and their ability to attract people from Boston and the surrounding area. He thought it looked like a very ambitious project and eye catching.

✓ Councilor Robey had several questions and some comments. She has attended the Site Plan Review Committee meetings and one of the issues raised was the continuation of the driveway which they are calling an access road. She explained that everyone on Site Plan would like the road that ends after building two, where there is supposed to be a gate, to continue around to Cedar Hill Street. The developer is requesting it remain as is and Site Plan does not have the ability to mandate that requirement, but the City Council can require it. She would support Site Plan's request as she understands their concerns and she does not understand why they do not want to pave it and maybe they can explain their reasoning.

Councilor Robey explained they received a letter from the Community Development Authority requesting information about projects happening in the City. They are concerned about the City's ability to meet 40B requirements and she was hoping they would meet the requirement and not offer the buyout.

She stated schools were also discussed at Site Plan and it was not clear whether the bus would come on site or not and if not, there was concern about the student pick up. She was also looking for expected student numbers and whether the bus would be able to go on site.

✓ Councilor Doucette asked if their property extended into Northborough. Mr. Falk stated the property extends into Southborough, but they are not developing that portion of it at this time. Councilor Doucette if all the units were single floor living which Mr. Falk confirmed.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 7, 2019

PAGE 5

ORDERED:

✓ Councilor Oram's first question was related to the entire site and whether they planned to clear cut and then restore the green space. Mr. Peznola stated there would be some need to cut down some vegetation on the other sites, to the south of the spine road for some drainage facilities but just in those areas but the majority would be left uncut.

Councilor Oram's next question was related to the sprinkler system and whether all units would have a sprinkler for fire safety which was confirmed.

Councilor Oram referenced page 13 and it states a lot of "May" and not "Shall" statements and that it be clarified as to what will be part of the project.

Councilor Oram agreed with Councilor Robey about the concerns of Site Plan about the emergency access that would benefit the residents.

Councilor Oram was also interested how this project would affect their 40B ratios at this time.

✓ Councilor Dumais' question was regarding the proposed emergency access that connects to Stone Gate and how it would be regulated for emergency only? Mr. Falk stated it is currently gated and would continue to be gated. It is accessible by the Fire Department for emergency access only but not for residents to cut through.

✓ Councilor Ossing's understanding was there will be a ten percent affordable component to this so there will be a net zero change to the affordability in the City. It is the fifteen percent that is required for the regulation and that the applicant has requested relief from that additional five percent. The affordable units in the City will not be impacted by the addition of this particular property.

✓ Councilor Delano stated this will be taken up in Urban Affairs Committee and he thanked Councilor Ossing for his clarification. There will be a net no change in affordable units. Councilor Delano has been asking developers for help on the west side for the fire station. Before he leaves, he would like about \$2.5 - 3.0 million coming in for the fire station from the developers.

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. 19-1007762A
X 19-1007763

_____, 2019

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. # 19-1007762

Application of:
Post Road Realty, LLC

Locus:
107 Simarano Drive, Marlborough, MA
Parcels 5, 11, and 12 on Assessors Map 116

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Post Road Realty, LLC, with a mailing address of 11 Unquowa Road, Fairfield, CT, as provided in the **DECISION** and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2019

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2019.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

A TRUE COPY
ATTEST:

City Clerk

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

Application of:
Post Road Realty, LLC

Locus:
107 Simarano Drive, Marlborough, MA
Parcels 5, 11, and 12 on Assessors Map 116

**DECISION ON A SPECIAL PERMIT
ORDER NO. 19-1007762**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Post Road Realty, LLC (the "Applicant") to build and operate a two-phase 475-unit multifamily dwelling residential project at 107 Simarano Drive, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Post Road Realty, LLC, is a Connecticut limited liability company with an address of 11 Unquowa Road, Fairfield, CT 06824.
2. The Applicant is the prospective owner of the property located at 107 Simarano Drive, Marlborough, Massachusetts, being shown as Parcels 5, 11, 78, and 12 on Assessors Map 116 (the "Site").
3. In accordance with Article VI, Section 650-36.D(2), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to build and operate a two-phase 475-unit multifamily dwelling residential project at the Site, in two buildings with 766 on-site parking spaces, open areas, walking trails, and residential amenities (the "Use"). As shown on the Site Plan referenced in paragraph 7 below, the Use consists of two development phases: "Site 1" with 235 units and 377 parking spaces and "Site 2" with 240 units and 389 parking spaces.
4. The Site is located in the Executive Residential Overlay District.
5. The Site has an area of 1,873,840 square feet +/- as shown on the Site Plan referenced in paragraph 7 below.

6. 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.

7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and the following plans: (i) a detailed site plan entitled "Green District Special Permit and Site Plan Approval" by Hancock Associates, comprised of Sheets 1 through 32, with the last revision date of _____, 2019 (the "Site Plan"); (ii) a set of architectural plans entitled "Green District" by Bargmann Hendric + Archetype, Inc., comprised of Sheets A100, A101, A102, A200, A201, and A202, SPL-1.1, SPL-2.0, SPL-2.1, SPL-3.0, and SPL-3.1, with the last revision date of _____, 2019; and (iii) a set of landscaping plans entitled "Green District" by Eric Rains Landscape Architecture, LLC, comprised of Sheets SPL-1.0, SPL-1.1, SPL-2.0, SPL-2.1, SPL-3.0, and SPL-3.1, with the last revision date of _____, 2019 (collectively with the Site Plan, the "Plans"), attached hereto as "Attachment A."

8. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, October 7, 2019. The hearing was closed on that date.

11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

12. 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 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, 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 build and operate a two-phase 475-unit multifamily dwelling residential project 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. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the City Council in accordance with Section 650-36 of the Zoning 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 of this Special Permit and conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. 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. Conditions imposed through Site Plan Review, as approved by the City Council, shall also be conditions of this Special Permit, and any violations of those conditions shall be violations of this Special Permit. In accordance with Section 650-36.H of the Zoning Ordinance, the Building Commissioner may approve minor modifications to the Special Permit and Site Plan.

4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council. The final architectural design of the Site shall be reasonably consistent with the Plans submitted by the Applicant. The final exterior features of the Site, including landscaping, shall be maintained in good condition and shall be reasonably consistent with the Plans submitted and representations made to 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. Affordable Units. Ten percent (10%) of the dwelling units at the Site shall be made available at affordable prices to renters, in accordance with the provisions of Section 650-26 of the Zoning Ordinance. In lieu of requiring that fifteen percent (15%) of the dwelling units at the Site be made available at affordable prices to renters, the Applicant shall provide a payment to the City of \$50,000 per affordable dwelling unit that would have been otherwise required under Section 650-26 of the Zoning Ordinance. For Site 1 of the Use, the number of applicable units is 12, for a total payment of \$600,000. For Site 2 of the Use, the number of applicable units is 12, for a total payment of \$600,000. The payments required by this condition shall be made prior to the issuance of a building permit for Site 1 and Site 2, respectively, and shall be payable to a fund or funds designated by the City Council prior to submission of each payment.

7. Multifamily Unit Payments. To mitigate any impacts associated with the Use, the Applicant has agreed to provide a payment to the City of \$3,500 for each multifamily dwelling unit at the Site. For Site 1 of the Use, the total payment shall be \$822,500. For Site 2 of the Use, the total payment shall be \$840,000. The payments required by this condition shall be made prior to the issuance of a building permit for Site 1 and Site 2, respectively, and shall be payable to a fund or funds designated by the City Council prior to submission of each payment.

8. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: _____ - Nay: _____ - Absent: _____

ADOPTED
In City Council
Order No. 19-1007762

Adopted: _____ 2019



IN CITY COUNCIL

Marlborough, Mass., AUGUST 26, 2019

ORDERED:

That the Application for Site Plan Approval from Post Road Realty, LLC for The Green District project to be built in the Executive Residential Overlay District (EROD), at 107 Simarano Drive, be and is herewith refer to **URBAN AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 19-1007763
X 19-1007762

City Council

CC: Councilors w/ Amended Decision

From: Thomas DiPersio
Sent: Thursday, October 24, 2019 2:05 PM
To: Falk, Brian R.; City Council; Priscilla Ryder; Jeffrey Cooke; David Giorgi; Kevin Breen; Frederick Flynn; John Garside
Subject: RE: Green District: Revised Decisions
Attachments: Green District Site Plan Decision - 10-21-2019 (A6222562x7A575) revTD.doc

City Council and Attorney Falk,

Site Plan Decision

The Site Plan Review Committee members met today to discuss the comments below and the proposed Site Plan Decision. Based on our discussion I can report that the SPRC is in general agreement with the gravel driveway approach with the condition as it is outlined below, with the following comments:

The SPRC is not in agreement with the driveway being gated. We feel that it should be open at all times, as this will help to ensure that it is maintained and plowed regularly. We have ongoing issues with other, gated "emergency access drives" in the City not being maintained. Signage can be added to the gravel way to indicate that it is a private way for residents only, to help address concerns about access by non-residents.

The SPRC is not in agreement with the condition as it is noted on the plans – which requires the City to provide advance notice and a 30 day compliance window. We feel that the need to keep the drive open and maintained at all times is critical, and the condition should be stronger.

Attached is revised Site Plan Decision documenting these comments. Please contact me with any questions.
Thank you

Thomas DiPersio, Jr., PE, PLS
City Engineer
Department of Public Works
135 Neil Street
Marlborough, MA 01752
Phone: (508) 624-6910 x33200
tdipersio@marlborough-ma.gov



From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Monday, October 21, 2019 5:27 PM
To: City Council <citycouncil@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Jeffrey Cooke <jcooke@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Frederick Flynn <fflynn@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>
Subject: Green District: Revised Decisions

Greetings,

Attached are revised drafts of the Special Permit and Site Plan decisions for the Green District project. The redline edits are based upon discussions last week with the Urban Affairs Committee and the Site Plan Review Committee with respect to the driveways, access ways, and walkways within the project site, and improvements within Simarano Drive. Please note the following changes:

Access to Cedar Hill Road:

- The access way between the residential buildings and Cedar Hill Road would be a gated, gravel emergency access way, allowing the project to remain below 10 acres of impervious area for purposes of expedited MEPA review. However, the Applicant would have a clear obligation to maintain the access way for emergency vehicles, and upon a report of noncompliance by the Fire Chief, the City Council may require that the access way shall be paved.
- In addition, following completion of Site 2, the Applicant must submit a traffic study, and the City Council has authority to require that the access way shall be paved and opened to the site's residents if warranted by traffic conditions.
- We believe that these conditions address the City's concerns regarding emergency access and traffic impacts, and give the City opportunities to further address these issues in the future, while limiting impervious areas at the site for the time being.

Internal Sidewalks:

- The Site must include sidewalks adjacent to the internal driveway made of stone dust or other pervious treatment.
- This approach provides more traditional pedestrian access within the site, while also limiting impervious areas.

Simarano Improvements:

- Both the cross walk improvements and left-turn lane within Simarano Drive must be completed as part of Site 1.

Affordable Housing and Mitigation Payments:

- The payment provisions of the Special Permit are now filled-in, with \$1,200,000 in payments to keep the project's affordable housing percentage at 10%, and \$1,662,500 in payments with respect to the multifamily use.

We appreciate further questions and comments from the Site Plan Review Committee. We are hoping to appear before the Urban Affairs Committee on October 29 with resolution on these issues.

Thanks,
Brian

Site Plan Permit # _____

Order No. # 19-1007763

Site Plan Approval with Conditions

Applicant: Post Road Realty, LLC (including its successors and assigns)

Property Owner: BP Crane Meadow, LLC

Location: 107 Simarano Drive (the “Site”) being shown as Parcels 5, 11, and 12 on Assessors Map 116.

Zoning District: Executive Residential Overlay District

Plans and Reports: The following Site Plan Approval Final Conditions are based on:

1. A set of plans entitled “Green District Special Permit and Site Plan Approval” by Hancock Associates, comprised of Sheets 1 through 32, with the last revision date of _____, 2019 (the “Site Plan”);
2. A set of architectural plans entitled “Green District” by Bargmann Hendrie + Archetype, Inc., comprised of Sheets A100, A101, A102, A200, A201, and A202, SPL-1.1, SPL-2.0, SPL-2.1, SPL-3.0, and SPL-3.1, with the last revision date of _____, 2019 (the “Architectural Plans”);
3. A set of landscaping plans entitled “Green District” by Eric Rains Landscape Architecture, LLC, comprised of Sheets SPL-1.0, SPL-1.1, SPL-2.0, SPL-2.1, SPL-3.0, and SPL-3.1, with the last revision date of _____, 2019 (the “Landscape Plans”); and
4. A report entitled “Traffic Impact and Access Study” by Ron Müller & Associates dated August 14, 2019 (the “TIAS”).

Project: Two ERO Phases in the Executive Residential Overlay District: “Site 1” shown on the Site Plan, consisting of a 235-unit multifamily dwelling, and “Site 2”, consisting of a 240-unit multifamily dwelling.

Other Permits: Special Permit issued by the City Council dated _____, 2019, authorizing a two-phase 475-unit multifamily dwelling residential project at the Site.

SITE PLAN APPROVAL FINAL CONDITIONS:

A. Site Conformance:

1. Construction of the Site shall be in conformance with the approved Site Plan,

Architectural Plans, and Landscape Plans, the provisions of Chapter 270 of the Code of the City of Marlborough, and the conditions stated herein.

2. All construction on the Site shall conform to the appropriate National, State and City of Marlborough codes and regulations in force for each respective discipline and be in accordance with the approved plans and permits. Codes and regulations shall include but are not limited to State Building, Plumbing, Wiring, NFPA, Zoning, DPW utility and roads, Noise and Signs.

B. Construction Staging and Safety Plan:

1. The Applicant shall complete the project in accordance with a Construction Staging and Safety Plan (the "Construction Plan") to be approved by the Building Commissioner, Fire Chief, Police Chief, and City Engineer.
2. The Construction Plan shall provide detailed information concerning: (i) any areas of the Site and adjacent property that will be marked off for the staging of construction vehicles, etc.; (ii) traffic management, detour routes if necessary, construction signage, pedestrian protection, blocked sidewalks, streets, etc.; (iii) construction fencing to enclose material and equipment; (iv) fencing and/or barricades to provide limits within the construction site for the separation of construction, pedestrian and vehicular traffic; and (v) a detailed plan to maintain emergency access to the Stonegate Residential Community through the Site at all times.

C. Green Building and Site Design:

The Applicant shall include the following green design elements at the Site:

- a. Electric vehicle charging stations;
- b. Nest (or similar) learning smart thermostats;
- c. Dedicated open space with nature trail and wetland habitat improvements;
- d. Secure bike storage and repair room;
- e. Bike share program;
- f. Dedicated ride share drop-off location;
- g. Resident composting and recycling program;
- h. Smoke free community;
- i. Full LED lighting throughout the Site;
- j. Oversized unit windows for maximum natural light;
- k. Low flow plumbing fixtures;
- l. Dual flush toilets;
- m. Energy Star (or similar rating) appliances;
- n. Low VOC carpet and paints;
- o. Panelized framing construction to limit waste;
- p. Rooftop and carport solar panels;

- q. Building lighting on occupancy sensors; and
- r. Solar cell-controlled site lighting.

D. Construction:

1. Preconstruction Meeting: Prior to the commencement of construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, Fire Chief, Police Chief, and the site-general contractor responsible for doing the workthe project. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls.
2. Use of Ways During Construction: Consistent with the Construction Plan, all areas for construction staging and offloading of building materials, as well as any excavations, long-term construction scaffolding, or other obstructions, shall be coordinated to maximize public safety and to minimize interference with the customary use of public ways by vehicles and pedestrians. Permits are required for any public street or sidewalk excavations or obstructions. The Police Chief shall have the discretion and authority to require additional protection and/or details as needed. The Applicant shall pay to the City the cost for every police detail which is provided by the Marlborough Police Department for the project.
3. OSHA: All Contractors shall abide by OSHA regulations as appropriate, including but not limited to OSHA-29 CFR, Section 1926.
4. Safety Official: The Applicant or its site contractor shall have on the Site at all times during construction a qualified Construction Safety Official. Prior to the commencement of construction, Applicant shall provide to the Building Commissioner the name and contact information of said Construction Safety Official.
5. Hours of Operation: In accordance with Section 431-3B. of the Code of the City of Marlborough, excavation machinery may be operated only during the normal workweek, from Monday through Saturday, except holidays, between the hours of 7:00 a.m. to 7:00 p.m., except Sunday when all use is prohibited except with variance by the Board of Health or as emergency work.

E. Storm Water and Erosion Control:

1. Erosion Control Expert: The Applicant shall hire an independent Erosion Control Expert to oversee work at the Site, with a proven record of controlling sites of equal size and equal material type. The erosion control expert shall be hired prior to construction and shall be an integral part of the preconstruction meeting.
2. Erosion and Sedimentation Control Plan: Construction shall proceed according to the Erosion and Sedimentation Control Plan set forth on Sheets 20 through 23 of

the Site Plan. Exposed areas on the site will be minimized and exposed areas stabilized as quickly as possible temporarily or permanently to ensure that the silt and sediment remain on site during and after construction.

3. NPDES: Since the project involves the disturbance of more than one acre of land area, the Applicant submit a Notice of Intent to the EPA for coverage under the NPDES Construction General Permit per EPA's requirements. Proof of submittal shall be provided at the preconstruction meeting noted above.
4. Catch Basins: All catch basins shall be equipped with gas/oil hoods and 4-foot sumps.
5. Protection of Roadways: Stone construction entrance pads and/or a truck washing station shall be in place at the exits onto the main roadways to prevent the tracking of mud and silt into the public roadway. Dust shall also be controlled on this site at all times. If dirt is tracked onto the roadway it shall be cleaned up immediately. A street sweeper shall be readily available.
6. The Erosion Control Expert shall be consulted when there is any discussion about or deviation to the overall plan and the erosion control plan to ensure that there is proper coordination with the site development and the erosion control and Stormwater management at all times.
7. The Erosion Control Expert shall be responsible for regular inspections of the erosion controls on at least a weekly basis and prior to and immediately after (within 12 hours) each storm event of 0.5 inches or more. Necessary repairs and maintenance of the erosion control devices shall be made expeditiously. These inspections shall be described in the reports required in the condition below.
8. The Erosion Control Expert shall report (by e-mail) to the Conservation Officer and City Engineer weekly, during construction, summarizing the work that has been completed, compliance of the project with the Site Plan and the status of the erosion controls. It will also include his/her recommendations on actions needed and report compliance with recommendations. Failure on the part of the Applicant to implement the recommendations made by the Erosion Control Expert will be a violation of the terms and conditions of this permit. The weekly reports shall begin as soon as the work begins on the Site. As construction progresses the reporting may be reduced at the discretion of the City Engineer and Conservation Officer.
9. The Applicant shall be responsible for notifying the Conservation Officer and City Engineer in an expeditious manner if any visible siltation enters the drainage system or leaves the site. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.

10. All large stockpiles must be maintained in a stabilized condition with erosion control in place and approved by the Conservation Officer. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long term stockpiles over 30 days will be shaped, stabilized and circled with erosion controls. The Erosion Control Expert shall be consulted to ensure that the stockpile locations are not interfering with drainage or erosion control during construction. The City Council understands that the site will shift and change during construction, but the erosion control expert must be on board with all such changes before they are made to ensure proper coordination.
11. The dewatering system to be used, if necessary, shall be approved by the Conservation Officer and once approved, properly installed. All silty water must be filtered through a dewatering/sedimentation trap system, until the water runs clean. At no point shall silty water be discharged into off-site drainage systems without first being filtered.
12. The issuance of this decision confirms compliance with Marlborough City Code Ch. 271 "Stormwater Management" and shall serve as the "stormwater management permit" as required in the ordinance.

F. Landscaping:

1. Modifications: All modifications to the approved Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
2. Boulders: Any large rocks or boulders encountered while excavating the site can be used as landscape features or crushed. Any excess boulders shall be disposed of properly off site.
3. Site Visit: Prior to the final signoff, the landscape architect shall provide an as-built planting plan and a letter of confirmation that the plan conforms to the approved plans. The Conservation Officer shall confirm by a site visit that the planting has been installed according to the approved Landscape Plans, or according to a revision thereto previously approved by the Conservation Officer.
4. Dog Park: The Conservation Officer and the City Engineer and shall work with the Applicant to ensure that dog park drainage and ongoing maintenance will not impact the drainage water quality. If changes or additional drainage are needed in this location based on this review, this shall be added.
5. Replacement of Plantings: Following 18 months of the date of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Applicant with a species of the same kind and size.

6. Mulch Placement: Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan.
7. Maintenance: Landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans at all times. This shall be an ongoing condition.

G. Setbacks:

Through this decision and in accordance with Section 650-36.C(2) of the Zoning Ordinance, the City Council elects to vary the 20 foot setback requirement applicable to a portion of the Site's parking area in the northwest corner of the Site along Simarano Drive as shown on the Site Plan, finding that such change results in an improved design and will not nullify or substantially derogate from the intent or purpose of Section 650-36 of the Zoning Ordinance.

H. Emergency Access Drive:

1. The Applicant shall provide a ~~gravel~~ gravel emergency access driveway (the "Emergency Access Driveway") between Sites 1 and 2 and Cedar Hill Road, as shown on the Site Plan.
2. Prior to the issuance of a certificate of occupancy for Site 1, the Applicant shall complete upgrades to the ~~gravel~~ Emergency ~~a~~Access ~~d~~Driveway between the second entrance to Site 1 from the access driveway and Cedar Hill Road, as shown on the Site Plan. The specification for the ~~gravel~~ surface used for the Emergency Access Driveway shall be: gravel in accordance with the U.S. Department of Transportation Federal Highway Administration's Gravel Roads Maintenance and Design Manual (November 2000) Table 2 page 42, or recycled asphalt product; to be approved by the Site Plan Review Committee~~TD21~~. Prior to the issuance of a ~~C~~certificate of ~~O~~occupancy for Site 2, the portion of the Emergency ~~a~~Access ~~d~~Driveway will be paved from Site 1 to just after the second entrance to Site 2 shall be paved and incorporated as part of the Site's main access driveway, as shown on the Site Plan.
3. Following the upgrades required under Condition H.2, the Applicant shall at all times maintain the Emergency Access Driveway in good condition, free from obstructions and vegetation, and free from snow, for purposes of accommodating emergency access to Sites 1 and 2 from Cedar Hill Road.
4. If the City's Fire Chief, Police Chief, City Engineer, or Building Commissioner ~~finds~~ that the Applicant has failed to maintain the Emergency Access Driveway as required under Condition H.3, the Fire Chief shall notify the Applicant and require that the Applicant bring the Emergency Access Driveway into compliance with Condition H.3. If the Applicant fails to bring the Emergency

Access Driveway into compliance with Condition H.3 within thirty (30) days after receipt of written notice from the Fire Chief, or an extended period of time agreed upon by the Fire Chief, the Fire Chief may submit written notification to the City Council and the City Council may order that the Applicant pave the entire length of the Emergency Access Driveway.

5. Within one (1) year following the issuance of a certificate of occupancy for Site 2, the Applicant shall provide to the City Council and the City Engineer a report by a professional traffic engineer concerning the Site's vehicular traffic conditions. Following submission of the report, the City Council may, upon finding that a second Site access driveway off of Cedar Hill Road is warranted to address unacceptable vehicular traffic conditions for the Site's residents, require that the Applicant pave and open the Emergency Access Driveway for use by the Site's residents as part of the Site's main access driveway.

I. Internal Site Sidewalks:

Prior to the issuance of a certificate of occupancy for Site 1, the Applicant shall provide a pervious sidewalk, constructed using stone dust or similar material, adjacent to the Site's access driveway from Simarano Drive to the second entrance to Site 1 from the access driveway, as shown on the Site Plan. Prior to the issuance of a certificate of occupancy for Site 2, the Applicant shall provide a pervious sidewalk, constructed using stone dust or similar material, adjacent to the Site's access driveway from the second entrance to Site 1 from the access driveway to the second entrance to Site 2, as shown on the Site Plan.

I.J. School Bus Access:

The Applicant shall make arrangements with the Marlborough Public School and its bus contractor to allow school buses to pick up and drop off students within the Site at main lobby entrances and not along Simarano Drive.

J.K. Simarano Drive Improvements:

1. Simarano Drive Crosswalk: As described in TIAS, prior to the issuance of a certificate of occupancy for Site 1, the Applicant shall install striped crosswalks across the Site driveway and across Simarano Drive with handicap-accessible wheelchair ramps to connect the proposed sidewalk along the Site drive with the existing sidewalk along the west side of Simarano Drive, with push-button activated, solar-powered, and double-sided Rectangular Rapid Flashing Beacons (RRFB) installed on both sides of the crosswalk, providing pedestrian warning signs and flashers on both sides of the road, in accordance with plans approved by the City Engineer.
2. Simarano Drive Widening: As described in the TIAS, prior to the issuance of a certificate of occupancy for Site 2, the Applicant shall install an exclusive left-

turn lane on the Simarano Drive southbound approach to the Site driveway, in accordance with plans approved by the City Engineer TD7.

3. Performance Security Bond: Prior to commencing any work within the Simarano Drive public way lay out (as described in ~~items~~ Conditions JK.1- and JK.2- above), the Applicant shall provide to the Building Commissioner a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the estimated cost of the work.
4. Insurance Certificate: Prior to commencing any work within the Simarano Drive public way lay out, the Applicant shall provide to the Chief Procurement Officer of the City of Marlborough a Certificate of Insurance, naming the City of Marlborough Department of Public Works, City Engineer, 135 Neil Street Marlborough, MA 01752 as an additional insured, in such amounts as are required by said Chief Procurement Officer, not to exceed \$2 million in the aggregate, for a liability policy concerning the Applicant's work on Simarano Drive, including but not limited to demolition, construction and/or reconstruction.

K.L. **Lighting:**

Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties.

L.M. **General Provisions:**

1. Drainage Inspection: Prior to requesting the first Certificate of Occupancy for Site 1 or Site 2, the Applicant shall clean all detention basins, drainage pipes, and catch basins of accumulated sediment and debris. All infiltration systems and water quality structures, shall also be inspected and cleaned as necessary. A site meeting with the Conservation Officer to inspect these structures is required before the Conservation Officer will provide a final signoff.
2. As-Built Plans: Interim utility as-built plans shall be submitted to the City Engineer prior to the a request for the first Certificate of Occupancy for Site 1 and at the completion of each phase of the project showing the critical utility connections to ensure that in the interim the City Engineer has all the utility tie information available. When the project is complete an as-built plan must be submitted to the City Engineer for review prior to the first final Certificate of Occupancy for Site 1 or Site 2. The as-built plan shall be prepared in accordance with the As-built plan standards established by the City Engineer which can be found on the city's web site.
3. Stormwater Management and Maintenance Plan: Prior to the issuance of the final Certificate of Occupancy for Site 1 or Site 2 the Applicant shall provide the City Engineer and the Conservation Officer with the final Stormwater

Management and Maintenance Plan, as outlined in the project's drainage report. The Applicant shall also include a copy of the snow storage locations and snow removal protocol for the Site. The name, address and phone number of the contract person who will be in charge of authorizing the annual maintenance shall be provided to the Conservation Officer and City Engineer.

4. Annual Reports: An annual maintenance report shall be provided to the City Engineer and the Conservation Officer by June 1st of each year reporting on the maintenance and operation procedures, outlined in the Stormwater Management and Maintenance Plan, which have been met for that year. This reporting requirement will follow the issuance of the occupancy permit.
5. Time for Completion: Work as provided for on the Site Plan shall be carried into effect and [work on Site 1](#) completed within three (3) years following the date of issuance of ~~thea B~~[the Building Permit for Site 1](#), unless the City Council has, in writing, granted an extension of time for completion of the work.
6. Signage: Pursuant to Section 650-34.I. of the Code of the City of Marlborough, the City Council hereby retains jurisdiction over all signage of the project to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council which must meet the requirements of Section 650-34.I. of the Code of the City of Marlborough.
7. Changes to Approved Site Plan: In accordance with Section 650-36 of the Zoning Ordinance, the Building Commissioner may approve minor modifications to the Site Plan. Any changes to the approved Site Plans, including "Construction Drawings", must be distributed to the Site Plan Review Committee to ensure that City inspectors have current plans at all times^[TDS].
8. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 9, 2019

ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 21, 2019** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Brian Falk, on behalf of One Energy, Inc., to authorize the alteration of a preexisting nonconforming gas station use, to a gas station, convenience store and restaurant/café use at 121 Bolton Street, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE.**

Ninety days after public hearing is 01/19/20 which falls on a Sunday, therefore 01/20/20 would be considered the 90th day.

ADOPTED

ORDER NO. 19-1007780



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 1

ORDERED:

That the PUBLIC HEARING On the Application for Special Permit from Attorney Brian Falk, on behalf of One Energy, Inc., to authorize the alteration of a preexisting nonconforming gas station use, to a gas station, convenience store and restaurant/café use at 121 Bolton Street, Order No. 19-1007780, all were heard who wish to be heard, hearing closed at 8:37 PM.

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

PUBLIC SPEAKING IN FAVOR

Arthur Bergeron, attorney from Mirick O'Connell, appeared on behalf of One Energy, Inc. and introduced Mark Diarbakerly, owner of One Energy, Inc., Diane Nelligan, project manager at One Energy, Inc., Paul Sylvia, engineer at Ayoub Engineering, and Brian Falk, attorney at Mirick O'Connell.

One Energy, Inc. owns the existing gas station on Maple Street and approached Mr. Bergeron about updating this site. Mr. Diarbakerly was in discussions with Mr. Brown, the current owner of the site, and Mr. Bergeron explained there would be no chance of success unless the neighbors were in favor. Mr. Bergeron and Mr. Diarbakerly met with the Buckleys and several other neighbors at their home and discussed this project and all of its possibilities. Their issue is, they are requesting a special permit in order to change a prior non-conforming use, as it has been a gas station since World War II, by converting it into a station that also has a food element to it. In general, the neighbors were excited about the change, but they did have some concerns. Their concerns included limiting the hours which was also a concern of the ward councilor, President Clancy. Mr. Bergeron presented a slide with what they were planning on with the site, Mr. Diarbakerly was going to talk about his plans, and Mr. Sylvia was going to talk about any of the engineering issues he thought were salient to the discussion.

Mr. Diarbakerly has been part of the community for the past thirty years, since September of 1989. He feels he is part of the community and would like to continue to contribute to it such as his support of the Boys and Girls Club. He explained they would like to modernize the station. They have worked with Mr. Brown to accelerate the clean up of the site as it was a nightmare for the City as it was highly contaminated. Currently, the cleanup is complete at the site. They would like to take the existing bays and add a convenience store, take the existing four pumps (in actuality five pumps) and maintain the same number of pumps at the site except turn the orientation of the pumps, and add a significant amount of landscaping and make it a family friendly location and an inviting location. They are seeking the Council's help and support to make the site an attraction and not the eyesore that exists right now.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 2

ORDERED:

Paul Sylvia, of Ayoub Engineering in Pawtucket, Rhode Island, tried to highlight some of the salient features of the site. The planned landscaping will be a vast improvement of what is there now, with more greenery and less impervious area which means less paving and therefore less runoff from the site. The site will have a drainage system that captures all the runoff and all the water is going to be pretreated and then reintroduced back into the ground to recharge the water table in the community. Their drainage system has been designed for up to a hundred-year storm which is a typical state drainage requirement. Also, there will be brand new underground fuel storage tanks, a double wall, fiberglass, state of the art system with a typical lifespan of twenty-five to thirty years, so the way they are constructed plus the fact of the way they are monitored is going to preclude the possibility of leakage that was previously experience at the site. Mr. Sylvia also stressed there will be no drive-through at the site. Drive-throughs tend to cause problems due to the stacking of cars and people backing into the road.

Mr. Bergeron concluded by emphasizing they are proposing this change because of the section of the zoning ordinance that allows the City Council by special permit to allow a change or expansion of one nonconforming use to another. This land is zoned residential and there is zero chance that this lot will ever be developed as a residential site having been a previous gas station. This site will most likely remain as it is unless the City Council approves the site for a similar use. The neighbors are aware of this and felt strongly that this seems like a sensible way to improve the site.

Michael Buckley, 104 State Street, directly abuts the gas station. Considering the history of the site, Mr. Buckley never thought he would support another gas station at this site. However, the representative of One Energy sought out the advice and recommendations from the neighborhood before even applying to the City. Mr. Buckley explained they asked for privacy fencing, moving the State Street access to the station further towards Bolton Street, no twenty-four-hour operation, and no drive-through service which they agreed to without any reservations. One point five million of tax money was spent to clean up the property and it still was not clean, and One Energy agreed to finish the clean up at their expense. Mr. Buckley was not pleased that the perpetrator of the disaster was not held fully responsible, but it alleviated the possibility of the cleanup falling to the taxpayers of Marlborough when the property would be seized for blight and tax delinquency. He urged Councilors to expediate passage of the special permit to remove the scourge of their neighborhood and the City. The day the old station is razed will be a day of closure for them and a fresh start for the City.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 3

ORDERED:

Karen Buckley, 104 State Street, spoke in favor of the special permit for 121 Bolton Street. The members of the Council are well aware of the devastation caused by the massive gasoline spill in April of 2012 to them, their neighbors, and the City of Marlborough as a whole. They now need to move forward, and the Council has the opportunity to approve the special permit and move forward with a state-of-the-art gas station with the added benefit of having the contamination blight of the City's landscape cleaned up without the use of taxpayers' dollars. There is a reputable buyer who is willing to buy the massive eyesore on Bolton Street and a company that has sought out the abutters and asked them what they wanted. They want Marlborough to move forward, and there is a plan for this site, and she requested the Council approve their special permit. The Gaulins who live on Chandler Street, who are both in their nineties, called Mrs. Buckley and asked her to let the Council know, they were also affected by this spill and their house was also contaminated and they would also like this special permit to pass. She thanked the Council for their consideration.

Patrice Williams, 98 State Street (next to the Buckleys), reiterated everything Mr. and Mrs. Buckley said, and she wanted to speak for One Energy. Ms. Williams knows Mark Diarbakerly, since about 1995, and she worked for him at his other gas station. Mr. Diarbakerly is on top of everything when it comes to his property and he keeps a clean property. When anything happens at his station, he is on top of it, when he has a spill, he reports everything, unlike the previous owner of the gas stations. Mr. Diarbakerly is the type of person that acts like he lives in the neighborhood and treats the neighbors like he is one of them and not just someone who has a property they profit from. He truly cares about the neighbors and a great businessman with a solid background. He owns a number of other stations, and they have never had a problem with any of them.

Mr. Buckley presented a letter from the Butka family, the owners of Bolton Street Liquors which is right across the street from the station. They could not attend the public hearing but sent a letter for the record that they do support the new station.

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



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 4

ORDERED:

QUESTIONS FROM THE PUBLIC

Bruce Hanahan, 97 State Street, asked if there were any plans to deal with the increase in traffic that is bound to occur on State Street as they already have a problem with excessive traffic. They already have people doing fifty miles per hour and it is used as a cut through because of the traffic light on Bolton Street and Union Street is terrible too because everyone wants to avoid that traffic light. Mr. Hanahan explained the traffic problems on State Street and the lack of resolution of its issues. He has no problems with the station itself, but the traffic is a problem for him

Mr. Falk explained they feel as though the improvements to the site in terms of the curb cuts and realignments of the pumps will improve the traffic flow in and out of the site. They do not feel the impacts will be a substantial burden on the existing traffic issues on that street. Beyond that, in terms of improvement or changes to Bolton Street, that is not something they have taken into consideration for this project. But the site improvements will not worsen the situation and should make flow in and out of the site better. Mr. Hanahan responded that Bolton Street is what it is, a busy road, but State Street should not be a busy road and that is his concern, State Street.

Martha Nowakowski, 30 Fowler Street, concern was regarding the traffic at that intersection because she travels that way and it is very difficult. She wanted to know about their signage, as the existing signage that was there, was pretty high, pretty bright, and it shined right through the streets right into her bedroom. She wanted to know about their hours and the annex they are going to have for their food, and could they expand.

Mr. Falk clarified it was going to be a convenience store with food service. The application says restaurant, it was something the Building Commissioner wanted them to include, but it is not intended to be a traditional restaurant, but a convenience store that will have food, prepackaged and prepared. The hours of the station will be 5:00 A.M. to 10:00 P.M.

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

PUBLIC SPEAKING IN OPPOSITION

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

QUESTIONS FROM THE CITY COUNCIL

✓ Councilor Irish had two items for them to consider, the first being with the convenience store mixed with the gas station, for there to be clear markings on the pavement as well as signage to direct those in the queue for fueling which may offset some of the traffic on Bolton Street. Also, he requested they consider omitting the pump for diesel fuel as that may free up some space of the queue for traffic.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 5

ORDERED:

✓ Councilor Robey requested clarification on the number of pumps. Mr. Falk explained it will be five total pumps as one of the islands will have two pumps and room for eight cars total.

Councilor Robey also asked about the ordinance and they can approve something so long as it is not more than twenty-five percent than what currently exists. She cannot tell from the plans if that is accurate and reminds them of this requirement. It also states floor and ground area, she does not know what ground area means, and they should be prepared and meet the standard. Councilor Robey drives the area on a pretty regular basis and to have it cleaned up will be a great idea. She is not sure what to do about State Street because there are many streets in Marlborough that are cut throughs because nobody wants to wait where the roads are busy.

✓ Councilor Oram had several questions:

- His first question was related to the site cleanup and what is the status? Mr. Diarbakerly stated in order to meet the State DEP requirements, after the site is cleaned up, there will be three test periods to confirm the site is totally clean. They are currently in that process. The state requires three additional samples, samples of the ground water, to confirm there is no residue and there is nothing left.
- Councilor Oram wanted to see what the signs would look like with illumination.
- Councilor Oram noted the dumpsters are located towards one side. He requested the Chairman of Urban Affairs address delivery times and trash pickup times to ensure they do not disturb the neighbors.

✓ Councilor Juairé asked the applicant about their time frame if the special permit is approved. Mr. Falk responded as soon as possible once they go through the State process. The old tanks are gone, and they plan to get the new tanks installed as soon as possible.

✓ Councilor Ossing stated he will bring Mr. Hanahan's concerns to the Traffic Commission. The applicant is right in that this project does not affect State Street, but it will be brought to the Traffic Commission's attention to see if additional monitoring can be done. Councilor Ossing thought Mike and Karen Buckley said it well, cleaning up the site, tax revenue for the City, it will be a lot cleaner, and it is supported by the residents. He hoped it could move through the Urban Affairs Committee process quickly.

✓ Councilor Delano stated they will try and move this through Urban Affairs. He thought it was a bit of hubris to say that the possibility of any leak is precluded. Nothing is ever a guarantee. He would like to see some financial guarantees should the unexpected and unanticipated happen. Councilor Delano had concerns about the sale of tobacco products considering its proximity to a school and the proliferation of fake IDs.

Mr. Falk stated they had not planned that far ahead in terms of the programming of the Zoom Mart, but they were happy to hear questions and comments for any concerns.

Councilor Delano thanked the neighbors for speaking in support of this project. If they did not support it, they would not be having this discussion.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 21, 2019

PAGE 6

ORDERED:

✓ Councilor Tunnera asked if there were any updates regarding the abutters and are their homes safe now, have they gone through that whole process. If they find more contamination, who is going to take care of that?

Mr. Diarbakerly believed all the abutters sites have been cleaned, and their test wells have been sealed. So, no further action, as defined by the State is required at this time. Once they install new tanks, and the State certifies them, they will be reenrolled in the State fund to be reimbursed for any future spills. The new tanks will be double-walled, with an additional liner on the outside of the tanks. There is redundant monitoring, monitoring of the level of the product, and continuous testing of the tanks. All gas stations are continuously monitored and get tested every night. In addition, there are interstitial sensors, so if the primary wall fails, and the product goes into the secondary wall, then alarms go off to warn them that there is product in the secondary wall. All the piping is double enclosed in the tertiary wall and there are sensors underneath the dispensers and on top of the tanks, if there is any liquid in any part of the system, the alarms sound. If the piping leaks, there are pressure sensors that automatically shut the dispensers down. There are many safety features in a modern gas station.

There are no 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. 19-1007780A

City Council

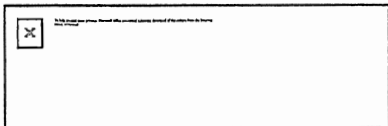
From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Friday, October 25, 2019 1:18 PM
To: City Council
Cc: Priscilla Ryder; Jeffrey Cooke; Thomas DiPersio; David Giorgi; Kevin Breen; Frederick Flynn; John Garside
Subject: 121 Bolton Street - Draft Decision
Attachments: 121 Bolton Street Special Permit Decision 10-25-19 (A6231363x7A575).DOCX

Greetings,

Attached is a draft decision for the 121 Bolton Street special permit. We look forward to meeting with Urban Affairs Committee on Tuesday, 10/29. We are happy to work with the Site Plan Committee members on any issues, and can appear before the Site Plan Committee on 11/5 to further discuss the project.

Thanks, and enjoy your weekend.

Brian



BRIAN R. FALK
Of Counsel
Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street | Worcester | MA | 01608-1477
t 508.929.1678 | f 508.983.6256
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Please visit our website: www.mirickoconnell.com

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_____, 2019

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. # 19-1007780

Application of:
One Energy, Inc.

Locus:
121 Bolton Street, Marlborough, MA
Parcel 289 on Assessors Map 57

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of One Energy, Inc., with a mailing address of 420 Lakeside Drive, Marlborough, MA, as provided in the **DECISION** and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2019

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2019.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

A TRUE COPY
ATTEST:

City Clerk

Ayoub Engineering, comprised of Sheets 0, 1, C-1, C-2, C-3, L-1, ER-1, TD-1, SG-1, SE-1, A1.0, A2.0, and A2.1, with the last revision date of _____, 2019 (the "Site Plan"), attached hereto as "Attachment A."

6. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. The Site is located in the Residence B Zoning District.

8. The Site has an area of 30,928 square feet +/- as shown on the Site Plan.

9. The Site's current gas station use is preexisting nonconforming, commencing prior to the adoption of the Marlborough Zoning Ordinance in 1956.

10. The Site is preexisting nonconforming with respect to lot coverage, having total impervious areas of 73.5% (the RB District has a maximum lot coverage of 30%). The Site Plan shows that the lot coverage associated with the Use would be 70%.

11. 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.

12. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, October 21, 2019. The hearing was closed on that date.

13. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

14. At the public hearing, three members of the public spoke in favor of the Use, one member of the public submitted a letter in favor of the Use, and no members of the public spoke in opposition to the Use.

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

A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the alteration of the Site from a gas station to the proposed Use would not be substantially more detrimental to the neighborhood than the existing nonconforming use.

C. The City Council finds that the preexisting nonconforming gas station use has not been abandoned for a period of two years or more.

D. The City Council finds that the proposed Use is not enlarged to more than 25% of the floor and ground area of the preexisting nonconforming gas station use at the Site.

E. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

F. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to alter the preexisting nonconforming gas station use at 121 Bolton Street to a gas station, convenience store, and restaurant/café as shown on the Site Plan filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Site Plan as may be amended during Site Plan Review.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Site Plan submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size, shape, or position of the building, or alter any fencing bordering the Site, all as shown on the Site Plan.

4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended

or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

6. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process.

7. Hours of Operation. The hours of operation of the Use shall not exceed 5:00 a.m. to 10:00 p.m.

8. Outdoor Seating. The Use may provide up to two outdoor tables with seating. If the Police Chief finds that the outdoor tables with seating unreasonably disturb neighboring properties, the Police Chief shall notify the Applicant and require that the Applicant remedy such unreasonable disturbances. If the Applicant fails to remedy such unreasonable disturbances within thirty (30) days after receipt of written notice from the Police Chief, or an extended period of time agreed upon by the Police Chief, the Police Chief may submit written notification to the City Council and the City Council may order that the Applicant modify or remove the outdoor tables with seating.

9. Trash Area. No trash pickup shall occur on Sundays. On Monday through Saturday, no trash pickup shall occur before 7:00 a.m. or after 6:00 p.m. The Applicant shall address the screening of the Site's trash area during the Site Plan Review process, provided that the trash area shall be concealed with concrete, cement, brick, or similar materials and landscaped to screen the trash area from neighboring properties.

10. Signs. The Site shall not contain more than one free-standing sign. This limitation shall not apply to on-premises directional and traffic safety signs.

11. 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: _____ - Nay: _____ - Absent: _____

ADOPTED
In City Council
Order No. 19-1007780

Adopted: _____ 2019

Approved by Mayor
Arthur Vigeant
Date: _____ 2019

A TRUE COPY
ATTEST: _____ City Clerk

City Council

From: Priscilla Ryder
Sent: Friday, October 25, 2019 6:19 PM
To: City Council
Cc: David Giorgi; Kevin Breen; Jeffrey Cooke; John Garside; Thomas DiPersio; Nathan Boudreau
Subject: RE: UPDATE FROM KBOULE: Urban Affairs -Bolton Street Gas Station and Green Housing

Hi Karen,

I have taken an initial look at the 121 Bolton St. plans and have the following general comments.

1. Landscaping – Conceptually the landscaping around the back and south sides of the project look adequate, however the landscaping along Bolton St. seems to be lacking trees to meet the city’s landscape requirements, I will be asking them to look at this during the site plan review process.
2. Site Cleanup – I will be asking the applicant to confirm that all cleanup related to the various gasoline leaks have all been closed out, I haven’t seen the final report yet, but anticipate it is done.
3. Drainage – through the site plan review process we will be looking at the drainage report and making sure it meets the states and local requirements.

The site plan review committee will be meeting on November 5th and can review in more detail the plans and any issues that may have arisen in your meeting on Oct. 29th related to this site and can forward them to you for your subsequent meeting.

Thanks!

Priscilla Ryder
Conservation Officer
140 Main St. City Hall
Marlborough, MA 01752
508-460-3768

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Thursday, October 24, 2019 12:58 PM
To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>
Cc: David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Jeffrey Cooke <jcooke@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>
Subject: UPDATE FROM KBOULE: Urban Affairs -Bolton Street Gas Station and Green Housing

Priscilla-

We are hoping to advise petitioner of any ‘special’ conditions that would be unique to the proposed gas station proposal next Tuesday when Urban has its first meeting on 121 Bolton Street. I believe councilors will have their own comments even without professional input at this time.

However, we would like to schedule them again on November 6 or 7 depending on councilors' availabilities. We cannot meet on election day as it is against our Rules. Falk advises Site Plan won't even look at it until November 5. I wondered why that was the case as Delano has been consistent about the professionals seeing it before Council to sort of clear the path for councilors. In any event, I will be asking for individual comments from all those listed in the city code whether or not you have met as a group. It will likely take at least two more meetings after next week so the committee can provide a collective update of the final draft to ensure the best possible decision for city and abutters.

KB

From: Priscilla Ryder <pryder@marlborough-ma.gov>
Sent: Thursday, October 24, 2019 9:23 AM
To: City Council <citycouncil@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: RE: Urban Affairs -Bolton Street Gas Station and Green Housing

Hi Karen,

We have not reviewed the 121 Bolton St. gas station at all yet in site plan. The first we've seen of this is the special permit application we all received copies of.

The Green district we should have some comments for UA regarding the roadway by the end of today. They still need to revise plans, which they said they would do after your next UA meeting to capture any other changes.

Thanks! Hope that helps.
Priscilla Ryder

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Tuesday, October 22, 2019 10:26 PM
To: Thomas DiPersio <tdipersio@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: Fwd: Urban Affairs -Bolton Street Gas Station and Green Housing

FYI—Are these projects ready for Urban?
KB

From: City Council <citycouncil@marlborough-ma.gov>
Date: October 22, 2019 at 10:22:06 PM EDT
To: "Brian R. Falk" <bfalk@MirickOConnell.com>, "Arthur P. Bergeron" <abergeron@mirickoconnell.com>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: Urban Affairs -Bolton Street Gas Station and Green Housing

When will you have Bolton Street draft decision ready? I'll be working with Chairman Delano tomorrow to schedule Urban meeting next week and week after. We should schedule these projects. What is status of site plan review for each of them?

KB