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CITY OF MARLBOROUGH
2018 NOV -1 P 2:18

1. Minutes, City Council Meeting, October 15, 2018, Order No. 18-1007438.
2. Minutes, City Council Meeting, October 29, 2018 – not completed.
3. Communication from City Solicitor, Donald Rider, re: Proposed Assignment of Retaining Wall Easement to 27 Jefferson LLC, Order No. 18-1007245C.
4. Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Special Permit – Garden Remedies, Inc. in proper legal form, Order No. 1007318D.
5. Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Site Plan Permit -Site Plan Approval with Conditions – 28 South Bolton St., Order No. 18-1007317.
6. Communication from Attorney Pezzoni re: Proposed Zoning Amendment regarding Multifamily Retirement Community, X-Order No. 18-1007198F.
7. Minutes, License Board, September 18 & 26, 2018.
8. Minutes, Traffic Commission, July 25, 2018.
9. Minutes, School Committee, September 25, 2018.
10. Minutes, Retirement Board, August 28 & September 25, 2018.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Urban Affairs Committee

11. **Order No. 18-1007317: Site Plan Application from Attorney Falk, on behalf of M&E Ventures Corporation (Marilyn Green) for a mixed-use project at 28 South Bolton Street in the Marlborough Village District.** The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk, Marilyn Green, owner and developer of 28 South Bolton Street, and the project architect and engineer for a discussion of the proposed mixed-use project. Atty. Bergeron gave a brief history of the project and how the project changed from the previous submission and the new building changed substantially with a contemporary look and lots of glass. Mr. Falk explained they met with the Site Plan Review Committee several times and they made changes based upon their requests and received a favorable recommendation from them along with a draft decision. The proposed structure will be thirty-six units, four one-bedroom and thirty-two two-bedroom units, with two retail and/or office spaces on the ground floor and an enclosed garage on the ground floor with twenty-nine spaces. They are short fourteen required parking spaces for the project and will pay the City a fee of \$140,000 in lieu of parking. The committee requested the applicant include a permit condition that a wireless tower will not be added to the site unless they come before City Council with a specific request for said use. Atty. Falk was requested to amend the draft Site Plan Approval with Conditions accordingly and to provide the revised decision to the Legal Department for their review. **Motion by Councilor Juare, seconded by the Chair to approve the Site Plan Approval with Conditions as amended. The motion carried 4-0 (Tunnera absent).**

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.

[Motion in order to suspend the rules to forward to the Legal Department requesting placement of the Site Plan Decision and documents, as revised, on the November 5, 2018 City Council agenda]

12. **Order No. 18-1007420: Communication from Councilor Ossing regarding Funding for New School, Library Renovation and West Side Fire Station.** Councilor Ossing presented to the Urban Affairs Committee a review of the upcoming bonds for the school, library, and fire station and their impact on the City's taxes and the potential revenue from projects before the City Council. The library bond must be approved by January 2019 or lose the State's matching funds and the fire station bond request is in process. There is a need for housing across the City and Councilor Ossing presented a table of potential projects that could pay for the bonds. How can the projects be bonded while being fiscally responsible, managing the City's budget, and providing the lowest possible tax rates. The discussion focused on potential projects and they should each be taken on their own merits not only for the present but the future. **Motion made by Councilor Juare, seconded by the Chair to accept and place on file. The motion carried 4-0 (Tunnera absent).**

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CITY OF MARLBOROUGH
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OCTOBER 15, 2018

Regular meeting of the City Council held on Monday, October 15, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juairé, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 9:40 PM.

ORDERED: That the Minutes of the City Council meeting September 24, 2018, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from the Attorney Norris, on behalf of Raphael Fischetti, to construct a new single-family dwelling at 89 Spring Street, Order No. 18-1007387, all were heard who wish to be heard, hearing closed at 8:09 PM.

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

ORDERED: That the Certification of Free Cash in the amount of \$8,877,451.00, **FILE**; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** MA Cultural Council grant in the amount of \$12,500.00 awarded to the City which allows local arts and cultural organizations to apply for grant funding; adopted.

ORDERED: That the Appointment of Fred Haas to the Library Board of Trustees, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Funding for a New School, Library Renovation and West Side Fire Station, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Municipal Aggregation – Six Month Fixed Price Contract with Direct Energy Services, November 2018 through May 2019, **FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Amendment – Ancillary Retirement Communities, Legal Effect of Written Protests, Order No. 18-1007287B, **FILE**; adopted.

ORDERED: That the Proposed Zoning Amendment – Ancillary Retirement Communities, in proper legal form, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit, 27 Jefferson LLC, to build and operate an 11-unit condominium building, 27 Jefferson Street in proper legal form, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED; That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Apex Center – Open Space Covenant and Restriction in proper legal form, **MOVE TO ITEM 42**; adopted.

ORDERED; That the Sign Change for Evviva Cucina to Evviva Trattoria, **APPROVED**; adopted.

ORDERED: That the Communication from the Planning Board re: Reserved Recommendation, Proposed Zoning Amendment, Ancillary Auto Sales, **FILE**; adopted.

ORDERED: That the Communication from the Planning Board re: Favorable Recommendation, Proposed Zoning Amendment, Ancillary Residential Community, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Sandra Colligan & Thomas Code re: request to withdraw application for Special Permit to demolish and rebuilt home at 21 Patten Drive, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the request to extend the reconstruction period of two years for 182 West Main Street, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney Falk, re: E on Main, Proposed Zoning change to the Marlborough Village District, **ADVERTISE AS CORRECTED**; adopted.

ORDERED: That the Application for LED Sign Special Permit for Main Street Bank, 81 Granger Boulevard, refer to **BUILDING COMMISSIONER, AND TO AMEND THE SPECIAL PERMIT**; adopted.

Councilor Delano recused.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 5, 2018** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Marlborough TOTG, LLC, to increase lot coverage area of 80% to 84% for patio area of proposed mixed use 5-story building with office/retail/restaurant space and residential units at 57 Main Street, refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Councilor Dumais recused.

ORDERED: That the Site Plan Application for Tavern on the Green, 57 Main Street, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

Councilor Dumais recused.

ORDERED: That the Communication from various residents re: Opposition of Proposed Farm Road Retirement Community Overlay District, Order No. 18-1007136R, X17-1006963C, **FILE**; adopted.

ORDERED: That the Communication from various residents re: Support of Proposed Farm Road Retirement Community Overlay District, Order No. 18-1007136R, X17-1006963C, **FILE**; adopted.

- ORDERED: That the request to extend time limitations on the Communication from Christopher White, re: request to extend time limitations on Application for Special Permit to construct a 24' X 26' garage on nonconforming lot located at 22 Brimsmead Street, until 10:00 PM on December 20, 2018, **APPROVED**; adopted.
- ORDERED: That the Communication from Attorney Bergeron on behalf of Garden Remedies, Inc. re: request to extend time limitations on Application for Special Permit to operate a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment within an existing retail unit at Marlboro Square, 416 Boston Post Road, until 10:00 PM on December 4, 2018, Order No. 18-1007318B, **FILE**; adopted.
- ORDERED: That the Communication from Scott Dales on behalf of Avalon Marlborough II. re: request to extend time limitations on Application for Special Permit to build a 123-unit Luxury Apartment Community, located on a portion of 200 Forest Street, until 10:00 PM on December 20, 2018, Order No. 18-1007314A, **APPROVED**; adopted.
- ORDERED: That the Communication from Goulston & Storrs re: Request to Extend Sewer Connection Permit at Marlborough, 100 Campus Drive, refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, October 29, 2018** as date for a **PUBLIC HEARING** on the Petition from Eversource Energy to install 775' of 6" IP plastic gas main as a system improvement on Stow Road from the intersection of Simpson Road to the intersection of Fitzgerald Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Minutes, School Committee, September 11, 2018, **FILE**; adopted.
- ORDERED: That the Minutes, Council on Aging, June 12, 2018, **FILE**; adopted.
- ORDERED: That the Minutes, Ad-Hoc Municipal Aggregation Committee, September 27, 2018, **FILE**; adopted.
- ORDERED: That the Minutes, License Board, August 15, 2018 & August 22, 2018, **FILE**; adopted.
- ORDERED: That the Minutes Historical Commission, October 4, 2018, **FILE**; adopted.
- ORDERED: That the Minutes High School Council, October 2, 2018, **FILE**; adopted.
- ORDERED: That the Minutes Planning Board, September 10, 2018, **FILE**; adopted.

Reports of Committees:

Councilor Tunnera reported the following out of the Personnel Committee:

Meeting Name: City Council Personnel Committee

Date: October 1, 2018

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

Convened: 5:30 PM – Adjourned: 6:05 PM

Present: Chairman Tunnera; Personnel Committee Members Councilors Irish and Landers; Councilors Clancy, Doucette, and Ossing

Order No. 18-1007401: Communication from the Mayor regarding Reappointment of Human Resources Director, David Brumby, for a term of three years to commence from date of City Council confirmation. David Brumby, Human Resources Director for the City of Marlborough, has been employed with the City for the past nine years and overall has over thirty years of human resources experience. **Motion made by Councilor Landers, seconded by the Chair, to approve the reappointment of David Brumby as Human Resources Director. The motion carried 3-0.**

Order No. 18-1007402: Communication from the Mayor regarding Reappointment of Collector, Eileen Bristol, for a term of two years to commence from date of City Council confirmation. Eileen Bristol, tax collector, has been with the City of Marlborough for almost two-and-a-half years and has worked for other municipalities for approximately twelve years in the capacity of collector/treasurer. **Motion made by Councilor Irish, seconded by the Chair, to approve the reappointment of Eileen Bristol as Collector. The motion carried 3-0.**

Order No. 18-1007403: Communication from the Mayor regarding Reappointment of Comptroller, Brian Doheny, for a term of three years to commence from date of City Council confirmation. Brian Doheny has been comptroller for the City of Marlborough for the past five years. **Motion made by Councilor Landers, seconded by the Chair, to approve the reappointment of Brian Doheny as Comptroller. The motion carried 3-0.**

Order No. 18-1007385: Communication from the Mayor regarding Appointment of Melanie Whapham to the Marlborough Historical Commission for a term of three years to commence upon City Council approval. Melanie Whapham explained a neighbor introduced her to the Marlborough Historical Commission and asked if she would like to be a member. Melanie has been a resident since 1980 and has appreciated the Marlborough community in her years here. **Motion made by Councilor Irish, seconded by the Chair, to approve the appointment of Melanie Whapham to the Marlborough Historical Commission. The motion carried 3-0.**

Order No. 18-1007367: The Appointment of Monica Lucey to the Marlborough Cultural Council for a term to expire three years from date of confirmation. Monica Lucey lives and works at the Hillside School and has been a Marlborough resident for the past twelve years. She is currently the Dean of Faculty and Academics at Hillside and is looking for a way to be involved in the community outside of the school campus. **Motion made by Councilor Irish, seconded by the Chair, to approve the appointment of Monica Lucey to the Marlborough Cultural Council.**

Reports of Committee Cont'd:

Order No. 18-1007334: The Appointments of Samantha Perlman, Kathy Oliver Jones, and Gabriele Luzzi to the Cultural Council for terms expiring three years from date of confirmation and recognition of members Chair David Elmore, Sandra Pirie St. Amour and Kim Beauchemin for their services as their appointments will expire this fall. Samantha Perlman has lived in Marlborough her entire life, went to Marlborough Public Schools, graduated from Emory University in 2017, works in a civic engagement non-profit in Boston, and wanted to get involved and give back to her community. Gabriele Luzzi moved to Marlborough in the past year, loves the community and wanted to give back. Kathy Oliver Jones moved to Marlborough twenty years ago with the intent to stay for only five. She would like to give back to the community, see the City and diversity thrive, and become an active part of her community. **Motion made by Councilor Landers, seconded by the Chair, to approve the appointments of Samantha Perlman, Kathy Oliver Jones, and Gabriele Luzzi to the Cultural Council. The motion carried 3-0.**

Motion made and seconded to adjourn. The motion carried 3-0. The meeting adjourned at 6:05 PM.

Councilor Landers reported the following out of the Public Services Committee:

Meeting Name: City Council Public Services Committee

Date: October 1, 2017

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

Convened: 6:09 PM – Adjourned: 6:17 PM

Present: Chairman Landers; Public Services Committee Members Councilors Doucette and Irish; and Councilors Clancy, Juaire, Oram (arrived 6:11 PM), Ossing, and Tunnera; Tom DiPersio (City Engineer, City of Marlborough)

Order No. 18-1007323: Petition from Mass Electric and Verizon New England, Inc. to install new Pole #37-5, Stevens Street, for new electrical feed to the High School. Chairman Landers reviewed the provided diagram where it showed the pole to be coming in from the back driveway off Stevens Street and it would provide additional service to the high school. Tom DiPersio, City Engineer, explained it is an upgrade to the existing electrical service to the high school which comes off Stevens Street via LaFreniere Drive, there will be new transformers on the school property. A new pole needs to be installed to bring the riser down from the existing wires as there is currently too much equipment on the existing pole. The new service will come underground along LaFreniere Drive with new transformers in the general location of the existing transformers with new service into the building and the new pole will be located between two existing poles.

Motion made by Councilor Doucette, seconded by the Chair to request a Suspension of the Rules at the October 15, 2018 City Council meeting to vote on the petition.

Reports of Committee Cont'd:

Motion made by Councilor Doucette, seconded by the Chair to approve the petition for the installation of Pole # 37-5 on Stevens Street. The motion carried 3-0.

Motion made and seconded to adjourn. The motion carried 3-0.

The meeting adjourned at 6:17 PM.

Councilor Irish reported the following out of the Public Safety Committee:

Meeting Name: City Council Public Safety Committee

Date: October 1, 2018

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

Convened: 6:16 PM – Adjourned: 7:09 PM

Present: Chairman Irish; Public Safety Committee Members Councilors Tunnera (left at 6:56 PM) and Ossing; Councilors Clancy, Doucette, Juairé, Landers, and Oram; Tom DiPersio (City Engineer, City of Marlborough); David Giorgi (Police Chief, City of Marlborough)

Order No. 18-1007414: That officials from Eversource be invited to attend a meeting of the City Council Public Safety Committee to update the City Council on the status of gas lines and related infrastructure in the City of Marlborough.

-Submitted by Councilor Tunnera. Joanne O'Leary, Eversource Community Relations Specialist, Daniel Henry, Manager of Gas Operations, Joshua White, Manager of Emergency Preparedness for gas, Scott LaPlante, Manager of Instrumentation and Regulation, met with the Public Safety Committee for a discussion of gas safety within the City of Marlborough. Ms. O'Leary reviewed Eversource's gas emergency plan because no matter how safe their gas product, there may be situations with contractors and others that may create a situation for them where they must respond. It is how they respond and having a plan that makes things go smoothly. They also have maintenance plans, for how they look at their infrastructure to ensure to the City they have a safe system. Their response time for emergencies is an hour and they try to identify the problem and take care of it the same day. Eversource has a robust compliance program where they identify gas services that have aged and are at an accelerated point of corrosion and deterioration and work with individual customers to replace those systems on a timeline as part of their compliance program with the Department of Public Utilities. The Councilors continued the discussion with the Eversource representatives regarding the Marlborough infrastructure and coordinating their work with the City to ensure newly repaved roads are not unnecessarily disturbed. They also discussed notification procedures for residents and how to work with the City to ensure residents are aware of any issues.

Motion made by Councilor Ossing, seconded by the Chair, to accept and place on file. The motion carried 3-0.

Reports of Committee Cont'd:

Order No. 18-1007413: That the Public Safety Committee meet with the Chief of Police to discuss the feasibility of adopting a Do Not Knock Registry in the City of Marlborough which would allow residents to submit their property for inclusion on a No Solicitation Registry. Upon approval and issuance of a City of Marlborough door-to-door solicitation permit, each salesperson would be provided with a copy of the No Solicitation Registry. -Submitted by Councilors Oram and Juaire. Police Chief Giorgi explained Bellingham has a similar program which runs through their City Clerk's Office; however, Marlborough would have their registry go through the Police Department since they issue door to door solicitation licenses. They would put a link on the Police Department's City webpage where residents could register on the no solicitation registry (Do Not Knock) and solicitors would be issued the list when they receive their licenses at the Police Department. The Police Chief also stated a paper registration could occur for residents who do not have access to a computer and a reverse 9-1-1 call could be used to notify residents of the Do Not Knock Registry and how to sign up.

Motion made by Councilor Ossing, seconded by the Chair, to allow the Police Department, at their discretion, to setup a registry for residents to sign up for a Do Not Knock List. The motion carried 2-0 (Tunnera absent).

Motion made and seconded to adjourn. The motion carried 2-0. The meeting adjourned at 7:09 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: September 25, 2018

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

Convened: 5:31 PM – Adjourned: 7:51 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Juaire, Landers, Doucette, and Tunnera; Councilors Clancy, and Ossing; Donald Rider (City Solicitor, City of Marlborough); David Giorgi (Police Chief, City of Marlborough); Cynthia Panagore Griffin (Assistant City Solicitor, City of Marlborough); Tom Coder (Cabinet Depot); Sandra Colligan (21 Patten Drive); William Pezzoni (Day Pitney); Brian Blaesser (Robinson + Cole); Arthur Bergeron (Mirick O'Connell); Brian Falk (Mirick O'Connell); Stas Burdan (27 Jefferson LLC); and Dr. Karen Munkacy (Garden Remedies Inc.)

Reports of Committee Cont'd:

Order No. 18-1007244: Application for Special Permit from Sandra Colligan, to demo existing house and build a new two-story home at 21 Patten Drive. The Urban Affairs Committee met with Tom Coder, Cabinet Depot – Southborough, and Sandra Colligan, owner 21 Patten Drive, for a discussion of their plan to build a new two-story home at 21 Patten Drive. The applicants had previously appeared before the Urban Affairs Committee on July 25th, August 8th, and August 21st where they were asked to provide an example of the planned height of the home for the neighbors (i.e. a balloon test or board that showed the final height). They were also asked to provide a rendering of the home at the site and letters of support from the neighbors. The ward councilor could not support the home as presented by the applicant as he felt the house as proposed was too large for the lot. The councilors proceeded to discuss that although the site would be enhanced by the demolition and construction of a new house, the proposed structure would be too high for the neighborhood and overshadow the property.

Motion made and seconded to amend the draft conditions to prohibit decks from either side of the house, the motion carried 5-0.

Motion made and seconded to approve the amended special permit decision, the motion carried 5-0.

Motion made by Councilor Juaire, seconded by the Chair, to deny the special permit application for a new two-story home at 21 Patten Drive. The motion to deny carries 3-2 (Juaire, Doucette, Delano in favor of denial) (Landers and Tunnera opposed to denial)

Chairman Delano explained to the applicant, this was a committee vote and the ward councilor was not in favor of the project. He advised them that it is within their right prior to the full City Council vote to withdraw without prejudice their application which would give them the ability to reapply for the special permit with a different design otherwise they would have to wait two years if the full City Council votes to deny the special permit.

Order No. 18-1007198E: Proposed Zoning Amendment, to Chapter 650 §5, §22.A, C as it pertains to a Retirement Community Overlay District, 90 Crowley Drive. The Urban Affairs Committee met with William Pezzoni, attorney for Jon Delli Priscoli and First Colony Development, the owner of the property, and Brian Blaesser, of Robinson + Cole for the purchaser of the property. Mr. Pezzoni provided his client's response to the MAPC report which reviewed the proposed amendments to the Retirement Community Overlay District and Use of the Amended Zoning to Develop a Project at 90 Crowley Drive dated September 10, 2018. Mr. Pezzoni believed MAPC did not have all the information regarding this specific site, specifically that the proposed zoning was restricted to certain areas and not City-wide as requested by the City Council, and he responded to each of their additional comments. Councilors then discussed applying this zoning in other areas of the City and their concerns about this specific proposal especially limited parking. Chairman Delano described his position that he was not in favor of the original proposal as it affected too large of an area and appreciated the reduced area suggested by the applicant; however saying he has become convinced this is not a good location for this type of housing and cannot support it.

Reports of Committee Cont'd:

Councilor Tunnera made a motion, seconded by the Chair, to approve the Proposed Zoning Amendment. The motion did not carry, 2-3 (Councilors Delano, Juairé, and Doucette opposed). The recommendation of the committee is to deny the proposed zoning amendment. The Legal Department advised the Chairman that a vote to deny the special permit application would be in order.

Motion made by Councilor Juairé, seconded by the Chair, to deny the Proposed Zoning Amendment to Chapter 650 §5, §22.A, C as it pertains to a Retirement Community Overlay District, 90 Crowley Drive. The motion carried 3-2 (Councilors Landers and Tunnera opposed).

Order No. 18-1007245: Application for Special Permit from Attorney Falk, on behalf of Jefferson Street Residences, 27 Jefferson LLC, to build an 11-unit, 2-story, multifamily condominium building at 27 Jefferson Street. The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell and Stas Burdan, developer of the project, to review the application for a special permit to build an 11-unit, 2-story, multifamily condominium building at 27 Jefferson Street. The applicant reviewed the heating system for the driveway as the committee previously requested additional information as to how it worked and if there would be run-off into the street. The water system is designed in such a way that no water is discharged into the City's system, there is a collection system connected to the gutters which collects the run-off therefore the drainage never leaves the driveway and does not enter the street.

Mr. Falk made changes to the draft decision based upon comments at their previous appearance before the committee and they also discussed a few additional changes:

- A new condition "15. Emergency Access" and their obligation to keep the walkways and driveway free from obstructions and vehicles. Walkways must be constructed of materials acceptable to the Fire Chief.
- A new condition "16. Notice to Residents Regarding Kelleher Field" shall stipulate in the bylaws to include an acknowledgment that residents will be next to an active recreational facility, Kelleher Field, and inclusion of language to note the park operates seven days a week.
- A new condition "17. Payment to the Recreation Department" which is a payment of \$15,000 to the Recreation Department for use at Kelleher Field.
- A new condition "18. Retaining Wall Easement" where the City's rights in an easement pertaining to an existing retaining wall situated along land on Jefferson Street be assigned to the Applicant; the Applicant shall then be responsible for the maintenance of said retaining wall.
- Condition "12. Sidewalk Reconstruction" would be modified as follows, "As Jefferson Street was recently reconstructed by the City, the applicant, its successors, and/or assigns shall repair and/or reconstruct the existing bituminous concrete sidewalk and the roadway where excavated and/or damaged as a result of site construction by the methods, to the limits directed by the City Engineer and set forth in the road opening permit for said construction."

Reports of Committee Cont'd:

- Condition "13. Fences and Retaining Wall" would be deleted as that item, removal of chain link fence, would not occur.
- Condition "14. Reconfiguration of Proposed Retaining Wall" would be deleted as that item is noted in the plan.

Motion made by Councilor Juaire, seconded by the Chair, to approve the special permit conditions for 27 Jefferson Street as amended. The motion carried 5-0.

Motion made by Councilor Juaire, seconded by the Chair, to approve the special permit decision for 27 Jefferson Street. The motion carried 5-0.

Motion made by Councilor Juaire, seconded by the Chair, to request a Suspension of the Rules at the October 15, 2018 City Council meeting to vote on the application. The motion carried 5-0.

Motion made by Councilor Juaire, seconded by the Chair, to request the Legal Department place in the application in proper form for the October 15, 2018 City Council agenda. The motion carried 5-0.

Order No. 18-1007318: Application for Special Permit from Attorney Bergeron on behalf of Garden Remedies, Inc., for a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment, 416 Boston Post Road East. The Urban Affairs Committee met with attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell and Dr. Karen Munkacy of Garden Remedies for review of their special permit application for a Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment at 416 Boston Post Road East.

Mr. Falk reviewed the changes to the special permit conditions from the previous version:

- A new condition "14. Police Detail" which requires a police detail at the site for the first sixty days after commencement of operations unless the Police Chief determines a detail is not required at certain times of the day.
- A new condition "15. Partial Use" which was in response to the Legal Department's question of what would happen if the facility were approved for medical use first and not adult use until a later date, this condition clarifies they would do a partial use by starting medical use once that license is obtained and commence adult use once that approval is received. Additional language to be included in the condition was as follows, "Similarly, if for any reason either of said uses ceases, either temporarily or permanently, the other use may continue."

The Police Chief described his review of the site and their security procedures and had no issues with the information provided to him. Chairman Delano requested the Police Chief have additional patrols in the area once the facility opens. Chairman Delano asked how enforcement of the age restriction is handled and Mr. Falk explained the Cannabis Control Commission has an enforcement division who administers the State law and Cannabis Control Commission regulations with respect to licensees. The discussion continued with the fact that the City of Marlborough Board of Health would have local enforcement of the facility and the City would not have to wait for the State to act if any violations were found.

Reports of Committee Cont'd:

Motion made by Councilor Doucette, seconded by the Chair, to approve the special permit conditions for Garden Remedies, Inc. as amended. The motion carried 5-0.

Motion made by Councilor Doucette, seconded by the Chair, to approve the special permit decision for Garden Remedies, Inc. The motion carried 5-0.

Motion made by Councilor Doucette, seconded by the Chair, to accept from Garden Remedies, Inc. the Agreement to Extend Time Limitations until December 1, 2018. The motion carried 5-0.

Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 7:51 PM.

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

Meeting Name: City Council Urban Affairs Committee

Date: October 2, 2018

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

Convened: 5:33 PM – Adjourned: 7:04 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Landers, Doucette, and Tunnera; Councilors Clancy, Dumais, Ossing, and Robey; Donald Rider (City Solicitor, City of Marlborough); Arthur Bergeron (Mirick O'Connell); Brian Falk (Mirick O'Connell)

Absent: Urban Affairs Committee Member Councilor Juare

Order No. 18-1007287: Communication from Attorney Falk, Mirick O'Connell, re: Proposed Zoning Amendment – Ancillary Residential Communities.

Attorneys Arthur Bergeron and Brian Falk of Mirick O'Connell met with the Urban Affairs Committee on behalf of their client, Williams Street Holdings LLC, the entity who owns the land subject to the ancillary residential community use if this zoning proposal moves forward. They discussed the history of the zoning and how it was removed from the city code several years previously. Mr. Bergeron explained this zoning amendment would allow for an Ancillary Residential Community on an adjacent parcel in an Overlay District and a special permit could be considered if there is support from the condominium association and it has been at least twelve months since the issuance of the last certificate of occupancy for that community. Chairman Delano read a letter from the City Engineer dated September 28, 2018 regarding the sewer connection for the subject property and then reviewed the suggested changes to the proposed zoning amendment:

1. In Section 650-5. B, insert the following new definition:

ANCILLARY RESIDENTIAL COMMUNITY

A single multifamily building containing up to thirty (30) dwelling units in a Retirement Community Overlay District that is located on a lot adjacent to a retirement community. No more than one (1) Ancillary Residential Community shall be adjacent to any retirement community.

Reports of Committee Cont'd:

3. (14) (a) An Ancillary Residential Community shall be permitted as a principal use through a separate special permit for a lot in a Retirement Community Overlay District adjacent to an existing retirement community provided that (i) the organization governing the adjacent retirement community provides written consent to the filing of such special permit application, and (ii) a certificate of occupancy for the final new dwelling unit in the retirement community was issued at least twelve (12) months prior to the date of such special permit application.
3. (14) (g) All site landscaping shall be designed so as to provide a clear sense of separation between the Ancillary Residential Community and the retirement community. Landscape design shall be given to the maintenance of existing trees and ground cover.

Attorneys Bergeron and Falk agreed to provide the City Solicitor with an amended copy of the proposed zoning amendment with the agreed changes to be placed in proper legal form for the October 15, 2018 City Council Agenda.

Motion made by Councilor Doucette, seconded by the Chair, to approve the Proposed Zoning Amendment for Ancillary Residential Communities as amended. The motion carried 3-1-1 (Landers opposed, Juairé absent).

Motion made by Councilor Doucette, seconded by the Chair, to request a suspension of the rules at the October 15, 2018 City Council Agenda to vote on the proposed zoning amendment. The motion carried 4-0 (Juairé absent).

Motion made and seconded to adjourn. The motion carried 4-0 (Juairé absent). The meeting adjourned at 7:04 PM.

Suspension of the Rules requested – granted.

ORDERED: That Petition from Mass Electric and Verizon New England, Inc. to install new Pole #37-5, Stevens Street, for new electrical feed to the High School, **APPROVED**; adopted.

ORDERED: That item #15 which is a Communication from Sandra Colligan & Thomas Code re: Request to **WITHDRAW WITHOUT PREJUDICE** for Application for Special Permit to demolish and rebuild home at 21 Patten Drive, **FILE**; adopted.

ORDERED: That the Application for Special Permit from Sandra Colligan to demo existing house and build a new-story home at 21 Patten Drive, **WITHDRAWN WITHOUT PREJUDICE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Special Permit, 27 Jefferson LLC, to build and operate an 11-unit condominium building, 27 Jefferson Street in proper legal form, **FILE**; adopted.

Suspension of the Rules requested - Granted

ORDERED:

**DECISION ON A SPECIAL PERMIT
ORDER NO. 18-1007245C**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to 27 Jefferson LLC (the “Applicant”) to build and operate a multifamily building at 27 Jefferson Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, 27 Jefferson, LLC, is a duly organized and existing Limited Liability Company having a business address of 110 Pleasant Street, Unit 100, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 27 Jefferson Street, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 56 as Parcels 160 and 173 (the “Site”). The Site’s current owner is the Donald C. Morris Trust, with a business address of 1047 Pikes Falls Road, Jamaica, VT 05343.
3. In accordance with Article VI, Section 650-17 and Section 650-18(4), of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to build and operate an 11-unit, 19,503± square foot multifamily condominium building with 24 underground parking spaces (the “Use”).
4. The Site is located in the Residence B Zoning District with frontage on Jefferson Street.

5. The Site has an area of 44,613 square feet +/- as per the City Council Special Permit 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, as provided in this Decision.
7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a detailed site plan entitled "City Council Special Permit Site Plan" prepared for 27 Jefferson LLC by Hancock Associates, 315 Elm Street, Marlborough, MA and dated February 8, 2018, last revised October 10, 2018 (the "Site Plan"), and a set of architectural plans entitled "Project: 27 Jefferson St. Residences" prepared by Khalsa Design, 17 Ivaloo Street, Somerville, MA and dated April 18, 2018 (collectively with the Site Plan, the "Plans").
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 be 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, June 18, 2018. The hearing was closed on that date. On August 27, 2018, the Applicant and the City Council agreed to extend the deadline for the Council to take final action on the Application to October 30, 2018.
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, two members of the public spoke in favor of the Use. No members of the public spoke in opposition to the Use. Further, the Applicant submitted a petition signed by nine residents of the neighborhood near the Site in favor of 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 multifamily building 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 in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
 4. Modification of Plans. Notwithstanding conditions #1 and #3 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, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.
 5. 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.

6. 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.

7. Owner-Occupancy. It shall be a condition of the by-laws of the condominium association governing the Use that all units that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium by-laws, and will provide that this section may not be amended. No occupancy permit regarding the Use shall be issued unless and until the City Solicitor has certified to the Building Commissioner that the condominium by-laws, along with the condominium master deed, have been recorded. The Applicant, including its successors and assigns, may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said units to tenants; provided, however, that:
 - a. No said unit shall be or continue to be rented after the fifth anniversary of the date of issuance of the occupancy permit of said unit;
 - b. No unit shall be rented or continue to be rented after the seventh anniversary of the date of issuance of the first occupancy permit for the site;
 - c. An executed "rent to own" contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit;
 - d. The Applicant, including its successors and assigns, shall continue to market the units as condominiums;
 - e. No sign at the Site shall market any units as being for rent; however "rent to own" signs are permissible so long as they are in compliance with City's sign ordinance without variance; and
 - f. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.

The term "Applicant, its successors and assigns," as used herein and for purposes of this Condition 7, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities.

8. Conditions Relating to Neighboring Properties. The following conditions are based upon the Applicant's discussions and agreements with the owners of properties located in the neighborhood of the Site:
- a. 60 Highland Street (Parcel 56-166): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 60 Highland Street. This new fence shall be connected to the existing chain link fence located near the boundary line with 64 Highland Street.
 - b. 50 Highland Street (Parcel 56-165): The Applicant shall install a berm of up to 2 feet, if/where possible, and install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 50 Highland Street.
 - c. 44 Highland Street (Parcel 56-164): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 44 Highland Street. The Applicant, or the successor condominium association, shall maintain the Site in good order and, except as may be specifically authorized herein, shall not grant an easement over the Site to abutting properties.
 - d. 23 Jefferson Street (Parcel 56-161):
 - i. The Applicant shall plant and maintain a hedge along and at a reasonable distance from the retaining wall that will be located above the new driveway connecting Jefferson Street to the new building garage, said reasonable distance to be sufficient to allow for the convenient maintenance of the hedge when it has grown to its mature height. The hedge location and plant type shall be mutually agreeable to the Applicant and the owner of 23 Jefferson Street, and shall at the time of planting be approximately three (3) feet in height and shall be maintained so as to not exceed five to six (5-6) feet in height at mature growth, said hedge to be located in substantially the same location as identified on the Plans. During the course of construction, the grade of the area on which the hedge will be constructed will be raised, but not to a grade that is higher than the current grade of the property at 23 Jefferson Street. The area in question will be planted after the completion of construction, but prior to the conveyance to owner of 23 Jefferson Street of an easement (described below).

- ii. The Applicant shall, within 30 days after the issuance of an occupancy permit for the Use, grant an exclusive use permanent easement extending from the side of the hedge fronting 23 Jefferson Street to the mutual property line with the Site, in a form acceptable to the Applicant and the owner of 23 Jefferson Street. Said easement shall be recorded at the Middlesex South District Registry of Deeds, with the cost of the easement preparation to be at the expense of the Applicant and the cost of recording to be at the expense of the owner of 23 Jefferson Street.
 - iii. The Applicant shall take care not to disturb and damage the wall located in front of and on the 23 Jefferson Street property during the construction process, and to assure that, to the extent that any portion of said wall that is on the Site is moved or removed as part of the driveway construction, the corner of the wall on the 23 Jefferson Street property will be rebuilt so as to be aesthetically appropriate. If any portion of the wall in front of or on the 23 Jefferson Street property is disturbed or damaged by the Applicant during construction, the Applicant shall restore the wall to its prior condition.
- 9. Lighting. Standard downward-facing lighting shall be used, with little to no light leaving the Site.
 - 10. Trash Pick-Up. Trash pick-up at the Site shall be once per week and conducted during business hours only.
 - 11. Delivery and Service Trucks. Delivery and service trucks shall conduct business at the Site during business hours only.
 - 12. Sidewalk Reconstruction. As Jefferson Street was recently reconstructed by the City, the Applicant, its successors and/or assigns, shall repair and/or reconstruct the existing bituminous concrete sidewalk and the roadway, where excavated and/or damaged as a result of site construction, by the methods and to the limits directed by the City Engineer and set forth in the Road Opening Permit for said construction.
 - 13. Emergency Access. The Applicant, its successors and/or assigns, shall keep the perimeter walkway around the building free from snow and ice for purposes of accommodating emergency access. Walkways shall be constructed using materials acceptable to the Fire Chief. The Applicant, its successors and/or assigns, shall keep the driveway area clear of vehicles and obstructions in order to accommodate emergency access, and shall impose any parking/towing restrictions deemed necessary by the Traffic Commission and/or Fire Department.
 - 14. Notice to Residents Regarding Kelleher Field. The Applicant, its successors and/or assigns, shall stipulate in the bylaws governing the Use an acknowledgement that residents will be living in a building adjacent to an active recreational facility, Kelleher Field, which is often used seven days per week.

15. Payment to Recreation Department. Prior to obtaining a building permit for the Use, the Applicant, its successors and/or assigns, shall make a payment in the amount of Fifteen Thousand Dollars (\$15,000) to the City's Recreation Department to be used for Kelleher Field.
16. Retaining Wall Easement. In the event that the City Council votes to assign to Applicant, its successors and/or assigns, the City's rights in an easement pertaining to an existing retaining wall situated along Jefferson Street on land described as Marlborough Assessors Map 56, Parcel 160 (27 Jefferson Street), Parcel 161 (23 Jefferson Street) and Parcel 162 (30 Highland Street), which easement is recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, the Applicant, its successors and/or assigns, shall at its sole expense:
 - a. perform any and all work in the future for the purposes of reconstructing, relocating, maintaining and/or repairing the retaining wall; and
 - b. record the City's assignment at the Registry, with a copy of the recorded assignment provided to the City Council's office, the Engineering Division of the Department of Public Works, and the Legal Department.
17. 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: 9 – Nay: 1 – Abstain - 1

Yea: Delano, Doucette, Tunnera, Clancy, Landers, Juaire, Oram, Ossing & Robey.

Abstain: Dumais

Nay: Irish

Suspension of the Rules requested – granted.

ORDERED: Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended as follows:

1. In Section 650-5.B, insert the following new definition:

ANCILLARY RESIDENTIAL COMMUNITY

A single multifamily building containing up to thirty (30) dwelling units in a Retirement Community Overlay District that is located on a lot adjacent to a retirement community. No more than one (1) Ancillary Residential Community shall be adjacent to any retirement community.

2. Add to the Table of Use Regulations, Section 650-17, a category for “Ancillary Residential Community” under “Residential Uses”, as follows:

	Zoning District Abbreviations											
	RR	A-1	A-2	A-3	RB	RC	RCR	B	CA	LI	I	MV
Residential Use												
Ancillary Residential Community (§ 650-22)	N	N	N	N	N	N	N	N	N	SP	SP	N

3. Add to Section 650-22 the following new Subsection C(14) as follows:

(14) Ancillary Residential Community: An Ancillary Residential Community shall be subject to the following requirements:

- (a) An Ancillary Residential Community shall be permitted as a principal use through a separate special permit for a lot in a Retirement Community Overlay District adjacent to an existing retirement community, provided that (i) the organization governing the adjacent retirement community provides written consent to the filing of such special permit application, and (ii) a certificate of occupancy for the final new dwelling unit in the retirement community was issued at least twelve (12) months prior to the date of such special permit application.
- (b) The Ancillary Residential Community’s principal building shall face upon an existing street, or the street-facing side of the building shall be designed in a manner satisfactory to the City Council.
- (c) The Ancillary Residential Community’s principal building shall have a maximum height of 2 1/2 stories.
- (d) The Ancillary Residential Community’s principal building shall have a minimum front yard of 10 feet. Each building, whether principal or accessory, shall be at least 50 feet from any other building by airline distance between the nearest points of the building.
- (e) No dwelling unit shall contain less than 800 square feet of floor space exclusive of halls and stairs, and no room in a dwelling unit shall contain less than 120 square feet.

- (f) No part of any building in any Ancillary Residential Community shall be less than 30 feet from any lot line, less than 50 feet from any street, or less than 80 feet from the nearest structure in the retirement community.
- (g) All site landscaping shall be designed so as to provide a clear sense of separation between the Ancillary Residential Community and the retirement community. Landscape design preference shall be given to the maintenance of existing trees and ground cover.
- (h) The City Council may, as a condition of any special permit for an Ancillary Residential Community, require that the land area on which the Ancillary Residential Community is located be permanently maintained as one undivided lot or, within a condominium, as one undivided condominium unit, or require such other legal mechanism as will, in the opinion of the City Council, assure that the Ancillary Residential Community will not be subdivided or its ownership further condominiumized, that the Ancillary Residential Community will remain as rental housing, and that ownership of the Ancillary Residential Community will remain consolidated.
- (i) The total number of units in an Ancillary Residential Community shall not exceed 30% of the combined total of retirement community and Ancillary Residential Community units.

NOT APPROVED; adopted.

There was hand count of 7-4.

ORDERED: That the Ad-Hoc Municipal Aggregation Committee review Council Order 17-1006881 regarding item #2 “The goal of Municipal Aggregation is to require that the R-1 (residential) class rates be lower than the prevailing National Grid Fixed Basic Service Rate” and report back to the City Council. The purpose of the review is to determine if there may be a financial benefit to the residents of Marlboro by entering into agreements for longer electricity supply contracts that may contain greater savings over the long run but may be occasionally slightly higher than National Grid Fixed Basic Service Rate, refer to the **AD-HOC MUNICIPAL AGGREGATION COMMITTEE;** adopted.

ORDERED: That the following Act of the Massachusetts Legislature be referred to the Legislative/Legal Affairs Committee and Traffic Commission for review and, if deemed appropriate, a suitable location chosen for such reserved parking space at the city hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90: SECTION 9. Chapter 40 of the General Laws is hereby amended by inserting after section 22A½ the following section: Section 22A¾. (a) A municipality may designate a parking space at the city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90. The parking space shall be available during the normal business hours of the city or town hall for use by such veteran without charge. The municipality shall erect and maintain a sign designating such a parking space that shall bear the words "Veteran Parking Only – this space is reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense". The parking space shall only be used by a veteran that meets the requirements of this subsection. (b) A violation of subsection (a) shall be punished by a fine of \$100 and the city or town may provide for the removal of a vehicle in the manner provided in section 22D. The penalty shall not be a surchargeable offense under section 113B of chapter 175, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE & TRAFFIC COMMISSION**; adopted.

ORDERED: That the Police Department transfer request in the amount of \$8,412.20 which moves funds from Receipts Reserved-TNC Surcharge to Capital Outlay-Police Equipment to purchase additional traffic equipment, **APPROVED**; adopted.

CITY OF MARLBOROUGH
BUDGET TRANSFERS --

DEPT:		Police				FISCAL YEAR:		2019	
		FROM ACCOUNT:				TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$8,412.20</u>	<u>\$8,412.20</u>	<u>27000</u>	<u>33088</u>	<u>Receipts Reserved-TNC Surchar</u>	<u>\$8,412.20</u>	<u>19300006</u>	<u>58593</u>	<u>Capital Outlay-Police Equip</u>	<u>\$0.00</u>
Reason:		<u>Traffic enforcement equipment purchase</u>				<u></u>			
	<u>\$8,412.20</u>	Total			<u>\$8,412.20</u>	Total			

ORDERED: That the IT transfer request in the amount of \$254,000.00 which moves funds from Receipts Reserved-PEG funds to IT Equipment to fund upcoming projects and various equipment purchases, **APPROVED**; adopted.

CITY OF MARLBOROUGH

BUDGET TRANSFERS -

DEPT:		IT				FISCAL YEAR:		2019	
FROM ACCOUNT:						TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$407,303.52	\$254,000.00	27000099	47750	Receipts Reserved-PEG Funds	\$254,000.00	19300006	58618	IT Equipment	\$0.00
Reason:		Use PEG funds for upcoming projects and various equipment purchases							
\$254,000.00		Total		\$254,000.00		Total			

ORDERED: Be it ordained by the City Council of the City of Marlborough, acting upon a recommendation of the Mayor, that the Code of the City of Marlborough as amended, be further amended in Chapter 125, Section 6 "Salary Schedule" as follows:

Position	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
		Start	6 months of service	1 year of service	2 years of service	3 yrs. of service	4 yrs. of service	5 yrs. of service
Human Resources Assistant	October 1, 2018	\$53,079.34	\$54,140.93	\$55,223.75	\$56,328.23	\$57,454.79	\$58,603.89	\$59,775.96
Manager of Communications Technology	October 1, 2018	\$60,389.89	\$61,597.68	\$62,829.64	\$64,086.23	\$65,367.95	\$66,675.31	\$68,008.82

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: That the transfer request in the amount of \$7,100.00 which moves funds from Reserve for Salaries to HR Assistant and Electrician line items to fund a Salary Ordinance Amendment to increase the salary of the HR Assistant position and create a new Public Facilities Manager of Communications Technology, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS –									
DEPT: Comptroller					FISCAL YEAR: 2019				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$990,000.00</u>	<u>\$7,100.00</u>	<u>11990006</u>	<u>57820</u>	<u>Reserve for Salaries</u>	<u>\$3,410.00</u>	<u>11520001</u>	<u>50532</u>	<u>HR Assistant</u>	<u>\$46,734.00</u>
	Reason:	<u>Cover change in Salary Schedule</u>			Reason:	<u>Change in Salary Schedule</u>			
					<u>\$3,690.00</u>	<u>13032001</u>	<u>50385</u>	<u>Electrician</u>	<u>\$109,804.15</u>
	Reason:				Reason:	<u>Change in Salary Schedule</u>			
	<u>\$7,100.00</u>	Total			<u>\$7,100.00</u>	Total			

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

An Act authorizing the city of Marlborough to grant additional licenses for the sale of alcoholic beverages not to be drunk on the premises.

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Marlborough may grant 1 additional license for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of said chapter 138 to Kennedy's Irish Pub Inc. d/b/a Kennedy's Market located at 247 Maple Street in the city of Marlborough. The license shall be subject to all of said chapter 138 except said section 17.

- (b) The licensing authority shall not approve the transfer of the license granted pursuant to this act to any other location, but it may grant the license to a new applicant at the same location if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.
- (c) If the license granted pursuant to this act is cancelled, revoked, or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location under the same conditions as specified in this act.
- (d) The license granted pursuant to this act shall be issued within 2 years after the effective date of this act; provided, however, that if the license is originally granted within that time period, it may be granted to a new applicant pursuant to subsection (b) or (c) anytime thereafter.

SECTION 2. This act shall take effect upon its passage.

APPROVED; adopted.

ORDERED: That having authorized the Mayor, pursuant to Order No. 17-1007003A-1, to convey to BSL Marlborough Development LLC ("Benchmark") the City's fee interest in a so-called Sewer Parcel concerning propeliy located at 421 Bolton Street in Marlborough;

And having by that Order made that conveyance subject to, among other things, Benchmark' s conveyance to the City of approximately 10 acres at the site, which acreage comprises the "Donated Land" described in condition no. 8 of the special permit granted to Benchmark in Order No. 17-1006816E;

NOW, THEREFORE, the City Council of the City of Marlborough hereby accepts Benchmark' s executed and recorded deed of the Donated Land to the City for all municipal purposes. A copy of Benchmark ' s executed deed, as recorded, is attached hereto.

APPROVED; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Apex Center – Open Space Covenant and Restriction in proper legal form, **FILE**; adopted.

ORDERED: That the City of Marlborough does hereby approve, and accept the gift thereof, the Open Space Covenant and Restriction for the perpetual conservation and preservation of open space, passive recreation, and assurance that the subject land will be retained in perpetuity in its natural, scenic, wetlands and wooded conditions in accordance with the terms of said Open Space Covenant and Restriction, concerning that certain land designated and labeled as "Open Space" on a plan entitled "Open Space Exhibit, for Apex Center, 240 Boston Post Road West, Marlborough, MA, Marlborough, Massachusetts, Prepared for Walker Realty, LLC, 4 Lan Drive, Westford, MA, Scale 1'= 200", dated March 21, 2018, prepared by Hancock Associates, 315 Elm Street, Marlborough, MA 01752", said Plan to be recorded as Exhibit A to the Open Space Covenant and Restriction, and this Order to be recorded as Exhibit B to the Open Space Covenant and Restriction, with the Middlesex County South Registry of Deeds, **APPROVED**; adopted.

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, OCTOBER 24, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, be further amended by amending Chapter 551-1 entitled "**STREET NAMES**", having been read was **ORDERED ADVERTISED**; adopted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING § 551-1, ENTITLED "STREET NAMES," OF CHAPTER 551 AS FOLLOWS:

- I. Chapter 551 is hereby amended by deleting the title of § 551-1 in its entirety and inserting in place thereof the following title:

Names of public streets, highways, places, buildings, spaces and other public assets.

- II. Chapter 551 is hereby amended by inserting into § 551-1 the following new paragraph:

- C. The Board of Library Trustees, having care, custody, management and supervision of the Marlborough Public Library pursuant to § 11 of chapter 78 of the Massachusetts General Laws and § 28 of Division 3 of the Charter of the City of Marlborough may name public assets located in and at the Marlborough Public Library, including internal and external spaces, furnishings, collections, equipment or fixtures, under such terms and conditions as may be specified in a naming policy adopted by the Board of Library Trustees for said public assets which are not otherwise governed by paragraphs A. and B. herein. Said authority of the Board of Library Trustees is in addition to, and not in lieu of, such powers and authorities of the Board of Library Trustees as may be provided by statute, regulation, ordinance or law.

ORDERED: That the Proposed Zoning Amendment to Chapter 650, §7, §17, new §39 & §41 as it relates to Neighborhood Business District, **TABLED UNTIL NEXT MEETING**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:40 PM; adopted.



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2018 NOV - 1 A 11:51

City of Marlborough
Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

November 1, 2018

Edward J. Clancy, President
Marlborough City Council

RE: Proposed Assignment of Retaining Wall Easement to 27 Jefferson LLC

Dear President Clancy and Members:

At its meeting on October 15, 2018, the City Council voted to approve a special permit to 27 Jefferson LLC (the "LLC") (Order No. 18-1007245C). You will recall that special permit condition no. 16 dealt with an existing retaining wall situated along Jefferson Street.

Specifically, in 1940 the City was granted easement rights to construct and maintain a retaining wall on a 3'-wide strip of land located at 27 Jefferson Street, 23 Jefferson Street, and 30 Highland Street (respectively, Marlborough Assessors Map 56, Parcels 160, 161, and 162). For your reference, I have enclosed a copy of the May 1940 plan depicting the then-proposed location of the easement, as well as a copy of the recorded 78-year-old easement itself.

As follow-up to condition no. 16, I am also enclosing a proposed order to assign the City's easement to the LLC. In the event the Council wishes to approve the assignment, a 2-part vote would be in order:

1. a vote, pursuant to M.G.L. c. 40, § 15A, to transfer the easement from the DPW to the City Council for another specific municipal purpose, namely, assignment of the easement to the LLC, its successors and/or assigns (a 2/3 vote); and
2. a vote, pursuant to M.G.L. c. 40, § 3, to authorize assignment of the easement and to authorize the Mayor to execute the assignment (a simple majority vote).

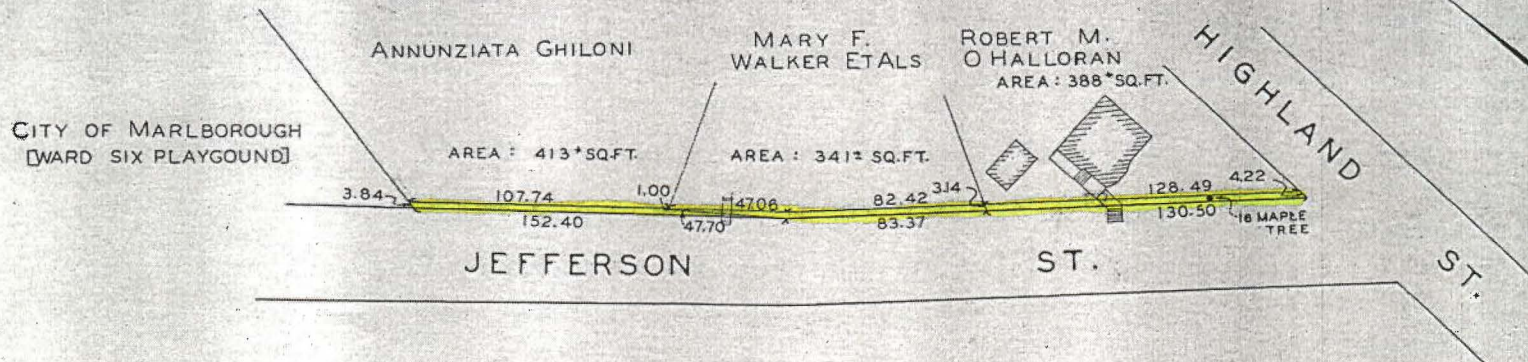
I will be happy to discuss this matter further at the relevant committee meeting. There I will provide both the DPW Commissioner's notification that the easement is no longer needed by the City for the purpose for construction and maintenance, as well as a draft of the recordable assignment itself. Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosures (plan, easement, proposed order)

cc: Arthur Vigeant, Mayor
John Ghiloni and Thomas DiPersio, Jr., DPW
Brian Falk, Esquire



CITY OF MARLBOROUGH
PLAN OF EASEMENTS
FOR WALL CONSTRUCTION
JEFFERSON STREET

SCALE: 1 IN. = 40 FT.

MAY 1940
JOHN A. BIGELOW
CITY ENGINEER

6397

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balance of said principal sum immediately due and payable at the option of the holder hereof. For any breach of the statutory condition or for any breach of any condition of this mortgage the mortgagee shall have the statutory power of sale. In the event the ownership of the mortgaged premises, or any part thereof, becomes vested in a person other than the mortgagor, the mortgagee may, without notice to the mortgagor, deal with such successor or successors in interest with reference to the mortgage and the debt hereby secured, in the same manner as with the mortgagor, without in any way vitiating or discharging the mortgagor's liability hereunder or upon the debt hereby secured. No sale of the premises hereby mortgaged and no forbearance on the part of the mortgagee and no extension of the time for the payment of the debt hereby secured given by the mortgagee shall operate to release, discharge, modify, change or affect the original liability of the mortgagor herein, either in whole or part. Wherever the words Mortgagor and Mortgagee are used herein they shall include their several heirs, executors, administrators, successors, grantees and assigns subject to the limitations of law and of this instrument, and if the context requires, the words Mortgagor and Mortgagee and the pronouns referring to them shall be construed as plural, neuter or feminine. In case this loan is paid in full within one year from the date hereof, the Bank reserves the right to charge one full year's interest thereon. WITNESS our hands and seals this 1st day of June 1940 Harold E. Hodgdon (seal) Elsie L. Hodgdon (seal) THE COMMONWEALTH OF MASSACHUSETTS Middlesex, ss June 1, 1940 Then personally appeared the above-named Harold E. Hodgdon and acknowledged the foregoing instrument to be his free act and deed, before me, Albert W. Wunderly Notary Public My commission expires January 22, 1944 - - - - - Middlesex ss. June 1, 1940. 9h. 23m. A.M. Rec'd & Recorded

That we, Robert M. O'Halloran, Katie D. Fay, and Annunziata Ghiloni being unmarried, all of Marlborough, in the County of Middlesex and Commonwealth of Massachusetts, for good and sufficient consideration received by us from the City of Marlborough, a municipal corporation in said County of Middlesex and Commonwealth of Massachusetts, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto said City of Marlborough, its successors and assigns, a right and an easement for the construction and maintenance of a retaining wall on our land situated on Jefferson Street in the City of MARLBOROUGH as shown on a plan entitled "City of Marlborough Plan of Easements for Wall

O'HALLORAN
et al
to
CITY OF
MARLBOROUGH

6397

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Construction Jefferson Street, Scale: 1 in = 40 Ft. May 1940, John A. Bigelow, City Engineer", and which plan is to be recorded herewith, a copy of which is also on file in the office of the City Engineer in the City of Marlborough, and which land is more specifically described and bounded as follows: Land of Robert M. O'Halloran Starting at a point on the east side of Jefferson Street, at the intersection with the west side of Highland Street; thence northwesterly by Jefferson Street, 130.50 feet to land of Katie D. Fay; thence northerly by land of said Fay 3.14 feet; thence southeasterly by other land of Robert M. O'Halloran 128.49 feet to Highland Street; thence southerly by Highland Street 4.22 feet to the point of beginning. This easement is a strip 3.00 feet wide and parallel to Jefferson Street and contains 388 sq. feet more or less. Land of Katie D. Fay Starting at a point on the east side of Jefferson Street at land of Robert M. O'Halloran thence Northwesterly by Jefferson Street 83.37 feet to an angle at land of Annunziata Ghiloni; thence Northwesterly by land of said Ghiloni 47.70 feet to an angle; thence Northeasterly by land of said Ghiloni 1.00 foot; thence Southeasterly by other land of Katie D. Fay 47.06 feet to an angle; thence Southeasterly by said Fay 82.42 feet to land of Robert M. O'Halloran; thence Southwesterly by said O'Halloran 3.14 feet to point of beginning. This easement is a strip 3.00 feet wide and parallel to Jefferson Street and contains 341 sq. feet more or less. Land of Annunziata Ghiloni Starting at a point on the east side of Jefferson Street at an angle in the street line at land of Katie D. Fay thence northwesterly by Jefferson Street 152.40 feet to land of the City of Marlborough known as Ward Six Playground; thence northerly by land of City of Marlborough 3.84 feet; thence southeasterly by other land of Ghiloni 107.74 feet to land of Mary F. Walker et als; thence southwesterly by land of said Walker 1.00 foot to an angle; thence southeasterly by land of said Walker 47.70 feet to the point of beginning. This easement is a strip 3.00 feet wide and parallel to Jefferson Street and contains 413 sq. feet more or less. With the perpetual right to the City of Marlborough to enter upon said premises to reconstruct, relocate and maintain or to perform any work for the purpose of repairing said retaining wall which the City Authorities of the City of Marlborough may deem proper. And for the consideration aforesaid, the said Robert M. O'Halloran, Annunziata Ghiloni, Katie D. Fay do hereby release and discharge the said City of Marlborough, its agents or employees, from any and all claims, demands or actions for damages resulting from any acts that are done upon our premises, or dam-

6397

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ages to our property, real or personal resulting from any causes or which may result in the future, from any cause. We Mary E. O'Halloran wife of Robert M. O'Halloran and Harry W. Fay husband of Katie D. Fay release to said grantees all rights of DOWER AND HOMESTEAD and tenancy by the COURTESY and other interests therein. WITNESS our hands and seals this 22nd day of June 1940. Katie D. Fay , Harry W. Fay , Anunziata Ghiloni , Robert M. O'Halloran , Mary E. O'Halloran , COMMONWEALTH OF MASSACHUSETTS Middlesex, ss. June 22, 1940 Then personally appeared the above-named Robert M. O'Halloran, Annunziata Ghiloni, and Katie D. Fay and acknowledged the foregoing instrument to be their free act and deed, before me, John J. Ginnetti Notary Public My commission expires June 2, 1944. - - - - -

Middlesex ss. June 25, 1940. 9h. 3m. A.M. Rec'd & Recorded.

Hub Finance Company, a corporation, duly organized under the laws of Massachusetts, and having a usual place of business in Boston, Suffolk County, Massachusetts, present holder of a mortgage from Harry Tatoian, of Watertown, Middlesex County, Massachusetts, to said Hub Finance Company, dated September 16, 1938, recorded with Middlesex South District Deeds Book 6237, Page 173, by the power conferred by said mortgage and every other power for Eight Hundred dollars paid, grant, to People's Realty Co. Inc., a corporation, having its usual place of business in Boston aforesaid, the premises conveyed by said mortgage, subject to any and all unpaid taxes, tax titles, municipal liens and assessments, if any there be, and subject also to a first mortgage to Volunteer Co-operative Bank in the sum of \$3200, dated September 16, 1938, and duly recorded with said Deeds. IN WITNESS WHEREOF the said Hub Finance Company has caused its corporate seal to be hereto affixed, and these presents to be executed, acknowledged and delivered, in its name and behalf, by John A. Carver, its President and Treasurer, hereunto duly authorized, this twenty-seventh day of May, 1940. Hub Finance Company By John A. Carver President and Treasurer. (Corporate seal) THE COMMONWEALTH OF MASSACHUSETTS Suffolk ss. Boston, May 27, 1940. Then personally appeared the above-named John A. Carver, President and Treasurer, and acknowledged the foregoing instrument to be the free act and deed, of Hub Finance Company, before me, Charles Goldberg Notary Public. My commission expires November 14, 1941. - - - - -

Middlesex ss. June 1, 1940. 9h. 27m. A.M. Rec'd & Recorded.

AFFIDAVIT I, John A. Carver, President and Treasurer, and duly

TATOIAN'S Est.
to
PEOPLE'S
REALTY CO. INC.

* * * * *
* U.S. *
* Rev. *
* Stamp *
* \$1.00 *
* H.F.CO. *
* 5/27/40 *
* * * * *

AFF.OF SALE

ORDERED:

That the City Council of the City of Marlborough, having, by Order No. 18-1007245C voted on October 15, 2018, approved a special permit to 27 Jefferson LLC to build and operate an 11-unit, 2-story multifamily condominium building to be located at 27 Jefferson Street in Marlborough; and

Having conditioned that approval on, in part, condition no. 16, which anticipates that the City Council consider assigning to the LLC, its successors and/or assigns, the easement rights granted to the City in 1940, as recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, to construct and maintain a retaining wall on a 3'-wide strip of land located at 27 Jefferson Street, 23 Jefferson Street, and 30 Highland Street (respectively, Marlborough Assessors Map 56, Parcels 160, 161, and 162); and

Having received notification from the Commissioner of the Department of Public Works that said retaining wall easement is no longer needed by the City of Marlborough for the purpose for construction and maintenance;

NOW, THEREFORE:

1. the City Council, acting pursuant to M.G.L. c. 40, § 15A, hereby transfers said easement from the DPW to the City Council for another specific municipal purpose, namely, assignment of said easement to 27 Jefferson LLC, its successors and/or assigns, such that the LLC, its successors and/or assigns, at their sole expense, shall:
 - a. perform any and all work in the future for the purposes of reconstructing, relocating, maintaining and/or repairing the retaining wall; and
 - b. record the City's assignment at the Registry, with a copy of the recorded assignment provided to the City Council's office, the Engineering Division of the Department of Public Works, and the Legal Department; and
2. further, the City Council, acting pursuant to M.G.L. c. 40, § 3, hereby authorizes the assignment of said easement, for nominal consideration, to 27 Jefferson LLC, its successors and/or assigns, and hereby authorizes the Mayor to execute the assignment of easement and to do all things as may be necessary to carry out this order.

ADOPTED

In City Council
Order No. 18-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



City of Marlborough
Legal Department
 140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

DONALD V. RIDER, JR.
 CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
 ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
 PARALEGAL

November 1, 2018

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

Re: Order No. 18-1007318
 Decision on a Special Permit - Garden Remedies, Inc.

Dear President Clancy and Members,

Please find the above captioned proposed Order concerning a Decision on a Special Permit for Garden Remedies, Inc. Said order is in proper form for consideration by the City Council.

Very truly yours,

/s/ Cynthia Panagore Griffin

Cynthia Panagore Griffin
 Assistant City Solicitor

Enclosure

_____, 2018

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. 18-1007318

Application of:
Garden Remedies, Inc.

Locus:
416 Boston Post Road
Map 73, Parcel 30

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Garden Remedies, Inc., with a mailing address of 307 Airport Road, Fitchburg, MA 01420, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: November ____, 2018

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the ____ day of November, 2018.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, § 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:
Garden Remedies, Inc.

Locus:
416 Boston Post Road
Map 73, Parcel 30

**DECISION ON A SPECIAL PERMIT
ORDER NO. 18-1007318**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Garden Remedies, Inc. (the "Applicant") to build and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at 416 Boston Post Road, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation having a business address of 307 Airport Road, Fitchburg, MA 01420.
2. The Applicant is the prospective tenant of a commercial retail unit located at 416 Boston Post Road, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 73 as Parcel 30 (the "Site"). The Site's owner is Marlboro Square, LLC with a business address of 449 Boston Post Road, Marlborough, MA 01752
3. In accordance with Article VI, § 650-17, § 650-18(45), § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at the Site (the "Use").
4. The Site is located in the Business Zoning District with frontage on Boston Post Road (Route 20).
5. The overall Site has an area of 174,240 +/- square feet (4 acres).

6. The Use will occupy an existing retail unit at the Site with an area of 3,100 +/- square feet.

7. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.

8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, existing site plans for the Site in accordance with Rule 5 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of drawings of the exterior and interior of the unit associated with the Use (collectively the "Plans").

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

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

11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, August 27, 2018. The hearing was closed on that date.

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

13. At the public hearing, eight members of the public spoke in favor of the Use. Two 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 the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

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

C. The City Council finds that the Site is located in the portion of the Business District along Massachusetts State Highway 20 (Boston Post Road) between the Sudbury town line and Phelps Street with frontage along Massachusetts State Highway 20 (Boston Post Road), in accordance with § 650-18(45)(a) and (b) and § 650-18(46)(a) and (b) of the Zoning Ordinance, and that the Site is not located within 500 feet of a school or daycare center, in accordance with § 650-32.F and § 650-32.F.1 of the Zoning Ordinance.

D. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:

1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will provide a safe and convenient location for patients and adults to obtain medication and marijuana infused products.

2. Traffic flow and safety, including parking and loading:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.

3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.

4. Neighborhood character and social structures:

Finding: The Use is consistent with the established retail area in the vicinity of the Site.

5. Impacts on the natural environment:

Finding: The Use will have no greater impact than the established retail uses in the area.

6. Potential fiscal impact, including impact on City services, tax base, and employment:

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

7. Hours of operation:

Finding: The hours of operation of the Use are specifically conditioned below.

8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:

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

9. Requiring payment of a community impact fee:

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

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

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

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health

and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: This requirement is specially conditioned below.

15. The ability for the Business to:

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

Finding: These requirements are specially conditioned below.

16. Signs and signage:

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

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

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

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

1. Construction in Accordance with Applicable Laws. Construction is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.

2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

5. Compliance with State Requirements. In accordance with § 650-18(45)(c) and § 650-18(46)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of a Medical Marijuana Treatment Center and/or an Adult Use Marijuana Retail Establishment.

6. Security.

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

7. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use. Marijuana and marijuana products shall be pre-

packaged and sealed prior to arriving at the Site. Any odors associated with marijuana and marijuana infused products shall be limited to the interior of the unit. There shall be no onsite consumption or use of marijuana or marijuana infused products associated with the Use.

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

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

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

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

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

13. Unrelated Materials. The Applicant, its successors and/or assigns, shall not make available for sale as part of the Use any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.

14. Police Detail. The Applicant, its successors and/or assigns, shall employ a City of Marlborough Police detail at the Site during all operating hours for the first sixty (60) days after the commencement of operations, unless the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during certain times of the day. At the end of the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is still necessary during all operating hours or at certain times, then the Applicant, its successors and/or assigns, shall continue to employ a City of Marlborough Police detail until deemed unnecessary by the Chief of Police in a letter filed with the City Council. In the event a City of Marlborough Police detail is not available when required, the Applicant, its successors and/or assigns, shall obtain a private detail.

15. Partial Use: The Applicant, its successors and/or assigns, is not required to operate all portions of the Use simultaneously. The Applicant, its successors and/or assigns, may

commence either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use upon receipt of all local and state permits and licenses for the respective portion of the Use, and commence the other portion of the Use at a later date. Similarly, if either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use ceases, either temporarily or permanently, the Applicant, its successors and/or assigns, may operate the other portion of the Use.

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

Yea: _____ - Nay: _____ - Absent: _____

ADOPTED
In City Council
Order No. 18-1007318

Adopted: _____ 2018

Approved by Mayor
Arthur Vigeant
Date: _____ 2018

A TRUE COPY
ATTEST:

City Clerk



City of Marlborough
Legal Department
 140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

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 DONALD V. RIDER, JR.
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 CYNTHIA M. PANAGORE GRIFFIN
 ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
 PARALEGAL

November 1, 2018

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

Re: Order No. 18-1007317
 Site Plan Permit – Site Plan Approval with Conditions – 28 South Bolton Street

Dear President Clancy and Members,

Please find the above captioned proposed Order concerning a Site Plan Permit with Conditions relating to applicant M & E Ventures Corporation's proposed mixed-use project at 28 South Bolton Street. Said order is in proper form for consideration by the City Council.

Very truly yours,

/s/ Cynthia Panagore Griffin

Cynthia Panagore Griffin
 Assistant City Solicitor

Enclosure

**CITY COUNCIL
MARLBOROUGH, MA**

Site Plan Permit # _____

Site Plan Approval with Conditions

Applicant: M & E Ventures Corporation, 4 Watkins Lane, Southborough, MA

Property Owner: M & E Ventures Corporation, 4 Watkins Lane, Southborough, MA

Location: 28 South Bolton Street (the "Site") being shown as Parcels 212A, 213, 222, 224, and 528 on Assessors Map 70.

Zoning District: Marlborough Village District (MV)

Plans: The following Site Plan Approval Final Conditions are based on a set of plans entitled "Proposed Site Plan of 28 South Bolton Street in Marlborough, MA" by Connorstone Engineering, Inc., said plans being comprised of Sheets 1 through 7 with the last revision date of 9-18-2018 (said set of plans hereinafter, collectively, the "Site Plans"); a landscaping plan entitled "Proposed Landscaping Plan" by Timothy Burke Architecture, dated 9-5-2018 (hereinafter, "Landscape Plan"); and a set of eight (8) architectural drawings entitled "28 South Bolton Street" by Timothy Burke Architecture, dated 3-21-18 (hereinafter, "Architectural Drawings"), all of which plans are attached hereto as Exhibit "A."

SITE PLAN APPROVAL FINAL CONDITIONS:

A. Site Conformance:

1. Construction on the Site shall be in conformance with the above approved Site Plans, Landscape Plan, Architectural Drawings, 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.
3. No cellular communication equipment, including but not limited to a tower, may be installed at the Site without the approval of the City Council, except for equipment serving the residents and businesses of the Site.

B. Prior to Issuance of a Building Permit:

1. Construction Staging and Safety Plan:

- a. 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. Said Construction Plan shall address the building demolition phase of the project, which may take place in advance of the construction phase and under a separate demolition permit.
 - b. The Construction Plan shall provide detailed information concerning:
 - (i.) 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.) dedicated illuminated and covered pedestrian walkways adjacent to the structure at egress paths in accordance with 780 CMR Massachusetts State Building Code and related Mass. Amendments, including but not limited to Chapters 31, 32, 33, and 34, in effect at the time the building permit application is submitted.
2. Green Building: The building plans shall show compliance with § 650-34D.(2.)(m), concerning sustainable building design, of the Zoning Code of the City of Marlborough. Prior to the issuance of Building Permits, the Building Commissioner shall review the building plans to ensure that the design incorporates green building techniques.
3. Rooftop Mechanicals: On the building plans, the elevation drawings shall show areas reserved for rooftop mechanicals and the elevator penthouse. Detail drawings illustrating the type, location, and dimensions of fencing/screening must be provided. The Building Commissioner shall confirm that the building drawings conform to the requirements of § 650-34D.(2.)(b) of the Zoning Code of the City of Marlborough regarding screening of rooftop mechanical equipment.
4. Footings: If the footings for the proposed building will be located within the City of Marlborough public way layout, an easement from City Council must be obtained prior to the issuance of any building permits.
5. Land Acquisition: Prior to the issuance of a building permit for the construction of the building, the Applicant shall acquire title to the portions of the Site currently owned by the Commonwealth of Massachusetts, and rights from the Marlborough Community Development Authority, necessary to complete the improvements shown on the Site Plans.

C. 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 contractor responsible for doing the work. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls. A similar meeting shall be held prior to the commencement of demolition, which may take place under a separate demolition permit.
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 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, as amended.
4. Safety Official: The Applicant/ 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 § 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 a variance from the Board of Health or as emergency work.

D. Storm Water:

1. Siltation Control: The Applicant, Property Owner, and site contractor shall be responsible for protecting the City drainage system with erosion controls at all times during construction, and for notifying the Conservation Officer and the City Engineer in an expeditious manner if there is any visible siltation to the existing drainage system. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.

E. Landscaping:

1. Modifications: All modifications to the approved Landscape Plan 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. 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 in accordance with the approved Landscape Plans, or a revision, previously approved by the Conservation Officer, of the Landscape Plans.
3. 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 Property Owner with a species of the same kind and size.
4. 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.
5. Maintenance: At all times, landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans. This shall be an ongoing condition.

F. Driveway Design:

1. Through this decision, the City Council has determined that the alternative configuration of the proposed driveway shown on the Site Plans will adequately protect public safety and meets commonly employed engineering and planning standards, in accordance with § 650-49E. of the Zoning Code of the City of Marlborough.

G. Parking Garage:

1. The design of the parking garage access shall be such that entering and exiting from the garage is controlled by the Site's residents and business operators. The building design shall provide for adequate sight distances for vehicles exiting the garage to provide for pedestrian safety. The Applicant shall use appropriate signage at the entrance and exit to ensure pedestrian safety.
2. The parking garage is to be for the sole use of the residents of the Site. The parking garage is not intended for public use.

H. Prior to Issuance of a Certificate of Occupancy:

1. Payment in Lieu of Parking: The project contains 36 residential units, and therefore must either (i.) comply with parking space requirements, or (ii.) make a "payment in lieu of parking" for each space not provided, per § 650-34E. of the Zoning Code of the City of Marlborough. Required parking for the project is as follows:

1 bedroom units:	4 @ .75 spaces per unit =	3 spaces
<u>2 bedroom units:</u>	<u>32 @ 1.25 spaces per unit =</u>	<u>40 spaces</u>
Total Spaces Required		= 43 spaces

The difference between the number of parking spaces provided on the Site Plans (29) and the number of parking spaces required (43), which is 14 spaces, will be addressed in strict accordance with § 650-34E.(2)(b) of the Zoning Code of the City of Marlborough. Per said Code, a payment-in-lieu-of-parking equal to \$140,000 (\$10,000 for each of the 14 spaces required but not provided on the Site) shall be paid to the City of Marlborough prior to the issuance of the first Certificate of Occupancy for the project.

2. Work Within Public Way: All work within the public way layout, including but not limited to planting, repaving, pavement milling and overlay, pavement markings, etc., as shown on the approved plans, shall be completed prior to the issuance of the first Certificate of Occupancy.
3. Cotting Avenue Design: The Applicant shall work with the Police Department and City Engineer to meet with the Traffic Commission to consider changes to the design and direction of Cotting Avenue.
4. As-Built Plans: An as-built plan(s) must be submitted to the City Engineer for review prior to the issuance of the first Certificate of Occupancy or Temporary Certificate of Occupancy. The as-built plan(s) shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website of the City of Marlborough. An as-built landscape plan is also required to be submitted by the landscape architect as noted in section E.2. above.
5. Time for Completion: Work as provided for on the Site Plans shall be carried into effect and completed within three (3) years following the date of issuance of the Building Permit, unless the City Council has granted in writing an extension of time for completion of the work.
6. Signage: Pursuant to § 650-34I. of the Zoning 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 and must meet the requirements of § 650-34I. of the Zoning Code of the City of Marlborough.

7. Pedestrian Signal Improvements: Since residents of the proposed units may be parking in the nearby municipal parking garage and other off-site parking areas, there may be an increase in pedestrian crossings at the intersection of South Bolton Street and Granger Boulevard. To help ensure safety for pedestrian crossings, the Applicant shall upgrade the existing pedestrian signal heads at this intersection to ADA/MUTCD-compliant signals with countdown timers and audible push button systems. Submittals for the new signal equipment shall be approved by the City Engineer prior to construction.

I. General Provisions:

1. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Code as enacted by the City Council.
2. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.

IN CITY COUNCIL ____ November 2018

Yea: ____ Nay: ____



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Attorney at Law

One International Place
Boston, MA 02110

T: (617) 345-4777 F: (617) 206-9339
wpezzoni@daypitney.com

November 1, 2018

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

**Re: Council Order # 18-10007198E - Proposed Amendment to
Marlborough Zoning Code Regarding Multifamily Retirement Community**

Dear President Clancy:

On behalf of First Colony Crowley Drive One, LLC, the owner of the property located at 90 Crowley Drive in Marlborough, I enclose the proposed revised Council Order of the above referenced proposed zoning amendment.

Based on the fact that the time for action by the City Council had expired prior to your October 29, 2018 meeting and my discussions with City Solicitor, Donald Rider it was determined the best course of action was to resubmit the text amendment and corresponding overlay boundary map as last reviewed by the Urban Affairs Committee (UAC) to the City Council and the Planning Board. Only the boundary of the overlay district was changed by the UAC; the text of the zoning amendment was unchanged from the text as last reviewed by the Planning Board. We therefore are submitting same for the requisite public hearings to be scheduled by the City Council and Planning Board.

Therefore, pursuant to §650-60, I respectfully request that this revised Council Order be placed on the November 5, 2018 agenda of the City Council to establish and set a public hearing by the City Council at its earliest possible meeting (if possible, the meeting scheduled for November 19, 2018) and to refer it to the Planning Board for its further public hearing and recommendation.

For the City Council's convenience, I have included with this revised Council Order a "redlined" version that indicates the revisions were made in response to the comments received regarding the prior proposed zoning text amendment, and a copy of the corresponding revised boundary map of the proposed overlay district.



Edward J. Clancy, Chair
November 1, 2018
Page 2

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Pezzoni', with a long horizontal flourish extending to the right.

William M. Pezzoni

Enclosure

cc: Karen A. Boule, Council Secretary
Barbara L. Fenby, Chair, Planning Board
Krista Holmi, Planning Board Administrator

IN CITY COUNCIL

ORDERED

Marlborough, Mass., _____
PAGE 1

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 BY AMENDING AND ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled Definitions; word usage, is hereby amended to read:

RETIREMENT COMMUNITY – DETACHED AND TOWNHOMES

A community consisting of ~~a structure or detached or attached (only along side walls in so-called “townhouse” style)~~ structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

[Amended 1-6-2003 by Ord. No. 03-9821B; 1-6-2003 by Ord. No. 03-9821-1B; 1-6-2003 by Ord. No. 03-9821-2B]

RETIREMENT COMMUNITY – MULTIFAMILY

A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

1. Section 650-22.A, entitled “Purpose” is hereby amended to read: Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities ~~and other multifamily residential that provide~~ housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community ~~and for other multifamily housing which may be developed in conjunction therewith.~~
2. Section 650-22.C, entitled “Permitted uses” is hereby amended to read: Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a ~~retirement community~~ Retirement Community - Detached and Townhomes, or a Retirement Community – Multifamily, as defined in § 650-5, consistent with the following provisions:

IN CITY COUNCIL

ORDERED

Marlborough, Mass., _____
PAGE 2

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(1)

No building in a ~~retirement~~ RCO-D/T community shall be more than 2 1/2 stories in height.

(2)

Each building in a ~~retirement~~ RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said ~~retirement~~ RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by air line distance between the nearest points of the buildings.

(3)

No dwelling in a ~~retirement~~ RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.

(4)

All dwelling units in a ~~retirement~~ RCO-D/T community shall be detached from the others or attached only along side walls in the so-called "townhouse" style.

(5)

The lot or lots on which a ~~retirement~~ RCO-D/T community and any approved ancillary residential community are located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.

(6)

No part of any principal building in a ~~retirement~~ RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.

(7)

Each dwelling unit in a ~~retirement~~ RCO-D/T community shall have its own attached yard area.

(8)

Required off-street parking for each dwelling unit in a ~~retirement~~ RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in a ~~retirement~~ RCO-D/T

IN CITY COUNCIL

ORDERED**Marlborough, Mass.,****PAGE 3**

community , either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.

(9)

Maximum combined lot coverage in a ~~retirement~~ RCO-D/T community and in any permitted ancillary residential community shall not exceed 40% of the total lot size.

(10)

Each lot or contiguous lots upon which a ~~retirement~~ RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.

(11)

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding ~~retirement~~ RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a ~~retirement~~ RCO-D/T community and limiting or prohibiting the presence in a ~~retirement~~ RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(12)

The City Council may, as a permit condition, require that a proposed ~~retirement~~ RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(13)

No unit in a ~~retirement~~ RCO-D/T community shall have more than three bedrooms.

(ii) Retirement Community – Multifamily (RCO-MF)

(1)

~~The total area of the tract or contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial, and located east of Route 495, south of the Route 290/Route 85 Connector, and north of Lakeside Avenue (Route 20), and within a two mile radius of Umass Memorial~~

IN CITY COUNCIL

ORDERED**Marlborough, Mass.,** _____**PAGE 4**

~~Marlborough Hospital. The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Rte. 85 Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with Pleasant Street; then south north along Pleasant Street to the intersection with Russell Fitchburg Street; then east north along Russell Fitchburg Street to the intersection with Mechanic Street; then south along Mechanic Street to the intersection with Hudson Street; then north along Hudson Street to the intersection with Union Street; then along Union Street west to the intersection with Rte. 85; then north along Rte. 85 to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.~~

(2)

A RCO-MF may contain one (1) and two (2) bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.

(3)

No building in a RCO-MF shall be more than 3 stories in height.

(4)

The total number of dwelling units in a RCO-MF shall be limited to 12 units per acre.

(5)

No part of any principal building in a RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.

(6)

Maximum combined lot coverage in a RCO-MF, including any permitted accessory structures shall not exceed 40% of the tract or contiguous parcels.

(7)

The tract or contiguous parcels upon which a RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.

(8)

IN CITY COUNCIL

ORDERED**Marlborough, Mass.,** _____**PAGE 5**

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(9)

The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(10)

A minimum of 1.0 parking space per dwelling unit shall be provided in a RCO-MF. Attached and detached garages shall count toward this parking requirement.

(11)

No dwelling unit in a RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.

(12)

No building in a RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.

(13)

In a RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

Be and is herewith **SET A PUBLIC HEARING FOR** _____, **ADVERTISE,**

IN CITY COUNCIL

ORDERED

Marlborough, Mass., _____
PAGE 6

REFER TO PLANNING BOARD.

ADOPTED

ORDER NO. 18-1007198

City of Marlborough

Proposal to Amend Chapter 650 to Allow for High Quality Multifamily Residential Community for Independent Seniors

Property Owner

**First Colony Crowley Drive One LLC
(Jon Delli Priscoli)**

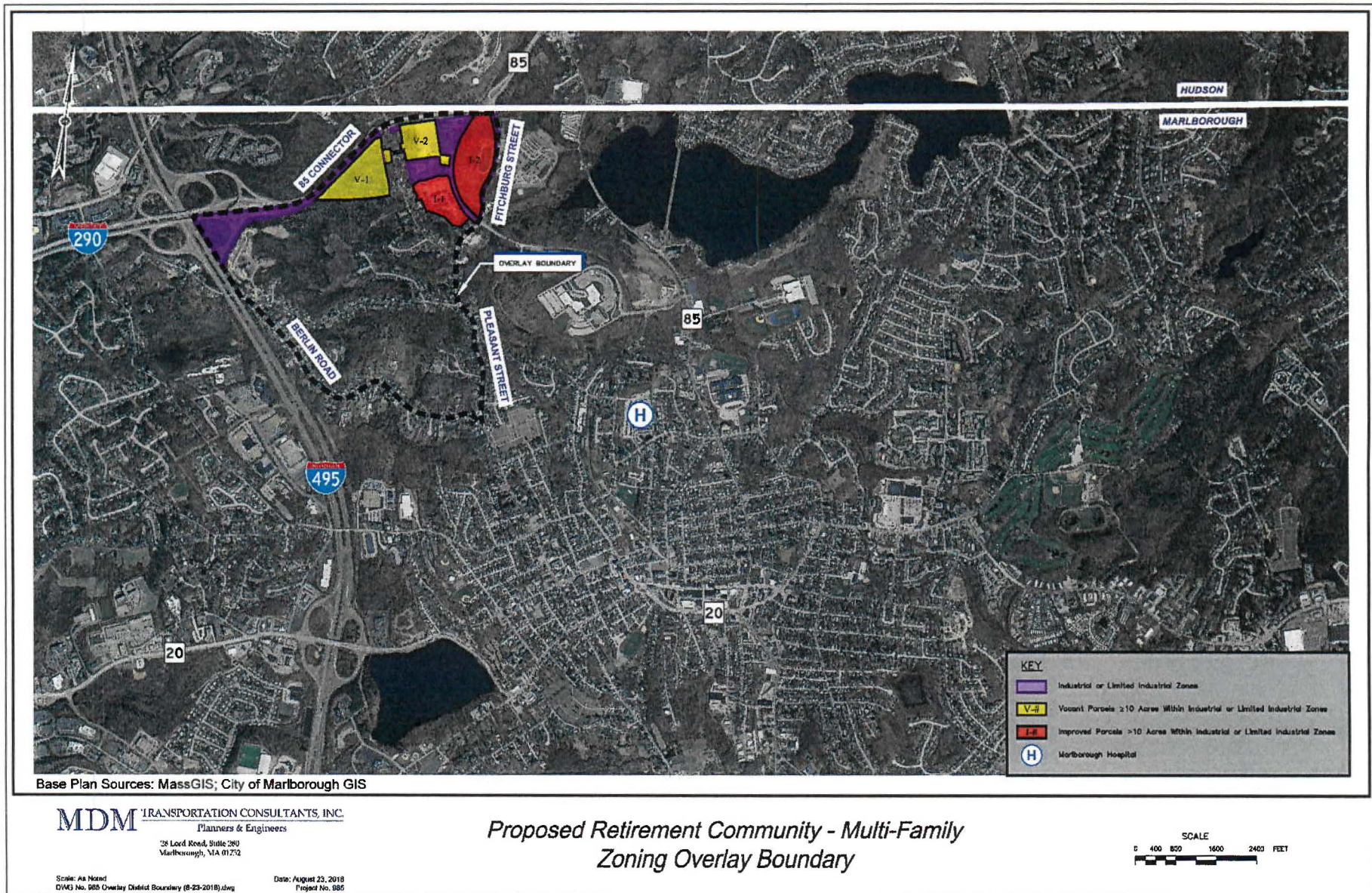
November 5, 2018

Planning Board and City Council Public Hearings

Proposed RCO-MF Overlay District

**Overlay Boundary Based on Input
of Urban Affairs Committee**

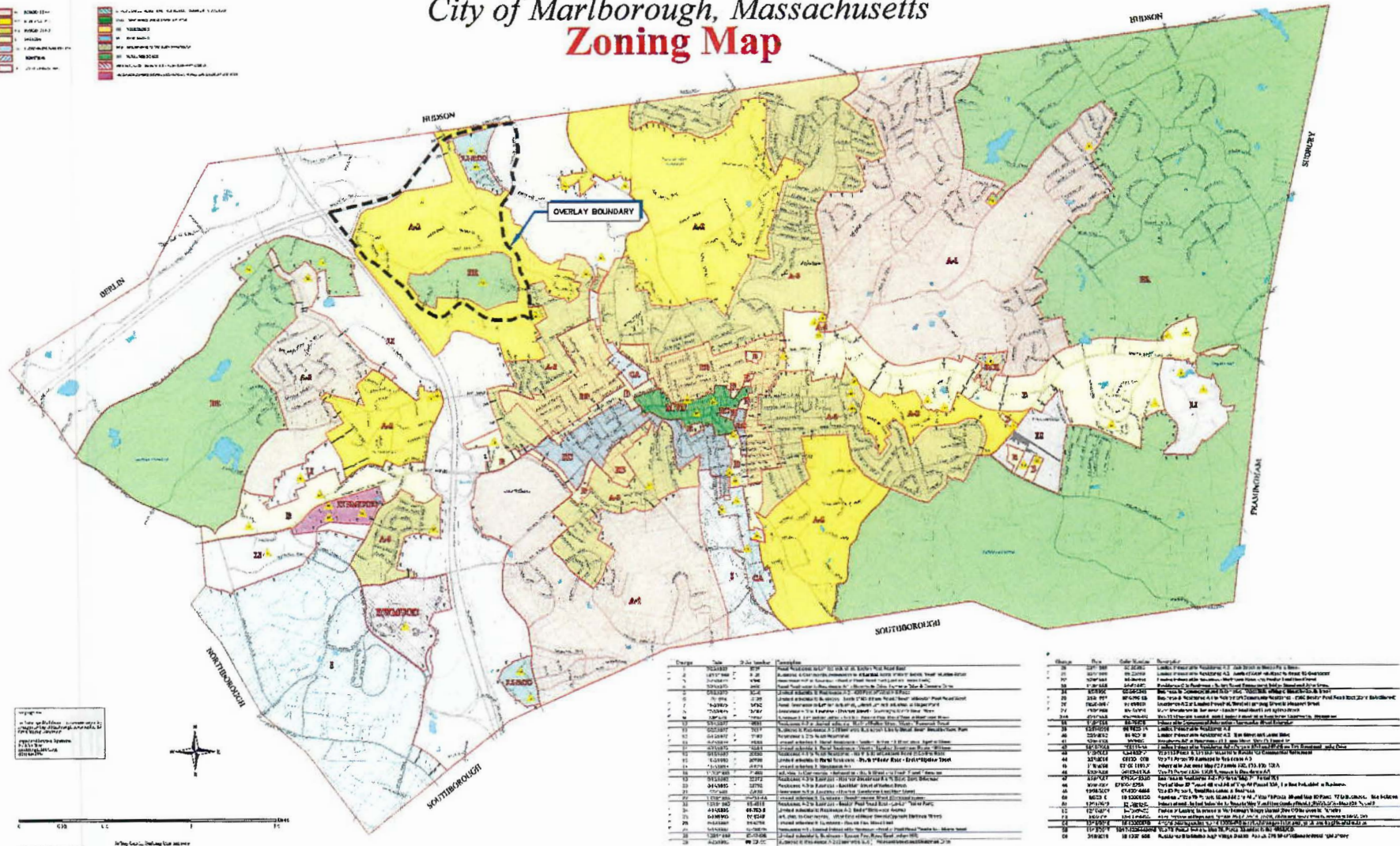
Planning Board and City Council Public Hearings



Planning Board and City Council Public Hearings

City of Marlborough, Massachusetts Zoning Map

- Legend**
- 1. ZONING DISTRICTS
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Order	Map	Order Number	Description
1	001000	001	General Zoning District
2	001000	002	General Zoning District
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21	001000	021	General Zoning District
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100	001000	100	General Zoning District



City of Marlborough GIS

John M. Hynes

AMH

City of Marlborough GIS

City of Marlborough GIS



Planning Board and City Council Public Hearings

Proposed RCO-MF Overlay District

**Text Description of Revised
Boundary Based on Input
of Urban Affairs Committee**

Planning Board and City Council Public Hearings

(ii) Retirement Community – Multifamily (RCO-MF)

(1)

The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street~~Rte. 85~~ intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with Pleasant Street; then ~~north~~south along Pleasant Street to the intersection with ~~Fitchburg~~Russell Street; then ~~north~~east along ~~Fitchburg~~Russell Street to the intersection ~~with Meehanic Street~~; then south along ~~Meehanic Street~~ to the intersection with ~~Hudson Street~~; then north along ~~Hudson Street~~ to the intersection with ~~Union Street~~; then along ~~Union Street~~ west to the intersection with Rte. 85; then north along Rte. 85 to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.

[Based on input from August 21, 2018 UAC Meeting]

Proposed RCO-MF Overlay District

Council Order 18-1007198E

Redlined Format

Planning Board and City Council Public Hearings

Edits made: August 23, 2018

IN CITY COUNCIL

ORDERED

Marlborough, Mass., _____

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 BY AMENDING AND ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled Definitions; word usage, is hereby amended to read:

RETIREMENT COMMUNITY – DETACHED AND TOWNHOMES

A community consisting of ~~a structure or detached or attached~~ (only along side walls in so-called “townhouse” style) structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

[Amended 1-6-2003 by Ord. No. 03-9821B; 1-6-2003 by Ord. No. 03-9821-1B; 1-6-2003 by Ord. No. 03-9821-2B]

RETIREMENT COMMUNITY – MULTIFAMILY

A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

1. Section 650-22.A, entitled "Purpose" is hereby amended to read: Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities ~~and other multifamily residential that provide~~ housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community ~~and for other multifamily housing which may be developed in conjunction therewith.~~

2. Section 650-22.C, entitled "Permitted uses" is hereby amended to read: Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a ~~retirement community~~ Retirement Community - Detached and Townhomes, or a Retirement Community – Multifamily, as defined in § 650-5, consistent with the following provisions:

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(1)

No building in a retirement RCO-D/T community shall be more than 2 1/2 stories in height.

(2)

Each building in a retirement RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said retirement RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by air line distance between the nearest points of the buildings.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(3)

No dwelling in a ~~retirement~~ RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.

(4)

All dwelling units in a ~~retirement~~ RCO-D/T community shall be detached from the others or attached only along side walls in the so-called "townhouse" style.

(5)

The lot or lots on which a ~~retirement~~ RCO-D/T community and any approved ancillary residential community are located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(6)

No part of any principal building in a ~~retirement~~ RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.

(7)

Each dwelling unit in a ~~retirement~~ RCO-D/T community shall have its own attached yard area.

(8)

Required off-street parking for each dwelling unit in a ~~retirement~~ RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in a ~~retirement~~ RCO-D/T community, either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(9)

Maximum combined lot coverage in a ~~retirement~~ RCO-D/T community and in any permitted ancillary residential community shall not exceed 40% of the total lot size.

(10)

Each lot or contiguous lots upon which a ~~retirement~~ RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(11)

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding ~~retirement~~ RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a ~~retirement~~ RCO-D/T community and limiting or prohibiting the presence in a ~~retirement~~ RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(12)

The City Council may, as a permit condition, require that a proposed ~~retirement~~ RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(13)

No unit in a ~~retirement~~ RCO-D/T community shall have more than three bedrooms.

(ii) Retirement Community – Multifamily (RCO-MF)

(1)

The total area of the tract or contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial, and located east of Route 495, south of the Route 290/Route 85 Connector, Marlborough Hospital. The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Rte. 85 Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with Pleasant Street; then south north along Pleasant Street to the intersection with Russell Fitchburg Street; then east north along Russell Fitchburg Street to the intersection with Mechanic Street; then south along Mechanic Street to the intersection with Hudson Street; then north along Hudson Street to the intersection with Union Street; then along Union Street west to the intersection with Rte. 85; then north along Rte. 85 to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.

(ii) Retirement Community – Multifamily (RCO-MF)

(2)

A RCO-MF may contain one (1) and two (2) bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.

(3)

No building in a RCO-MF shall be more than 3 stories in height.

(4)

The total number of dwelling units in a RCO-MF shall be limited to 12 units per acre.

(5)

No part of any principal building in a RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.

(ii) Retirement Community – Multifamily (RCO-MF)

(6)

Maximum combined lot coverage in a RCO-MF, including any permitted accessory structures shall not exceed 40% of the tract or contiguous parcels.

(7)

The tract or contiguous parcels upon which a RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.

(8)

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(ii) Retirement Community – Multifamily (RCO-MF)

(9)

The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(10)

A minimum of 1.0 parking space per dwelling unit shall be provided in a RCO-MF. Attached and detached garages shall count toward this parking requirement.

(11)

No dwelling unit in a RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.

(ii) Retirement Community – Multifamily (RCO-MF)

(12)

No building in a RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.

13)

In a RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

Be and is herewith **SET A PUBLIC HEARING FOR _____, ADVERTISE,
REFER TO PLANNING BOARD.**

ADOPTED

ORDER NO. 18-1007198E

Planning Board and City Council Public Hearings

Proposed RCO-MF Overlay District

Council Order 18-1007198E

CLEAN Format

Planning Board and City Council Public Hearings

IN CITY COUNCIL

ORDERED

Marlborough, Mass., _____

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 BY AMENDING AND ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled Definitions; word usage, is hereby amended to read:

RETIREMENT COMMUNITY – DETACHED AND TOWNHOMES

A community consisting of detached or attached (only along side walls in so-called “townhouse” style) structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

[Amended 1-6-2003 by Ord. No. 03-9821B; 1-6-2003 by Ord. No. 03-9821-1B; 1-6-2003 by Ord. No. 03-9821-2B]

RETIREMENT COMMUNITY – MULTIFAMILY

A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

1. Section 650-22.A, entitled "Purpose" is hereby amended to read: Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community.

2. Section 650-22.C, entitled "Permitted uses" is hereby amended to read: Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a Retirement Community - Detached and Townhomes, or a Retirement Community – Multifamily, as defined in § 650-5, consistent with the following provisions:

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(1)

No building in a RCO-D/T community shall be more than 2 1/2 stories in height.

(2)

Each building in a RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by air line distance between the nearest points of the buildings.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(3)

No dwelling in a RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.

(4)

All dwelling units in a RCO-D/T community shall be detached from the others or attached only along side walls in the so-called "townhouse" style.

(5)

The lot or lots on which a RCO-D/T community and any approved ancillary residential community are located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(6)

No part of any principal building in a RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.

(7)

Each dwelling unit in a RCO-D/T community shall have its own attached yard area.

(8)

Required off-street parking for each dwelling unit in a RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in a RCO-D/T community, either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(9)

Maximum combined lot coverage in a RCO-D/T community and in any permitted ancillary residential community shall not exceed 40% of the total lot size.

(10)

Each lot or contiguous lots upon which a RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.

(i) Retirement Community – Detached and Townhomes (RCO-D/T)

(11)

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(12)

The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(13)

No unit in a RCO-D/T community shall have more than three bedrooms.

(ii) Retirement Community – Multifamily (RCO-MF)

(1)

The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.

(ii) Retirement Community – Multifamily (RCO-MF)

(2)

A RCO-MF may contain one (1) and two (2) bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.

(3)

No building in a RCO-MF shall be more than 3 stories in height.

(4)

The total number of dwelling units in a RCO-MF shall be limited to 12 units per acre.

(5)

No part of any principal building in a RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.

(ii) Retirement Community – Multifamily (RCO-MF)

(6)

Maximum combined lot coverage in a RCO-MF, including any permitted accessory structures shall not exceed 40% of the tract or contiguous parcels.

(7)

The tract or contiguous parcels upon which a RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.

(8)

The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.

(ii) Retirement Community – Multifamily (RCO-MF)

(9)

The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

(10)

A minimum of 1.0 parking space per dwelling unit shall be provided in a RCO-MF. Attached and detached garages shall count toward this parking requirement.

(11)

No dwelling unit in a RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.

(ii) Retirement Community – Multifamily (RCO-MF)

(12)

No building in a RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.

13)

In a RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

Be and is herewith **SET A PUBLIC HEARING FOR _____, ADVERTISE,
REFER TO PLANNING BOARD.**

ADOPTED

ORDER NO. 18-1007198E

Planning Board and City Council Public Hearings

City of Marlborough

Proposal to Amend Chapter 650 to Allow for High Quality Multifamily Residential Community for Independent Seniors

Property Owner

First Colony Crowley Drive One LLC
(Jon Delli Priscoli)

November 5, 2018

Planning Board and City Council Public Hearings

**City of Marlborough
Licensing Board**

140 Main Street, Lower Level
Marlborough, MA 01752
(508) 460-3751 FAX (508) 460-3625

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2018 OCT 25 P 4:46

**Minutes of the Special Licensing Board Meeting Held Wednesday, September 18, 2018
at 12:00 pm, City Hall, 1st floor, Council Committee Room.**

Attending: Walter Bonin, Chairman; Gregory Mitrakas, Member; David Bouvier, Member;
Tina Nolin, Clerk

Meeting called to order by Walter Bonin, Chairman at 12:00 PM

New Business

1. ONE DAY PERMIT

Fraternal Order of Eagles – 56 Florence Street

Member Mitrakas motioned for approval, seconded Member Bouvier
Board vote: 3-0 approved

American Legion Post 132 – 90 Maple Street

Member Mitrakas motioned for approval, seconded Member Bouvier
Board vote: 3-0 approved

Reports from Chairman

Update on the City Council Legal and Legislative Affairs Committee meeting which occurred September 17, 2018 at 6:30 pm to discuss the revised version of the petition for liquor license.

It passed in committee and will now be forwarded to the State Legislature for approval.

Motion made to adjourn at 12:20 PM by Member Mitrakas, seconded by Member Bouvier
Board vote: 3-0 to adjourn.

Respectfully submitted,

Walter Bonin

Walter Bonin, Chairman

ALL RELATED DOCUMENTS CAN BE SEEN IN THE LICENSE BOARD OFFICE

**City of Marlborough
Licensing Board**
140 Main Street, Lower Level
Marlborough, MA 01752
(508) 460-3751 FAX (508) 460-3625

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2018 OCT 25 P 4:46

Minutes of the Licensing Board Meeting Held Wednesday, September 26, 2018
at 7:30 pm, City Hall, 1st floor, Council Committee Room.

Attending: Walter Bonin, Chairman; Gregory Mitrakas, Member; David Bouvier, Member;
Tina Nolin, Clerk

Meeting called to order by Walter Bonin, Chairman at 7:30 PM

New Business

1. ONE DAY PERMIT

Italian American Club – 111 Neil St.

Member Bouvier motioned for approval, seconded Member Mitrakas
Board vote: 3-0 approved

Moose Lodge – 67 Fitchburg St.

Member Mitrakas motioned for approval, seconded Member Bouvier
Board vote: 3-0 approved

Masonic/Jacobs Hall – 8 Newton St.

Member Mitrakas motioned for approval, seconded Member Bouvier
Board vote: 3-0 approved

2. Strange Brew, 416 Boston Post Rd E

Brian Powers, Owner/Manager -

Mr. Powers came in to discuss what he would need to do to increase the hours on his license. The Board reiterated their decision from the May 30, 2018 public meeting at which Mr. Powers applied for his license that, "Any changes to hours, as with anything else with the license, will require notifying the abutters and holding a public meeting." The Board agreed that the notification to the abutters must be in writing and must be available to all abutters in a reasonable manner, although individual certified letters were not required. Mr. Powers will be placed on the agenda for October with a public meeting to increase his hours.

ALL RELATED DOCUMENTS CAN BE SEEN IN THE LICENSE BOARD OFFICE

**3. Class II Dealership Application – Kings Auto Sport, 103A Mechanic Street
Marlon, R. Reis, Owner**

It was determined that once Mr. Reis received from the Building Commissioner zoning approval he could return to the Licensing Board to apply for the dealership license.

4. Reports from Chairman

- La Tapatia Incident Report – included violation of serving a minor, over serving and operating after hours. The Board's decision is to request Jose Barajas, La Tapatia license holder and manager, and Apolinar Martinez, the bartender on the night of the incident and identified in the report to attend the October 2018 meeting to discuss the incident. The clerk will write the letter requesting their presence of the two men and let them know that they may have an attorney present, and that it could result in the suspension of the license.
- Country Club question regarding charging different prices in restaurant vs banquet hall

Chairman Bonin, reviewed the Country Clubs pricing question and noted that he could not find any rule against the practice and this was allowed provided the price reflects different expenses and the price is reasonable. Members Mitrakas and Bouvier noted that this was common practice at other clubs in the city as well.

5. Misc. Correspondence and Open Issues

There were no misc. correspondence or open issues.

6. Review minutes –

August 22, 2018 meeting minutes.

Member Mitrakas motioned to approve the minutes and place on file, Member Bouvier seconded, the motion; Board vote: 3 – 0 to accept the minutes and place on file.

Member Mitrakas motioned to adjourn the meeting at 9:00 pm.

The next meeting of the Licensing Board is Wednesday, October 24, 2018.

Respectfully submitted,



Walter Bonin, Chairman

ALL RELATED DOCUMENTS CAN BE SEEN IN THE LICENSE BOARD OFFICE

July 25, 2018

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2018 OCT 26 P 3:47



**CITY OF MARLBOROUGH
OFFICE OF TRAFFIC COMMISSION
140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on Wednesday, July 25, 2018 at 10:00 am in Memorial Hall, 3rd Floor, City Hall. Members present: Chairman - Police Chief David Giorgi, Fire Chief Kevin Breen and DPW Commissioner John Ghiloni. Also present: Assistant City Engineer Tim Collins, Officer Andy Larose – MPD Traffic Services Unit, City Councilor Kathleen Robey. Minutes taken by Karen Lambert, MPD Records Clerk.

1- Minutes

The minutes of the Traffic Commission meeting of Wednesday, June 27, 2018.

MOTION was made, seconded, duly VOTED:
TO APPROVE - Accept and Place on File.

2 - New Business

2a) Accident concerns: Rte. 85 near Assabet & Rail Trail Crossing on Fitchburg St. by Boston Scientific.

Chief Giorgi received an email from a local resident on these two issues.

- 1) **Rte. 85 near Assabet** – It was noted in the email that the driveway of Assabet Regional High School exits onto Rt. 85 and that many students and others walk from the driveway of the school toward Hudson. There is no sidewalk or shoulder on either side of the road in this area and it is “an accident waiting to happen.”

Commissioner Ghiloni said that the City is in the process of reconstructing portions of Bolton Street within the next two weeks. The plan includes the installation of a sidewalk that goes from the school driveway to the Hudson town line.

- 2) **Rail Trail Crossing at Fitchburg Street.** – It was noted in the email that many cars disregard the flashing yellow lights and pedestrian crossing signs here including the trucks from Land's Towing. This area was also referred to as "an accident waiting to happen" and increased enforcement is being requested.

Tim Collins pulled up a diagram and photo on the screen for the discussion. Officer Larose advised that he has been out at this location, however, he works Monday to Friday and it is less busy at this time then on the weekends. The lights flash yellow and vehicles are supposed to yield to pedestrians in the crosswalk. The lights never turn red. The sign says "Stop for Pedestrians", however, it should say "Yield for Pedestrians", as this is actually what the law actually requires. Drivers should stop, let the pedestrians pass and can then proceed. There is an advance warning sign for the crosswalk ahead. The crosswalk can clearly be seen from a distance. It was discussed that even though there is a flashing yellow light at the crosswalk, pedestrians still have to be careful when crossing here. In the future, this area could trip the warrants for an official crossing with a stop condition and lights, however, the traffic volume does not meet the requirements at this point.

Chief Giorgi said that he would speak to Land's Towing directly about their trucks not stopping for pedestrians.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT for enforcement and to Chief Giorgi to communicate back to the local resident and to speak with Land's Towing directly.

3-Old Business

3a) Request for stop signs on Weed St. at Florence St.

Update: Commissioner Ghiloni advised that this item is "almost there" but still in process.

MOTION was made, seconded, duly VOTED to TABLE.

3b) Discussion of Ch. 586, Section 33: "Municipal Off-street Parking Areas" relative to parking decks on Weed Street.

Tim Collins made the clarifications that were discussed at the last meeting and provided revised copies of the proposed wording. He had two different versions, one with a diagram on the second page and one without. Chief Giorgi advised that he preferred the one with the diagram as it was clearer to understand. He had already prepared the revised regulation based on this wording and presented it for a vote.

MOTION was made, seconded, duly VOTED to APPROVE the amended regulation for Article V: "Municipal Parking Areas". ALL IN FAVOR.

and to REFER to Lisa Thomas for advertisement.

3c) Elm Street Parking

Tim Collins passed out wording for the revised regulation for "No Stopping, Standing or Parking Anytime" on a specific section of Elm Street. (South side from Pleasant Street, northeasterly for a distance of 206 feet). Chief Giorgi had also already prepared the revised regulation based on this wording and presented it for a vote.

MOTION was made, seconded, duly VOTED to APPROVE the amended regulation for "No Stopping, Standing or Parking Anytime" on this specific section of Elm Street. ALL IN FAVOR.

and

to REFER to Lisa Thomas for advertisement.

3d) Issues at Winter Avenue and Lincoln Street

Update: The last issue to be discussed here was accident history. Tim Collins brought up a diagram of the area on the board. The Police Department advised that they only have a record of one accident at this location. It was also noted again that Winter Ave. is not public property.

MOTION was made, seconded, duly VOTED to REMOVE from the AGENDA.

3e) Stop Sign on Exeter Street

Tim Collins advised that when the Rules and Regulations Manual was recodified the regulation for the stop sign on Exeter Street was not included for some reason. He was looking for confirmation that it was simply left out and will be added to the next update with City Code. Chief Giorgi included the regulation for the revised schedule of "Stop Intersections" in the agenda packet. All agreed it should be added.

Chief Giorgi asked if there were any other issues for discussion. The "No Turn on Red" sign at the intersection of Elm Street and Pleasant Street came up. The sign is still there and it is way up high on the pole out of the line of vision. Tim Collins advised that this sign would be coming down as right turn on red at this intersection is now allowed.

Chief Giorgi also mentioned that he had received a few complaints about issues around the Memorial Beach area. He advised that he forwarded this information to Tim Collins.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 10:17 am.

Respectfully submitted,

Karen L. Lambert
Records Clerk
Marlborough Police Department

List of documents and other exhibits used at the meeting:

-City of Marlborough Meeting Posting for Traffic Commission Meeting on Wednesday, July 25, 2018, including meeting agenda.

-Draft of Traffic Commission Minutes from Wednesday, June 27, 2018.

-Email from Diane Seligman to the Mayor's Office, dated 6/29/18, re: Accident waiting to happen. Forwarded by Patricia Bernard to Chief Giorgi on 7/3/18.

-Proposed wording for the regulation to add specific section of Elm Street, southside, to the schedule for "No Stopping, Standing or Parking Anytime", along with Diagram.

-Amended Regulation for the same.

-Amended Regulation to add two new locations to the schedule of "Stop Intersections", i.e. stop signs on Dartmouth St. & Exeter St. at intersection of Edinboro St.

Additional Handouts:

-Proposed new language for Article V, of the Rules and Regulations of the Traffic Commission, entitled "Municipal Parking Areas".

-Proposed regulation for the same.



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2018 OCT 30 A 10:43

Marlborough Public Schools

School Committee

17 Washington Street, Marlborough, MA 01752
(508) 460-3509

Call to Order

September 25, 2018

1. Mrs. Bodin-Hettinger called the regular meeting of the Marlborough School Committee to order at 7:35 pm at the District Education Center, 17 Washington Street, Marlborough, MA. Members present included Mrs. Ryan, Mrs. Hennessy, and Mr. Geary. Also present were Superintendent Michael Bergeron, Director of Teaching and Learning, Mary Murphy, Director of Finance and Operations Douglas Dias, MEA Representative Rupal Patel, Student Representative Timothy Goliger and Administrative Support Christine Martinelli. Chairman Vigeant joined the School Committee at 7:50.

2. **Pledge of Allegiance:** Mrs. Bodin-Hettinger led the Pledge of Allegiance.

3. Presentation:

A. MHS Student Advisory Committee Presentation

Allison Lucas, Student Representative from the Sophomore class, reported that the marching band has been working hard with the transition of a new director and learning material for this year's theme, from the music of *Queen*. Mrs. Hennessy complimented the Marching band, on how good they have been this year.

Hattie Parker, a freshman and first year representative, talked about the freshman experience and how positive it has been for them this year. She complimented the staff and upper classmen on how wonderful and kind they have been helping freshman navigate to their classes and schedule. Her one critique was that the new schedule is a little confusing. Senior Student Representative, Timothy Goliger commented on the new schedule, and that it is humorous being a senior and having to ask freshman how to get to classes. He ended that it will just take some adapting but will get easier as they go along.

B. Camp Invention

MHS teacher, Julie Baker, Director of Camp Invention and Whitcomb teacher, Kelly Hall, Assistant Director, spoke about the summer camp that was created by the National Inventors Hall of Fame. Approximately 80 campers, who are now in grades 4 and 5, attended the week-long camp held at Jaworek Elementary from July 23 to 27. Full

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Marlborough Public Schools

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scholarships were provided to all participants, and it was staffed with four teaching staff and 11 teen interns from the high school. The daily schedule had four modules, Optibot, Robotic Pet Vet, Mod My Mini Mansion and Stick to It. The camps learning experience is centered around creativity and innovation, entrepreneurship, teamwork and collaboration and curiosity.

Mrs. Hennessy commented that she liked how Marlborough High School students could be mentors at Camp Invention and asked how a student would apply for being a leadership intern.

C. New Superintendent Induction Program Advisor to the Superintendent

Mr. Bergeron introduced retired, tenured Superintendent, Matt King who will be his Induction Program Advisor for the next three years. Mr. King spoke of his 28 years of experience in Massachusetts as a superintendent and his work now as a coach in the induction program. Mr. King is working with Mr. Bergeron and two other new superintendents this year, to help them transition from their previous position into the challenging and complex position of a superintendent. He explained it is not about telling them what to do, but to help them think through the issues they face in their own context, because each community has different needs. He believes the superintendent's job is about relationships, student achievement and thinking strategically about what goes on in schools. The first year of this transition program is six hours a month of in person coaching, the second year is four hours of coaching and the third year is no onsite coaching, but the new superintendents meet as a group throughout that year.

4. Committee Discussion/Directives: None

5. Communications: None

6. Superintendents Report:

Mr. Bergeron began his report by including a draft of his goals for this year, for the committee to review and comment on. At the next School Committee meeting he will ask that they accept his goals for this year. The Superintendent's Goals are included in the handouts that can be found on the MPS website.

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October 2, Commissioner of Education Jeff Riley will visit Richer Elementary School. Invitations will be sent out for selected participants. At his visit, Commissioner Riley will have a short meeting with Principal Skaza, a walkthrough of the school and then the commissioner will sit down to talk with some of the students and staff.

On September 24, a small group of school committee members met to discuss a self - assessment for the district review with DESE.

Superintendent Bergeron discussed continuing work on Goal #2, *Increase the rigor and relevance of vocabulary for every student by adopting language objectives into our daily lesson planning.* At the leadership meeting on September 20 he met with two MPS EL administrators for a refresher on language objectives.

He thanked Richer Principal Skaza and Assistant Principal Joseph Padilla for their invitation to Walking Wednesday at Richer School, where he enjoyed stretching exercises and a walk to the school. Mayor Vigeant also attended joining in on the healthy activity.

Last, on September 27, UMass Memorial Hospital is hosting a discussion on substance abuse at the Whitcomb School, from 7 – 8:15, with two doctors leading the panel discussion.

A. Director of Finance & Operations Report:

Mr. Dias is working with the City's Procurement Officer in developing an RFQ for redistricting services. The RFQ was sent out to ten vendors with bids to come in October 19. Mr. Dias' goal is to partner with a vendor this fall and allow the committee to start evaluating the options for when the new elementary school is added, and the fifth grade is brought back to the elementary schools.

Mr. Dias thanked Diane Smith and her team for their effort and guidance as he worked through his first fiscal closing, FY18, in Marlborough on 9/07/18. He feels confident for another strong fiscal year in FY19 and in the weeks ahead will begin preliminary work on the FY20 budget.

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He reported a negative balance of \$2,143 to the cafeteria balances as of 9/19/18, compared to a negative balance of -\$1,779 at the same time last year. Work will continue with administrators and food service staff on strategies to lower this amount.

The Translation and Registration and Parent Outreach Center teams are close to being fully staffed. The phone bank is up and running, translators were available at curriculum night last week and utilized by the families that were present and work will continue to ensure that the RPOC has all the tools needed to be successful.

Mrs. Bodin-Hettinger asked about the amount of non-English speaking families that came to curriculum night and she hopes that we are getting the message out to families that we have this service for them. Student Representative Timothy Goliger praised the district for having both Spanish and Portuguese translators on-site at the curriculum night. Mrs. Hennessy asked if Superintendent Bergeron was looking for SC members to bounce redistricting ideas off regarding RFQ. He said it would be a good idea to have small non-cohort committee to review some of the information.

B. Director of Student Services Report:

Ms. O'Brien reported that sixteen teachers completed the Level 1 Wilson Reading Certification program in June. Eleven of those teachers are participating in on-going Wilson training to be able to provide group instruction and 1:1 instruction. This is the second stage of professional development, with the goal to offer Level 2 Wilson Certification in year three.

There are currently 56 special education students in Out of District placements. Twelve are within collaborative programs, thirty-seven placements are at private day schools and seven placements are residential. This number is down from 65 students in OOD, that was reported in April 2018. The goal is to provide opportunities and to strengthen our in-district schools so OOD students come back and to prevent future students from going to outside placements.

At Whitcomb School, on October 10 at 7pm, the district is sponsoring a free parent presentation. Author Michael Delman, "Your Kid's Gonna Be Okay," will be speaking about

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building executive skills and how parents can teach their children these self-management skills.

Mrs. Hennessy asked a clarifying question about Wilson Reading and the MPS schools that the sixteen teachers come from.

Mrs. Ryan is excited about the executive functioning presentation and book, "Your Kid's Gonna Be Okay". She asked what level this was targeted for and how it will be advertised.

7. Acceptance of Minutes:

A. Minutes of September 11, 2018 School Committee Meeting

Motion made by Mrs. Bodin-Hettinger, seconded by Chairman Vigeant, to approve as submitted, the School Committee minutes of September 11, 2018.

Motion passed 5-0-0.

8. Public Participation: None

9. Action Items/Reports:

Mrs. Bodin-Hettinger made a motion to move up 9C and seconded by Chairman Vigeant to move up item 9C.

Motion approved 5-0-0.

A. MHS Staggered Openings Schedule

High School Principal Dan Riley presented the staggered openings schedule for the school year. The school committee had the date in front of them as Mr. Riley reviewed the various staggered openings as well as a change to an October date. A motion was made by Mrs. Bodin-Hettinger and seconded by Chairman Vigeant to approve the staggered openings. Motion approved 5-0-0.

Mrs. Bodin- Hettinger moved to go into executive session. Chairman Vigeant took a roll call vote to go into executive session at 8:15.

Motion passed 5-0-0.

The School Committee returned from executive session and resumed the meeting.

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B. Memorandum of Agreement between the Marlborough School Committee and Administrators' Union

A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to approve the Memorandum of Agreement between the Marlborough School Committee and the Administrators' Union.

Motion passed 5-0-0.

C. FY19 Operating Budget Transfers

Mr. Dias is recommending transfers within the FY19 operating budget, the monies are being transferred for balance purposes. A motion was made by Mrs. Bodin-Hettinger and seconded by Chairman Vigeant to approve the budget transfers.

Motion passed 5-0-0.

D. Policies for First Read:

Mrs. Hennessy read the four policies for First Read and for the committee to contact her if they had any questions. These policies will be voted on at the next School Committee meeting.

Policy #7.310 Overnight Travel

Policy #7.320 Student Extended Field Trip Protocols

Policy #8.120 Student Records

Policy #8.30 Restraint Prevention & Behavior Support

E. Policy for Removal

Mrs. Hennessy made a motion for removal of **Policy #8.080 Re-Entry**, Chairman Vigeant seconded the motion to remove Policy #8.080 Re-Entry.

Motion approved 5-0-0.

F. Acceptance of Donations and Gifts

Follett Buy Back Program paid Richer Elementary, \$40.22 for payment of books sold through the Consignment Buy-Back program. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to accept with gratitude the \$40.22 paid by Follett for books sold.

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Motion approved 5-0-0.

New York Life gave a \$500.00 grant to Richer Elementary to support the goal of being a Grief Sensitive School. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to accept with gratitude the \$500.00 grant from New York Life.

Motion approved 5-0-0.

Lifetouch Photography donated \$726.41 to Richer Elementary for commissions from spring photo day. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to accept with gratitude the \$726.41 in commissions from Lifetouch Photography.

Motion approved 5-0-0.

Skybridge Americas, Inc. & Coca Cola Give program earned \$29.78 in funds raised by parents and the community when Coca Cola products are purchased. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to accept with gratitude the \$29.78 donation from Skybridge Americas.

Motion approved 5-0-0.

Donor's Choice, Maker Space Classroom donation of \$232.75 in materials for Whitcomb School. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to approve with gratitude \$232.75 donation from Donor's Choice.

Motion approved 5-0-0.

FY19 IDEA 240 Department of Elementary and Secondary Education (DESE) Grant for \$1,338,858.00 for MPS. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to approve the grant.

Motion approved 5-0-0.

FY19 Title I 305 DESE Education Grant for \$811,809.00 and **FY19 Title I 309 DESE Education Grant** for \$55,262.00 were reviewed and approved by DESE. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to approve the two grants.

Motion approved 5-0-0.

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FY19 Title IIA DESE Grant for \$150,560.00 and **FY19 Title III 180 DESE Grant** \$154,291.00. A motion was made by Mrs. Ryan and seconded by Chairman Vigeant to approve the two grants.

Motion approved 5-0-0

10. Reports of School Committee Sub-Committees:

Mrs. Hennessy reminded the committee there will be another Policy subcommittee meeting on October 5.

Mrs. Ryan reviewed the warrant with Mr. Dias. There were no questions from the School Committee regarding the Warrant.

11. Members' Forum:

Mrs. Bodin-Hettinger spoke regarding the subcommittees within the district that SC members are participating in. She suggested they let each other know about their subcommittees they are serving on, in case any other member would like some of these great opportunities to get involved themselves.

12. Adjournment:

Motion made by Mrs. Bodin-Hettinger, seconded by Chairman Vigeant to adjourn at 8:42 pm.

Motion passed 5-0-0

Respectfully submitted,

Heidi Matthews
Secretary, Marlborough School Committee

HM/cm

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**Minutes
Retirement Board Meeting of
August 28, 2018**

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2018 OCT 30 P 1:44

The monthly meeting of the Marlborough Retirement Board was held on August 28, 2018. William Taylor, David Keene, Diane Smith, Daniel Stanhope, Margaret Shea, John McGrath, and Scott Taylor were present.

1. The meeting was called to order at 8:15 a.m.
2. The Board reviewed the minutes of the meeting of July 31, 2018. A motion was made and seconded to approve. Vote unanimous.
3. A motion was made and seconded to go into executive session to discuss the accidental disability application of John McGrath.

Keene – Yes
Taylor – Yes
Smith – Yes
Stanhope – Yes

Acting Chairman Taylor noted that the regular meeting of the Board will reconvene after the close of the Executive Session.

EXECUTIVE SESSION

4. The regular meeting of the Marlborough Retirement Board reconvened. A motion was made and seconded to approve John McGrath's application for accidental disability retirement. Vote unanimous.
5. The next item on the agenda was a hearing regarding the accidental disability application of Scott Taylor. Acting Chairman Taylor asked Scott Taylor if he would like to conduct the hearing in executive session. He agreed. A motion was made and seconded to go into executive session for the purpose of discussing medical information.

Keene – Yes
Taylor – Yes
Smith – Yes
Stanhope – Yes

Acting Chairman Taylor noted that the regular meeting of the Board will reconvene after the close of the Executive Session.

EXUECTIVE SESSION

DRK
DS


6. The regular meeting of the Marlborough Retirement Board reconvened. A motion was made and seconded to approve Scott Taylor's application for accidental disability retirement. Vote unanimous.
7. The next item on the agenda was a discussion regarding Alyssa Stetson's application for accidental disability retirement. A motion was made and seconded to petition PERAC to convene a regional medical panel. Vote unanimous.
8. Henry Jaung and Stephen MacLellan from the Meketa Group arrived for the Board's quarterly investment review. As of June 30, 2018, the fund totaled \$167,259,796. The quarterly return was .9% resulting in a year-to-date return of 0%. The Board reviewed the world markets and the returns of each asset category.
9. The Board then discussed the results of the request for RFPs for bond index managers. Only three firms responded: SSGA, Rhumblin, and Garcia Hamilton. Meketa evaluated the firms on five criteria: organization, team, philosophy and process, performance, and fees. SSGA, the Board's current bond index manager, was ranked highly advantageous. After discussion, a motion was made and seconded to rehire SSGA to manage a bond index portfolio. Vote unanimous.

The core real estate search resulted in twelve responses to the Board's RFP. Only two of the firms, Clarion Lion Properties and RREEF America REIT, were rated as highly advantageous. The Board discussed issues involved in the hire of new real estate managers. Real estate managers have queues of 2 or 3 quarters which could remove the Board's real estate exposure for six to nine months. After discussion, a motion was made and seconded to retain Clarion as its real estate manager. Vote unanimous.

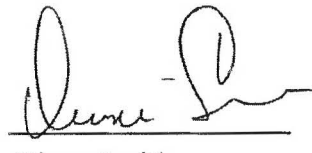
10. The Board reviewed Michael Sacco's client memorandum concerning recent CRAB cases. The discussion focused on the O'Leary v. Lexington Retirement Board case. The DALA Magistrate and CRAB determined that compensation paid in lieu of taking vacation should not be considered regular compensation. A motion was made and seconded to accept and place on file. Vote unanimous.
11. The Board discussed various regular compensation issues.
12. Approval of refunds and transfers were the next item on the agenda. Michaela Rocheleau's applied for a refund of her annuity savings account. The Middlesex Regional Retirement Board requested a transfer of Theresa Vickery's annuity savings account. A motion was made and seconded to approve refunds and transfers. Vote unanimous.
13. The Board reviewed the cash reconciliation for June. The July reconciliation was not yet complete. The director told the members that the PERAC auditor noted that they should review the bank statement as well as the Treasurer's reconciliation spreadsheet and our trial balance. A motion was made and seconded to accept and place on file. Vote unanimous.

14. The Board reviewed the operating budget as of July 31, 2018. A motion was made and seconded to accept and place on file. Vote unanimous.
15. The Board reviewed cashbooks, journal, and trial balances for July 2018. A motion was made and seconded to accept and place on file. Vote unanimous.
16. A motion was made and seconded to approve the following warrants: retirec payroll for August 2018, #202018, and #212018,
17. New Business / Old Business was the next item on the agenda. There was no old business. The director updated the members on the upcoming move.
18. There was no miscellaneous correspondence.
19. A motion was made and seconded to adjourn the meeting. Vote unanimous.

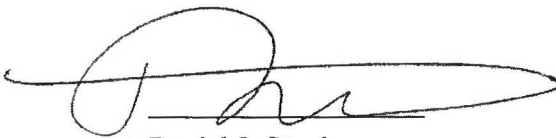
Gregory P. Brewster
Chairman



David Keene



Diane Smith



Daniel J. Stanhope

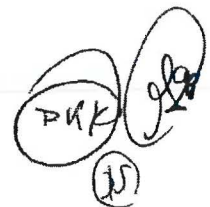
William S. Taylor

**Minutes
Retirement Board Meeting of
September 25, 2018**

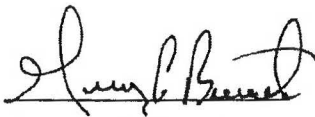
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2018 OCT 30 P 1:45**

The monthly meeting of the Marlborough Retirement Board was held on September 25, 2018. Gregory Brewster, William Taylor, David Keene, Diane Smith, and Margaret Shea were present.

1. The meeting was called to order at 8:15 a.m.
2. The Board reviewed the minutes of the meeting of August 28, 2018 and August 20, 2018. A motion was made and seconded to approve. Vote unanimous.
3. The Board reviewed the lease and accompanying documents in connection with office space at 289 Elm Street. A motion was made and seconded to approve the terms of the lease. Vote unanimous.
4. The Board reviewed the results of PERAC's follow-up audit. After discussion, a motion was made and seconded to accept and place on file. Vote unanimous.
5. The Board discussed the O'Leary case. DALA and CRAB ruled that payments made in lieu of taking vacation do not qualify as pensionable pay. PERAC has advised boards that while appeals are pending, the regular compensation status of these payments should not change.
6. Kathleen Murphy and Jesse Kalagian had applied to receive a superannuation retirement allowance effective in August of 2018. After a review of pertinent information, a motion was made and seconded to approve the applications. Vote unanimous.
7. Approval of refunds and transfers were the next item on the agenda. Grace Hartwell had applied for a refund of her annuity savings account. Kathleen Murphy was scheduled to receive a refund of deductions taken in error. A motion was made and seconded to approve refunds. Vote unanimous.
8. The Board reviewed cash reconciliation for July and revised reconciliation for May and June.
9. The Board reviewed the operating budget for September 30, 2018. A motion was made and seconded to accept and place on file. Vote unanimous.
10. Old Business / New Business was the next item. There was no old business. Under new business the director spoke to the Board regarding the MACRS Fall Conference.



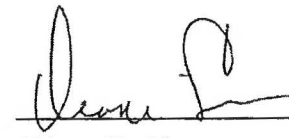
11. The Board reviewed the August 2018 cashbooks, journals, and transfers. A motion was made and seconded to accept and place on file. Vote unanimous.
12. A motion was made and seconded to approve the following warrants: retiree payroll for September 2018, #222018, #232018, and #242018. Vote unanimous.
13. New Business / Old Business was the next item on the agenda. There was no old business. The director updated the members on the upcoming move.
14. There was no miscellaneous correspondence.
15. A motion was made and seconded to adjourn the meeting. Vote unanimous.



Gregory P. Brewster
Chairman



David Keene



Diane Smith

Daniel J. Stanhope

William S. Taylor