

City of Marlborough Public Meeting Posting

Meeting Name: City Council Urban Affairs Committee
Date: October 13, 2021
Time: 7:00PM
Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2021 OCT -5 P 4: 53

This meeting will be held in the City Council Chamber. Public attendance is permitted. The meeting will be televised on WMCT-TV (Comcast Channel 8) or Verizon/Fios Channel 34) or you can view the meeting using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov).

7-19-21 – Order No.21-1008354: Application for Special Permit from Attorney Christopher Flood on behalf of Post Road Mobile Home Park and Sales Inc., to create a second mobile home park by dividing an existing permitted mobile home park located at 181 Boston Post Road East
-REFER TO URBAN AFFAIRS
PUBLIC HEARING: AUGUST 23, 2021

9-13-21 – Order No.21-1008395: Application for Special Permit from Atty. Falk on behalf of Aubuchon Realty Company, Inc., for two drive-through facilities associated with a new Starbucks and a bank at the Wayside Crossing Plaza, 661 Boston Post Road East.
-REFER TO URBAN AFFAIRS
PUBLIC HEARING: OCTOBER 4, 2021

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

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

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

Manager Comments

Order No.21-1008354

Special Permit Application

Draft Decision

Post Road Mobile

Home Park and Sales, Inc.

In Urban Affairs

October 13, 2021

City Council

From: John Garside
Sent: Friday, October 1, 2021 9:10 AM
To: City Council; Priscilla Ryder; Thomas DiPersio; Tin Htway; David Giorgi; Kevin Breen; Jason Grossfield
Cc: Karen Boule
Subject: RE: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

Good Friday Morning!

Applicant is reminded that each of these new mobile home parks would need permits from the Board of Health. The proposed park consisting of "ten (10) permitted mobile home sites", is this counting the permanent residential structures as well, I only locate 7 mobile units on the plan? Or are there other proposed locations not shown?

Thanks,

-John

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Thursday, September 30, 2021 3:00 PM
To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

Your comments are much appreciated.

KB

Karen A. Boule, Secretary
Marlborough City Council
City Hall, 2nd Floor
Marlborough, MA 01752
508-460-3711
citycouncil@marlborough-ma.gov

From: Chris Flood <ChrisFlood@floodlaw.net>
Date: September 30, 2021 at 11:48:24 AM EDT
To: "City Council (citycouncil@marlborough-ma.gov)" <citycouncil@marlborough-ma.gov>
Cc: "David Winske (ddavew@aol.com)" <ddavew@aol.com>
Subject: Special Permit - Post Road Mobile Home Park and Sales

Hello Karen,

I have attached the draft Special Permit Decision for review.

City Council

From: David Giorgi
Sent: Wednesday, October 6, 2021 7:10 PM
To: City Council
Cc: Priscilla Ryder; Thomas DiPersio; Kevin Breen; John Garside; Jason Grossfield; Karen Boule
Subject: Re: 2nd: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

Good Evening Karen,
The Police Department has no objections to this Special Permit application.
Thank you,
D. Giorgi

On Oct 6, 2021, at 6:23 PM, City Council <citycouncil@marlborough-ma.gov> wrote:

I have only heard from Director Garside at this time. Urban Affairs will be reviewing this permit on Wednesday, October 13, 2021.
It would be helpful to receive comments by day's end this Friday, October 8.
Much appreciated.
KB

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Thursday, September 30, 2021 3:00 PM
To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Tin Htway <tthtway@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

Your comments are much appreciated.
KB

Karen A. Boule, Secretary
Marlborough City Council
City Hall, 2nd Floor
Marlborough, MA 01752
508-460-3711
citycouncil@marlborough-ma.gov

City Council

From: Kevin Breen
Sent: Thursday, October 7, 2021 1:08 PM
To: City Council
Subject: RE: 2nd: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

Good Afternoon Karen:

I am pleased to report there are no outstanding issues or concerns for this special permit application.

Thank you,

KJB

KEVIN J. BREEN, FIRE CHIEF
MARLBOROUGH FIRE DEPARTMENT
215 MAPLE STREET
MARLBOROUGH, MA 01752
(508) 624-6986

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Wednesday, October 6, 2021 6:23 PM
To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>
Subject: 2nd: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

I have only heard from Director Garside at this time. Urban Affairs will be reviewing this permit on Wednesday, October 13, 2021.

It would be helpful to receive comments by day's end this Friday, October 8.

Much appreciated.

KB

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Thursday, September 30, 2021 3:00 PM
To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>

City Council

From: Thomas DiPersio
Sent: Friday, October 8, 2021 11:19 AM
To: City Council; Priscilla Ryder; David Giorgi; Kevin Breen; John Garside; Jason Grossfield
Cc: Karen Boule
Subject: RE: 2nd: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

To the Urban Affairs Committee:

Regarding the Special Permit Draft Decision for Post Road Mobile Home Park and Sales, I would offer the following:

- The applicant discussed the proposal with the Site Plan Review Committee, and has incorporated recommendations from the committee with respect to the location of property lines with respect to parking areas, the naming of driveways within the park, etc. Final details related to these issues will be approved upon formal SPRC review. I have no further comments on the proposal or the draft decision.

Please contact me with any questions.

Thomas DiPersio, Jr., PE, PLS

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



From: City Council <citycouncil@marlborough-ma.gov>

Sent: Wednesday, October 6, 2021 6:23 PM

To: Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>

Cc: Karen Boule <kboule@marlborough-ma.gov>

Subject: 2nd: TO MANAGERS: Please submit comments re attached decision: From Atty. Flood: Special Permit Draft Decision—Post Road Mobile Home Park and Sales

I have only heard from Director Garside at this time. Urban Affairs will be reviewing this permit on Wednesday, October 13, 2021.

It would be helpful to receive comments by day's end this Friday, October 8.

Much appreciated.

KB

_____, 2021

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. # **21-1008354**

Application of:
Post Road Mobile Home Park and Sales, Inc.

Locus:
181 Boston Post Road East, Marlborough, MA

Parcels 29 on Assessors Map 72

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of **Post Road Mobile Home Park and Sales, Inc** with a mailing address of 181 Boston Post Road East, Marlborough, MA, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2021

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2021.

APPEALS

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

A TRUE COPY
ATTEST:

City Clerk

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

Application of:
Post Road Mobile Home Park and Sales, Inc.

Locus:
181 Boston Post Road East, Marlborough, MA
Parcels 29 on Assessors Map 72

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008354**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to **Post Road Mobile Home Park and Sales, Inc.** (the "Applicant") with an address of 181 Boston Post Road East, Marlborough, MA 01752 to create a mobile home park by dividing a currently permitted mobile home park into two separate parks. The new mobile home park will retain ten (10) permitted mobile home sites. The mobile home park is located at 181 Boston Post Road East, Marlborough, MA and as provided in this Decision is subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, **Post Road Mobile Home Park and Sales, Inc.** is a Massachusetts Corporation with an address of 181 Boston Post Road East, Marlborough, MA 01752.
2. The Applicant is the owner of the property located at 181 Boston Post Road, Marlborough, MA being shown as Parcel 29 on Assessors Map 72 (the "Site").
3. In accordance with Article VI, Section 650-36.D(2), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes to create a mobile home park by dividing a currently permitted mobile home park into two separate parks as shown on the Site Plan referenced in paragraph 7 below.
4. The Site is located in the Business-B District.

5. The Site has an area of **approximately 78,043 square feet as laid out and shown on Plan entitled Post Road Mobile Homes and Sales in Marlboro, Massachusetts dated May 10, 2021** as shown on the Site Plan referenced in paragraph 7 below.

6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the proposed Use.

7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a detailed site plan entitled **Post Road Mobile Homes and Sales in Marlboro, Massachusetts, prepared by RJP Construction & Engineering, 21 Chapin St., Northborough, MA , dated May 10, 2021** (the "Site Plan"); attached hereto as **"Attachment A."**

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

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

10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, August 23, 2021. The hearing was closed on that date.

11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use as continuing unchanged.

12. At the public hearing, no members of the public spoke in opposition to the Use.

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

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

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

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to create a mobile home park by dividing a currently permitted mobile home park into two separate parks, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. 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.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the City Council in accordance with Section 650-36 of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions of this Special Permit. Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority. Conditions imposed through Site Plan Review, as approved by the City Council, shall also be conditions of this Special Permit, and any violations of those conditions shall be violations of this Special Permit. In accordance with Section 650-36.H of the Zoning Ordinance, the Building Commissioner may approve minor modifications to the Special Permit and Site Plan.

3. 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.

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

Yea: _____ - Nay: _____ - Absent: _____

ADOPTED
In City Council
Order No. 21-1008354

Adopted: _____ 2021

A TRUE COPY

ATTEST: _____ City Clerk

City Council

From: Chris Flood <ChrisFlood@floodlaw.net>
Sent: Thursday, September 30, 2021 12:22 PM
To: City Council
Cc: David Winske (ddavew@aol.com); Karen Boule; Kathleen Robey
Subject: RE: Special Permit - Post Road Mobile Home Park and Sales

Hello Karen,

The second week of October, Wednesday Thursday or Friday would work for me.

Christopher M. Flood

The Law Offices of Flood & Favata, P.C.
14 Winthrop Street
Marlborough, MA 01752
508-624-4700
Fax: 508-624-7497
ChrisFlood@floodlaw.net
www.floodlaw.net



BEWARE! WIRE FRAUD IS ON THE RISE.

Accepting wire and disbursement instructions by email is dangerous, especially changes to those instructions. Verify by calling the originator of the email using previously known contact information prior to sending funds.

WE DO NOT ACCEPT OR REQUEST CHANGES TO WIRE INSTRUCTIONS BY EMAIL. ALWAYS CALL TO VERIFY.

Confidentiality Notice: This communication is intended only for the use of the individual or entity named above. It may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any use, disclosure, communication or copying of this material is strictly prohibited. If you have received this transmittal in error, please notify us immediately by calling the phone number above and/or reply to the e-mail address above and delete the original message from your system. **Circular 230 Disclosure:** Pursuant to U.S. Treasury Department Regulations, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is neither intended nor may it be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Thursday, September 30, 2021 12:19 PM
To: Chris Flood <ChrisFlood@floodlaw.net>
Cc: David Winske (ddavew@aol.com) <ddavew@aol.com>; Karen Boule <kboule@marlborough-ma.gov>; Kathleen Robey <atlarge_4@marlborough-ma.gov>
Subject: Re: Special Permit - Post Road Mobile Home Park and Sales

Thanks Atty Flood.

I'll be requesting comments from managers and scheduling Urban Affairs. When are you available the second week in October.

I'll be asking for an extension of time as well and will forward to you for execution and return.

Thanks.

KB

Karen A. Boule
City Council Office

On Sep 30, 2021, at 11:48 AM, Chris Flood <ChrisFlood@floodlaw.net> wrote:

Hello Karen,

I have attached the draft Special Permit Decision for review.

Christopher M. Flood

The Law Offices of Flood & Favata, P.C.

14 Winthrop Street

Marlborough, MA 01752

508-624-4700

Fax: 508-624-7497

ChrisFlood@floodlaw.net

www.floodlaw.net

<image001.png><image002.png><image003.png><image004.jpg>

<image005.jpg>

WE DO NOT ACCEPT OR REQUEST CHANGES TO WIRE INSTRUCTIONS BY EMAIL. ALWAYS CALL TO VERIFY.

Confidentiality Notice: This communication is intended only for the use of the individual or entity named above. It may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any use, disclosure, communication or copying of this material is strictly prohibited. If you have received this transmittal in error, please notify us immediately by calling the phone number above and/or reply to the e-mail address above and delete the original message from your system. **Circular 230 Disclosure:** Pursuant to U.S. Treasury Department Regulations, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is neither intended nor may it be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

<Special Permit Decision.docx>

Manager Comments

Order No.21-1008395

Special Permit Application

Draft Decision

Aubuchon Realty Company, Inc.

Two Drive Through Facilities

For Starbucks

&

Bank

(to be named)

661 Boston Post Road East

In Urban Affairs

October 13, 2021

City Council

From: David Giorgi
Sent: Thursday, October 7, 2021 9:58 AM
To: City Council; Thomas DiPersio; Priscilla Ryder; Kevin Breen; Tin Htway; John Garside
Cc: Karen Boule; Patricia Bernard
Subject: RE: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

Good Morning,

The Police Department does not have any objection to the special permit application. We have informally discussed this application at the Site Plan Committee and the applicant and Att. Falk were receptive to our concerns about adding signage both within the parking lot for the retail stores and Starbucks as well as on DiCenzo Blvd and Boston Post Rd. in order to direct motorists of the direction to properly enter and exit the property.

Thank you,
David Giorgi
Chief of Police

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Wednesday, October 6, 2021 5:24 PM
To: Thomas DiPersio <tdipersio@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>
Subject: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

Please submit comment regarding the 'draft special permit decision' submitted by Atty. Falk for review by the Urban Affairs Committee on October 13, 2021.
KB

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Tuesday, October 5, 2021 8:02 AM
To: City Council <citycouncil@marlborough-ma.gov>; Kathleen Robey <atlarge_4@marlborough-ma.gov>
Cc: Steven Kerrigan <skerrigan@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Susan Brown <sbrown@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>
Subject: RE: Site Plan Review Application for 661 Boston Post Road East

Greetings,

Attached for your review is a draft special permit decision and a draft site plan decision.

City Council

From: Thomas DiPersio
Sent: Friday, October 8, 2021 11:13 AM
To: City Council; Priscilla Ryder; David Giorgi; Kevin Breen; Tin Htway; John Garside
Cc: Karen Boule; Patricia Bernard
Subject: RE: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

To the Urban Affairs Committee:

Regarding the Special Permit Draft Decision for 661 Boston Post Road East, I would offer the following:

- The applicant should present all proposed signage to the committee for review for compliance with the requirements in the district;
- I am in agreement that the proposed site plan complies with the requirements in the district for site access and minimizing driveways;
- The proposed site plans contain pedestrian accommodations and screening of parking areas that comply with the requirements in the district in my opinion - the Site Plan Review Committee will examine these details more closely as part of their review;
- The Site Plan Review Committee will also review other site design details as part of their review, but on initial review I do not note any significant engineering-related issues;
- I would request that the following be added to Special Permit Condition #8 Traffic Flow: The applicant, its successors and/or assigns, shall also install and maintain signage at the east end of the site, such that it is visible from the DiCenzo Boulevard/Boston Post Road intersection, that directs drivers headed west on Boston Post Road to use DiCenzo Boulevard to get to Starbucks (to try to reduce illegal left-turns into the Target driveway).

Please contact me with any questions.

Thomas DiPersio, Jr., PE, PLS

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



From: City Council <citycouncil@marlborough-ma.gov>

Sent: Wednesday, October 6, 2021 5:24 PM

To: Thomas DiPersio <tdipersio@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Tin Htway <tthtway@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>

Cc: Karen Boule <kboule@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>

Subject: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

City Council

From: Kevin Breen
Sent: Friday, October 8, 2021 12:58 PM
To: City Council
Subject: RE: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

Good Afternoon Karen:

On behalf of MFD, I have no additional comments regarding this special permit application. The applicant has addressed all of the concerns expressed at Site Plan Committee meetings.

Thank you,

KJB

KEVIN J. BREEN, FIRE CHIEF
MARLBOROUGH FIRE DEPARTMENT
215 MAPLE STREET
MARLBOROUGH, MA 01752
(508) 624-6986

From: City Council <citycouncil@marlborough-ma.gov>
Sent: Wednesday, October 6, 2021 5:24 PM
To: Thomas DiPersio <tdipersio@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>
Subject: TO MANAGERS: Special Permit Draft Decision for 661 Boston Post Road East

Please submit comment regarding the 'draft special permit decision' submitted by Atty. Falk for review by the Urban Affairs Committee on October 13, 2021.

KB

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Tuesday, October 5, 2021 8:02 AM
To: City Council <citycouncil@marlborough-ma.gov>; Kathleen Robey <atlarge_4@marlborough-ma.gov>
Cc: Steven Kerrigan <skerrigan@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Susan Brown <sbrown@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>
Subject: RE: Site Plan Review Application for 661 Boston Post Road East

Greetings,

_____, 2021

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. #21-1008395

Application of:
Aubuchon Realty Company, Inc.

Locus:
661 Boston Post Road East, Marlborough, MA
Parcel 27A on Assessors Map 61

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Aubuchon Realty Company, Inc., with a mailing address of 73 Junction Square Drive, Concord, MA 01742, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2021

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2021.

APPEALS

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

A TRUE COPY
ATTEST:

City Clerk

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT

Application of:
Aubuchon Realty Company, Inc.

Locus:
661 Boston Post Road East, Marlborough, MA
Parcel 27A on Assessors Map 61

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008395**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Aubuchon Realty Company, Inc. (the "Applicant") to build and operate a drive-thru facility for a bank, a drive-thru facility for a coffee shop restaurant, and a walk up window for a coffee shop restaurant, and to modify a preexisting nonconforming use (site with a dry cleaner) (the "Use") at 661 Boston Post Road East, in the Wayside Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Aubuchon Realty Company, Inc., is a Massachusetts corporation with an address of 73 Junction Square Drive, Concord, MA 01742.
2. The Applicant is the owner of the property located at 661 Boston Post Road East, Marlborough, Massachusetts, being shown as Parcel 27A on Assessors Map 61 (the "Site").
3. In accordance with Article IV, Section 12.B, Article V, Section 650-14.B(2), Section 650-17, Section 650-18(A)(31), and Section 650-37 of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant seeks approval for the Use at the Site, as shown on the Plans referenced in paragraph 5 below.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Proposed Site Plan Documents" by Bohler Engineering,

with the last revision date of September 28, 2021, (the "Plans") attached hereto as **"Attachment A."**

6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. The Site is located in the Wayside Zoning District.

8. The Site has an area of 91,824 square feet +/- as shown on the Plans.

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, October 4, 2021. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on October 4, 2021.

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

12. At the public hearing, no members of the public spoke in opposition to the Use.

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

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

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

C. The City Council finds that the alteration of the Site with respect to the preexisting nonconforming dry cleaner use would not be substantially more detrimental to the neighborhood than the existing nonconforming use.

D. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to build and operate a drive-thru facility for a bank, a drive-thru facility for a coffee shop restaurant, and a walk up window for a coffee shop restaurant, and to modify a preexisting nonconforming use (site with a dry cleaner) at 661 Boston Post Road East, as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

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

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

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

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

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

6. Noise. The drive-thru facilities shall use high-quality speaker systems that minimize noise and comply with the noise ordinance of the City of Marlborough. The drive-thru audio speakers shall not produce noise at the property line greater than that which would be allowed at the property line in a residential zoning district in accordance with the noise ordinance of the City of Marlborough.

7. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.

8. Traffic Flow. The Applicant, its successors and/or assigns, shall install and maintain signage that directs drivers exiting the Site to use the signalized intersection at Diconzo Boulevard and Boston Post Road East for purposes of traveling west.

9. 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.

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

Yea: ____ - Nay: ____ - Absent - ____

Yea: _____, _____, _____, _____, _____, _____, _____, _____,

Nay: _____, _____,

Absent: _____, _____,

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
Order No. 21-1008395

Attachment A

City Council

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Tuesday, October 5, 2021 8:02 AM
To: City Council; Kathleen Robey
Cc: Steven Kerrigan; Tin Htway; Priscilla Ryder; Thomas DiPersio; David Giorgi; Kevin Breen; John Garside; Susan Brown; Wilson Chu; Patricia Bernard
Subject: RE: Site Plan Review Application for 661 Boston Post Road East
Attachments: Draft Special Permit Decision - 661 BPPE (Starbucks and Bank) (A7391171x7A575).DOCX; Draft Site Plan Approval Decision - 661 BPPE (Starbucks and Bank) (A7391199x7A575).DOC

Greetings,

Attached for your review is a draft special permit decision and a draft site plan decision.

In addition to many of the standard special permit conditions, the draft decision includes the following:

6. Noise. The drive-thru facilities shall use high-quality speaker systems that minimize noise and comply with the noise ordinance of the City of Marlborough. The drive-thru audio speakers shall not produce noise at the property line greater than that which would be allowed at the property line in a residential zoning district in accordance with the noise ordinance of the City of Marlborough.

7. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.

8. Traffic Flow. The Applicant, its successors and/or assigns, shall install and maintain signage that directs drivers exiting the Site to use the signalized intersection at Denczo Boulevard and Boston Post Road East for purposes of traveling west.

Thanks,
Brian

MIRICK O'CONNELL
ATTORNEYS AT LAW

BRIAN R. FALK

Partner

Mirick, O'Connell, DeMallie & Lougee, LLP

100 Front Street | Worcester | MA | 01608-1477

t 508.929.1678 | f 508.983.6256

bfalk@mirickoconnell.com | Bio



From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Thursday, September 30, 2021 2:29 PM
To: Falk, Brian R. <bfalk@MirickOConnell.com>
Subject: FW: Site Plan Review Application for 661 Boston Post Road East

MIRICK O'CONNELL
ATTORNEYS AT LAW

Brian R. Falk | X 678 | t 508.929.1678 | m 617.417.5509
Partner
Worcester Office

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Thursday, September 30, 2021 11:37 AM
To: 'City Council' <citycouncil@marlborough-ma.gov>; Steven Kerrigan <skerrigan@marlborough-ma.gov>
Cc: 'Tin Htway' <thtway@marlborough-ma.gov>; 'Priscilla Ryder' <pryder@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Susan Brown <sbrown@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>
Subject: Site Plan Review Application for 661 Boston Post Road East

Greetings,

Attached are electronic versions of the materials submitted this morning as part of the site plan review application by my client Aubuchon Realty Company, Inc. for 661 Boston Post Road East. The application was filed with the City Council, as the site plan approval authority for this Wayside Zoning District project. I understand that the application will undergo administrative review by the Site Plan Committee, and will then be reviewed by the Council along with the special permit application for this project.

I will provide a draft special permit decision and a draft site plan approval decision following the Council's public hearing on Monday, October 4.

Thank you.

Brian

MIRICK O'CONNELL
ATTORNEYS AT LAW

BRIAN R. FALK
Partner
Mirick, O'Connell, DeMallie & Lougee, LLP

100 Front Street | Worcester | MA | 01608-1477
t 508.929.1678 | f 508.983.6256
bfalk@mirickoconnell.com | Bio



Please visit our website: www.mirickoconnell.com

The information contained in this electronic message is legally privileged and confidential under applicable law, and is intended only for the use of the individual or entity named above. This electronic message and any attachments may also contain information that is protected by federal and state law, including the HIPAA Privacy Rule. If you are not the intended recipient, you are hereby notified that any dissemination, copying or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify Mirick O'Connell at (508)791-8500 and delete this communication immediately without copying or distributing it.