



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass.

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

16

In City Council
Order No.08/09- 1002051E

Application of:
Gutierrez Co.
1 Wall St.
Burlington, MA 01803



2009 001333/3
Bk: 53183 Pg: 1 Doc: NOT
Page: 1 of 16 07/13/2009 10:34 AM

Locus:
Parcels located on Lakeside Ave. and Bond St.
Map 67, Parcel 45 & Map 68, Parcel 30A

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Gutierrez Co. as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

Decision filed: **June 18, 2009**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on **June 18, 2009**.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.
Given at Marlborough this 9th day of July, 2009.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY
ATTEST: *Alaine Y. Luciani*
asst. City Clerk



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 1

ORDERED:

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to The Gutierrez Company, having a usual place of business at One Wall Street, Burlington, Massachusetts 01803 as provided in the Decision and subject to the following Procedural Findings, Findings of Facts and Conditions:

PROCEDURAL FINDINGS

1. The Gutierrez Company is a corporation organized and existing under laws of the State of Delaware registered to do business in the Commonwealth of Massachusetts and having a usual place of business at One Wall Street, Burlington, Massachusetts 01803 (the "Applicant").
2. The Applicant, through a realty trust known as Marlborough/Northborough Land Realty Trust u/d/t dated October 12, 2000 recorded in the Middlesex South District Registry of Deeds in Book 31932 Page 433, is the owner of the property described in the Middlesex South District Registry of Deeds in Book 31932 Page 445 known as Lakeside Avenue and Bond Street, Marlborough, MA as shown on the City of Marlborough Assessors Maps Map 67, Parcel 45 and Map 68 Parcel 30A (the "Site").
3. The Applicant, on or about November 6, 2008 filed with the City Clerk of the City of Marlborough an Application To City Council for Issuance of Special Permit (the "Application") under Chapter 200 (Zoning) of the Code of the City of Marlborough, Article 200 Section 13, Paragraph C. Sub-paragraph 4 (1986 Code) Article V Section 200-17 Residential Use Multi-family dwelling (4) (2008 Code) to construct a 60 unit townhouse condominium community on approximately 31.2 acres of land located at Assessors Map 67 Parcel 45 Lakeside Avenue and Assessors Map 68 Parcel 30A Bond Street (the "Project").
4. The Application, filed on November 6, 2008, consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement, (c) Filing Fee check in the amount of \$1,725.00, (d) Drainage Report, (e) Traffic Study, (f) Plan Delivery Certification, (g) Tax Payment Certification, (h) Abutters List, (i) Preliminary Site Plan, and (j) Planning Department Certification (collectively the "Documents") which Documents are incorporated herein and become a part of this Decision. Eleven sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer, and the Conservation Officer, all in accordance with Chapter 200 Section 200-59 of the Zoning Code (1986 Code) of the City of Marlborough.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 2

ORDERED:

5. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by the Building Commissioner for the City Planner for the City of Marlborough as having complied with the provisions of Chapter 200 (Zoning Code) Section 200-59, C. (7) (a), (b) and (c) (1986 Code).
6. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A, Sections 9 and 11, the City Council established a date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News, and mailed said notice to those entitled thereto.
7. The Marlborough City Council held a public hearing on the Application on December 1, 2008 in accordance with the published notice (the "Public Hearing"). The Public Hearing was opened and continued to December 15, 2008. The Public Hearing was further continued to January 5, 2009 and following the completion of testimony the Public Hearing was closed on said date. By timely agreement of the Applicant and the City Council, acting in its capacity as special permit granting authority, the time for the Council to take final action on the Application was extended to June 8, 2009 at 5 pm and further extended until June 22, 2009 at 11:59 pm.
8. The Applicant presented testimony at the Public Hearing detailing the Project, its impact upon municipal services, the neighborhood, traffic, drainage, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the Public Hearing. Subjects of concern were drainage, traffic, emergency access to and from Bond Street, sewer system flow, and retaining walls.
9. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts, open space, landscaping, drainage, lighting, water and sewer use, other utility improvements associated with the Project, and the production of affordable housing.
10. The Project is located on 31.2 acres of land on the north side of Lakeside Ave. (Route 20 West) between The Holiday Inn and Dunkin Donuts. It has approximately 341 feet of frontage along Lakeside Avenue (Route 20 West).



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 3

ORDERED:

11. Except for the emergency access way to and from Bond Street which is located in the Residence A-3 District, the Site is currently divided between two zoning districts. The development portion of the Site totals approximately 8.1 acres, and is located within the Business B District. The balance of the Site is located within the Limited Industrial District. All of the proposed development is within the Business B District except for the emergency access way from Bond Street.
12. The Project meets or exceeds all dimensional requirements of the Zoning Ordinance of the City of Marlborough.
13. The Project consists of 15 buildings each with four condominium units. There are six (6) one bedroom units, forty-eight (48) two bedroom units and six (6) three bedroom units. Building height is limited to 2 stories or twenty-three and a half (23.5') feet high. Each unit will have an attached one car garage. A Tot Lot or play area will be constructed and located as shown on the Detailed Site Plan.
14. One hundred eighty (180) parking spaces are provided and are in accordance with the Zoning Ordinance requirements of the City of Marlborough.
15. The Traffic Evaluation prepared by Vanasse Hangen Brustlin, dated November 6, 2008, indicates the total average daily traffic trips to be generated by the Project is projected to be 415 per day on a weekday. The Traffic Evaluation projects peak hour traffic volumes to be generated by the Project are: in the morning 5 trips entering and 30 trips exiting the Site per hour, and in the evening 25 trips entering and 15 trips exiting per hour.
16. To provide safe access and egress to and from the Site, the Applicant, its affiliates, successors and/or assigns will design and construct a series of access improvement measures including a deceleration taper on Route 20 westbound, a left-turn pocket on Route 20 eastbound, and relocation of the existing retaining wall on the north side of Route 20 to improve sight distance.
17. The Applicant states there is sufficient potable water available in the City's water system to supply the Project. A looped water system will be constructed from Route 20 through the Project Site out to Bond Street.
18. The Project will generate approximately 13,200 gallons per day of sewer flow per design flows. The sewer will be directed through the City of Marlborough's waste water system through the Lake Williams Pumping Station to the easterly wastewater treatment plant. Said plant has the capacity to treat the wastewater generated by the Project.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 4

ORDERED:

19. Natural gas is available to the Project Site.
20. Telephone, Electricity and Cable TV services are all available to serve the Project.
21. The Applicant states that the Site Plan provides for proper management of stormwater runoff from the Project. The Applicant states that proposed runoff rates are less than existing runoff rates; that there will be no adverse impact to any surrounding areas; that the drain systems have been properly designed to handle the design flow rates; and that reduced Total Suspended Solids will result in improved quality of stormwater runoff to receiving areas. Stormwater drain system improvements will be made in Route 20, thereby improving existing problem conditions in Route 20. All drainage improvements in Route 20 must be approved by the Commonwealth of Massachusetts.
22. Site lighting will be provided according to the Electrical Site Lighting Plan submitted with the Application.
23. All buildings will be fully sprinkled and constructed in accordance with the latest life safety, building codes, and other applicable laws.
24. Applicant will designate 9 units or 15% of the units as affordable housing units.

BASED UPON THE ABOVE, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH MAKES THE FOLLOWING FINDINGS:

- A. The City Council finds that it may grant a Special Permit (Special Permit) subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or Massachusetts General Laws Chapter 40A, et seq.
- C. The City Council finds that the use of the Site for the Project is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 5

ORDERED:

D. The Site Plan, as submitted to the City Council and the City Council's Urban Affairs Committee, provides improvements that will protect the environment, mitigate traffic impacts, and enhance the quality of life for the residential community abutting the Project. The City Council makes this determination subject to the completion and adherence by the Applicant to the conditions more fully set forth herein and to the site plan to be submitted to and approved by the Site Plan Review Committee, which site plan shall be drafted to reflect engineering consistent with this Permit.

E. The Applicant has complied with all the procedural rules and regulations of the City Council of the City of Marlborough and Chapter 200 (Zoning Code) of the City of Marlborough (1986 Code) and Massachusetts General Laws Chapter 40A, Sections 9 and 11.

GRANT OF SPECIAL PERMIT WITH CONDITIONS

The City Council of the City of Marlborough pursuant to its authority under Chapter 200 (Zoning Code) of the Code of the City of Marlborough (1986 Code) and Massachusetts General Laws Chapter 40A, GRANTS to the Applicant a Special Permit to construct the Project to be used as a 60 Unit Condominium Townhouse Community consisting of 15 buildings as set forth in the Application Documents and as per the Site Plan submitted to the City Council and the City Council's Urban Affairs Committee, and subject to the following conditions:

1. Construction. Construction of all structures on the Site is to be in accordance with all building codes, zoning regulations, and other applicable laws in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according to the Site Plan prepared by John G. Crowe Associates, Inc. 385 Concord Avenue, Suite 1, Belmont, MA 02478, dated November 6, 2008, filed with the Permit Application and as revised during the application process on April 10, 2009. The Applicant's Site Plan indicates a permitted building area in which the buildings are to be located.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance the City of Marlborough Code, prior to issuance of the Building Permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall become further conditions to this Special Permit. A Permanent Occupancy Permit shall not be issued until all conditions are complied with by the Applicant, provided, however, that a Temporary Occupancy Permit for individual condominium units may issue upon a determination by the Building Commissioner that the Site is substantially complete, providing for a phased development of the Site, and no Permanent Occupancy Permit shall be issued until all conditions are



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 6

ORDERED:

complied with by the Applicant. Site Plan Review shall be consistent with this Special Permit. Any violation of a condition of the Site Plan Approval shall be a violation of this Special Permit.

3. Hazardous Waste. The Applicant shall comply with all directives by the Department of Environmental Protection of the Commonwealth of Massachusetts relative to the existence of any hazardous waste which may be located on the Site, including compliance with the provisions of Massachusetts General Laws Chapter 21E and any other applicable government codes and regulations as they relate to the authority of the Fire Chief of the City of Marlborough.

4. Compliance with Local, State and Federal Laws. The Applicant shall comply with all applicable rules, regulations, and ordinances of the City of Marlborough, Commonwealth of Massachusetts, and Federal Agencies as they may apply to the construction, maintenance, and operation of the Project and Site, and all decisions and findings related thereto, including without limitation compliance with local Conservation Commission Orders, the Massachusetts Environmental Policy Act (MEPA), Massachusetts General Laws Chapter 30, Section 61, and the Massachusetts State Building Code. The terms and conditions of such decisions and findings shall become a part of this decision.

5. Inspectional Services Mitigation. The Applicant, its affiliates, successors and/or assigns shall, prior to issuance of the Building Permit for the Project, provide a payment to the City of Marlborough Inspectional Services fund in the amount of six thousand (\$6,000.00) dollars to offset the increases in costs associated with the Project. The City shall expend said funds as needed to contract for temporary staff, materials, supplies, and equipment so as to enable the Inspections Staff to provide adequate and timely inspections of the Project construction.

6. Route 20 Landscape and Traffic Mitigation. The Applicant, its affiliates, successors, and/or assigns shall install approximately 830 linear feet of granite curbing along Route 20, hydroseed barren areas, and place ornamental flowering shade trees (the "Route 20 Landscaping Work") all as shown on the Proposed Mitigation for Overlook at Lake Williams rendering filed with plans for the Project. The Applicant, its affiliates, successors and/or assigns shall file a more detailed plan consistent with said rendering with the Site Plan Review Committee. The plan for said work as approved by the Site Plan Review Committee shall be part of this Permit. The Applicant, its affiliates, successors and/or assigns shall perform such Route 20 Landscaping Work as described herein and as shown on the rendering filed with the plans for the Project, concurrently with the initial clearing and excavating activities of the Project Site. The Applicant, its affiliates, successors and/or assigns, shall complete all such Route 20 Landscaping Work



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 7

ORDERED:

prior to the issuance of any Building Permit for the Project.

7. Detention Basins. The Applicant, its affiliates, successors and/or assigns, shall inspect the on-site detention basins not less than annually with respect to sedimentation accumulation, and shall provide copies of annual reports to the City Engineer. To the extent such reports indicate the need for sediment removal, the same shall be removed by the Applicant, at no cost to the City, and within thirty (30) days following such direction from the City Engineer.

8. Catch Basins. The Applicant, its affiliates, successors and/or assigns shall equip all catch basins with sumps and inverted outlets as more fully shown on the Site Plan, shall monitor the catch basins on a semi-annual basis and furnish reports to the City Engineer, and shall clean the catch basins annually or at more frequent intervals as determined by the City Engineer. The maintenance of the detention basins and catch basins as described herein shall be included in the Operations & Maintenance (O & M) Plan that the Applicant, its affiliates, successors and/or assigns shall develop and implement for the Project, as more particularly described below.

9. Snow Storage. The Applicant, its affiliates, successors and/or assigns shall provide for snow storage on-site and stockpile snow only from the Project, may elect to utilize off-site snow storage, and shall direct snowmelt runoff toward catch basins.

10. Parking Areas. (i) The Applicant, its affiliates, successors and/or assigns shall sweep all parking areas as necessary. (ii) Pursuant to the provisions of Massachusetts General Laws Chapter 90, Section 18, the Applicant, its affiliates, successors and/or assigns shall submit a written request and grant of authority to the Marlborough Traffic Commission to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. The Applicant, its affiliates, successors and/or assigns shall be responsible for providing, installing, and maintaining all signage or markings required. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.

11. Construction Traffic. During construction of the Project, the Applicant, its affiliates, successors and/or assigns shall impose on each of its contractors a requirement that all heavy equipment accessing the Site shall use Route 20 and not to use residential streets abutting the Project.

12. Off-Site Improvements. In connection with the installation of improvements within public right-of-ways which requires a street opening permit, the City Engineer shall be provided by the Applicant, prior to the commencement of any work, with a schedule of such work and the construction procedures to be utilized prior to



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 8

ORDERED:

the commencement of such work. A Police detail shall be provided by the City at the Applicant's expense for any utility work performed within the public way.

13. Traffic Improvements. (a) All traffic improvements will be constructed by the Applicant, its affiliates, successors and/or assigns in accordance with the Site Plan submitted to the City Council and the City Council's Urban Affairs Committee and as approved by the Commonwealth of Massachusetts Highway Department. (b) Applicant, its affiliates, successors and/or assigns will construct a second means of ingress and egress to and from Bond Street to be used in emergency situations only. The Bond Street entrance will be gated and equipped with a locking system approved by the Fire Department and installed by the Applicant..

14. Landscaping. The Applicant, its affiliates, successors and/or assigns shall plant and maintain the Project's landscaping as shown on the Site Plan submitted with the Application as may be amended during Site Plan Review.

15. Utilities Review. The detailed review of on-site and off-site utilities will be performed as part of the Site Plan Review process, and such utilities as may be required by the City Engineer during this review shall be provided by the Applicant. The Applicant, its affiliates, successors and/or assigns shall deliver to the City Engineer, prior to the commencement of construction of the water and sewer improvements, copies of the final plans and schedule of work of such improvements for final review and approval by the City Engineer.

16. Water-Sewer. Water and Sewer services provided to the Project shall be subject to currently applicable citywide water and sewer policies and charges subject to annual adjustment by the Commissioner of Public Works. The Applicant, its affiliates, successors and/or assigns shall develop an on-site water supply for irrigation purposes. Use of the City's water supply for irrigation purposes may only be permitted, upon demonstration by the Applicant to the City Engineer, that on-site supplies are inadequate due to quantity or quality.

17. Conservation Commission. The Applicant, its affiliates, successors and/or assigns shall construct a dry bottom detention basin according to the Site Plan as amended and shall comply with the terms and conditions of any final, duly issued Order of Conditions issued pursuant to the Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40) so long as they are consistent with this provision.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 9

ORDERED:

18. Outside Storage. Outside storage of utility trailers, motor homes, boats, campers or other recreational vehicles shall not be permitted on the grounds of the Project, except that the same may be stored in a unit condominium garage. The condominium documents shall contain a restrictive provision covering and consistent with this condition.

19. School Bus Stop. An area next to Lakeside Ave. (Route 20) as shown on the Site Plan shall be provided for a school bus stop. The Applicant, its affiliates, successors and/or assigns shall construct and maintain a partially enclosed bus shelter for students and parents waiting for a school bus. The Applicant shall illuminate said bus shelter.

20. Snow Storage on Emergency Access Road. There will be no storage of snow on the emergency access road east of the gate and fencing as shown on the Site Plan, abutting the Bond Street neighbors. In addition, the Applicant, its affiliates, successors and/or assigns shall make reasonable efforts to ensure snow is removed from the emergency access road in such a way that does not disturb the abutting Bond Street neighbors. The Applicant, its affiliates, successors and/or assigns, shall clear snow from the emergency access road into the Project Site away from the abutting Bond Street neighbors, and store and stockpile in designated snow storage areas as delineated on the Site Plan page SP 7 "Snow Storage Plan". No snow may be brought onto the Site from off site.

21. Use of Parking Areas. The parking areas delineated on the Site Plan must be used only for parking automotive vehicles of unit owners and their invitees and guests.

22. Stockade Fence. The Applicant, its affiliates, successors and/or assigns shall erect a white vinyl stockade fence, eight feet (8') in height with a lattice feature, along the Bond Street side of the Project, all as shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee.

23. Chain Link Fence. The Applicant, its affiliates, successors and/or assigns shall erect a black vinyl chain link fence along the Bond Street side of the Project, transitioning from the stockade fence to an area at the front of the Site on Lakeside Avenue (Route 20), all as shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 10

ORDERED:

24. Ornamental Fence. As shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee, the Applicant, its affiliates, successors and/or assigns shall install black aluminum ornamental fencing, six feet (6') in height, on the top of all walls so as to prevent access by pedestrians and children. As shown on said Site Plan, the Applicant, its affiliates, successors and/or assigns shall install black vinyl chain link fencing around the Tot Lot and detention basin located at the rear of the Site. As shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee, the black aluminum ornamental fencing to be installed on the walls surrounding the dry detention basin adjacent to Route 20 shall be no less than six feet (6') in height.

25. Exterior Siding of Buildings. The exterior siding of the buildings shall be constructed of vinyl equal to or per the outline specification submitted for the record.

26. Management of Project/Condominium. The Project, and condominium created (the "Condominium"), shall be managed by a third party professional condominium management company, and the condominium documents shall contain a restrictive provision covering and consistent with this condition.

27. Operation and Maintenance Plan. The Applicant, its affiliates, successors and/or assigns, shall develop an Operation and Maintenance (O & M) Plan for the Project's stormwater management system, including any components and/or structures to be located in Route 20 and City-owned property. The O & M Plan must be approved by the Conservation Commission and the City Engineer. The Applicant, its affiliates, successors and/or assigns, shall be responsible for the execution of the O & M Plan and the performance of the maintenance in accordance with the provisions thereof. Upon the transfer of the management of the Project and Condominium to the newly elected condominium association (the "Condominium Association"), the Condominium Association shall then be responsible for the compliance with this provision. The condominium documents shall contain a restrictive provision covering and consistent with this condition.

28. Stormwater Management Reserve Account. The condominium documents shall provide for the establishment of a stormwater management reserve account (the "Reserve Account"), which will insure that funds are available to maintain the said system. The Reserve Account balance shall be equal to at least two (2) years of the estimated cost to maintain the Project's stormwater management system, at all times, and shall be made available to the Conservation Commission upon request.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 11

ORDERED:

29. Management Responsibilities of Project/Condominium. The Applicant, its affiliates, successors and/or assigns, shall retain all property management responsibilities for the Project and Condominium until all units are initially sold, whereupon all maintenance responsibilities provided for hereunder in this provision and other provisions of this Permit shall be transferred to the Condominium Association. The condominium documents shall contain a restrictive provision covering and consistent with this condition.

30. Owner-Occupancy. All units shall be owner-occupied only, with the provision that there shall be no rentals. The condominium documents shall contain a provision covering and consistent with this condition.

31. Reimbursement of City Engineering Costs. The Applicant, its affiliates, successors and/or assigns shall reimburse the City of Marlborough for all reasonable costs incurred in its review of the Project's sewer system, specifically, all pertinent data relating to the Project's connection to the sewer pump station located on Route 20 at Lake Williams. The City will forward for reimbursement by Applicant, its affiliates, successors and/or assigns all third-party invoices to cover this scope of work.

32. Erosion and Sedimentation Control Plan/Construction Sequencing Plan. The Applicant, its affiliates, successors and/or assigns shall develop an erosion and sedimentation control plan, incorporating proposed erosion and sedimentation control measures, as well as a construction sequencing plan, for the Project. Both plans must be approved by the Conservation Commission and the City Engineer. The Applicant, its affiliates, successors and/or assigns shall be responsible for the execution of said plans and the performance of the maintenance in accordance with the provisions thereof.

33. Hiring of Site Engineer for Stormwater and Erosion Management Control. The Applicant, its affiliates, successors and/or assigns shall be required to hire a site engineer who shall be competent in stormwater and erosion control management. This individual(s) credentials shall be acceptable to the Engineering Division and the 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 stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan, the approved erosion control plan, and the Conservation Commission's Order of Conditions. The Applicant, its affiliates, successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., _____ PAGE 12

ORDERED:

34. Left-Hand Turns. To provide for safe egress from the Project, left-turn movements exiting the Project Site shall be prohibited; left turns into the Project Site are permitted.

35. Sidewalks. The Applicant, its affiliates, successors and/or assigns shall provide sidewalks within the Project for pedestrian circulation. Such sidewalk system shall connect to the existing sidewalks in Route 20 along the Project's frontage. All sidewalks within the Project shall be constructed with sloped granite curbing and bituminous concrete. All disturbed areas to the sidewalk system along the Project's frontage on Route 20 shall be reconstructed and/or repaired to match the existing sidewalk specification and profile.

36. Paving of Emergency Access Road. As shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee, the emergency access road shall be paved by the Applicant and shall comply with the City's street design standards.

37. Maintenance of Roadways. All roadways within the Project, including the emergency access road, shall be maintained by the Applicant, its affiliates, successors and/or assigns and shall be kept free and clear of snow and ice at all times by the Applicant, its affiliates, successors and/or assigns, and shall not be used for overflow parking at any time. Parking shall only be allowed in the parking spaces as shown on the Site Plan and prohibited at all times within the roadways of the Project to provide for normal traffic and emergency vehicles.

38. Emergency Access Road Gate. The emergency access road gate shall be maintained so as to operate freely by one person, and shall be provided and maintained with an opening and locking system approved by the Fire Department. The emergency access road gate shall be an eight (8') foot high chain link fence with white vinyl slats consistent in design with the proposed stockade fence along the Bond Street side of the Project as noted herein. An approved fire annunciator panel shall be located on the main entrance roadway into the Project, with details of its exact location and installation requirements to be determined during the Site Plan Review and fire alarm permitting process.

39. Vegetation on Emergency Access Road. The emergency access road shall be kept clear of all vegetation by the Applicant, its affiliates, successors and/or assigns to include a vertical clearance of sixteen feet (16').



IN CITY COUNCIL

JUNE 8, 2009

Marlborough, Mass., PAGE 13

ORDERED:

40. Retaining Walls at Main Driveway. As shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee and per the outline specification submitted for the record, the modular retaining wall system to be constructed along both sides of the Project's main driveway shall be by "Allan Block, AB Europa Collection, Abbey Blend Pattern", an equal or better, in texture, size, pattern and color, if this particular product line is discontinued or unavailable.

41. Retaining Walls at Dry Detention Basin. As shown on the Site Plan submitted to the City Council and City Council's Urban Affairs Committee and per the outline specification submitted for the record, the cast-in-place concrete retaining wall system to be constructed along the dry detention basin at the front of the Site, the face of which retaining wall shall have a fieldstone appearance (formed, veneer, or other).

42. Route 20 Access and Maintenance Agreement. The Applicant, its affiliates, successors and/or assigns, shall obtain an access permit and permanent maintenance agreement between the Applicant and the Commonwealth of Massachusetts Highway Department for the installation and maintenance of the drains and related structures in Route 20 as shown on the Site Plan.

43. City of Marlborough Access and Maintenance Agreement. The Applicant, its affiliates, successors and/or assigns, shall obtain an access permit and permanent maintenance agreement between the Applicant and the City of Marlborough for the installation and maintenance of the storm water outlet structure, which outlets from the Route 20 drains below Route 20 onto City of Marlborough property as shown on the Site Plan.

44. Sullivan Property – Bond Street. In the event the owner of the property located at 36 Bond Street, Marlborough, MA, incurs water seepage into the basement of said property, and proven such water seepage is a direct result of water run-off from the Project Site, the Applicant, its affiliates, successors, and/or assigns, shall make all necessary and reasonable repairs to remedy the situation. Applicant, its affiliates, successors and/or assigns, agrees to abandon any rights it may have to a seven (7') foot right of way on land of Sullivan abutting the emergency access leading from Bond Street to the Site.

45. Recording of Special Permit. In accordance with the provisions of Massachusetts General Laws Chapter 40A, Section 11, the Applicants at their 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.

