

**CITY OF WOBURN  
MAY 19, 2009 - 7:30 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gonsalves
Drapeau	Mercer-Bruen
Galvin	Raymond
Gately	Wall
Doherty	

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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

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**MAYOR'S COMMUNICATIONS:**

ORDERED That the sum of \$495,062.26 be and is hereby appropriated as so stated from Designated for Reduction of Debt Acct #01-357000 \$495,062.26 to Debt Principle Acct #0171059-591000 \$321,000.00, Debt Long Term Interest Acct #0171059-591500 \$174,062.26, Total \$495,062.26

I hereby approve the above: s/Thomas L. McLaughlin  
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman \_\_\_\_\_

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ORDERED That the sum of \$4,000.00 be and is hereby appropriated from Cemetery Interest Fund to the Over-Time Salary Account #0149051-513100

I hereby approve the above: s/William E. Kerns, Chairman  
I hereby recommend the above: s/Thomas L. McLaughlin, Mayor  
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman \_\_\_\_\_

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**PUBLIC HEARINGS:**

On the petition by Robert McSheffrey, 891 Main Street, Woburn, Massachusetts for a special permit pursuant to Section 5.1.29 and Section 8.2.5 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a fast food restaurant and a reduction in the

required parking at 891 Main Street. PUBLIC HEARING OPENED. A communication with attachments was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petitions of Robert McSheffrey, 891 Main Street, Woburn, MA

Dear Mr. Campbell:

Enclosed please find a revised plan: SP-1 amended through 5/30/08 prepared by Annino Incorporated in connection with the above-referenced matter along with a copy of a traffic report completed by Conley Associates dated May, 2009. Please note that I will be forwarding today to all City Council Members a copy of the revised Plan and Traffic Report. Please note that both documents had been previously delivered to and reviewed by the Planning Board prior to its issuance of favorable recommendations on both special permit applications. If you have any questions, please feel free to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Robert McSheffrey – 891 Main Street – To allow for Fast Food Restaurant and a reduction in the required parking pursuant to Section 5.1.29 and 8.2.5

Dear Mr. Campbell and Members of the City Council:

At the meeting held on May 12, 2009, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit request to allow the sale and rental of motor vehicles pursuant to Section 5.1.45 at 891 Main Street subject to the following conditions:

1. That the fast food restaurant shall not be greater than 2,200 S.F.;
2. That 23 parking spaces shall be provide as shown on the plan SP 1.1 amended through 5/30/08 prepared by Annino Incorporated except as modified by these conditions;
3. That the Planning Board shall retain jurisdiction over the landscaping, bike rack location, and fencing;
4. That a snow removal plan shall be filed with the City Clerk;
5. That the dumpster on the premises shall be screened;
6. That handicapped parking spaces on the premises shall conform to the requirements in the 1985 Woburn Zoning Ordinances, as amended, shall be located near the entrance to the building and shall be marked as handicapped accessible parking spaces;
7. That the plan SP 1.1 amended through 5/30/08 prepared by Annino Incorporated except as modified by these conditions shall be the plan of record (the “Plans”);

8. The fast food restaurant operator approved on this Special Permit is Robert McSheffrey. No other fast food restaurant operator shall be allowed;
9. That the sidewalk shall be increased to 10' wide in front of the four exterior windows for the sale of food on the west face of the building and that the parking aisle be narrowed in that area to not less than 24'; and
10. That the site shall also comply with the Special Permit regarding the sale and rental of motor vehicles at 891 Main Street.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Robert McSheffrey, 891 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.45 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the sale or rental of motor vehicles and for a Second Class Motor Vehicle Sales License both at 891 Main Street. PUBLIC HEARING OPENED. A communication dated May 14, 2009 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Application for License to Sell Second Hand Motor Vehicles/891 Main Street, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that this office represents Robert McSheffrey in connection with his application to sell second hand motor vehicles at 891 Main Street, Woburn, Massachusetts.

Line 1 of the application lists the name of the concern as "Robert McSheffrey Auto Sales". The name of the concern should be listed as "Bob McSheffrey Auto Sales".

If the City Council votes to issue the second hand license at 891 Main Street, I respectfully request that it be issued in the name of Bob McSheffrey Auto Sales. Thank you.

Very truly yours, s/Joseph R. Tarby, III

A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Robert McSheffrey – 891 Main Street – To allow for the Sale and Rental of Motor Vehicles pursuant to Section 5.1.45

Dear Mr. Campbell and Members of the City Council:

At the meeting held on May 12, 2009, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit request to allow the sale and rental of motor vehicles pursuant to Section 5.1.45 at 891 Main Street subject to the following conditions:

1. That the office shall not be greater than 600 S.F;
2. That no more than 5 vehicles for sale or rent shall be on the lot at any one time;
3. That the 5 vehicles for sale or rent shall be located on the south side of the lot in the area shown on the plan SP 1.1 amended through 5/30/08 prepared by Annino Incorporated labeled 1-6 to the north of the landscape and 5' east of the Main Street property line within a 44' x 18' rectangle such that the 7 easterly parking spots have a 24' parking aisle; and
4. That the site shall also comply with the Special Permit regarding the fast food restaurant at 891 Main Street.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Woburn Kiwanis, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.75 of the 1985 Woburn Zoning Ordinances, as amended, to conduct the annual Flag Day carnival and fireworks on June 19, 2009 and June 20, 2009 at Library Field. PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Kiwanis Club of Woburn – Library Park – Annual Flag Day

Dear Mr. Campbell and Members of the City Council:

At the meeting held on May 12, 2009, the Planning Board voted to forward a favorable recommendation to the City Council regarding the Special Permit for the Annual Flag Day Festival at Library Park with the condition that the applicant comply with Section 5.1, Note 14 of the Woburn Zoning Ordinance.

If Council members have any questions or concerns regarding the above recommendations, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Woburn Properties, LLP, c/o Cummings Properties, LLC, 200 West Cummings Parks, Woburn, Massachusetts 01801 for a special permit pursuant to

Sections 5.1.30b and 5.1.41 of the 1985 Woburn Zoning Ordinances, as amended to redevelop existing parking lot by constructing a four-story, 58,689 G.S.F. mixed-use building at 8 Cabot Road. PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Woburn Properties, LLP, c/o Cummings Properties, LLC – 8 Cabot Road – To construct 48,240 NSF building for Offices and Research and Testing Laboratories pursuant to Section 5.1.30b and 5.1.41

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to send a favorable recommendation to the City Council subject to the following conditions:

1. That the Planning Board shall approve the landscaping and bike rack plans for the site and retain jurisdiction over the landscaping;
2. That the landscaping required to comply with the Conservation Commission decision shall not be altered by the Planning Board's review and approval of the landscaping and all conditions of the Conservation Commission shall be complied with.
3. That all safety requirements of the Fire Chief shall be met;
4. That all requirements of the City engineer shall be met;
5. That an access easement shall be as shown on the plans and that the plan of record shall be the plans as amended through 3/20/09 except as amended by these conditions.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Hugo G. Moraes dba Taste of Brazil, Tuda Na. Brasa, 6 Park Drive, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.29 of the 1985 Woburn Zoning Ordinances, as amended, to authorize an expansion of the restaurant business at 414 Main Street PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Hugo G. Moraes, dba Taste of Brazil, Tuda Na Brasa – 414 Main St. – To allow restaurant expansion pursuant to Section 5.1.29

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to send a favorable recommendation to the City Council to allow the expansion of the fast food

restaurant pursuant to Section 5.1.29 at 414 Main Street subject to the following conditions:

1. That the first floor only shall be used for the fast food restaurant;
2. No public use shall be allowed in the basement except for restroom facilities;
3. That the seating shall not be more than 104 seats;
4. That all safety requirements of the Fire Chief shall be met;
5. That all requirements of the City Engineer shall be met;
6. That all requirements of the architectural access board shall be met; and
7. That at least two means of access shall be provided to Main St.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

IN FAVOR: A communication dated May 12, 2009 was received from Paul J. Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn in favor of the petition.

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On the petition by NBTC Realty, LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for an Inflammable License to store 986 gallons of gasoline in parked motor vehicles in underground parking lot at 275 Mishwaum Road PUBLIC HEARING OPENED.

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On the petition by Kravings, Etc., Robert Haykel, Manager, 106 Winn Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.29 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a fast food restaurant at 106 Winn Street PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Kravings Etc. – 106 Winn St. – To allow fast food restaurant pursuant to Section 5.1.29

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to send a favorable recommendation to the City Council to allow fast food restaurant pursuant to Section 5.1.29 at 106 Winn St. subject to the following conditions:

1. That this special permit shall be exclusive to Kravings Etc., Robert Haykal, Manager and terminate if this operation ceases.
2. That the hours of operation shall be Sunday through Saturday 10:00AM to 10:00 PM.

3. That prior to the issuance of a building permit, the petitioner shall provide to the building department an executed lease for seven (7) parking spaces, similar in form to the lease submitted to the City Council. If the lease is not renewed or is terminated by Borselli then the special permit shall be automatically revoked.
4. That the petitioner shall erect signs signifying that the seven (7) off site parking spaces are for "Breakers Only" or "Kravings Etc. Only" and a sign at the rear exit stating "Additional Parking" shall be erected.
5. That any tables intended for exterior dining shall be located as shown on the plan of record, with no others allowed, and shall be surrounded by a guardrail, shall be handicapped accessible and meet all ADA requirements.
6. That the exterior ramp shall be at least six (6) feet in width and ADA compliant.
7. That Breakers Ice Cream shall service customers from either the interior windows or the exterior windows but never both and there will be no service window at the front of the building.
8. That the petitioner agrees that the only uses allowed during the duration of this special permit shall be for Breakers Ice Cream and Kravings Etc. and no other use shall be made of the area marked "Storage."
9. That the dumpster shall be screened by fencing.
10. That the Planning Board shall retain jurisdiction over landscaping.
11. That all snow removal shall be removed off site
12. That the site plan of record shall be: "Parking Plan Restaurant at 106 Winn Street" dated May 16, 2005 by Borselli Engineering.
13. That no banner shall be allowed on the outside of the building.
14. That the lease shall contain a provision allowing of access to 106 Winn Street through the property at 110 Winn Street.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Robert W. Murray, Trustee of 330 Lexington Street Realty Trust, 27 Cambridge Street, Burlington, Massachusetts 01803 for a special permit pursuant to Section 5.1.3(d) for a townhouse development consisting of ten (10) townhouse units at 330 Lexington Street a/k/a 4 lots on Seaman Robert H. Doherty Drive and inclusive of roadway. PUBLIC HEARING OPENED. A communication dated April 16, 2009 was received from Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Request – 330 Lexington Street, Woburn – Applicant: Robert W. Murray, Trustee

Dear Mr. Campbell:

This will confirm the above named applicant's consent to time on the above reference special permit request, up to and inclusive of June 4, 2009, in order to allow a public hearing on May 19, 2009 and follow-up action or a continued hearing to June 2, 2009, if necessary.

Thank you for your cooperation, and please contact me should you or the council have any questions.

Sincerely, s/John D. McElhiney

Motion made and 2<sup>nd</sup> that the time to act on the special permit be extended up to and including June 4, 2009, all in favor, 9-0. A communication dated April 21, 2009 with attachment was received from Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Notice of Submission of Request to Rescind Definitive lan to Planning Board (MGL, Ch. 41, Sect. 81W)  
Premises: 330 Lexington Street, Woburn, MA  
Owner/Applicant: Robert W. Murray, Trustee of Three Hundred Thirty Lexington Street Trust

Dear Mr. Campbell:

I am submitting herein notice of the filing of the above referenced request to rescind a previously approved plan with the Planning Board, on this date. I enclose a copy of the request to the Board for your records.

Thank you for your cooperation.

Very truly yours, s/John D. McElhiney

A communication dated May 18, 2009 was received from George Poole, Commander, United Veterans Council of Woburn as follows:

Re: Seaman Robert H. Doherty Drive

All records on file with the Department of Veterans Services list Seaman Doherty's was not killed in action. In Accordance with Ordinance 121-1 as passed by the City Council, clearly states streets shall be named after a man or a woman Killed In Action. Therefore the United Veterans Council of Woburn would ask that the City Council adhere to the ordinance as passed.

Veterans Council of Woburn  
George Poole, Commander

A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Robert W. Murray, Trustee Three Hundred Thirty Lexington Street Trust – 330 Lexington St – To construct ten townhouse units pursuant to Section 5.1.3d

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to send a favorable recommendation to the City Council subject to the following conditions:

1. That the subdivision approved on April 13, 2004 by the Woburn Planning Board shall be rescinded and be effective in compliance with Chapter 41 Section 81W;
2. That Planning Board approval for more than one residential structure on a lot shall be obtained;
3. That the four unit townhouse shall be rotated such that each driveway of the center units and the end unit closest to Lexington Street shall have at least 42' from the easterly edge of the 22' access drive to the door of the garage;
4. That the six unit townhouse shall have driveways of the center units and the end units that are at least 42' from the easterly edge of the 22' access drive to the door of the garage;
5. That the center unit garages in both buildings shall have a minimum of a 1' separation strip by curbing or landscaping to separate the driveways of each center unit and the driveways may be as wide as 12';
6. That the Fire Chief shall approve the location and number of fire hydrants that shall be provided by the developer to satisfy the fire safety needs of the proposal;
7. That the architectural plans and the engineering plans/ site plans be the plans of record unless modified by the conditions of the Site Plan approval;
8. That upon completion of the project an electronic as-built plan in AutoCAD shall be submitted to the Engineering Department for updating of the graphical information system;
9. That this proposal shall comply with the requirements of Section 11.11 the Affordable Housing Requirement of the Woburn Zoning Ordinance; and
10. That the applicant shall endeavor to acquire access through the Winning Farm site to this development.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

IN FAVOR: A communication dated May 12, 2009 was received from Paul J. Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn in favor of the petition.

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On the petition by June G. Ross, 75 Pearl Street, Apt. 232, Reading, Massachusetts 01867 to amend the Zoning Map of the City of Woburn by changing the zoning district for the property found identified in the Assessors records on Map 38, Block 8, Parcel 1 and known and numbered as Lot 1B 35 Pine Street as shown on the plan filed with the petition from partially in the R-2 zoning district and partially in the I-G zoning district to the R-2 zoning district PUBLIC HEARING OPENED. A communication dated May 15, 2009 was received from Attorney Jonathan M. Silverstein, Kopelman and Paige, P.C. as follows:

Re: Pine Street Rezoning Petition

Dear Members of the City Council:

You have requested my opinion on two questions regarding the above-referenced rezoning petition: first, you have asked whether the voluntary withdrawal of one of the two property owners who signed the original petition affects the Council's ability to act on the petition as to the remaining petitioner; second, you have asked whether the Council could impose restrictions on the proposed rezoning in order to limit development of the property to a single duplex residential structure. In my opinion, as further explained below, the City Council may properly consider the remaining zoning petitioner's request that his property be rezoned, notwithstanding the withdrawal of the other original petitioner. In my further opinion, although the Council may not impose conditions on a zoning change, there may be other options that could accomplish the same purpose.

A. Withdrawal of a Petitioner

Based upon the information with which you have provided me, the original petition was submitted and signed by two property owners: Rae Gulliver, owner of 35 Pine Street (Lot 1A) and June Ross, owner of 35 Pine Street (Lot 1B). According to the plan submitted with the petition, Lot 1A contains approximately 12,685 square feet and is improved with a residential structure, and Lot 1B is an unimproved lot containing approximately 160,554 square feet. Both lots are bisected by the zoning line that separates the R-2 District (along the lots' frontage with Pine Street) and the I-G District (which encompasses the rear portions of both lots). The two property owners submitted a petition to the Council requesting that the zoning map be changed so as to include the entirety of both parcels in the R-2 District.

Subsequent to the petition being filed, but prior to any action by the Council, Ms. Gulliver requested that she be permitted to withdraw her petition as to Lot 1A, and the Council voted to grant this request. The other petitioner, Ms. Ross, apparently desires to continue with the petition to rezone Lot 1B.

In my opinion, the withdrawal by one property owner of her request to rezone her land does not affect the Council's ability to act on the petition with respect to the other property owner. Pursuant to G.L. c.40A, §5, a zoning change "may be initiated by the

submission to the city council...by an individual owning land to be affected by change or adoption...” In this case, two property owners happened to submit their requests for zoning changes together in a single petition. However, they certainly were not required to do so, and either or both could have submitted separate petitions regarding the individual properties.

Of course, if the Council, from a procedural or parliamentary standpoint, wished to establish a policy or rule that would address this issue, it would have the ability to do so. I have reviewed the Council’s Rules and Orders, and there does not currently appear to be any provision that would be implicated by the Council’s question.

There is nothing in the statute that would prevent the Council from considering just one of the petitioners’ requests in light of the voluntary withdrawal by the other. Moreover, in my opinion, no new hearing or publication is required, since the rezoning of one of the lots is certainly within the scope of the original petition, which included both lots.

**B. Placing Conditions on the Requested Zoning Change**

You have indicated that the prospective purchaser of Lot 1B has indicated his intent to construct a single duplex dwelling on the parcel. The Council has asked “what restrictions [it] can adopt that would ensure that only one dwelling will be constructed on the parcel if the zoning amendment is approved.” In my opinion, the Council may not place conditions or restrictions on a zoning change—which is a legislative act, as opposed to a quasi-adjudicatory act such as granting a special permit. Indeed, in my opinion, a zoning amendment that placed specific conditions on just one property in the R-2 District would be subject to challenge as not in keeping with the so-called “uniformity” requirement set forth in G.L. c.40A, §4, which requires that every property within a particular zoning district be subject to the same requirements as every other property in that district.

I have not been asked to opine as to the development potential of Lot 1B, if the zoning change is approved, and I have no information regarding the conditions or features of the property. However, I would note that the property contains over 160,000 square feet, and that only 15,000 square feet of area is required for construction of a new duplex structure in the R-2 zone. Thus, if the entire parcel is rezoned R-2, there appears to be the potential for subdivision of the lot for the construction of multiple duplexes.

Although the Council does not have the ability to impose conditions on a zoning change that would not apply district-wide, it could, in my opinion, instead choose to rezone only enough of the lot to permit construction of a single duplex. As noted, the Zoning Ordinances (Section 6.1) require a minimum area of 15,000 square feet for the construction of a new duplex unit. Though the plan attached to the petition does not show the amount of area of Lot 1B contained within the R-2 District, it appears to be approximately the same size as the entirety of Lot 1A—i.e. approximately 13,000 square feet. The Council could choose, in my opinion, to rezone just enough Lot 1B to provide the lot with the minimum 15,000 square feet (or, if a larger area is desired, less than the

minimum 30,000 necessary for construction of two duplexes) for construction of a duplex. It appears that the rest of the lot could then be divided from the residential portion and used for I-G purposes via the apparent access over Walnut Hill Park.

As an alternative, there is certainly nothing to prevent the applicant from voluntarily offering the City a deed restriction providing that Lot 1B may only be used for construction of a single duplex structure in the event the zoning change is approved. Should the applicant offer to provide such a deed restriction running in favor of the City, we would be happy to work with the applicant's counsel to develop and acceptable document to be recorded if and when the zoning change is approved.

Please do not hesitate to contact me should you have any further questions regarding this matter.

Very truly yours, s/Jonathan M. Silverstein

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On the petition by Alderman Raymond to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. By deleting in Section 2 Definitions the following definitions: "RESEARCH LABORATORY"; 2. By inserting in Section 2 Definitions the following definitions: "BIOMEDICAL FACILITY: Any facility or research laboratory engaged in the use of Recombinant DNA, live animals for testing, the use of potentially infectious cell lines, or infectious material." "RESEARCH AND TESTING LABORATORY: A laboratory which engages in research, experimental and testing activities, including but not limited to the fields of chemistry, electronics, engineering, geology, and physics but not including biomedical facilities. Some prototype development may be included, but the primary function is research." 3. By inserting the following in Section 5 Use Regulations, Section 5.1 Table of Use Regulations: "41a Biomedical Facility: under R-1, R-2, R-3, R-4, B-N, B-H, B-D, B-I, S-1, S-2 and O-S shall be "-" not a permitted use; under, I-P, IP-2, I-G, O-P, and OP-93 shall be "X" a by right use." PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Alderman Michael Raymond – Zone Change – Definitions "Biomedical Facility" & "Research and Testing Laboratory" and Addition of "Biomedical Facility" to Use Table

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to forward a favorable recommendation to the City Council on the above-cited zoning amendment.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

IN FAVOR: A communication dated May 12, 2009 was received from Paul J. Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn in favor of the petition.

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On the petition by Alderman Wall to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: By adding to Section 8.4.3 a new second sentence in the paragraph for “Residential” as follows: “For a detached two-family dwelling in the R-2 zoning district, the maximum driveway width serving the lot shall be forty-eight (48) feet.” PUBLIC HEARING OPENED. A communication dated May 18, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Alderman Wall – Zone Change – Driveway width for two-family dwelling in an R-2 Zoning District

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on May 12, 2009, the Board voted to forward a favorable recommendation to the City Council on the above-cited zoning amendment.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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**CITIZEN’S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the Order to transfer the sum of \$27,500.00 from Police Department Sick Leave Buy Back Account to Police Department various accounts, committee report was received “ought to pass.”

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On the Order to transfer the sum of \$50,000.00 from BLS Ambulance Receipts Account to Fire Overtime Account, committee report was received “ought to pass.”

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**POLICE AND LICENSES:**

On the petition by Cambridge Road Auto Service, Inc. for renewal of Second Class Motor Vehicles Sales License, committee report was received “ought to pass.”

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On the petition by GameStop 3315 for renewal of License to Sell Second-Hand and Personal Articles of Value and Collectibles, committee report was received “ought to pass.”

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On the petition by Marc E. Dionne dba Silver Cue Billiards for renewal of Billiard Table License, committee report was received “ought to pass.”

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**NEW PETITIONS:**

Petition by American Classic Limousine, Inc., 215 Salem Street, Suite 8 for renewal of Livery License for thirteen (13).

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Petition by Woburn Cab Co. Inc., 100 Ashburton Avenue for renewal of Taxi Cab License for twelve (12).

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Petition by Woburn Cab Co. Inc., 100 Ashburton Avenue for renewal of Livery License for three (3) vehicles.

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Petition by Parmjit Singh Bhatti, 470 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.29 of the 1989 Woburn Zoning Ordinances, as amended, to allow fast food at 470 Main Street.

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Petition by Anne M. Beauchamp, 7 Marietta Street, Woburn, Massachusetts 01801 and John J. Beauchamp, 2 Ryan Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to alter and change a pre-existing non-conforming structure by razing the same and constructing a new, two-family structure which will also be non-conforming with respect to some dimensional requirements and changing the use from single family to two-family at 222 School Street.

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**COMMUNICATIONS AND REPORTS:**

A communication dated May 12, 2009 was received from Charles L. O’Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending April 2009: number of parking violations issued 726, number of violations paid 411, number of violations outstanding 330, amount collected and submitted to the Office of the Collector \$23,859.00. There exists a backlog of 4,814 tickets for 1982 through 2008. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$4,250.00.

Respectfully submitted, s/Charles L. O'Connor, Parking Clerk City of Woburn

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A communication dated May 14, 2009 was received from Philip L, Mahoney, Chief of Police, Woburn Police Department as follows:

A team of assessors from the Massachusetts Police Accreditation Commission, Inc. is scheduled to arrive on June 9, 2009, to begin examining various aspects of the Woburn Police Department's policies and procedures, operations, and facilities.

Verification by the assessment team that the Department meets the Commission's standards is part of a voluntary process to gain state accreditation – a self-initiated evaluation process by which police departments strive to meet and maintain standards that have been established for the profession, by the profession.

The accreditation program consists of 253 mandatory standards as well as 122 optional standards. In order to achieve accreditation status, the Department must meet all applicable mandatory standards as well as 65% of the optional standards.

Achieving accreditation is a highly prized recognition of law enforcement excellence. Anyone interested in learning more about the accreditation program may contact Captain James Martin, the Department's Accreditation Manager, at 781-932-4531.

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A communication dated May 11, 2009 with attachment was received from John E. Corey, Jr., PE, City Engineer as follows:

Subject: Discontinuance of a Portion of Central Street

On behalf of the Woburn School Committee and in accordance with Title 12 of the Municipal Code, we request that the City Council entertain the discontinuance of a portion of Central Street at the intersection of Montvale Avenue, Central Street and Orange Street. The area of proposed discontinuance is shown on a plan prepared by Edward Farrell, professional land surveyor, dated April 20, 2009, a copy of which is enclosed.

The portion of Central Street to be discontinued contains 34, 437 square feet of lawn area and is contiguous to the Goodyear School along the easterly boundary of the school property. The remaining portion of Central Street will be sixty feet in width from the northerly sideline of Montvale Avenue north to the intersection with Orange Street, at which point Central Street is presently sixty feet in width. The physical layout of the existing pavement and sidewalks is completely encompassed by the proposed width of sixty feet, thus requiring no alterations to the physical improvements as the currently exist.

The proposed discontinuance of Central Street affects the two abutters to the north of the Goodyear School property. The present access to these two properties is via a driveway along the easterly boundaries of said properties from Orange Street. This driveway shall remain intact and continue to be the access for these properties. The intent of the proposed discontinuance of this portion of the street is to provide addition land area to the Goodyear School property which presently contains 92,872 square feet. The addition of the discontinued portion of the street to the school property would result in a total land area of 127,309 square feet or 2.923 acres. Following a favorable action by the City Council, the Planning Board must endorse an “Approval Not Required” and then the property can be conveyed from the City to the School Department.

I trust the foregoing information suffices for your needs. Should you have any questions or comments regarding this matter, please do not hesitate to contact me.

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A communication dated May 13, 2009 with attachments was received from City Clerk William C. Campbell as follows:

Re: Anderson Regional Transportation Center – Taxi Cabs

Enclosed you will find a proposed set of regulations received from MassPort concerning taxi cabs operating from the Anderson Regional Transportation Center. Although the property is within the jurisdiction of MassPort, a request has been received by the City of Woburn seeking the city’s endorsement of these regulations. Enforcement of the regulations will be controlled by MassPort unless they seek assistance from the Woburn Police Department in certain instances.

s/William C. Campbell, City Clerk

Attached thereto was the following:

ANDERSON REGIONAL TRANSPORTATION CENTER  
DRAFT: WOBURN TAXI / LIVERY OPERATING STANDARDS

- 1) The Taxi Stand is for use only by licensed Woburn Taxis. Taxi’s must bear a Taxi License Plate issued by the MA RMV and must adhere to the City of Woburn’s

ordinances regarding hackneys and display any licenses/permits/identification required by or issued by the City of Woburn.

- 2) Vehicles bearing Livery Plates (LV Prefix) may not use the Taxi stand and must park in the short term parking area. The driver / operator may not solicit passengers within the Anderson RTC and can only pick up customers that arrive at the RTC with a prior reservation.
- 3) Taxis must display their Company Name and Phone number on their vehicle on both sides of the vehicle. Paper or temporary signs are not permitted. The information must be affixed by decal, painted letters or magnetic sign to the passenger and driver side front doors.
- 4) Taxis must operate on a First in / First out basis. Line jumping will result in a one day (24 hour) suspension from use of the Anderson RTC.
- 5) The Anderson RTC Manager may bar vehicles from using the facility if in manager's sole judgment that the vehicle fails to meet the following standards:
  - Vehicle exterior and interior must be cleaned daily
  - Vehicle must bear a current valid inspection sticker. Vehicles with inspection stickers marked with an R (Rejected) may not operate at the RTC
  - Driver must be dressed in appropriate attire. At a minimum they must wear a collared shirt. Shorts are acceptable during warm weather. RTC Manager may bar any taxi driver that in his sole judgment is not properly attired.
  - Vehicles with obvious safety deficiencies will be required to leave the facility until the defect is repaired. This includes but is not limited to bald/worn tires, excessive body damage, cracked windshields, inoperable directional head and tail lights, and inoperable doors. Seatbelts must be functional.
- 6) Vehicle owner must provide proof of insurance upon request.
- 7) Operator will display an Anderson RTC Taxi Permit. Permits will be issued during the month of May and must be visible within the vehicle. Vehicles not bearing a permit will not be allowed to operate after June 1, 2009. Permits must be renewed after 1 year.

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A communication dated May 7, 2009 was received from Anthony Blazejowski, Water Treatment Plant Manager, Woburn Department of Public Works as follows:

Subject: Water Quality – 38 Buckman St.

In response to the letter sent to City Council on April 7, 2009 regarding a water quality complaint at 38 Buckman Street, we wish to inform you that the water department investigated the matter and determined that the cause of the problem was an abnormal increase in water consumption and due to the warmer weather. The water department was not contacted on the day of the incident and the complaint was received the following Monday making it difficult to establish the source of the problem.

The water department strongly encourages that a resident calls the water department when they receive discolored water, even if it occurs after hours. It is in our best interest to do whatever we can to alleviate the dirty water in a timely fashion. We do realize there

may be some unforeseen circumstances that lead to the discolored water but without the phone calls there is no knowledge of it.

I trust the information provided addresses the complaint. If you have any further questions or comments, please do not hesitate to contact my office.

Sincerely, s/Anthony Blazejowski, Water Treatment Plant Manager

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A communication dated March 19, 2009 was received from George Poole, Commander, United Veterans Council of Woburn and Ralph Garvey, Woburn Veteran’s Director inviting the City Council to participate in the annual Memorial Day parade on May 25, 2009 beginning on Main Street across from the Armory Building with formation at 8:00 a.m.

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A communication dated May 11, 2009 was received from Anthony Circo, 68 Arlington Road relative to a complaint concerning the fare for taking a Woburn licensed taxi from Anderson Transportation Center to his home in Woburn.

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A communication was received from Jennifer Nice, 39 Brentwood Road requesting that the City Council consider alternative uses rather than ordering the demolition of the Armory building located at 320 Main Street aka 286 Main Street.

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**UNFINISHED BUSINESS OF PRECEDING MEETING:** None.

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**APPOINTMENTS AND ELECTIONS:**

A communication dated May 7, 2009 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Re: Edward Robertson – Zoning Board of Appeals

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Edward Robertson of 16 Hart Place as a member of the Board of Appeals for a period of three years. Please be advised that Mr. Robertson’s term will begin upon confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

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**MOTIONS, ORDERS AND RESOLUTIONS:**

ORDERED Be It Ordained by the City Council of the City of Woburn that the 1989 Woburn Municipal Code, as amended, be further amended by deleting Title 5, Article V, Section 5-41 in its entirety and inserting in its place the following:

5-41 Transient vendors

A. Definitions

1. Transient vendor: any person, either principal or agent, who engages in a temporary or transient business in the city, selling goods, wares or merchandise either in one locality or traveling from place to place.

B. No transient vendor shall sell goods, wares, merchandise or services, as prohibited by MGL c. 101, § 16. No transient vendor shall sell goods, wares, merchandise or services unless duly licensed by the director of standards of the commonwealth and/or permitted by the Woburn City Council except for those articles permitted to be sold without a license under MGLA, c. 101, § 17 or as allowed by (1) below.

C. Conduct of business. All transient vendors shall be governed by the following restrictions:

1. No unpermitted transient vendors shall sell goods, wares, merchandise or services on public land or public ways unless they are members of a non-profit service or youth organization with an established local chapter within the City. A sign indicating the service or youth organization involved in the fundraising effort must be displayed prominently.
2. Permitted transient vendors may sell goods, wares, and merchandise only in those public streets or public ways explicitly stated on their permit and for no longer than fifteen minutes at any given location on an approved route.
3. No vendor shall sell goods, wares, merchandise or services on private, commercial property without the written permission of the owner of private land. Such written permission shall be produced upon request of the City Council, police, sealer of weights and measures, building inspector and/or Board of Health officials. Transient vendors may not sell goods, wares, merchandise or services on residential property.

4. All transient vendors shall operate from carts, mobile food units or tables which are neat and clean.
  5. All food vendors operating mobile food units or push carts as regulated by 105 CMR 590.052 (I) shall obtain the board of health permission prior to any sales.
  6. All transient vendors shall clearly and prominently post prices for all foods, beverages, goods, merchandise and services offered for sale.
  7. Transient vendors are prohibited from selling or offering goods, wares, merchandise or services within two thousand (1,000) feet of any school in the city.
  8. Transient vendors are prohibited from selling or offering goods, wares, merchandise or services between the hours of 8:00pm to 6:00 am.
  9. Transient vendors shall provide suitable receptacles for the placement of any trash and litter that may be expected to result from the sale of their wares and shall remove said trash and litter.
  10. All permits and licenses shall be kept with the vendor in a visible location at all times.
- D. The fine for violation of any portion of this ordinance is \$200 per day. The fine may be issued by the Police Department or the Building Inspector.

s/Alderman Gonsalves

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ORDERED Be It Ordained by the City Council of the City of Woburn that the 1989 Woburn Municipal Code, as amended, be further amended by adding a new Title 5, Article V, Section 5-42 as follows:

5-42 Transient vendors, hawkers and peddlers place of sale.

- A. All hawkers and peddlers shall be moving at all times other than when servicing a customer. For vendors on foot, moving shall be walking in a normal manner along a street, path or way with all goods, wares, merchandise or service. For vendors operating from vehicles, moving

requires the vehicle to be driven along a street, path or way, stopping only to service customers and allow traffic to pass.

- B. No transient vendor shall sell goods, wares, merchandise or services from a fixed location on any public land, including without limitation streets, ways, parks, playgrounds and municipal parking lots. Any transient vendor selling goods, wares, merchandise or services from a fixed location located on private property shall file a notice of registration with the office of the city clerk at least seventy-two (72) hours before commencing such sale and shall pay to the city of Woburn the sum of \$200.00 as a registration fee. Non-profit, charitable and religious organizations must register with the office of the city clerk but are exempt from paying the registration fee required by this section. The notice of registration shall be on a form prepared by the city clerk.
- C. The fine for violation of any portion of this ordinance is \$200.00 per day. The fine may be issued by the Police Department.
- D. If any provision(s) of this ordinance or the application of this ordinance to certain circumstances shall be held to be invalid, the validity of the remainder of this ordinance and the application of such provisions to another person or circumstances shall not be affected thereby.

s/Alderman Gately

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ORDERED That the Chair of the School Building Committee and the Superintendent of the Department of Public Works appear at the Regular Meeting of the City Council scheduled for June 2, 2009 regarding the handicapped accessibility improvements recently made at the Woburn Memorial High School.

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RESOLVED Whereas, an initial review of valuations of commercial and industrial property indicates incorrect valuations of several parcels; and

Whereas, the Assessors Department agrees that several of the valuations included in the partial review were incorrect;

Now, Therefore, Be It Resolved by the City Council of the City of Woburn that a complete and comprehensive re-evaluation of all commercial and industrial properties in the city be conducted by the Board of Assessors and that a report of its findings, including a list of changes in valuations and the additional revenue realized by the city, be submitted to His Honor the Mayor and the City Council.

s/Alderman Wall and President Doherty

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RESOLVED That the Traffic Commission investigate the feasibility of installing a crosswalk at 905 Main Street in the interest of safety for parents crossing the street with their pre-school children.

s/Alderman Raymond

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RESOLVED That the Superintendent of the Department of Public Works repair and replace the sidewalks along Central Street including granite curbing and that the street be repaved.

s/Alderman Mercer-Bruen

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RESOLVED Whereas, the purpose of the Boy Scouts of America, incorporated on February 8, 1910, and chartered by Congress in 1916, is to provide an educational program for boys and young adults to build character, to train in the responsibilities of participating citizenship, and to develop personal fitness; and

Whereas, for nearly 100 years, the Boy Scouts of America has been teaching values and leadership and preparing young people to make ethical choices over their lifetimes by instilling in them the values of the Scout Oath and Law; and

Whereas, Scout Law provides that Scouts be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent; and

Whereas, the Boy Scouts of America endeavors to develop American citizens who are physically, mentally, and emotionally fit; have a high degree of self-reliance as evidenced in such qualities as initiative, courage, and resourcefulness; have personal values based on religious concepts; have the desire and skills to help others; understand the principles of the American social, economic, and governmental systems; are knowledgeable about and take pride in their American heritage and understand our nation's role in the world; have a keen respect for the basic rights of all people; and are prepared to participate in and give leadership to American society; and

Whereas, to earn the Eagle Scout rank, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills; and

Whereas, Michael DeBruyckere has been recognized for fulfilling all the requirements necessary to advance to the rank of Eagle Scout;

Now, Therefore, Be It Resolved by the City Council of the City of Woburn that the residents of the City of Woburn extend their warm and proud congratulations to Michael DeBruyckere for his dedicated work and accomplishments in attaining the rank of Eagle Scout and their best wishes for his continued success in his future endeavors.

s/Alderman Drapeau

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Motion made and 2<sup>nd</sup> to ADJOURN.