

**CITY OF WOBURN  
JULY 16, 2013 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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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:** None.

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**PUBLIC HEARINGS:**

On the petition by Blues for Veterans Inc., P.O. Box 507, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.75 of the 1985 Woburn Zoning Ordinances, as amended, to allow a music concert and festival at Library Park, Harrison Avenue. PUBLIC HEARING OPENED. A communication dated June 19, 2013 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Blues for Veterans, Inc. – Library Park – To operate a music concert/festival pursuant to Section 5.1.75

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 18, 2013, the Planning Board voted to send a favorable recommendation to the City Council regarding the Special Permit application of the Blues for Veterans, Inc. for a music concert/festival at Library Park with the condition that the applicant must comply with Section 5.1, Note 14 of the Woburn Zoning Ordinance and the requirements of the Police Department, Fire Department, and the Inspectional Services Department.

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

A communication dated July 9, 2013 was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

Re: Blues for Veterans @ Library Field

With regard to the above referenced Blues Festival. The Inspectional Services Department has had communications with the Stage owner and Craig L. Moskowitz PE a design professional who is assisting the Blues for Veterans with regard to obtaining permits and monitoring the installation of the temporary stage.

Mr. Moskowitz is also in the process of obtaining a Temporary Professional Engineering License from the Commonwealth of Massachusetts to allow him to perform his duties to satisfy the requirements of the State Building Code.

As of this time, it appears that all concerns have been addressed, once the installation of the temporary stage has been done site visits will be conducted to ensure that all applicable requirements that are within the jurisdiction of the Inspectional Services Department have been complied with.

If you have any further questions on this matter as always do not hesitate to contact me.

s/Thomas C. Quinn, Jr., Building Commissioner

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On the petition by Warnick Associates, Inc., 151 Main Street, Suite 1, Salem, New Hampshire 03079 for a special permit pursuant to Section 5.1.41 of the 1985 Woburn Zoning Ordinances, as amended, to allow research and testing laboratory to occupy existing condo space at Unit #13, 5 Crescent Avenue. PUBLIC HEARING OPENED. A communication dated June 10, 2013 was received from Edmund P. Tarallo, Planning Director as follows:

Re: 5 Crescent Avenue, LLC – 5 Crescent Ave. Unit #13 – To occupy for Research & Testing Laboratory pursuant to Section 5.1.41

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 4, 2013, the Planning Board voted to send a favorable recommendation to the City Council regarding the Special Permit application of 5 Crescent Avenue, LLC at 5 Crescent Avenue Unit #13 to occupy for research and testing laboratory pursuant to Section 5.1.41 of the Woburn Zoning Ordinance.

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 Gold Star Homes, LLC, 83 Cambridge Street, Suite 2d, Burlington, Massachusetts 01803 for a special permit pursuant to Section 7.3 of the 1985 Woburn Municipal Code, as amended, to modify a special permit dated April 26, 2013 as follows:

1. That Condition 16 be modified by deleting the reference to the Plan of Record entitled "Site Development Permit Plan Located in Woburn, Mass. 960 Main Street" prepared by Eastern Land Survey Associates, Inc., dated October 11, 2011, revised March 12, 2012, revised March 20, 2012 and replace same with the plan entitled "Site Development Permit Plan Located in Woburn, Mass. 960 Main Street" prepared by Eastern Land Survey Associates, Inc., dated April 17, 2013 and revised on April 30, 2013, at 960 Main Street. PUBLIC HEARING OPENED. A communication dated June 19, 2013 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Gold Star Homes, LLC – 960 Main Street – To allow for modification of Special Permit decision by replacing the Plan of Record in Condition 16 with "Site Development Permit Plan Located in Woburn, Mass. 960 Main Street" prepared by Eastern Land Survey Associates, Inc. dated April 17, 2013 and revised on April 30, 2013 pursuant to Section 7.3.

Dear Mr. Campbell and members of the City Council:

At the Woburn Planning Board meeting held on June 18, 2013, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Gold Star Homes, LLC, regarding the property at 960 Main Street to allow the modification of Condition 16 as requested with the condition that all other conditions of the April 26, 2012 decision shall remain in full force and effect.

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

A copy of a communication dated June 17, 2013 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer, Woburn Engineering Department as follows:

Subject: 960 Main Street – Alteration of an Existing Nonconforming Structure and Nonconforming use Special Permit – Plans Dated October 11, 2011 – Revised Plans Dated March 20, 2012 – Revised Plans April 30, 2013 – Special Permit Application Dated February 3, 2012 – Drainage Calculations Dated March 21, 2012

The applicant is seeking permission to allow for the change, extension and alteration of the existing nonconforming structure and non conforming use to allow for a four family dwelling.

Upon review of the special permit application this office offers the following comments.

Water

Sheet 2 of 4 shows a proposed 6” CLDI water line from Altavesta Circle to the proposed building with individual water lines servicing each unit. The individual services shall be 1 inch type K copper.

Sewer

Sheet 2 of 4 shows a proposed sewer service in front of the units and connecting to Main Street through a series of proposed sewer manholes. The department is satisfied with the sewer layout.

Drainage

The proposed drainage for the site will be mitigated through an underground infiltration system with an overflow to the municipal system. Infiltration testing has been conducted and the submitted drainage calculations demonstrate the post development runoff conditions will be reduced from predevelopment conditions.

An operation and maintenance summary outlining the inspections and cleaning should be submitted if one hasn't been previously.

The above items are considered minor and may be conditioned as the Board deem necessary.

If you or the board have any questions concerning this information, do not hesitate to contact this office.

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On the petition by D.E. Foods, LLC dba KFC/Taco Bell, 170 Olde Forge Road, Hanover, Massachusetts 02339 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended to allow an additional freezer/cooler unit to be constructed as an addition to a non-conforming building at 163 Cambridge Road. PUBLIC HEARING OPENED. A communication dated June 10, 2013 was received from Edmund P. Tarallo, Planning Director as follows:

Re: D.E. Foods, LLC dba KFC/Taco Bell – 163 Cambridge Road – To add an additional freezer/cooler unit to the existing building pursuant to Section 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 4, 2013, the Planning Board voted to send a favorable recommendation to the City Council regarding the Special Permit application of D.E. Foods, LLC dba KFC/Taco Bell at 163 Cambridge Road to add an additional freezer/cooler unit to the existing building with the condition that the preview board shall be removed.

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 Sean Lahey, 325 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.57a of the 1985 Woburn Zoning Ordinances, as amended, to allow two (2) storage containers at 8 High Street. PUBLIC HEARING OPENED. A communication dated June 10, 2013 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Sean Lahey – 8 High Street – To allow 2 storage containers to store personal property pursuant to Section 5.1.41

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 4, 2013, the Planning Board voted to send an unfavorable recommendation to the City Council regarding the Special Permit application of Sean Lahey at 8 High Street to allow for 2 storage containers to store personal property because of the blighting influence the proposal has on the site.

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 Rosematwo, LLC, 10 Dorrance Street, Boston, Massachusetts 01219 for a special permit pursuant to Sections 8.7.2.10, 5.1.42, 8, 6.1 Note 8, and 12 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the construction of a 10,000 square foot building addition to an existing warehouse facility, including loading docks and parking at 7 State Street. PUBLIC HEARING OPENED. A copy of a communication dated June 18, 2013 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer, Woburn Engineering Department as follows:

Subject: 7 State Street – 10,000 sf Addition and Loading Docks Special Permit – Plans Dated September 19, 2012 – Special Permit Application dated May 30, 2013 – Drainage Calculations Dated April 19, 2013

The applicant is seeking permission to allow for a 10,000 sf addition and loading docks to an existing warehouse. Upon review of the Special Permit application, this office offers the following comments.

Water

The site plan shows the existing utilities in the streets and it does not appear that there are any water services being proposed. We assume the addition will be serviced through the existing building, otherwise the separate water service should be shown.

#### Sewer

Sheet C-2.0 shows a proposed 8" PVC sewer service for the proposed addition. This office takes no exception to the proposed service as shown. The applicant should consult with the plumbing inspector about inspecting and testing of the oil water separator. The oil/water separator will require an MWRA permit.

#### Drainage

The proposed drainage for the site will be mitigated through an underground infiltration systems with an overflow to a riprap dispersion blanket on site. The submitted drainage calculations demonstrate that the post development conditions will be equal or reduced from predevelopment conditions.

An operation and maintenance summary outlining the inspections and cleaning have been included in the submission. We believe the O&M plan is adequate for the facility.

#### Miscellaneous

The site plan includes a summary table which outlines the zoning requirements. The table indicates that 32 parking spaces are required as a result of the proposed addition.

The plan shows 16 future parking spaces at the rear of the addition and 6 future spaces at the front of the existing building. These spaces would be required to comply with zoning requirements.

A Development Impact Statement outlining any impacts to the infrastructure in accordance to Section 18 of the Zoning ordinance should be submitted for review.

Additionally, the following items should be shown on the plans:

- Sizes and location of the existing utilities on State Street including inverts and rims as appropriate.
- Existing site utilities should be shown on sheet C-2.0

If you or the board have any questions concerning this information, do not hesitate to contact this office.

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On the petition by Dave & Busters of Massachusetts, Inc., 2481 Manana Drive, Dallas, Texas 75220 for a special permits pursuant to the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. Sections 5.1.72 and 8.3.2 to allow for its parking requirements to be met on a separate lot from the use to be served by allowing 104 parking spaces at Lot B, 275 Mishawum Road, 2. Section 5.1 Note 16 to allow for hours of operation consistent with the hours of operation approved by the Woburn License Commission 11:00 a.m. to

1:00 a.m. seven days per week, and 3. Section 5.1 Note 22 to allow for two hundred (200) coin operated, recreational, or entertainment machines, all at Lot A, 275 Mishawum Road. PUBLIC HEARING OPENED.

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**CITIZEN’S PARTICIPATION:**

Request from Aréve B. Alexander, 73 Hammond Place for citizens participation time to “discuss desirability of getting the Community Preservation Act participation on municipal election ballot.”

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**COMMITTEE REPORTS:**

**POLICE AND LICENSES:**

Petition by Woburn Cab Company Inc. for renewal of Taxi Cab License for three (3) vehicles, committee report was received “ought to pass”.

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**ORDINANCE:**

On the Order to amend Title 5, Article I of the 1989 Woburn Municipal Code, as amended, by inserting a new Article I entitled Automatic Amusement Devices, committee report was received “ought to pass in the following form:

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, BUSINESS LICENSES AND REGULATIONS, Article I in its entirety, and inserting in its place a new Article I. Automatic Amusement Devices, as follows:

**I. AUTOMATIC AMUSEMENT DEVICES**

5-1 Definitions.

The following terms shall have the meanings indicated:

**AMUSEMENT DEVICE ROOM-** A building or place containing five or more amusement devices, as defined herein.

**AUTOMATIC AMUSEMENT DEVICE** – any mechanism whereby, upon the deposit therein of a coin or token, credit card, debit card or swipe card, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines, electronic video games, computer generated video games and all

game machines or devices similar thereto. The term "automatic amusement device " shall not include not include keno, beano, bingo, or other like games of chance with cash rewards or prizes, or any game established or licensed by the Massachusetts State Lottery, nor shall it include jukeboxes, rides, bowling alleys, or any device maintained within a residence for the use of the occupants thereof and their guests.

OWNER- A record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

PERSON - One or more individuals, a corporation, partnership, association, trust or firm and any trustee, receiver or assignee.

#### 5-2 License required.

- A. It shall be unlawful for any person having title to or responsibility for the maintenance or operation of any restaurant, public hall, store, place of amusement or any other place to which members of the public are invited, to maintain, operate or permit to be operated or maintained in the premises, any automatic amusement device without having first obtained a valid license from the License Commission, pursuant to the provisions of the ordinance
- B. No person shall maintain or operate an amusement device room as the exclusive use of any premises in the City.
- C. Nothing in this ordinance shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Massachusetts, as may be amended from time to time.
- D. An amusement device room may be allowed as an accessory use to a restaurant, as that term is defined by the Zoning Ordinances, subject to a permit(s) issued by the License Commission, and provided the amusement device room shall occupy no more than 49% of the total square footage of the licensed establishment which is open to the public. For the purposes of this chapter, the total square footage of the licensed establishment shall not include the kitchen, employee rooms, utility closets, storage areas, loading docks, or any other area which is not open to the public.

#### 5-3 Application for License/Procedure.

- A. Any application for a license will be acted upon after a hearing before the License Commission (the "Commission") in accordance with the rules, regulations and procedures of the License Commission.

- B. The license commission shall conduct a public hearing in accordance with the provisions of M.G.L. c. 39, §23B, within forty-five days of the receipt by the License Commission of a properly completed application.
- C. The License Commission shall grant a license based upon the merits of each application.
- D. The application shall be accompanied by a plan identifying the street and number, all entrances and exits, the type of establishment and the exact location and number of the amusement device(s) to be licensed.
- E. No license shall be issued to any applicant unless he/she is over eighteen years of age and provides proof of United States citizenship or legal residence status as an alien. This provision shall similarly apply to any applicant acting as the authorized agent of a corporation, partnership, association or other business entity. In the case of a corporation, partnership, association or other business entity, the applicant shall provide a Certificate of Good Standing from the Office of the Secretary of State.
- F. When acting upon an application to operate an amusement device room, the License Commission shall consider, among other factors it may deem relevant, the following factors:
  - 1. The overall type of business conducted on site.
  - 2. Whether alcohol is to be served on the premises.
  - 3. Whether the Building Commissioner has approved the proposed layout of the automatic amusement devices after consideration of the applicable Building Codes including Plumbing and Electrical.
  - 4. The layout of the restaurant and amusement device room and whether the amusement device room is separated from the rest of the establishment.
  - 5. The means by which the applicant proposes to restrict minors under the age of 18 on the site or as required by MGL c. 140, §. 179.
  - 6. The reputation and character of the applicant and general manager.
  - 7. The presence and use of public safety details as an integral part of the establishment's business plan.
  - 8. Whether granting the license will increase the incidence of illegal or disruptive conduct in the area in which the premises are located.

9. Whether granting the license will unreasonably increase the level of noise in the area in which the premises are located.

5-4 Fee.

The license fee per machine shall be one hundred dollars (\$100.00) per year

5-5 License to be Displayed.

- A. The license shall be posted permanently and conspicuously in the premises wherein the amusement devices are to be located
- B. If the licensee moves the place of business to another location within the City, the license may be transferred to the new location only upon reapplication to the License Commission in accordance with the provisions of this ordinance.
- C. The license shall not be transferred or assigned. Specifically, but not by way of limitation, a license shall not run with the premises, nor shall sale of the premises effectuate a transfer of the license.

5-6 Operation of Amusement Devices.

- A. The owner of any amusement device within the City shall comply with all provisions of law, ordinance, rule or regulations applicable thereto and relating to the conduct of the business in connection with which the game is used and the use and maintenance of the premises where it is located.
- B. The owner of the amusement device shall maintain good order on the premises at all times. The failure to maintain good order may be grounds for the suspension or revocation of the license. The lack of good order on the premises shall include but not be limited to the following.
  1. Fighting and rowdy behavior.
  2. Possession or consumption of alcoholic beverages, except where the premises are licensed for on-premises consumption thereof.
  3. Gambling.
  4. Permitting the use of any controlled substance possession of which is prohibited by Massachusetts Law.
- C. The owner of an amusement device shall not permit it to be played or operated after 10:00 p.m. by a person under the age of 16 unless accompanied by and under the supervision of a parent or other guardian over the age of 21.
- D. The owner of an amusement device shall not allow it to be available for use or used unless it is under the control of and supervised by a person at least 18

years of age, who shall ensure that it is operated in compliance with this ordinance.

- E. A person under the age of 16, unless accompanied by and under the supervision of a parent or other guardian over the age of 21, is not permitted to operate amusement devices during normal school hours (as established by the School Committee or appropriate authority) on weekdays only exclusive of holidays.
- F. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement device, and no such game shall be permitted.
- G. Any premises in the City containing an amusement device or devices, when open for the transaction of business, shall be subject to inspection by any police officer.

5-7 License commission rules and regulations.

- A. All meetings convened by the Licensing Commission shall take place no earlier than 5:30 P.M. on a week day.
- B. The license commission may issue rules and regulations for the use of automatic amusement devices consistent with the Massachusetts General Laws and applicable ordinances, in the interest of public safety to guard against creation of a nuisance or to insure adequate safety and security for the patrons or the affected public.

5-8 Penalty and Enforcement

Violations of this Ordinance shall be subject to a fine of two hundred (\$200.00) for each violation. Each violation of this Ordinance shall constitute a separate offense, and each day that any such violation continues shall constitute a separate offense. The Police Chief or his designee, and any Woburn Police Officer and the Building Commissioner shall have authority to enforce the provisions of this title. Any alleged violation of this Ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L.c.40, §21D.”

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On the Order to amend Title 9 of the 1989 Woburn Municipal Code, as amended, by inserting a new Section 9-11(A) entitled “Drinking liquor on public property”, committee report was received “ought to pass in the following form:

Be it Ordained by the City Council of the City of Woburn that Title 9, Section 9-11(A) of the 1989 Woburn Municipal Code, as amended, be further amended by deleting the section in its entirety and inserting the following new Section 9-11(A) in its place:

9-11 Drinking liquor on public property.

- A. No person shall drink any alcoholic beverages as defined in M.G.L. c. 138, § 1, or possess an open container full or partially full of any alcoholic beverages while on, in, or upon any public way, upon any way to which the public has right of access, in any place to which members of the public have access as invitees or licenses, in any park or playground, conservation area, or recreation area, except as otherwise authorized by the issuance of a special event permit from the City Council or Recreation Commission, and the issuance of a special one-day alcoholic beverage license by the License Commission in accordance with M.G.L. c.138, §14, or private land or place without consent of the owner or person in control thereof. Under no circumstances shall any person sell, serve, or consume alcohol beverages on, in or upon any land or property under the jurisdiction of the School Department, publicly owned property adjacent to property under the jurisdiction of the School Department and property under the jurisdiction of the Conservation Commission, except for the Mayor's Annual Senior Dinner and neighborhood block parties adjacent to publically owned properties.

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On the Order to amend Title 12 of the 1989 Woburn Municipal Code, as amended, by inserting a new Article XIV entitled "Special Event Permits", committee report was received "ought to pass in the following form:

Be it Ordained by the City Council of the City of Woburn that the Title 12, Streets, Sidewalks and Public Places, of the 1989 Woburn Municipal Code, as amended, be further amended by inserting the following new Article and Sections:

Article XIV. Special Events Permit

12-51 Purpose.

This ordinance establishes the procedures and requirements for allowing the use of public property for special events in the City of Woburn, by providing for traffic and crowd control, for street, park, and property maintenance, and for the protection of the public health, safety and welfare.

12-52 Definitions

- A. Special Event- An event that is open to the general public and held on public property; it may feature entertainment, amusements, food and beverages; it may be classified as a festival, concert, fair, road race, carnival or some other gathering or assembly, whether or not it involves fundraising. This definition shall not include parades.
- B. Permit Granting Authority - For any event conducted on public property under the sole jurisdiction and control of the Recreation Commission the Permit Granting

Authority shall be the Recreation Commission and for events conducted on all other public property the Permit Granting Authority shall be the City Council. For any event held on property under separate jurisdiction and control, the applicant shall obtain approval from both the Recreation Commission and the City Council with respect to the land under their respective jurisdictions by separate applications.

#### 12-53 Special Event Permit Required.

No Special Event, including festivals, concerts, fairs, road races, carnivals, demonstrations, marches, assemblages, or other gatherings, shall be held upon any City street, park or other public area of the City unless a permit is first obtained for such event. Peaceful demonstrations, including lawful picketing, conducted on public sidewalks so as not to impede pedestrian or vehicular traffic are not considered special events.

#### 12-54 Permit Application Fee.

The Permit Application Fee shall be two hundred dollars (\$200.00) per event. The Permit Application Fee shall be paid to the City Clerk's office unless otherwise under the sole jurisdiction of the Recreation Commission in which case the fee shall be paid to the Recreation Commission.

#### 12-55 Permit Application.

Application to conduct a special event shall be made to the Permit Granting Authority, in writing, by the person or persons in charge or responsible therefore. All applications for special event permits shall be made at least forty-five (45) days prior to the date on which the special event is sought to be held, unless the Permit Granting Authority waives the time requirement for good cause shown. The application shall be on a form approved by the City Clerk which shall set forth the following information:

1. The name, address and telephone number of the person requesting the permit.
2. The name and address of the organization or group sponsoring the event.
3. The name, address and telephone number of the person who will act as director or person in charge of the special event and be responsible for the conduct thereof.
4. The purpose of the event and the number of persons expected to attend.
5. The date the event is to be conducted and the hours it will commence and terminate.
6. The specific assembly and dispersal locations, and specific route plans, if any.
7. Such other information as the Permit Granting Authority reasonably deems necessary to properly prepare for and/or evaluate the potential impact on the public health, safety and welfare.
8. The applicant shall have a continuing responsibility to advise the Permit Granting Authority in writing of any material changes to the information provided in the initial application.

#### 12-56 Considerations.

The Permit Granting Authority shall consider an application for the Permit based upon factors it may deem relevant including, but not limited to the following:

- A. Approval shall have been affixed by writing on the application by the department, if applicable, that has jurisdiction over the property.
- B. The Applicant shall provide proof of liability insurance with a minimum of \$1,000,000.00 in commercial general liability and a policy endorsement that indemnifies and holds the City harmless for all liability for any accidents or damages to persons or property resulting from the Special Event. The City Council may require a different amount, higher or lower, of insurance.
- C. Approval affixed by writing on the application shall have been granted by the Police Department, Fire Department, Department of Public Works, Department of Inspectional Services and Board of Health including satisfactory arrangements as to the provision of public services and compliance with applicable codes, ordinances and laws by those departments and for the payment/reimbursement for the cost of public services if appropriate.

#### 12-57 Sale, Service or Consumption of Alcohol During Special Event

- 1. The sale, service and consumption of alcohol during a Special Event shall require a special one-day alcoholic beverage license issued by the License Commission in accordance with M.G.L. c.138, §14 and Section 9-11 of the 1989 Woburn Municipal Code, as amended. If such license is issued, the outdoor area where alcohol is to be sold or served is to be enclosed by fencing or other barrier set-up for the purpose of restricting the removal of alcoholic beverages by patrons/guests, and such other conditions as the City Council, Recreation Commission and License Commission may impose .
- 2. Under no circumstances shall such special one-day license to sell, serve, and consume alcohol beverages on public property be available for and/or upon any land or property under the jurisdiction of the School Department , publicly owned property adjacent to property under the jurisdiction of the School Department and property under the jurisdiction of the Conservation Commission, except for the Mayor's Annual Senior Dinner and neighborhood block parties adjacent to publically owned properties.

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#### **NEW PETITIONS:**

A Conservation Easement and Restriction was received from G. Gardner Contracting LLC, 28 Endleigh Avenue, Billerica, Middlesex County, Massachusetts 01821 pursuant to Sections 31, 32 and 33 of Chapter 184 of the Massachusetts General Laws granting to the City of Woburn, with quitclaim covenants, in perpetuity and exclusively for conservation purposes a Conservation Restriction on certain land located in Woburn, Massachusetts consisting of approximately 16,934 square feet of land, more or less, as being more particularly described in Exhibit A and shown as "Conservation Restriction Area" on a plan of land in Woburn, Massachusetts entitled "As Built Plan (To

Accompany a Certificate of Compliance)” prepared by Cyprus Design, Inc. and dated June 19, 2013, and recorded herewith.

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A communication dated July 9, 2013 was received from Duane Levy, Project Manager, Seaver Construction, Inc., 215 Lexington Street, Woburn, Massachusetts 01801 as follows:

To: Woburn City Council

Please accept this request for a minor modification of a special permit granted to 859 Main Development, LLC 215 Lexington Street Woburn, MA 01801, Petitioner and Landowner, for land affected located at 855 Main Street Woburn, MA has been modified as follows:

Condition Number 1 of the Special Permit issued January 12, 2012 and further amended by Special Permit issued October 10, 2012 be stricken and in its place be inserted a new Condition Number 1 as follows: That the plans shall be the last revised July 7, 2013 unless modified by the conditions of the original Special Permit.

This decision of the City Council is a minor change intending to clarify the minor modification to the foundation design as it relates to unit 7 specifically. Also the addition of rear decks to units 1-7.

s/Duane Levy, Project Manager

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A communication dated July 10, 2013 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: ExecuSpace Construction Corporation, 140 Garfield Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent ExecuSpace Construction Corporation in connection with a Landowner’s Decision and Notice of Special Permit issued by the City Clerk on August 11, 2005 as extended by Notice of Extension issued by the City Clerk on May 21, 2007, May 6, 2009 and June 9, 2011 (the “Special Permit”) which Special Permit was extended to August 11, 2013. As a result of the current status of the economy, construction has not commenced pursuant to said Special Permit.

On behalf of the Petitioner, I respectfully request that the City Council further extend the time period for the Petitioner to exercise its rights under the Special Permit for an additional two (2) year period to August 11, 2015.

Should you need any further information, please do not hesitate to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

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A communication dated July 10, 2013 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: 4-K Realty Trust, 27 Montvale Avenue, Woburn, MA

Dear Mr. Campbell:

Please be advised that I represent the 4-K Realty Trust in connection with a Landowner's Decision and Notice of Special Permit issued by the City Clerk on August 14, 2003, as amended by Landowner's Confirmatory Decision and Notice of Special Permit issued by the City Clerk on January 12, 2004, as extended by Notice of Extension of Special Permit issued by the City Clerk on June 14, 2005, May 21, 2007, May 6, 2009 and June 9, 2011 (the "Special Permit") which Special Permit was extended to August 11, 2013.

On behalf of the Petitioner, I respectfully request that the City Council further extend the time period of the Petitioner to exercise its rights under the Special Permit for an additional two (2) year period to August 14, 2015.

Should you need any further information, please do not hesitate to contact me. Thank you.

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

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Petition by Lawless Chrysler Jeep, Inc., 196 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.71 of the 1985 Woburn Zoning Code, as amended, to allow for a commercial parking lot at 10 Micro Drive.

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Petition by 508 Main Street LLC, 508 Main Street, Woburn, Massachusetts 01801 as follows:

ORDERED Be it Ordained by the City Council of the City of Woburn as follows:

To amend the Zoning Map of the City of Woburn by amending the zoning district for the property identified on Assessors Map 43, Block 17, Lot 16 being the entire parcel of land known as 506 Main Street a/k/a 508 Main Street and 6-14 Hovey Street containing approximately 0.57 acres of land from the R-4/B-D zoning district to the B-D zoning district.

s/508 Main Street LLC., an individual owning land to be affected by change or adoption pursuant to Section 5 of Chapter 40A

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Petition by Benchmark Senior Living, 40 Williams Streets, Wellesley, Massachusetts 02481-3904 as follows:

ORDERED Be it Ordained by the City Council of the City of Woburn as follows:

To amend the Zoning Map of the City of Woburn by amending the zoning district for the property identified on Assessors Map 32, Block 04, Lot 01 known as 320 Salem Street containing an approximately 4.43 acre parcel from the R-1 zoning district to the R-3 zoning district.

s/Lindquist Realty Trust and Benchmark Senior Living, an individual owning land to be affected by change or adoption pursuant to Section 5 of Chapter 40A

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Petition by Benchmark Senior Living, 40 Williams Streets, Wellesley, Massachusetts 02481-3904 as follows:

ORDERED Be it Ordained by the City Council of the City of Woburn as follows:

To amend the 1985 Woburn Zoning Ordinances, as amended, as follows:  
1. By revising the definition of “Extended Care Facility” contained in Section 2 as follows: the “period” after “rest homes” shall be deleted and the following language added: “and Assisted Living residences”, 2. By revising Section 6.1 (Table of Dimensional Regulations) by adding a new footnote #9 to read as follows: “9. Assisted Living residences located in the Residential-Three (R-3) zoning district boundary lines in the City of Woburn shall have a maximum height of 42 feet and/or 3 stories.”, and 3. By revising Section 8.2.5 (Schedule of minimum numbers of Required Off Street Parking Stalls) for Extended Care Facility by adding the following language after “1.8 space per dwelling unit” as follows: “, provided that Assisted Living residences shall have 0.50 space per unit and 1 visitor space per 10 units.”

s/Lindquist Realty Trust and Benchmark Senior Living, an individual owning land to be affected by change or adoption pursuant to Section 5 of Chapter 40A

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**COMMUNICATIONS AND REPORTS:**

A communication dated June 21, 2013 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 May 2013: number of parking violations issued 413, number of violations paid 235, number of violations outstanding 154, amount collected and submitted to the Office of the Collector \$22,748.20. There exists a backlog of 6,087 for 1982 through 2012. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$5,100.00.

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

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A communication dated June 25, 2013 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging for the month of June 2013.

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A communication dated July 1, 2013 was received from Building Commissioner Thomas C. Quinn Jr. as follows:

Re: Woburn Municipal Code Title 15 Article VIII 14-42

Dear Members of City Council:

With regard to the above referenced section of the Woburn Municipal Code, I submit the following quarterly nuisance report for the period of April 1, 2013- June 30, 2013.

As of this time currently there is one property currently active under proceedings regarding nuisance activities:

5 Kennedy Park

Original notification to owner: February 11, 2013

Activity since April 2013, property owner has started process of removing all debris and brush has started to be removed, site visits and meetings with owner have been ongoing to monitor progress with a compliance date of September 15, 2013 to avoid further action.

Also below is a summary of other properties within the City that have had issued that are within the criteria of Title 15 Article VIII.

3 Wood Street, exterior grounds overgrown vegetation issues resolved.

119 Montvale Avenue overgrown vegetation issues resolved.

85 Nashua Street, overgrown vegetation issue resolved.

351 Salem Street overgrown vegetation owner working with city for compliance.

If there are any questions or concerns as always do not hesitate to contact this writer.

s/Thomas C. Quinn Jr., Building Commissioner, City of Woburn

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A communication dated July 11, 2013 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: New Boston Street Ass'n LLC v. City of Woburn, et al, No. 2011MICV01776

As the City Council is aware, the above-captioned matter involves an abutter's appeal from the City Council's grant of a special permit under Sections 5.1 (42) and (57b) to Pacific Packaging Products for the operation of a warehouse and distribution center at 323-3525 New Boston Street.

The property owner and the abutter, whose issue was related to the existence of a right of way, have agreed to resolve this matter privately and have therefore, stipulated that the appeal be dismissed.

Very truly yours, s/Ellen Callahan Doucette

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A communication dated July 8, 2013 with attachments was received from State Senator Kenneth J. Donnelly, State Representative James J. Dwyer and State Representative Jay R. Kaufman as follows:

Clerk Campbell:

We are writing to inform you that after consultation with both House and Senate Counsels, we must report that the Legislature cannot take action on the home rule petition you sent us on July 2, 2013.

In order of the home rule petition to be properly prepared, both the Mayor and the City Council must indicate approval before it can be submitted to the Legislature. The state Constitution creates the home rule petition power and procedure in Section 8 of Article 89 of the Amendments.

The Supreme Judicial Court analyzed the issue of whether a city council could use a veto override power to move a petition forward without a mayor in *OPINION OF THE JUSTICES TO THE SENATE*, 429 Mass. 1201 (June 30, 1999), and stated that an override does not constitute "approval" of the measure. The court ruled specifically that the mayor must take part in the approval process to meet the standards of the state Constitution.

Therefore, the legislative delegation of the City of Woburn must return the prepared home rule petition for the disability retirement package for Officer Robert DeNapoli without action as it cannot be taken up by the Legislature in its current form.

For your reference, please find attached the opinion from the Supreme Judicial Court. We await further direction from the Mayor and the City Council.

Sincerely,

s/James J. Dwyer  
State Representative  
30<sup>th</sup> Middlesex District

s/Kenneth J. Donnelly  
State Senator  
4<sup>th</sup> Middlesex District

s/Jay R. Kaufman  
State Representative  
15<sup>th</sup> Middlesex District

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

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**APPOINTMENTS AND ELECTIONS:**

A communication dated June 18, 2013 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear President Denaro and Members of the Woburn City Council:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Johanna B. Hill, 2 Lisa Drive to the Woburn Handicapped and Disabled Citizens Committee, with a term to expire March 2, 2016, subject to the approval of the Woburn City Council.

Mrs. Hill's appointment fills the seat of Committee member Jean Rooney, who recently passed away.

Respectfully, s/Scott D. Galvin, Mayor

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**MOTIONS, ORDERS AND RESOLUTIONS:**

RESOLVED That a request be forwarded to the City Solicitor for a written legal opinion of the applicability of Section 2-33 of the 1989 Woburn Municipal Code, as amended, which requires a majority vote of the City Council and approval of the Mayor prior to the assignment of tax-title property with respect to the sale of tax title property on May 21, 2013 and any future sales of tax title property.

s/Alderman Gately

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From Woburn Traffic Commission

ORDERED JOHNSON STREET – That a stop sign restriction be established on Johnson Street at the intersection with Plympton Street.

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From Woburn Traffic Commission

ORDERED SULLIVAN STREET – That a stop sign restriction be established on Sullivan Street at the intersection with Eastern Avenue.

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ORDERED That the City Solicitor prepare a written legal opinion as to whether the Order for a Home Rule Petition regarding the disability retirement for Officer Robert DeNapoli was in fact approved by the Mayor as the Mayor did not return the Order to the City Council with his objections, that is he did not veto the Order, but returned the Order to the City Council unsigned and ten days after presentation having elapsed.

s/Alderman DiTucci

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