

**CITY OF WOBURN
APRIL 18, 2017 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

MAYOR'S COMMUNICATIONS:

Alderman Anderson recused himself from participating in the following matter and left the Council Chamber.

A communication dated April 11, 2017 was received from His Honor the Mayor Scott D. Galvin with attachment as follows:

Dear President Haggerty and Members of the Woburn City Council:

In accordance with Section 25 of the Charter of the City of Woburn, I am vetoing the City Council's recent amendment of Title 2, Administration and Personnel, Article XXVIII, Section 2-180, Base Salaries of the 1989 Woburn Municipal Code to provide for increased stipends for School Committee members; the School Committee Chair; Board of Appeals members; the Board of Appeals Chair; the Board of Appeals alternate; Conservation Commission members; the Conservation Commission Chair; Planning Board members; License Commission members; City Council members; and the City Council President; and returning same to the City Council with the following objections:

Notwithstanding the honorable work of the City Council, the justification, timing and vote by the City Council to increase their own salaries by more than 30%, to \$12,000 per year, is not appropriate. It's also inconsistent with salary increases recently offered to City employees. The salary and benefits available to the City Council, along with commitment required were known prior to a decision to run for office.

In their capacity as elected officials, City Councilors also receive health insurance benefits, with the City's contribution to the health insurance premium costing more than \$21,000 annually for each member enrolled in the family plan, and \$8,000 annually for

each member enrolled in an individual plan. In addition to salary and health insurance benefits, City Councilors also become pension-eligible after 10 years of service.

The decision to include within the Order salary increases for other, select Boards and Commissions, is similar to the plan employed by the Solons on Beacon Hill to gain support for the legislative pay raise by including raises for other, non-legislative positions. The Order also excludes consideration of other hard-working Board and Commission members, most who volunteer their services with little or no compensation whatsoever.

Importantly, local Board and Commission members are Mayoral appointments, and recommendations regarding changes to their stipends should originate with the Mayor's office. I cannot recall a prospective candidate for a position on any Board or Commission who refused to accept an appointment because of the salary, or one who requested a raise after accepting an appointment.

I urge the members of the City Council to reconsider their vote to increase their salaries by focusing on the existing pay package, which includes access to a very generous health insurance benefit and pension plan.

Sincerely, s/Scott D. Galvin, Mayor

Motion made and 2nd that the matter be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Anderson absent). President Haggerty stepped down from the chair and Alderman Tedesco assumed the chair. President Haggerty stated that he disagrees with mischaracterizations in the letter from the Mayor, that he respects the opinion but the letter is written in a disappointing tone to boards after fifteen years of stagnation on the issue of stipends, that the board members are highly professional and dedicated to their work, that the board members should not be treated differently than other city employees, that the increase in the stipends appears higher because all city employees have received 1% to 3% increases over each of the last fifteen years, that the letter indicates that the members knew the benefits and salaries when they took the position, that the Mayor has funded his own \$30,000.00 salary increase in the budget the past two fiscal years which was a 41% increase, that the City Council member salary is being increased from \$9,000.00 to \$12,000.00, that the letter said that this ordinance was similar to the General Court including judges in a salary increase for the legislators to avoid a challenge, that the City Council reviews stipends for boards collectively, that the City Council just approved a proposal by the Mayor to approve a stipend for two different department heads collectively, that the letter stated that the Mayor should be the recommending authority on stipend increases for board members since he makes many of the appointments, that the Mayor knows that he cannot sponsor an ordinance and that this authority is granted to the City Council under the City Charter, that all employees including the Mayor and City Council should be treated equally with respect to stipend or salary increases, that there appear to be rules for the Mayor and rules for others, that the public knows the difference between political grandstanding and solid policymaking, and that the Mayor is smarter than the letter indicates. Alderman Concannon stated that he

disagrees with the President's comments and agrees with those of the Mayor, that the City Council is not a job or a career, that department heads and the full-time position of the Mayor is different, that these are careers and jobs, that the City Council is a voluntary position, that members should hold the position for a short time to make good decisions to benefit the city and then move on, that the Aldermen should not stay on the City Council for fifteen or twenty years and then need a raise, that he volunteers contributing his time and effort but does not do this for a salary, and that he is comfortable increasing the salaries for city employees but not the boards. President Haggerty stated that the City Council members are city employees, that they are taxed as employees on the stipend, that some employees are compensated at high levels and other part-time employees are compensated at lower levels, that part-time employees deserve fair compensation adjustments, that the members do volunteer but they work hard to help the city, they enjoy the work and they have a passion for the work they do, and that the members get better at the work they do the longer they do the work. Alderman Mercer-Bruen stated that she would not support the City Council stipend raise and has not changed her position, that in general she agrees with the assessment of the Mayor regarding the issue, and that if other boards receive additional compensation that she is willing to separate those boards out. Alderman Gately stated that the city employee deductions continue to increase, that no city employee other than the Aldermen will soon have to take money out of their pocket to pay for the insurance, that for fifteen years the City Council has not received an increase in the stipend, that the city is getting busier and the Aldermen spend more time on issues in the community and meeting at night, that the work of the Aldermen should be recognized, that the City Council members should not be overlooked, that two to four years from now other people will be on the City Council, that there is another group of city employees who are receiving a \$12,000.00 salary increase over four years or \$3,000.00 per year, and that the City Council is receiving a \$3,000.00 stipend increase over fifteen years. Motion made and 2nd to OVERRIDE THE MAYOR'S VETO, Roll Call: Anderson – Absent, Campbell – Yes, Concannon – No, Gaffney – Yes, Gately – Yes, Higgins – Yes, Mercer-Bruen – No, Tedesco – Yes, Haggerty – Yes, Motion Passes. Alderman Tedesco stepped down from the chair and President Haggerty assumed the chair.

Alderman Anderson entered the Council Chamber. Alderman Campbell left the Council Chamber.

PUBLIC HEARINGS:

On the petition by Lawless, Inc., 196 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.44, 5.1.71 and 7.3 to allow for 1. the reconditioning, adjusting, equipping and preparation of motor vehicles; 2. commercial parking lot; and 3. alteration of nonconforming use (loading dock fronts on street) and structure (loading dock fronts on street and interior landscaping, at 8 Draper Street. PUBLIC HEARING OPENED. A

report was received from the Committee on Special Permits as follows: “ought to pass, as amended, with the conditions as follows:

1. The Plan of Record shall be the plan entitled “Parking Layout Plan” 8 Draper Street, Woburn, Massachusetts dated February 10, 2017, revised March 7, 2017, revised March 20, 2017, revised April 3, 2017 prepared by Allen & Major Associates, 100 Commerce Way, Woburn, MA 01801 (the “Plan”).
2. The hours of operation shall be from 7:00 a.m. to 6:00 p.m. Monday – Friday; Saturday 7:00 a.m. to 5:00 p.m. and Sunday 11:00 a.m. to 5:00 p.m.
3. No vehicle repairs (mechanical or bodywork) shall take place on the Property.
4. The use of the Property shall be limited to the prepping of new motor vehicles and the parking of same.
5. There shall be no vehicle carrier deliveries on Sundays.
6. The Petitioner shall be allowed to park 207 new motor vehicles on the Property.
7. The delivery of motor vehicles to the Property shall be limited to no more than seven (7) ten vehicle carriers per week during the first ninety (90) days four months from the date of the issuance of this Special Permit. After ninety (90) days four months the Special Permit shall be reviewed. Provided there have been no issues with the delivery of vehicles by car carriers, the delivery of motor vehicles to the Property shall be limited to no more than ten (10) vehicle carriers per week.
8. The gate to the Property will be locked after regular business hours.
9. All car carrier deliveries to and from the Property shall be from Montvale Avenue to Nashua Street (only the portion from Montvale Avenue to Draper Street). Except as provided for herein, no car carrier vehicles shall be allowed to use Nashua Street.
10. No car carrier deliveries shall be allowed prior to 8:00 a.m. or after 6:00 p.m. Monday through Friday and not after 5:00 p.m. on Saturdays. There will be no deliveries on Sundays.
11. Car carriers shall not be allowed to park overnight on the Property.
12. No car sales shall be allowed on the Property.
13. No customers of the Petitioner shall be allowed on the Property. In addition, appropriate signage shall be installed on the Property notifying the public that the Property is for employees only. The petitioner agrees to conform to all current sign ordinances.
14. There shall be no offloading of vehicles on Draper Street. All vehicles must be offloaded on the Property site.
15. A snow plow removal plan shall be filed with the Building Commissioner prior to occupancy.
16. The Petitioner shall post a twenty-four (24) hour emergency number on the building. In addition, the Petitioner shall provide the City of Woburn Police Department with a twenty-four (24) hour contact.
17. The Petitioner shall maintain a weekly log of car carrier deliveries to the Property which will be accessible to the Woburn City Council and/or Building Commissioner upon request.
18. The Petitioner shall relocate the ADA accessible parking space to the left of the front door as shown on the plan filed with the Special Permits Committee entitled: “Layout

& Materials Sketch” dated April 6, 2017 prepared by Allen & Major Associates, 100 Commerce Way, Woburn, MA 01801.

19. The Petitioner will provided a landscape plan prior to the issuance of the special permit.
20. The Petitioner will clear trash from the embankment and rear of property.
21. The Petitioner shall remove the gas tank that is currently on the property. If a concrete pad exists on the property, the petitioner shall remove above-mentioned pad.
22. In the event that the current school bus routes are altered, this special permit will be reviewed by the Woburn City Council.

Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the committee voted to approve the special permit with conditions, that Condition 19 should state “prior to the issuance of the building permit” not “prior to the issuance of the special permit”, that Condition 7 should be amended to limit vehicle carrier deliveries to not more than ten per week, that the petitioner has no objection to reviewing the special permit after four months, that if Condition 19 is not amended to building permit rather than special permit the landscape plan would have to be filed before voting on the special permit, that the petitioner has no objection to restricting the transferability of the special permit, and that the petitioner understands the necessity of compliance with the sign ordinances. Attorney Tarby offered revised set of conditions for the City Council to review as follows:

1. The Plan of Record shall be the plan entitled “Parking Layout Plan” 8 Draper Street, Woburn, Massachusetts dated February 10, 2017, revised March 7, 2017, revised March 20, 2017, revised April 3, 2017 prepared by Allen & Major Associates, 100 Commerce Way, Woburn, MA 01801 (the “Plan”).
2. The hours of operation shall be from 7:00 a.m. to 6:00 p.m. Monday – Friday; Saturday 7:00 a.m. to 5:00 p.m. and Sunday 11:00 a.m. to 5:00 p.m.
3. No vehicle repairs (mechanical or bodywork) shall take place on the Property.
4. The use of the Property shall be limited to the prepping of new motor vehicles and the parking of same.
5. There shall be no vehicle carrier deliveries on Sundays.
6. The Petitioner shall be allowed to park 207 new motor vehicles on the Property.
7. The delivery of motor vehicles to the Property shall be limited to no more than ten (10) vehicle carriers per week.
8. The gate to the Property will be locked after regular business hours.
9. All car carrier deliveries to and from the Property shall be from Montvale Avenue to Nashua Street (only the portion from Montvale Avenue to Draper Street). Except as provided for herein, no car carrier vehicles shall be allowed to use Nashua Street.
10. No car carrier deliveries shall be allowed prior to 8:00 a.m. or after 6:00 p.m. Monday through Friday and not after 5:00 p.m. on Saturday. There will be no deliveries on Sunday.
11. Car carriers shall not be allowed to park overnight on the Property.
12. No car sales shall be allowed on the Property.

13. No customers of the Petitioner shall be allowed on the Property. In addition, appropriate signage shall be installed on the Property notifying the public that the Property is for employees only. The petitioner agrees to conform to all current sign ordinances.
14. There shall be no offloading of vehicles on Draper Street. All vehicles must be offloaded on the Property site.
15. A snow plow removal plan shall be filed with the Building Commissioner prior to occupancy.
16. The Petitioner shall post a twenty-four (24) hour emergency number on the building. In addition, the Petitioner shall provide the City of Woburn Police Department with a twenty-four (24) hour contact.
17. The Petitioner shall maintain a weekly log of car carrier deliveries to the Property which will be accessible to the Woburn City Council and/or Building Commissioner upon request.
18. The Petitioner shall relocate the ADA accessible parking space to the left of the front door as shown on the plan filed with the Special Permits Committee entitled: "Layout & Materials Sketch" dated April 6, 2017 prepared by Allen & Major Associates, 100 Commerce Way, Woburn, MA 01801.
19. The Petitioner will provide a landscape plan prior to the issuance of the building permit.
20. The Petitioner will clear trash from the embankment and rear of property.
21. The Petitioner shall remove the gas tank that is currently on the property. If a concrete pad exists on the property, the petitioner shall remove above-mentioned pad.
22. In the event that the current school bus routes are altered, this special permit will be reviewed by the Woburn City Council.

Motion made and 2nd that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd to accept an email from Attorney Tarby dated April 12, 2017 and make it part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Alderman Mercer-Bruen stated that she wants to keep the four month review period in Condition 7, that the special permit should not be transferable, that no sign plan was filed, that any signs must be in compliance with the current sign ordinances, and that she wants a limit of ten car carrier deliveries each week. Alderman Anderson stated that he wanted the car carriers to be limited to ten per week and that the condition be reviewed in four months. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that Condition 7 be amended to read as follows: "7. The delivery of motor vehicles to the Property shall be limited to no more than ten (10) vehicle carriers per week. After four (4) months from the time of occupancy, Condition 7 shall be reviewed by the Committee on Special Permits.", 8 in favor, 0 opposed, 1 absent (Campbell absent). Alderman Higgins stated that this is a reasonable amendment, and that this will limit the number of vehicles at the Lexington Street location and the impact of the deliveries on traffic in that area. Motion made and 2nd that Condition 19 be amended to read as follows: "19. The Petitioner will provide a landscape plan prior to the issuance of the building permit to the Building Commissioner and the Committee on Special Permits who may elect to review same.", 8

in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the proposed conditions shall be adopted as further amended; 2. That Condition 23 shall read “That the special permit is granted to Lawless, Inc. only and shall not be transferable,”; and 3. That Condition 24 shall read “That the petitioner shall follow the provisions of the sign ordinance,” 8 in favor, 0 opposed, 1 absent (Campbell absent).

Motion made and 2nd to hold the public hearing on the following two matters collectively, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by WMK, LLC dba MobilityWorks, 299 C&E Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.45 to allow use of 10,150 square feet of space in existing building for sale office and automotive shop to convert standard vehicles to wheelchair accessible vehicles and fourteen overnight parking spaces at 299 C&E Washington Street. PUBLIC HEARING OPENED. A communication dated March 30, 2017 was received from Dan Orr, City Planner/Grant Writer as follows:

Re: Planning Department comments on special permit application for 299 Washington Street C&E/WMK, LLC (d.b.a. MobilityWorks)

Dear Council:

The Planning Department has reviewed the above-referenced petition which seeks a special permit in accordance with Section 5.1(45) for the operation of a sales office and automotive shop that converts standard vehicles to wheelchair-accessible vehicles, as well as permission to park fourteen (14) vehicles on site overnight. The property is located in an Industrial General (I-G) zoning district, and the Petitioner seeks a special permit for the sale or rental of automobiles including accessory repair and storage in accordance with Section 5.1(45). The applicant intends to lease approximately 10,150 square feet of space in an existing building at 299 Washington Street for this use.

Although the application notes that a Special Permit is being sought in accordance with Section 5.1(45) for the sales office and automotive shop, the Building Inspector should be consulted with respect to the portion of the request dealing with overnight parking of vehicles, to determine if a special permit is needed for the overnight vehicle storage. Accessory storage or parking of *commercial* vehicles may be allowed by special permit in this district (Section 5.1.57[b]); there is no corresponding authorization for non-commercial vehicles. It may be that ancillary vehicle storage associated with an authorized automotive repair shop is permitted by right and needs no special permit; it may be that outside vehicle storage is not permitted at all.

The application proposes to reserve fourteen (14) parking spaces for the overnight storage of vehicles. However, no parking or floor area calculations have been provided to

demonstrate that there are in fact fourteen (14) excess parking spaces over and above the number needed to ensure zoning conformance for the building's uses. The applicant should be required to provide this information.

Similarly, the Petitioner should be required to amend the plan to comply with Section 8.5.1 of the WZO which requires security lighting for all parking facilities "which are used at night". Although the key on the plan indicates that "existing site lighting" is incorporated into the plans, Planning staff found none on the plan itself. Therefore, the plans should be revised to incorporate details of all lighting, including security lighting, all of which should be shielded in such a manner that will prevent glare from impacting abutting properties.

Lastly, the plan does not show any areas dedicated for snow storage, and the application does not address snow removal. Planning staff therefore recommends the plans be revised to include this information.

If the Council ultimately decides to grant the special permit (singular or plural), staff recommends imposing the following as conditions of approval:

1. The Plan of Record for this petition shall be "Special Permit Application: Mobility Works, 299 C&E Washington St., Woburn, MA," Site Layout Plan; Prepared by Crossroads Properties, LLC, 200 West Cummings Park, Woburn, MA; Sheet C-1, Dated February 28, 2017; Revised _____";
2. That a copy of the approved snow storage plan be submitted to the Building Inspector; and
3. The special permit shall be issued to WMK, LLC (d.b.a. MobilityWorks) and shall not be transferrable.

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

Respectfully, s/Dan Orr, City Planner/Grant Writer

Motion made and 2nd that the communication be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner will be in units F and H at 299 Washington Street, that a revised site plan for units F and H has been filed, that the petitioner is seeking a special permit and a First Class Motor Vehicle Sales License, that the property is located in the I-G zoning district, that the business was founded in 1997, that the petitioner is a national chain serving the handicapped community by converting handicapped accessible vans, that the petitioner has locations in 23 states, that the petitioner will sell and service vehicles with specialty conversions for the handicapped community, that the petitioner will also rent handicapped vehicles, that the hours of

operation are Monday through Friday 8:00 a.m. to 5:00 p.m. and Saturday 8:00 a.m. to 12:00 noon, that the petitioner has five employees, that the employees on site will be the general manager, sales consultant, administrative person, service manager and service technician, that the petitioner will perform oil changes, air conditioner repair and adjust equipment in the vehicles, that the petitioner expects to have six service customers and four sales customers each day, that the customer would visit the location to find suitable vehicles for their needs, that the building is currently vacant with the exception of the pizza restaurant, that all work will take place inside the building and vehicles will be parked behind the building, that the units are on the left side of the building facing from Washington Street with the parking to the rear of the building, that these are not commercial parking spaces nor is the use included under the definition for a commercial parking lot, that these are not commercial vehicles, that the petitioner had no input into the Planning Department letter, and that snow storage is the responsibility of the landlord. Attorney Tarby offered a folder with supporting documents to the City Council for review. Motion made and 2nd that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the presentation of petitioner's attorney be made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Michael Aveni, Cummings Properties stated that there is exterior wall pack lighting affixed to the building, that there is ample lighting currently to light the parking lot, that if the petitioner wants more lighting they can address that but will exercise care to keep the lighting from going onto neighboring properties, that the snow storage on site is generally on the landscaped area or in surplus parking spaces at the rear of the property, that if there is too much snow on site it would be removed, that generally not all parking spaces on the site are full, that an accordion door or overhead door will be installed in the building to allow access of vehicles into the building, that the door will not face the street, and that the dumpster is located on the side of the building. Michael Dresdner, Director of Real Estate Development for Mobility Works stated that there may be a fabrication of a bracket or minimal painting such as a from a spray can but no professional body shop equipment on site, that the vehicles are prefabricated and do not require extensive body work, that the vehicles are built by a third party and delivered to the petitioner for sale which may require driver specific modifications, that there will be no major modifications of the vehicles, that the petitioner is a retailer, and that the hours of operation will be Monday through Friday 8:00 a.m. to 5:00 p.m. and Saturday 8:00 a.m. to 12:00 noon. Alderman Gately stated that not many improvements will be needed for the project in terms of utilities. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board be adopted as amended with the revised Plan of Record being the plan entitled "WMK, LLC dba MobilityWorks, 299 F&H Washington St., Woburn, MA, Site Layout Plan" prepared by Crossroads Properties, LLC, 200 West Cummings Park, Woburn, MA; Sheet C-1 dated 03/31/17; 2. That a snow storage plan shall be submitted to the Building Commissioner; 3. That the special permit shall be issued to WMK, LLC (d.b.a. MobilityWorks) and shall not be transferrable; and 4. That the hours of operation shall be Monday through Friday 8:00 a.m. to 5:00 p.m. and

Saturday 8:00 a.m. to 12:00 noon and that the FIRST CLASS MOTOR VEHICLE SALES LICENSE be GRANTED, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by WMK, LLC dba Mobility Works, 299-C and 299-E Washington Street, Woburn, Massachusetts 01801 for a new First Class Motor Vehicle Sales License at 299-C and 299-E Washington Street. PUBLIC HEARING OPENED. See record notes from preceding public hearing. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board be adopted as amended with the revised Plan of Record being the plan entitled “WMK, LLC dba MobilityWorks, 299 F&H Washington St., Woburn, MA, Site Layout Plan” prepared by Crossroads Properties, LLC, 200 West Cummings Park, Woburn, MA; Sheet C-1 dated 03/31/17; 2. That a snow storage plan shall be submitted to the Building Commissioner; 3. That the special permit shall be issued to WMK, LLC (d.b.a. MobilityWorks) and shall not be transferrable; and 4. That the hours of operation shall be Monday through Friday 8:00 a.m. to 5:00 p.m. and Saturday 8:00 a.m. to 12:00 noon and that the FIRST CLASS MOTOR VEHICLE SALES LICENSE be GRANTED, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Presented to the Mayor: April 21, 2017

s/Scott D. Galvin April 21, 2017

On the petition by Seaver Properties LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit and site plan approval pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.3c, 5.1 Note 20, 11.3.2, 14, and Site Plan Approval pursuant to Sections 12.2.2 and 12.3.2 to allow for one hundred eighteen (118) residential townhouse units at 285, 287 and 299 Lexington Street. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner is seeking 112 townhouse units, that the property is located in the R-1 zoning district, that a special permit is required for the use, that the petition is governed by Section 14 of the Woburn Zoning Ordinances, that a revised set of full sized plans were filed on April 14, 2017, that the petitioner may have to obtain some type of permission for a walking trail to be placed over the easement, that the roadways in the development will be private and must maintained and plowed by the owner’s association, and that a copy of the traffic report will be filed. Motion made and 2nd to accept and make part of the record the plan entitled “Site Plan Shannon Farms, Woburn, Massachusetts” dated September 12, 2016, revised April 12, 2017 prepared by ALAN Engineering, L.L.C., 8 in favor, 0 opposed, 1 absent (Campbell absent). Mark Sleger, ALAN Engineering, L.L.C., 47 Elm Street, Wakefield, Massachusetts 01880 and he stated that the number of units has been reduced from 118 to 112 including the existing house, that units have been removed from the northwest corner of the site and the area will be dedicated to open space, that the units will be tri-plex, quads and six-plex units, that the six-plex units have two townhouses on each end of the building and four units stacked two high in the center of the building, that there will be six six-plex units, that each unit has at least a one-car garage, that the end

units have two-car garages, that there are 295 parking spaces with ten of those spaces for to the open space area, that the parking is distributed throughout the site, that some of the outside parking will be deeded to unit owners, that the deeded and visitor parking will be clearly marked, that 54% or approximately 25.7 acres of land will be open space, that the open space is purely open space, that there will be a walking trail from the parking area down to Shaker Glen Brook, that the trail will meander through the woods, that there will be an outer loop road 24 feet wide, that there will be a five foot sidewalk, that there will be an inner loop road 24 feet wide and a five foot sidewalk on one side, that two driveways will be more than 150 feet in length with a turnaround for fire vehicles, that the Fire Department reviewed the plan and is satisfied with the plan, that the main entrance to the site will be opposite Grace Road, that the entrance will be a double barrel driveway each side 16 feet wide with one side going in and the other going out and with a central landscaped area between the two driveways, that there will be catch basins throughout the site for drainage, that there will be some roof drain control, shallow swales, detention areas and underground facilities, that there will be a decrease in runoff from the site, that there will be a significant reduction in drainage onto Lexington Street, that there was a large concern expressed of the drainage in the area of Lexington Street at Cambridge Road, that with the drainage remaining on site there will be no negative impact on Lexington Street and Cambridge Road drainage, that the site will be more of a rural setting, that the plan will control drainage and achieve the aesthetics sought for the site, that the existing farmhouse will be preserved as the 112th unit, that the existing farmhouse meets the setback for current zoning but not the 75 foot setback as it is too close by one foot, that the petitioner will remove and reconstruct the existing farmhouse porch to conform with the setback requirement, that natural gas will service the site, that one parking space will be counted in the driveway in front of units with a one car garage but that area will not be counted as a space in front of a two car garage, that there are ten parking spaces for the open space area and eight additional parking spaces across the street, that more parking can be added, that there will be 2.6 parking spaces per unit with 295 parking spaces, that the stonewall will be retained, that the petitioner wants to incorporate the stonewall into a fence and wall landscaping feature, that the walking trail will follow the utility service road and then branch off in a different direction depending upon the grades, that due to the presence of ledge not each unit has roof runoff, that the drainage will be controlled and slowed which will reduce the amount of drainage off the site, that the purpose of the island is for aesthetics, that there are three six-unit buildings, that the prior plan was presented to Boston Edison with respect to the utility easement, that there was a road running under the utility easement in the prior plan but only a walking trail in the new plan, that the ten parking spaces for the open space will be clearly marked, that the petitioner is willing to look at adding additional spaces for the open space area, that the condominium association will maintain the curbing, driveways and drainage, that additional public parking area could be added, that drainage plan will not make the drainage in the area of the Four Corners at Lexington Street and Cambridge Road worse, that some of the drainage issues are under State controlled property, and that the goal of the drainage plan is to not make the drainage issue worse. Mr. Sleger used a Powerpoint presentation during his comments. Motion made and 2nd that the Powerpoint presentation be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Kenneth Cram, P.E., Bayside Engineering, 600 Unicorn Park Drive,

Woburn, Massachusetts 01801 stated that the looked at Parker Street and Waltham Street by conducting traffic counts, that a traffic report was prepared, that there is no significant crash report, that the flow out of Parker Street is mostly resident traffic because of a one way restriction on a portion of the lot and a resident only traffic restriction, that they recorded small delays of vehicles coming in and out of Waltham Street, that the delays were longer during rush hours, and that traffic flowed fairly well through the intersection. Scott Seaver, Seaver Properties, LLC stated that there will be deeded and numbered parking spaces for the units, that they unmarked spaces will be for visitors, that they do not want a large parking lot for aesthetic reasons, that the visitor parking can also be sued for the open space, and that there is more than enough parking on site. Alderman Higgins stated that she wanted to know whether garage space would be provided, that the satellite parking space of ten vehicles for the open space appears to be included in the 295 parking spaces, that she wanted a larger parking area for the open space area as shown on the prior plan, that she wants more than ten parking spaces for the open space as access to the open space has been stated as a benefit for the project, that she wanted to know where the walking trail would be established, that there appears to be 59 additional parking spaces provided with ten for the open space and therefore 49 additional parking spaces required for the development, that she wants there to be at least one deeded parking space per unit, that she wants the stonewall near Grace Road to be preserved, that she is working on a list of several conditions, that she wants the conditions stated clearly in writing, that the City Council is waiting to hear from the City Engineer regarding mitigation, that she wants to obtain information from other departments relative to the revised plan, that she does not want to lose visitor parking but wants more public parking, that she would rather see too much parking than not enough parking being provided, that MassDOT has to approve parts of the proposed plan, and that City Engineer also has to complete the mitigation report. Alderman Anderson stated that there is a perceived benefit in going from 65 single family houses to this townhouse development, that the proposed development seems too congested, that he calculates 257 bedrooms in the proposed development, that with 65 four bedroom homes he calculates 260 bedrooms, that he wants to know how many units per acre there will be for the retained land, that he appreciates the open space component but is concerned with congestion of the parcel, that he wants to know where the walking trail will be, and that he wants the walking trail to be constructed before the occupancy permit issues. Alderman Gately stated that he reviewed the plan, that he is not happy with the plan, that he is against the proposal in its entirety, that there should be five inch curb instead of six inch curb, that the drainage and swale plan looks difficult, and that he wanted to know if any permits are required from Boston Edison for the walking trail to pass under the easement. Alderman Mercer-Bruen stated that ten parking spaces are not enough for the open space, that if a school bus goes to the location with students there is not sufficient space for parking, that the open space is supposed to be a great attraction and will likely be promoted for use by the community, that there is not enough parking for the expanded use, that she wants the deeded parking spaces marked clearly on the plan, and that she understands the intention of the asphalt curb is to establish a rural setting. Alderman Concannon stated that some of the water causing flooding in the Four Corners area originates from the property, and he asked whether this project will make the situation better. PUBLIC COMMENTS: Charles Viola, 2 Morningside Circle stated that he submitted a letter to the City Council at the

previous meeting in opposition to the project, that the open space is unusable under the utility power lines, that the open space should be usable open space for recreation land, that developments need to fit the neighborhood, that twelve affordable units is not enough, that the water usage will increase, that the increased pressure on the water system will have negative impacts on the residents, that Parker Street is only one way during certain hours, that Parker Street is a major cut-through from Cambridge Road to Lexington Street, that there are many car collisions on the street, that the proposal is not for an age-restricted project, that he wants to know if there are any contamination conditions below the surface of the property, that the land should be tested to determine whether there are contaminants on the land, that he wants to know if there will be blasting, that the city should receive significant mitigation for this project, that the proposed signalization equipment will not help the traffic conditions in the Four Corners, that city is receiving 24 acres of land and access to Shaker Glen which is good but the abutters do not support the petition, and that stacked units are not townhouses. Joan Byington, 36 Dix Road Extension stated that she purchased her home in the 1960s knowing the farm would be developed at some point, that this area of town is single family, that houses in the area are being updated and not torn down, that the open space is on the other side of the power lines, that this project will add 224 more vehicles onto Lexington Street, that there will be a dramatic increase in the volume of vehicles, that there will be 500 more cars from additional developments along Lexington Street in that area, that there will be an impact on the Reeves School, that she would prefer family homes be constructed on the site, that the issue of excessive curb cuts on Lexington Street is unfounded, and that the project is too dense. Ms. Byington offered a letter including her comments to the City Council for the record. Motion made and 2nd that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that a communication be sent to the Police Department requesting a report of accidents in the area between Park Street and Canterbury Road, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that a communication be sent to the Building Commissioner, City Engineer and Planning Director to review and make comments relative to the April 12, 2017 revised plan, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that a communication be sent to the Planning Director requesting a report of the calculation for units per acre at the Quail Run condominium development off Russell Street, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MAY 16, 2017, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Motion made and 2nd to hold the public hearing on the following two matters collectively, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by A.L. Prime Energy, 319B Salem Street, Wakefield, Massachusetts 01880 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to amend a special permit dated August 2, 2012 as modified October 27, 2016 by approval of a revised Site Plan showing a revised tank area and building distribution in phases at 1

Hill Street. PUBLIC HEARING OPENED. A communication dated April 13, 2017 with an attachment was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on special permit modification request for 1 Hill Street/A.L. Prime Energy Consultant, Inc.

Dear Council:

The Planning Department has reviewed the above-referenced petition submitted for property at 1 Hill Street, which seeks to modify an existing Special Permit dated August 2, 2012 and modified on October 27, 2016. The property is classified as being in a Business-Interstate (B-I) Zoning District. The Petitioner seeks approval, pursuant to Section 11.3.12, of a modification of the Plan of Record cited in the Special Permit Decision. The revised site plan purports to show a re-located tank area and the construction of “building distribution in phases.”

In looking at the Petition and revised site plan, Planning staff have noted the following as comments and questions:

Application Narrative

- What does the application mean by “building distribution in phases,” and what is the envisioned timeline for full site build-out?

Site Plan Depiction

- The application references a revision to the underground storage tank area. However, the nature of this revision, relative to capacity and/or location, is not indicated in the application.
- The plan notations appear to conflict with the proposed phasing on the color-coded version of the site plan (i.e., as noted, the office space is intended to be either primarily or entirely constructed in Phase Two [depending on whether the Phase One ground floor will contain office space, which is also unclear based the notation provided]; however, it falls entirely within the Phase One layout).

Parking Capacity

- The current Special Permitted uses include a retail establishment less than 5,000 sq. ft. in gross floor area (5.1.22(a)) and a self-service gas station (5.1.46(b)) as part of Phase One, for which 8 spaces (not 6, as indicated in on the revised site plan “zoning information” table) are provided in accordance with retail space parking requirements. An additional 8 spaces are provided at the gas pumps/dispensers in accordance with “other use” parking requirements (as well as potential ground floor office space). Can the Petitioner verify that the number of

spaces provided for Phase One (for the gas station as an “other use” and the possible office space) meet the satisfaction of Building Commissioner Thomas Quinn?

- If the applicant intends to make a distinction between building construction versus building occupancy, no information in the application indicates this distinction. Further, should the applicant intend to construct any of the planned office space during Phase One, Planning staff recommends that the Council contact the Building Commissioner to confirm the feasibility of authorizing the construction of office space without sufficient off-street parking, provided that a Certificate of Occupancy would not be issued until all parking requirements are met in accordance with Section 8 (Off Street Parking and Loading Facilities Regulations) of the Woburn Zoning Ordinances.

Vehicular/Pedestrian Access and Public Safety

- Why is a portion of the sidewalk improvement being deferred to Phase Two?
- Has the Fire Department been consulted about deferring installation of the proposed fire hydrant, as depicted on the Phase Two site plan layout, until a later date?
- As depicted on the Phase Two site plan layout, the existing driveway is to remain in place. At a minimum, this driveway should be preliminarily available to the extent that vehicles may access the Phase One portion of the site through the unconstructed, Phase Two portion of the site.

Should the City Council ultimately vote to approve this modification, the Planning Department recommends considering imposing at least the following as conditions of approval:

- That the latest Plan of Record for this petition shall be “Site Improvement Plan for A.L. Prime Energy at 1 Hill Street, Woburn, MA 01801; Prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861; Sheets 0-0, C1-C3 and L1, Scale: 1”=20’; dated September 20, 2007; revised 10/22/2007, 11/16/2007, 7/5/2012, 9/25/2015, 3/7/2017”, “Site Improvement Plan for A.L. Prime Energy at 1 Hill Street (Phased), Woburn, MA 01801; Prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861; Sheets 0-0, C1-C3 and L1, Scale: 1”=20’; dated September 20, 2007; revised 10/22/2007, 11/16/2007, 7/5/2012, 9/25/2015, 3/7/2017 and 3/8/2017” and “Boundary & Topographic Survey, A.L. Prime Energy, 1 Hill Street, Lot 2, Block 5, Tax Map 54, City of Woburn, MA (Middlesex); Prepared by John P. Lynch, Professional Land Surveyor, Control Point Associates, Inc., 35 Technology Drive, 1st Floor, Warren, NJ; Drawing 1 of 1; Scale 1’=20’; dated August, 23, 2007;”

- That all conditions of the Special Permit Decisions dated August 2, 2012 and October 27, 2016 remain in full force and effect, unless otherwise amended by the Council.

In addition, for the Council's information, attached to this letter is a copy of the Planning Department's previous comment letter, dated July 12, 2016, relative to this Special Permit.

Respectfully, s/Dan Orr, City Planner/Grant Writer

Attached thereto was a letter dated July 12, 2016 from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on special permit application for 1 Hill Street/A.L. Prime Energy Consultant, Inc.

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition submitted for property at 1 Hill Street, which petition seeks to modify an existing Special Permit dated August 2, 2012. The property is classified as being in a Business-Interstate (B-I) Zoning District. The Petitioner seeks approval pursuant to Sections 5.1 (22a) and 5.1 (46b) of the Woburn Zoning Ordinance (WZO) to amend the existing special permit and Plan of Record to reflect the following:

1. A reduction in the gross floor area of the proposed office building by 2,249 sq. ft.. The proposed office space will be reduced from 11,189 sq. ft. to 8,940 sq. ft.
2. The proposed convenience store will remain at 1,000 square feet of net floor area but will be reconfigured from what was shown on the plans previously approved in 2012 (the proposed gas station will have the same number of pumps as previously proposed); and
3. A shift in parking space placement (as a result of the reconfigured building structure) along with various other minor plan amendments.

The application references a special permit request for hours of operation in excess of 7:00 a.m. to 10:00 p.m. but the application does not specify for which use the "hours of operation" special permit is being sought or the hours of operation being requested.

Parking

The proposed uses include an office building, a convenience store and an 8-pump gas station. The parking calculation provided on the plans indicates that a total of 33 parking spaces are needed for these uses by zoning and that 37 spaces are being provided. (Note the Zoning Information Table on Sheet C-1 contains a mathematical error; it appears 30,

not 33, spaces are required.) However, the calculation does not incorporate a parking requirement for gasoline stations which would fall under the category of “other uses”. Pursuant to Section 8.2 of the Zoning Ordinance, the City Council must determine whether there is sufficient parking spaces on site to accommodate that “other” use:

Retail space: 1,000 sq. ft. net floor area proposed/200 sq. feet = 5 parking spaces

Office space: 8,940 sq. ft. net floor area proposed/350 sq. feet = 25 parking spaces (if non-medical office space)

Gasoline station: “spaces sufficient to accommodate on the site all users of the facility, as established through documentation submitted to satisfy special permit ...requirements.”

Additionally, the City Council should confirm whether the office space will be a medical office. If the proposed use is *not* a medical office, there may be sufficient spaces on site (37 spaces) to meet the zoning requirements depending on how many spaces the Council determines are needed for the gas station use.

If the proposed use *is* a medical office, the maximum allowable number of employees should be specified (a “medical office” use requires four [4] spaces for every office plus one [1] space for every three [3] employees). Additionally, if the building is to be used for medical offices, site plan review in accordance with Section 12 of the Zoning Ordinance would also be required.

Design Issues and Questions

Section 8.6.2 of the Zoning Ordinance requires that outdoor parking facilities with twenty (20) or more spaces have a certain amount of landscaped areas (“islands”) with trees distributed throughout the parking lot. There is no interior landscaping proposed/provided on the plans.

The office building must have at least one loading bay pursuant to Section 8.7.1.1. No elevation plans have been provided so Planning staff is unable to verify whether one is included/provided.

Recommendations

If the City Council ultimately grants the Special Permit, the Planning Department recommends the Council consider imposing at least the following as conditions of approval:

- The Plan of Record for this petition shall be “Site Improvement Plans for A.L. Prime Energy at 1 Hill Street, Woburn, MA 01801; Prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861; Sheets 0-0, C1-C3 and L1, Scale: 1”=20’; dated

September 20, 2007; revised September 25, 2015” and “Boundary & Topographic Survey, A.L. Prime Energy, 1 Hill Street, Lot 2, Block 5, Tax Map 54, City of Woburn, MA (Middlesex); Prepared by John P. Lynch, Professional Land Surveyor, Control Point Associates, Inc., 35 Technology Drive, 1st Floor, Warren, NJ; Drawing 1 of 1; Scale 1’=20’; dated August, 23, 2007;”

- The Special Permit be issued to A.L. Prime Energy Consultant, Inc. only and shall not be transferrable without prior City Council approval;
- That permission for hours of operation outside of 7:00 a.m. to 10:00 p.m. be granted solely to (presumably) the convenience store/gas station, that the authorized hours of operation be specified in a special permit condition and that the permission for “out of hours” operation shall be granted solely to the convenience store/gas station and not to any other business or use on site;
- All signage shall be the subject of separate application and approval processes;
- That the office space shall not be used for medical offices unless a new special permit application and plan meeting all parking and other zoning requirements is submitted to and approved by the City Council; and
- That all conditions of the August 2, 2012 Special Permit Decision remain in effect unless otherwise amended by the Council.

(With respect to the conditions attached to the 2012 decision, several of the conditions appear to have been incorporated into the current version of the site plan while others have not. A dedicated right turn lane and impressed crosswalks and traffic islands have been added to Hill Street. Several other previous conditions of approval appear not to have been incorporated, including the following:

- a. The required easement along Hill Street for the entirety of the lot’s frontage has not been included on the plan submitted with this application (although a portion of the front lot line is being shown as being “relocated” by some unknown mechanism);
- b. The new sidewalk required to be constructed by the 2012 special permit decision has not been shown; and
- c. A “sight triangle” to improve the safety of motorists exiting the project site driveways.)

If you have any questions or comments on this communication, please do not hesitate to contact me.

Respectfully, s/Dan Orr, City Planner/Grant Writer

Motion made and 2nd that the communication be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he offered a copy of a special permit issued October 27, 2016 to A.L. Prime Energy for the property located at 1 Hill Street and plan entitled "Proposed Floor Plan, Ground Floor, Main Building" dated 03-08-2017 prepared by A.L. Prime Energy for the City Council to review. Motion made and 2nd that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd for a two minute recess, 8 in favor, 0 opposed, 1 absent (Campbell absent). President Haggerty called the meeting back to order. Attorney Tarby stated that a special permit was issued on October 27, 2016 which allowed for a revised site plan and a phasing plan, that the foundation of the office building and the convenience store were to be constructed, that the Building Commissioner indicated that to do so would require the Phase II building permit which would require detailed architectural plans for the office building, that the Building Commissioner suggested the petitioner return to the City Council with a revised phasing plan, that the revised plan has a new Phase I and Phase II, that the petitioner is also applying for an inflammable license, that the proposal does not change any conditions, phases or payment of mitigation but only expands the Phase I slightly, that it is not known how far out Phase II will go, that the conditions of the special permit will not change, that the gasoline tanks will be installed while the convenience store is being constructed, that the petitioner does not want to move forward with Phase II at this time, and that the latest plans are as follows: the plan of record dated October 2016, revised 3/7/2017; the phasing plan revised 3/7/2017 and revised 3/8/2017; and he floor plan dated 3/8/2017. Anthony Guba, A.L. Prime stated that the phase plan is change by moving the line of Phase I, that the convenience store will still be developed as part of Phase I, that once the Kraft property plan comes forward they will be in a position to determine whether adjustments need to be made to the plan because of changes in the street layout, that due to ledge on the site the petitioner wants to have the flexibility to have 30,000 gallons of gasoline but have different tank sizes than just 10,000 gallons, 10,000 gallons and 10,000 gallons, that there will be 1,240 square feet for the retail area in the convenience store which was used for the parking calculation, that the remainder of the space will be used for a storage area, mechanical, electrical, restrooms, hallway and freezer, that there is an additional 376 square feet for the attendant, and that all area are located within the foundation of the five story building. Alderman Gately stated that he has no issues with the inflammable license request. Alderman Mercer-Bruen stated that she wants to know how far out in time Phase II will be extended. Alderman Anderson stated that he has no issue with flexibility on the gasoline tank sizes, that the only reservation is that the office building never gets built, and that he is willing to move on the petition at this meeting. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the special permit issued October 27, 2016 be amended with the site plan of record being the plan entitled "Site Improvement Plan for A.L. Prime Energy" revised 3/7/2017 prepared by Ayoub Engineering, the phasing plan of record being the plan entitled "Site Improvement Plan Sheet No. C-1" revised 3/7/2017 and revised 3/8/2017 prepared by Ayoub Engineering

and the floor plan of record being the plan entitled “Proposed Floor Plan, Ground Floor, Main Building” dated 3/8/2017 prepared by A.L. Prime Energy, and 2. Except as otherwise provided herein, the conditions of the special permit issued October 27, 2016 shall remain in full force and effect and that the INFLAMMABLE LICENSE be GRANTED, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by A.L. Prime Energy Consultant, Inc., 18 Lark Avenue, Saugus, Massachusetts 01906 for a new Inflammable License to allow 30,000 gallons of gasoline Class 1A (flammable) stored in UST at 1 Hill Street. PUBLIC HEARING OPENED. See record notes from preceding public hearing. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the special permit issued October 27, 2016 be amended with the site plan of record being the plan entitled “Site Improvement Plan for A.L. Prime Energy” revised 3/7/2017 prepared by Ayoub Engineering, the phasing plan of record being the plan entitled “Site Improvement Plan Sheet No. C-1” revised 3/7/2017 and revised 3/8/2017 prepared by Ayoub Engineering and the floor plan of record being the plan entitled “Proposed Floor Plan, Ground Floor, Main Building” dated 3/8/2017 prepared by A.L. Prime Energy, and 2. Except as otherwise provided herein, the conditions of the special permit issued October 27, 2016 shall remain in full force and effect and that the INFLAMMABLE LICENSE be GRANTED, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Presented to the Mayor: April 21, 2017

s/Scott D. Galvin April 21, 2017

On the petition by President Haggerty, Alderman Anderson and Alderman Higgins the 1985 Zoning Ordinance of the City of Woburn, as amended, as follows: 1. By amending Section 2 Definitions by adding between “Passenger Transportation Terminal” and “Persons” the following the two new definitions: “Pawnbroker - Pawnbroker means a person engaged in the business of lending money upon the security of goods deposited with it or left in pawn, with or without a fixed period of redemption, whether or not a fixed place of business is maintained for such purposes. Pawnbroker shall not mean or include any bank, savings and loan, credit union or financial institution subject to financial regulations by the federal or state government, nor does it include lending of money on deposit or pledge of title to property.” “Pawn Shop - The location at which or premises in which a pawnbroker conducts business.”; 2. By amending Section 5.1 Table of Uses by adding a new line “25d Pawn Shop” and adding a “-“ under all zoning districts meaning and intending that the use is not allowed in any zoning district. PUBLIC HEARING OPENED. A communication dated April 13, 2017 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Pawnbrokers – Constitutional Issues

I received the City Council’s request asking if the enactment of a zoning ordinance prohibiting Pawnbrokers in the City would pass constitutional muster, and what the standard is applied when a zoning ordinance prohibiting a use is adopted. This request was based in part, upon a comment contained in the Planning Board’s March 29, 2017

recommendation submitted to the Council in accordance with M.G.L. c.40A, §5. For the reasons set forth below, it is my opinion that the proposed zoning ordinance does not raise constitutional issues, and its enactment is reasonable and proper use of the Council's legislative authority.

As the Council is aware, its authority to enact ordinances is not without restrictions. Briefly, the regulation of certain land uses have a long history of being afforded constitutional protections such as, elements of adult entertainment which are protected as freedom of speech and expression; and content based sign regulations, which have been struck down as violative of freedom of speech. In addition, M.G.L. c.40A, §3 establishes limitations on the adoption of ordinances or bylaws which operate to prohibit or restrict uses which have been determined to require protection including, *inter alia*, religious, educational or agricultural uses, group homes and day care facilities.

I am unaware of any statutes or cases, state or federal, which have determined that a pawnbroker operation should be considered worthy of special protection, or that its prohibition raises constitutional implications. To the contrary, M.G.L. c.140, §70 specifically provides that Pawnbrokers may be licensed "if ordinances or by-laws therefor have been adopted in such city or town", language which clearly implies that it is a use subject to regulation, and one which a city or town is not obligated to provide, though it may choose to do so.

Furthermore, absent specific constitutional or statutory prohibitions, zoning ordinances and bylaws adopted pursuant to M.G.L. c.40A, §5 are entitled to a presumption of validity, "which cannot be undone unless it is shown that "by a preponderance of the evidence that the zoning regulation is arbitrary and unreasonable or substantially unrelated to public health, safety or. . . general welfare." *DiRico v. Town of Kingston*, 458 Mass. 83, 96 (2010). See also, *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 375 396 (1926). The standard of review applied when an ordinance or bylaw is challenged is described as a "highly deferential" one and "if the reasonableness of a zoning [ordinance] is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained". *Durand v. IDC Bellingham, LLC*, 440 Mass. 45, 50-52 (2003).

Analyzing whether it is constitutional to enact an ordinance prohibiting pawnbrokers is similar to the issue addressed by the U.S. District Court in *Barre Mobile Home Park, Inc. v. Town of Petersham*, 592 F. Supp. 633 (D. Mass. 1984) which, after first noting that the town had "the power, by its zoning by-laws and by other regulations to determine its land-use policy and direction", applied the above referenced standard of review to uphold a zoning bylaw prohibiting mobile home parks.

Pawnbrokers operate what is essentially a money lending business subject to police regulation, and one that is often viewed as a less than desirable use for the community. Given the deferential standard afforded municipalities in adopting zoning ordinances and bylaws, it is a reasonable and appropriate use of the Council's authority to enact an ordinance which prohibits this type of use in the City.

Petition by SureRide, LLC, 400 TradeCenter, Suite 5900, Woburn, Massachusetts 01801 for renewal of Taxi Cab License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by ABCE Taxi of Woburn, 165M New Boston Street, Suite 241, Woburn, Massachusetts 01801 for renewal of Taxi Cab License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Woburn Cab Co., Inc., 100 Ashburton Place, Woburn, Massachusetts 01801 for renewal of Taxi Cab License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Checker Cab of Woburn, Inc. 289R Salem Street, Woburn, Massachusetts 01801 for renewal of Taxi Cab License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Checker Cab of Woburn, Inc., 289R Salem Street, Woburn, Massachusetts 01801 for renewal of a Livery License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Verizon, 900 Chelmsford Street, Tower 3, Floor 4, Lowell, Massachusetts 01851 for a grant of right in a way to install approximately 40 feet of underground conduit on Lowell Street from Pole No. 138/16 located on northerly side to public property (new school) at 39 Wyman Street. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Kiwanis Club of Woburn, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 for a special permit to allow a carnival on June 16, 2017 and June 17, 2017 at Library Field, 0 Harrison Avenue. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Campbell absent).

COMMUNICATIONS AND REPORTS:

A communication dated April 3, 2017 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 meeting for the month of March 2017. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

A communication dated April 3, 2017 was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

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

Dear Members of the Council:

With regard to the above referenced section of the Woburn Municipal Code, I submit the following quarterly report for the period of January 1, 2017-March 31, 2017.

As of this time the only pending matter is 6 East Dexter Avenue, there have been no updates from the Middlesex District Attorney's office, when information is received I will advise the Council further.

If you have any additional questions as always do not hesitate to contact me.

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

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

A communication dated April 13, 2017 with attachment was received from Planning Board Director Tina P. Cassidy as follows:

Re: Clarification of City Council special permit decision relative to 425 Washington Street/Partners Urgent Care building

Dear Councilors:

The Planning Board respectfully requests clarification from the City Council relative to a condition included in the Special Permit that was granted for the above-referenced project.

By way of background, the Planning Board is in the process of considering an appeal submitted by the applicant for signage on the building. The appeal has been filed in accordance with Section 13.11.4 of the Woburn Zoning Ordinance (attached with pertinent subsection highlighted).

If successful, the appeal filed with the Planning Board would authorize primary and secondary wall signage that is larger than permitted by zoning in terms of both maximum sign height and size. It would also authorize more secondary wall signs than typically allowed (three versus one) and would allow all primary and secondary wall signage to be illuminated when internal illumination is not usually permitted in the B-N District.

Condition #5 of the Landowner's Decision and Notice of Special Permit issued by the City Council states "*That all signage shall comply with local zoning regulations.*"

The Planning Board respectfully seeks clarification from you relative to the intent of the above-referenced Condition #5. Does the condition reflect specific discussion and Council consensus reached during the special permit process regarding future signage on this building, or is the condition more of a standard condition imposed generally on applications of this type? If it is more of a general condition, could you provide the Board with the background behind its genesis?

The public hearing on this matter will resume at the Planning Board's meeting on April 25th; the Board would therefore appreciate a response by that date if at all possible.

Thank you in advance for your assistance. If you have any questions regarding this request please do not hesitate to contact me.

Respectfully, s/Tina P. Cassidy, Planning Board Director

Attached thereto was the following:

Section 13.11 of the Woburn Zoning Ordinance (typographical errors intact)

13.11 Sign Review Board (SRB) for Downtown and Business Neighborhood Zoning Districts

In keeping with the declaration of policy herein, and in recognition of the difficulty in regulating the use of signs in the Downtown Business (B-D) and Business Neighborhood (B-N) zoning districts, there is hereby created a Sign Review Board whose duties under this Ordinance are as follows:

1. Within the B-D and B-N zoning districts the Sign Review Board shall approve or disapprove all signs now or hereinafter erected, constructed or altered in accordance with this ordinance, except any temporary signs allowed by this ordinance will not be subject to Sign Review Board approval.
2. The Sign Review Board shall not approve the erection or continued existence of any sign in said districts which are expressly prohibited by this ordinance or the city's Building Code.

3. In approving or disapproving any particular sign not expressly allowed without a permit by this ordinance, the Sign Review Board (SRB) shall take into consideration the following:
 - a. The Zoning District, the use existing in the area, and the general character of the area.
 - b. The economic and business interests of the party having erected or proposing to erect the sign.
 - c. The aesthetic appearance of the sign and its overall affect on the surrounding area and insuring that the sign is consistent with the dimensional regulations set forth in Section 13.7 of this ordinance. The design guidelines indicated in the Downtown and Business Neighborhood Sign Handbook may be used for reference purposes.
 - d. The purpose for which the sign had been or is to be erected.
4. The Sign Review Board shall be composed of five (5) members, appointed by the Mayor, and confirmed by a majority of the City Council. Three (3) members shall be residents of the City of Woburn and two (2) shall be members of the downtown business community. In addition, a resident of the City of Woburn be appointed by the Mayor and confirmed by the City Council for a two (2) year term to serve as an associate member of the Sign Review Board. The associate shall sit in place of any member incapacitated by personal interest, illness or absence. Within seven (7) days after the appointment and confirmation of the initial Board as fore said, the Board shall meet and elect one of its members as Chairman, a Vice-Chairman and a Secretary and within thirty (30) days after, shall promulgate rules and regulations for the conduct of its business. Such rules and regulations shall be made available in printed form through the Planning Board of the City of Woburn. Said rules and regulations shall contain the following:
 1. The (SRB) shall hold open public meetings at regularly scheduled times, notice by mail shall be given to all parties of interest and the agenda of said meeting shall be published in a regular local newspaper not less than twenty-four (24) hours prior to said meeting and the (SRB) shall not delay taking action on any application for a particular sign in accordance with its rules and regulations.
 2. Any action taken by the (SRB) shall require a majority of the sitting quorum thereof. The term of each appointment shall be five (5) years from the date thereof, except of the original members, one shall serve for a period of one (1) year, a second member shall serve for a period of two (2) years; a third member shall serve for a period of three (3) years; a fourth member shall serve for a period of four years; a fifth member shall serve for a period of five (5) years. Should any vacancy occur in membership, the member appointed to fill said vacancy shall serve for the remaining portion of the term of the member creating the vacancy.

5. In disapproving a sign application the (SRB) shall so inform the owner thereof by regular mail and include in the decision any and all reasons for disapproval. In the case of disapproval, the applicant may appeal to the Planning Board, who shall conduct a public hearing at a regularly scheduled meeting. Within thirty (30) days of receipt of the written appeal request to the Planning Board, the Board shall conduct a public hearing, at the applicant's expense, notice of which shall indicate time, place and the subject matter, sufficient for identification, and it shall be published in a newspaper of general circulation in the city, with the first publication being not less than fourteen (14) days before the day of such hearing. The Planning Board shall also send by regular mail, at the applicant's expense, a copy of the public hearing notice to the applicant and to all owners of land abutting upon the land included in such sign permit application, as appearing on the most recent tax list.

(amended 6/25/97)

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON SPECIAL PERMITS, 8 in favor, 0 opposed, 1 absent (Campbell absent).

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED Be it Ordained by the City Council of the City of Woburn that:

Title 2, Article XXVII, Section 2-180 of the 1989 Woburn Municipal Code, as amended, be further amended as follows:

1. That the base salary of the Licensing Commission Members be amended to \$4,500.00;
2. That this section shall be effective July 1, 2017.

s/ President Haggerty, Alderman Higgins, Alderman Tedesco,
Alderman Gately, Alderman Gaffney

Motion made and 2nd that the MATTER be LAID ON THE TABLE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Motion made and 2nd to ADJOURN, 8 in favor, 0 opposed, 1 absent (Campbell absent).
Meeting adjourned at 9:30 p.m.

A TRUE RECORD ATTEST:

William C. Campbell
City Clerk and Clerk of the City Council