

**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 - absent	Raymond
Denaro	

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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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A communication was received from His Honor the Mayor with a proposed Order entitled An Act relative to the disability retirement of Woburn police officer Robert DeNapoli. Motion made and 2<sup>nd</sup> to suspend the rules for the purposes of accepting the matter as a late filed matter and adding the matter to the Order of the Day, ROLL CALL: Anderson – Yes, DiTucci – No, Drapeau – No, Gaffney – Absent, Gately – No, Haggerty – No, Mercer-Bruen – Yes, Raymond – No, Denaro – Yes, MOTION FAILS.

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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

Appearing for the petitioner was Joseph Simas, 17 Day Circle and he stated that the petitioner is a 501(c)(3) corporation, that the festival will raise money for veterans, that 100% of the funds will be used for veterans services such as the Help Our Troops organization based in Stoneham and other veterans in need, that this will be the first of many events, that the hours of operation will be 11:00 a.m. to 10:30 p.m., that License Commission action on the special event liquor license was conditioned on the petitioner obtaining the special permit, that the petitioner is working with the Building Commissioner relative to the stage, that an insurance policy will be provided, that all bartenders will be TIP certified, that there will be a corral area with one way in and one way out in which the liquor will be served except for additional emergency access, that service of alcohol will not begin until after 3:00 p.m., that the License Commission indicated that alcohol service will be allowed between 3:00 p.m. and 10:00 p.m., and that an engineer will sign off on the construction of the stage. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Gaffney absent). PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the

SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the Planning Board recommendations be adopted as conditions of the special permit, and 2. That liability insurance be provided as approved by the City Solicitor, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

No one appeared for the petitioner. PUBLIC COMMENTS: Elaine Seliger stated that she is the owner of Unit 2 at 5 Crescent Avenue and that she wants information as to what will be happening in the unit. Mike Salliese stated that he is the owner of Unit 12 of 5 Crescent Avenue and he wants information as to what will happen in the facility. Carmen Russo, 44 Arlington Road stated that he is the owner of the property, that the petitioner is not available to attend the meeting tonight, and that he believes that the petitioner tests medicine. Alderman Mercer-Bruen stated that the petitioner will have to make a presentation in committee. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 6, 2013 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

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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.

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 request is for a minor modification of the special permit, that a four-family dwelling is being constructed at the locus, that the petitioner seeks to have a new plan of record under Condition 16, that the changes involve a jog in the building, moving the building back four to five feet, utility changes requested by the Superintendent of Public Works, the planting strip between the garage and the porches wrap around the building, that all other prior conditions remain the same, that an easement was granted to allow water service onto Altavesta Circle, and there is full fire suppression in the building. Alderman Raymond stated that in the future the Superintendent of Public Works should be consulted with plans to avoid these after special permit amendments, and that this project should have been completed already. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> to close the public hearing, 8 in favor, 0 opposed, 1 absent (Gaffney absent). PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be GRANTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

Appearing for the petitioner was Dan Whitney of D.E. Foods, LLC and he stated that the petitioner purchased Taco Bell eighteen months ago, that they will install fully accessible bathrooms, that the existing building has a small walk-in cooler with raw poultry and vegetables stored inside, that the proposed cooler will allow better segregation of raw foods to prevent cross contamination, that the preview sign will be removed, and that the plan of record is dated July 16, 2013. Mr. Whitney offered a revised set of plans entitled “175A Cambridge Road, Woburn, Massachusetts” prepared by MHF Design Consultants, Inc. dated May 17, 2013, revision 07/16/13 and an interior site plan for the review by the City Council. Motion made and 2<sup>nd</sup> that the plans be accepted and made part of the record, 8 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Gately stated that this proposal is not an issue and is a minor change. Alderman Drapeau stated that he supports the petition because of the proposed safer food storage conditions. **IN FAVOR: None. OPPOSED: None.** Motion made and 2<sup>nd</sup> to close the public hearing, 8 in favor, 0 opposed, 1 absent (Gaffney absent). **PUBLIC HEARING CLOSED.** Motion made and 2<sup>nd</sup> that the **SPECIAL PERMIT be GRANTED, AS AMENDED** with the conditions as follows: 1. That the plan of record shall be the plan entitled “175A Cambridge Road, Woburn, Massachusetts” prepared by MHF Design Consultants, Inc. dated May 17, 2013, revision 07/16/13, and 2. That the Planning Board recommendations be adopted as conditions of the special permit, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

Appearing was the petitioner Sean Lahey and he stated that he is the owner of 8 High Street, that the personal property stored in the containers was removed from 315 Main Street, that he also owns 315 Main Street, that the business operated at 315 Main Street closed and the property was stored in the trailers, that he was ordered by the court to store the property on site, that he was not aware of the ordinance relative to storage trailers, that he does not want the containers on the property, that the case has been settled and he is negotiating to have the property removed from the trailers, that he requests sixty days to have the personal property removed, that the trailers have been on the locus since 2010, that the containers are rented, that the trailers have been locked since being placed on the locus, and that the storage containers are blocked by the trees and weeds between his property and the neighboring property. Mr. Lahey offered a copy of a document in the matter of La Stanza Diva Ristorante, Inc. v. Bank Three Realty Trust for the City Council to review. Motion made and 2<sup>nd</sup> that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Mercer-Bruen stated that denying the special permit would speed up the underlying negotiations, that the trailers must be removed as they are not legally on the locus, and that business owners are responsible for knowing the law. PUBLIC COMMENTS: Eugene Ianniciello stated that he owns 10 High Street, that the trailers have not been an issue, and that the petitioner takes care of his property. Arthur Wright of CCW Realty Trust, 16 High Street stated that he understands the issue, that the petitioner takes care of his property, and that the trailers do not look bad but the property would look better if the trailers were not stored on site. Michael Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that the petitioner was told to store the property on site under court order, that it was not the intent of the petitioner to avoid the city's ordinances, and that he supports allowing the petitioner time to resolve the issue. Motion made and 2<sup>nd</sup> to close the public hearing, 8 in favor, 0 opposed, 1 absent (Gaffney absent). PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be DENIED and that the petitioner shall remove the trailers from the locus within sixty (60) days of this hearing date, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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.

No one appeared for the petitioner. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 3, 2013 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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. 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 License Commission approved the transfer of the liquor license to the petitioner, that last call for the sale of alcohol will be at midnight, all alcohol will be off the tables by 12:30 a.m. and all patrons must leave the restaurant by 1:00 a.m., that the Planning Board continued their review of the matter to the August 6, 2013 meeting and requested a peer review of the traffic study at the petitioner's expense, that the building contains approximately 40,211 square feet of area and is on Lot A, that the locus is currently an empty lot, that the locus was the former Logan Express site, that there is currently a special permit for the locus to allow the construction of 210 apartment units, that there will be 170 games initially with room for up to 200 games, that these will be electronic games, that the occupancy set out in the floor plan meets the State building code, that security will be provided by detail police officers present during the hours of 7:00 p.m. to closing Sunday through Thursday and in addition for one-half hour after closing on Friday and Saturday, that the detail police schedule will be reviewed and adjusted as necessary after the opening, that the facility will generate approximately \$243,090.00 in land and building taxes, \$25,000.00 in meals taxes and \$20,000.00 for amusement devices each year, that the petitioner is aware that electronic billboards are not allowed and this will not be an issue, that thirteen intersections were examined for the traffic study, that the off-site parking is permitted for the entire length of the lease of the locus, that the existing building on the locus may be used as a construction trailer to a point, and that the Planning Board review of the petition will be completed by August 6, 2013. Attorney Tarby offered a copy of the presentation entitled "Planning Board Meeting June 18, 2013" and floor plan and occupancy load calculations for the City

Council to review. Motion made and 2<sup>nd</sup> that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Gaffney absent). Lisa Warren, Vice President of Real Estate Development for Dave and Busters said that the company was founded in 1982, that the first facility was located in Dallas, Texas, that there are 62 locations in 26 states with 8,000 employees, that the closest facilities to Woburn are in Braintree and Providence, Rhode Island, that the facility is a combination of a full restaurant with a bar offering games in a midway, that special events can be arranged, that 40% of the customers are families and 60% are adults, that 52% of the patrons are female and 48% male, that there are 140 to 160 jobs at each location, that 15% of the positions are management, 30% servers, 30% games staff and 25% kitchen staff, that the petitioner partners with local charities, that the hours of operation will be 11:00 a.m. to 1:00 a.m. Monday through Sunday, that there is no gambling or video poker on site, that there is a full menu throughout the facility, that any group of minors has to have a guardian with them, that the facility is not a location where minors can be dropped off, that minors must have a guardian present, that the reference to adult customers is 18 years of age and above, that patrons under 18 years of age must have a guardian, that the majority of the customers are between the ages of 18 and 35, that no gambling or poker games are allowed in any of their stores, that the build out of the facility will take nine to ten months, that the garage under will be open for all patrons, that employees generally park in a designated area which is not always the most convenient location although the store is cautious with regard to late shift employees' safety, and that the bank garage is not part of the proposal. Brian Jones, Allen & Major Associates, Inc. stated that he is a registered professional engineer, that the locus was the site of the Logan Express, that the property was subdivided and an office building constructed, that the new building will be approximately 40,000 square feet, that there are 282 on-site parking spaces, 106 parking spaces in a garage under the building and 104 Off-site parking spaces at the bank property, that there will be a new site entrance on Mishawum Road with a connection to the office building site, that the trash compactor will be enclosed, that there will be landscaping with an evergreen screen with the neighbors to the west on Old Mishawum Road, that deliveries will be made at the rear of the building, that the facility will be a single story building with a grade drop from the front to the back, that from the highway the facility will appear to be a two story building but from Mishawum Road the building will appear to be a single story building, that the facility complies with office park zoning district requirements, that a large infiltration system on the office building lot is designed to accommodate the storm water runoff from both sites, that there will be no discharge of water off site, that all drainage will be accommodated on site, that MassDOT prohibits shedding of water to the highway, that the MBTA prohibits shedding of water to the railroad tracks, that Mishawum Road is above grade from the locus, that the utilities have been stubbed and will be used for the project, that the water line will be looped back, that the light fixtures will be shielded and similar to the bank lot light fixtures, that the drainage system on the bank property is large enough to accommodate both lots, that the lot will drain to the infiltration system with three additional drains located on the other side of the locus, that the three drain are 84 inch 75 to 94 foot long aluminized corrugated pipes, and that there is no crosswalk for the overflow parking lot to the main parking lot but there is suitable lighting and a wraparound sidewalk. Patrick Dunford, Vanasse Hagen & Brustlin, Inc. stated that he is the traffic engineer for the project, that the

petitioner is a unique use, that this is not a typical retail or restaurant, that the use peaks later in the day after 7:00 p.m. on weekdays and Saturday, that there were 210 residential apartment units proposed for this site and this use is similar in impact however there will be no impact on traffic from the petitioner in the morning, that there will be minor impact from the petitioner in the afternoon hours and as with all projects there is some impact but the impact will not be significant, that new traffic counts were conducted at thirteen locations in the area, that existing conditions were determined and then future conditions with the project and without the project were determined, that the project will clean up the locus, that there will be a center entrance driveway, that there will be safe sight distances at the driveway, that there may be a 15 to 25 second delay exiting the locus into traffic during the afternoon hours, that at the peak hours there are fewer vehicles on the road and therefore there will not be long queues on the property, that Saturday traffic conditions are a bit lower than weekday traffic, that when the petitioner's business peaks the traffic in the area is about half from traffic earlier in the day, that the petitioner has no traffic during the morning commute and does not peak until after the afternoon commute, that the trip generation from a 210 unit apartment complex was compared to the trip generation of the petitioner, that they conducted a parking analysis of five of the petitioner's locations around the country, that a peak parking demand of 474 is forecast for the locus, that with a combination of onsite parking and offsite parking on the bank property 492 vehicles can be accommodated, that most parking can be accommodated onsite during the weekday, that a peak demand of 474 vehicles with 492 parking spaces is a worst case scenario, that there will be over 600 feet of new sidewalk, wheelchair access improvements, crosswalk improvements and landscape improvements, that the Ryan Road and Industrial Parkway intersection will be upgraded with a video detector and opticom for police and fire control, that the traffic signals will be synchronized and the pedestrian crossing will be improved, that the Ryan Road and School Street intersection will have a video detector, opticom and pedestrian signal improvements and will convert the northerly left/through and right turn lanes to left only and through/right turn lanes, that different peak times will not impact traffic as a traditional retail use would, that the petitioner has no morning hours and therefore there is no impact on the morning commute, that some existing deficiencies were found which will be addressed with the project, that adequate parking will be available, that 24 hour traffic data was obtained from the intersections studied, that there will be improvements at current intersections for pedestrians, that crosswalks at existing locations will be improved, that for a variety of engineering reasons a mid-block crosswalk may not be appropriate, that the trip distribution is provided in the traffic report which indicates how many vehicles would travel toward the residential areas and how many vehicles would travel toward the highway when exiting the property. Mark O'Henley, Aria Group Architects, Inc. stated that the patrons will enter through the main doors from the main parking and from an elevator or stairs from the garage to the same lobby, that the staff will direct patrons to appropriate areas within the facility, that there will be approximately 200 games, that patrons will win tickets that may be redeemed for prizes, that the building exterior will use the petitioner's branding which minimizes the need for excessive signage, that there will be a glass focal entrance, that the building will use package rooftop units but the project has not gone to that stage of design. James Brussow, Director of Security for the petitioner stated that there will be CCTV security cameras in the building and facing

towards the parking area, and that the cameras record activity for forensic evidence. Merrill Becht stated that he is the general manager of the Braintree location and will be the Woburn general manager as well. Alderman Mercer-Bruen stated that she wants to know if there have been any issues of serving alcohol to minors in the other facilities, that she often sees pedestrians crossing in this area, and that pedestrian crossing improvements are necessary. Alderman Haggerty stated that signs should be erected directing patrons towards I-95. Alderman Anderson stated that he wants to see a comparison of the number of parking spaces located on the offsite bank property and how many parking spaces are required for the bank property uses. Alderman Gately stated that the petitioner should be aware that trucks cannot travel along School Street and Mishawum Road. Alderman Raymond stated that a white vinyl fence should be installed near Old Mishawum Road to avoid having vehicles lights shine into residential areas, and that the pedestrian crossing from the bank towards the Woburn mall has always been dangerous. IN FAVOR: Michael Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that the proposal is a great project for the site, that the proposed use is preferable to a 210 unit apartment building, that the petitioner has come forward with a mitigation plan, that there will be benefits to other businesses in the area, that the petitioner will minimize the impact on residents, and that he is in favor of the project. John Beauchamp, 224 School Street stated that he is concerned with the impact on the bank parking, that he wants assurances that the shared parking with the bank is a certainty, that there is not a lot of greenspace on the locus, that there should be some landscaping in the parking lot and light stanchions in the parking lot, that there should be some trees on site, that he wants to know whether area businesses have been included in the traffic count, that the combination commercial and restaurant use will be better than the previously proposed residential use, that he is concerned whether the security cameras are adequate for the entire lot and that the lot lighting will be adequate, and that snow storage is an issue. OPPOSED: Russ Richardson, 184 Mishawum Road stated that he is not for or against the project, that the traffic light on Mishawum Road at Industrial Parkway does not operate well, and that there will be difficulty with traffic entering and exiting the locus. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SPETMEBER 3, 2013 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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.” Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON LIAISON, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013**

**s/Scott D. Galvin July 19, 2013**

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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 presence and use of public safety details as an integral part of the establishment's business plan.
  7. Whether granting the license will increase the incidence of illegal or disruptive conduct in the area in which the premises are located.
  8. 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.”

Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013**

**s/Scott D. Galvin July 19, 2013**

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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.

Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013**

**s/Scott D. Galvin July 19, 2013**

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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 upon good cause shown.
- 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.

Alderman Gately stated that no fee should be charged for block parties and that the fee should be waived. Alderman Haggerty stated that there is value in requiring a permit for a block party so that the city knows where there may be street obstructions however the fee could be waived. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, AS AMENDED with the amendment as follows: 1. That the following be added as the third sentence in Section 12-54 "The permit application fee shall not apply to block party events", 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013**

**s/Scott D. Galvin July 19, 2013**

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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. Motion made and 2<sup>nd</sup> that the CONSERVATION RESTRICTION be ACCEPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013**

**s/Scott D. Galvin July 19, 2013**

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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

Alderman Mercer Bruen stated this request is not a minor modification, that the plan has changed with the City Council or the public seeing the change, that the City Council recently denied a minor modification request, and that the City Council has not allowed minor modifications recently with consistency. Alderman Anderson stated that the amendment requires more explanation but that he is concerned about the project being delayed. Motion made and 2<sup>nd</sup> to suspend the rules to hear from the petitioner, 8 in favor, 0 opposed, 1 absent (Gaffney absent). Appearing was Bryan Melanson, 5 Robinson Way on behalf of the petitioner and he stated that construction of the front building is progressing well, that the petitioner is trying to obtain the building permit for the building to the rear of the locus, that issues have been raised, that the change to the plan is so small that it does not even rise to the level of a minor modification, that the front wall will be moved forward twelve inches forward and another wall will be moved twenty-one

inches in, that the structure will not change, that the building will be within the footprint, that there is a minor jog in the foundation, that changes do arise when construction begins on site, that there are no changes to units 1 through 6, that the foundation for unit 7 has been adjusted, that this change is nothing more than an architectural change, and that he asks the City Council to acknowledge the change so that the Building Commissioner can issue the building permit. Alderman Mercer-Bruen stated that there is a change to the plan and the public has not seen the change, that a minor modification is a scrivener's error, and that the petitioner should file a full petition as other petitioners have been required to do. Alderman Gately stated that the petitioner has waited two months for the building permit, and that he does not want to hold up the project. Alderman Anderson stated that the petitioner knows the process, and that the process protects the city but following the process also protects the petitioner in the event of an appeal. Mr. Melanson stated that the change is an architectural change, that the project has not changed at all, and that he is willing to come back to the City Council with respect to the decks but that the change to the foundation cannot even be described as minor it is so small. Alderman Drapeau stated that the project has been delayed, that a wall is being brought in and not pushed out, that there are circumstances whereby a judgment can be made that this is not a large issue, and that this is more than a reasonable request. Mr. Melanson stated that the decks were not architecturally designed in full when the special permit was granted, that the petitioner is willing to come back to the City Council regarding the decks, that the issue of the decks is before the Conservation Commission, and that the decks must be approved by the Conservation Commission. Motion made and 2<sup>nd</sup> that the REQUEST FOR A MINOR MODIFICATION AS TO THE FOUNDATION DESIGN FOR UNIT 7 AND THE REAR DECKS FOR UNITS 1 THROUGH 7 be APPROVED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Absent, Gately – Yes, Haggerty – Abstained, Mercer-Bruen – No, Raymond – Yes, Denaro – Yes, Motion Passes.

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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

Alderman Mercer-Bruen stated that she would like to know what the project is, that this special permit has been pending for nine years, that this is a long period of time, and that the plans should be revisited. Alderman Gately stated that the property is in his ward, that the special permit was to allow an addition but because of economic conditions the construction has not been started, and that the building is well maintained. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be EXTENDED UP TO AND INCLUDING AUGUST 11, 2015, 7 in favor, 1 opposed (Mercer-Bruen opposed), 1 absent (Gately absent).

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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

Alderman Mercer-Bruen stated that she does not even know what this project is and that the matter has been pending for a long time. Alderman Gately stated that this proposed condominium with parking is still a viable project for the location. Motion made and 2<sup>nd</sup>

that the SPECIAL PERMIT be EXTENDED UP TO AND INCLUDING AUGUST 14, 2015, 8 in favor, 0 opposed, 1 absent (Gately absent).

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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. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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Petition by Benchmark Senior Living, 40 Williams Streets, Wellesley, Massachusetts 02481-3904, Petitioner, and Lindquist Realty Trust, 320 Salem Street, Woburn, Massachusetts 01801, Landowner, 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

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Gaffney absent).



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Petition by Benchmark Senior Living, 40 Williams Streets, Wellesley, Massachusetts 02481-3904, Petitioner, and Lindquist Realty Trust, 320 Salem Street, Woburn, Massachusetts 01801, Landowner, 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

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

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

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

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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

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

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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

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

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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

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

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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

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PERSONNEL, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

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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

Alderman Gately stated that he wants to know why in view of Section 2-33 of the Woburn Municipal Code which requires City Council authorization to sell tax title property that the City Council was not consulted, that the Mayor has authority to appoint a custodian to sell the property, that he wants to know why the City Council was not involved in the decision to assign the tax title property for sale, that four of the properties recently sold are in his Ward but he was not notified of the sale and not notified as to who purchased the property, and that the question is whether the City Council has a role in assigning tax title property. Alderman Mercer-Bruen stated that the advertised auction of tax title property allowed anyone to bid on the property, and that she received information by email about the auction. Alderman Anderson stated that the duties of the Treasurer allow him to take the action to sell the property and that the State statute trumps the local ordinance. Motion made and 2<sup>nd</sup> that the RESOLVE be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor July 19, 2013, 2013 and ten days having elapsed without same being approved, said Resolve became effective without his signature on July 30, 2013.**

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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.

Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013** **s/Scott D. Galvin July 19, 2013**

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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.

Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor: July 19, 2013** **s/Scott D. Galvin July 19, 2013**

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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

Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, 8 in favor, 0 opposed, 1 absent (Gaffney absent).

**Presented to the Mayor July 19, 2013 and ten days having elapsed without same being approved, said Order became effective without his signature on July 30, 2013.**

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Motion made and 2<sup>nd</sup> to ADJOURN, 8 in favor, 0 opposed, 1 absent (Gaffney absent).  
Meeting adjourned at 9:48 p.m.

A TRUE RECORD ATTEST:

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