CITY OF WOBURN
OCTOBER 18, 2016 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

The City Council observed a moment of silence in memory of Woburn High School Track Coach William O'Connor who passed away.

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

MAYOR'S COMMUNICATIONS:

ORDERED That the sum of $2,453,699.46 be and is hereby appropriated as so stated from Mayor Salary Adjustments Acct #0112151-511019 $2,453,699.46 to City Accounts/Attached Acct #0229051-511* $353,699.46, School Salary Acct #219071-511010 $2,100,000.00, Total $2,453,699.46

I hereby recommend the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Charles E. Doherty, City Auditor

s/President Haggerty

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a breakdown of expenses in the accounts, all in favor, 9-0.

PUBLIC HEARINGS:

On the petition by Seaver Properties LLC, 215 Lexington Street, Second Floor, Woburn, Massachusetts 01801 to amend the Zoning Map by changing the zoning district from R-2/O-P to R-3 at North Maple and Monks; Monks Street; Hinkley Monks; Warren-Mishawum Avenue; Mishawum and Dexter Avenue and Hinkley Street, to the centerlines of North Maple; Monks Street and Mishawum Avenue and Dexter Avenue, containing approximately 249,442 square feet of land as shown on a plan by Keenan Survey entitled

"Proposed Rezoning Plan in Woburn, Massachusetts" dated May, 23, 2016. PUBLIC HEARING OPENED. A communication dated October 11, 2016 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Seaver Properties LLC – Proposed Amendment to Zoning Map of the City of Woburn

Dear Mr. Campbell:

On behalf of my client I respectfully request that the above referenced matter be given leave to withdraw without prejudice. If you need any further information please do not hesitate to contact me. Thank you.

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

A communication dated October 12, 2016 with attachment was received from Planning Director Tina P. Cassidy as follows:

Re: Zoning Map amendment request to rezone land on East Dexter Street from R-2/OP zoning districts to R-3 zoning district

Dear Mr. Campbell:

At a meeting of the Planning Board held on Tuesday, October 11, 2016 members fo the Planning Board voted unanimously to grant the applicant's request to withdraw from consideration, without prejudice, the above-referenced (and attached) petition.

Respectfully, s/Tina P. Cassidy, Planning Director

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

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On the petition by NStar Electric Company dba Eversource Energy and Verizon New England, Inc. for a g rant of right in a way on Washington Street easterly side beginning at South Site Drive and continuing north, relocate seven (7) joint occupancy poles: p228/88, p228/89, p228/90, p228/91, p228/92, p228/93, and p228/94, to the backside of the sidewalk. PUBLIC HEARING OPENED. A communication dated October 18, 2016 was received from Superintendent of Public Works John F. Duran III, P.E., Superintendent as follows:

Re: 369 Washington Street

I take no objection from the Woburn DPW perspective to the pole relocations proposed by Eversource for the Woburn Landing Project based upon the attached plans provided. The poles appear to be moved either onto private property or are within a Mass DOT layout. Dig Safe and City of Woburn utility mark outs should be field verified prior to final relocation of the poles which is standard practice for Eversource. Please let me know if you need a more formal memo on this matter. Thanks.

John F. Duran III, P.E., Superintendent

Appearing for the petitioner was Jacqueline Duffy, Right of Way Agent and she stated that this work is to allow a street widening, that the work is for MassDOT, that she will check to see if there are double poles on Washington Street, and that since it is a MassDOT project is does not know the work schedule. Alderman Gately stated that the work was on the original plans, and that the Superintendent of Public Works has no objections to the petition. Alderman Mercer-Bruen stated that she wants to know the timing of the pole removal, that performing the work at night could be an issue due to the proximity of residences to the work area, and that she wants to know what the Superintendent of Public Works determines as the best plan to avoid issues with the traffic in the area and how the public will be notified of the work schedule. PUBLIC COMMENTS: None. Motion made and 2nd that the GRANT OF RIGHT IN A WAY be APPROVED, all in favor 9-0.

Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 20, 2016

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On the petition by 318 LLC, 274 Woodlands Road, Alton Bay, New Hampshire for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.22b, 5.1.69 and 7.3 to amend special permits dated September 25, 1997 as follows: 1. Special permit dated September 25, 1997 allowing for fast food establishment and ATM by deleting Condition 9 which currently allows the ATM and no more than one (1) other permitted use, and 2. Special permit dated September 25, 1997 allowing for the alteration of the existing externally illuminated nonconforming sign to allow for a modified sign that is an internally illuminated sign as well as wall signs that are internally illuminated; In addition, petitioner seeks: 1. To construct an approximately 4,000 square foot addition to the existing building at 318 Montvale Avenue and combine 314 Montvale Avenue and 318 Montvale Avenue into one lot; and 2. Continue the use of the nonconforming parking spaces on a portion of the lot as shown on the plan, at 314-318 Montvale Avenue. 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 and subject to review and approval of the Memorandum of Understanding by the City Solicitor:

1. The Petitioner shall construct and improve the Site as substantially described on the Plan of Record which for this project shall be "Proposed Site Plan, 314 and 318 Montvale Avenue, Woburn, Massachusetts" dated August 30, 2016, revised October 10, 2016, Sheets 1-6 prepared by Alan Engineering L.L.C., 288 Littleton Road, Suite 31, Westford, MA 01886 (hereinafter the "Site Plan") although design adjustments

and modifications generally associated with: (i) preparing so-called "working drawings" or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.

2. Prior to the issuance of a final Certificate of Occupancy, the Owner shall convey to the City of Woburn by fee or easement the land shown on the Plan entitled "Lot Consolidation Plan, 314 and 318 Montvale Avenue, Woburn, MA" dated October 7, 2016 prepared by Alan Engineering L.L.C., 288 Littleton Road, Suite 31, Westford, MA 01886" as the "14' Wide Easement to the City of Woburn" containing approximately 2,568 square feet which land shall be used as part of the Montvale Avenue Widening Project, a copy of which is made part of the record.
3. The westerly Montvale Avenue exit from the Premises shall be restricted to a "right turn only" onto Montvale Avenue and constructed to discourage left turns onto Montvale Avenue. Signs shall be erected stating "no left turn" on the westerly Montvale Avenue exit driveway.
4. The dumpster on the Premises shall be enclosed and not emptied prior to 7:00 a.m.
5. The Premises shall not be used for a convenience store.
6. General Conditions 1 and 2 and Planning Board Condition 8 to the Special Permit Decisions dated September 25, 1997 (the "1997 Special Permit") requiring all signs to be externally illuminated shall be deleted. All sign illumination shall comply with Section 13.4.5 of the 1985 City of Woburn Zoning Ordinance as amended (the "WZO"). The signs shall be constant with no flashing lights.
7. City Council Condition 9 of the 1997 Special Permit shall be deleted.
8. The two (2) parking spaces reserved for the ATM shall be located within 100 feet from the ATM machine and equipped with signage indicating those spaces are reserved for the ATM.
9. All compact spaces will be identified by signage.
10. Except as modified by this Decision and any building permits issued to date all Conditions set forth in the Landowner's Decision and Notice of Special Permit dated September 25, 1997 shall remain in full force and affect.
11. The parking spaces shall be striped and maintained.
12. The petitioner shall file a snow storage plan with the Building Department.
13. Neither portion of the building shall be used as a convenience store."

A communication dated October 18, 2016 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Memorandum of Understanding – City of Woburn/318 LLC/314 Montvale LLC

This memorandum shall serve to advise the City Council regarding my review of a

proposed Memorandum of Understanding ("MOU") between the City of Woburn and 314 LLC and 314 Montvale LLC. This MOU relates to a condition imposed upon a Special Permit granted to 318 LLC and 314 Montvale LLC requiring the conveyance of property interests to the City in anticipation of the Montvale Avenue reconstruction and widening project ("Project").

Although generally acceptable, I revised the MOU (attached) to reflect the fact that the City must follow MassDOT standards for such Projects, which require the City to obtain all necessary temporary and permanent easements in accordance with the statutory procedure for eminent domain, notwithstanding that a property owner may ultimately donate the easements.

Thank you for your attention to this matter and please do not hesitate to contact me if you have any questions regarding the above.

Sincerely, s/Ellen Callahan Doucette

Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that he revised proposed Condition 2 to reflect the temporary easement, that he revised proposed Condition 13 to define convenience store, that the convenience store condition applies to the Dunkin Donuts portion of the building as well as the addition, that he asks that the committee report be adopted as further amended, that the petitioner is receiving the special permit, that there should not be a requirement that each new tenant come in for a special permit, that such a restriction would harm the marketability of the property, that restricting the transferability of the Dunkin Donuts special permit may not be objectionable, that language could be added to the conditions that “no left turn” and “do not enter” signs be erected at the westerly driveway, that the reference to “convenience goods” in the proposed conditions is clear, that it would be difficult to make a complete list of convenience goods such as newspapers, confections, tobacco and similar items, and that language could be added stating that the fast food use on the premises shall not be transferable without further approval of the City Council. Attorney Tarby stated offered a document with revised conditions and a plan entitled “Lot Consolidation Plan, 314 & 318 Montvale Avenue, Woburn, MA” dated October 7, 2016 with surveyor’s stamp dated 10-18-16 prepared by ALAN Engineering, L.L.C. Mark Sleger, P.E., ALAN Engineering, L.L.C., 288 Littleton Road, Suite 31, Westford, Massachusetts 01886 stated that the plan does not show revision date but the surveyor’s stamp on the plan notes the revision date as “10-18-16”. Alderman Mercer-Bruen stated that that Condition 11 should be amended to add “for the life of the special permit”, that the definition of retail sale could be changed to “grocery and household goods”, and that she is concerned that if the fast food use is changed to a higher volume business that the City Council is aware of the change. Alderman Concannon stated that proposed Condition 13 could be changed to more clearly define convenience goods, and that in the past the City Council has used language in conditions that a transferability restriction would not apply to a same or similar use. Alderman Anderson stated that the memorandum of understanding should be substantially in the form as submitted by the City Solicitor on October 18, 2016, that the

transfer of use shall require review by the Committee on Special Permits, and that the fast food special permit relative to the Dunkin Donuts should not be transferable except for the same or a similar use. President Haggerty stated that the special permit should be transferable but the use not be changed, that for example a new operator of the Dunkin Donuts or a similar use such as a Starbucks should be permitted without restriction, and that he is concerned that if the transferability language is too restrictive the Building Commissioner would prohibit the transfer of the Dunkin Donuts to another operator. Alderman Gately stated that the transferability of the special permit could be tied to future permitting at the location. Alderman Higgins stated that she agrees that the "same or similar use" language has been used in other special permits. Motion made and 2nd that the communication dated October 18, 2016 with the Memorandum of Understanding attached received from the City Solicitor be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: Kathy Bailey, 4 Utica Street stated that proposed Conditions 5 and 13 seem to state the same information, and that she wants to be certain that the lighting is facing the building and not the residents to the rear of the property. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows:

1. The Petitioner shall construct and improve the Site as substantially described on the Plan of Record which for this project shall be "Proposed Site Plan, 314 and 318 Montvale Avenue, Woburn, Massachusetts" dated August 30, 2016, revised October 10, 2016, Sheets 1-6 prepared by Alan Engineering L.L.C., 288 Littleton Road, Suite 31, Westford, MA 01886 (hereinafter the "Site Plan") although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.
2. Prior to the issuance of a final Certificate of Occupancy, the Owner shall convey to the City of Woburn by easement the land shown on the Plan entitled "Lot Consolidation Plan, 314 and 318 Montvale Avenue, Woburn, MA" dated October 7, 2016 prepared by Alan Engineering L.L.C., 288 Littleton Road, Suite 31, Westford, MA 01886" as the "Temporary Easement to the City of Woburn" containing approximately 1,408 square feet and a "14' Wide Easement to the City of Woburn" containing approximately 2,568 square feet which land shall be used as part of the Montvale Avenue Widening Project, a copy of which is made part of the record.
3. The westerly Montvale Avenue exit from the Premises shall be restricted to a "right turn only" onto Montvale Avenue and constructed to discourage left turns onto Montvale Avenue. Signs shall be erected stating "do not enter" facing drivers

entering the driveway and "no left turn" facing drivers exiting the driveway on the westerly Montvale Avenue exit driveway.

4. The dumpster on the Premises shall be enclosed and not emptied prior to 7:00 a.m.
5. Neither portion of the building shall be used as a convenience store. For purposes of this Condition 13 a convenience store shall be defined as a business that is primarily engaged in the retail sale of convenience goods.
6. General Conditions 1 and 2 and Planning Board Condition 8 to the Special Permit Decisions dated September 25, 1997 (the "1997 Special Permit") requiring all signs to be externally illuminated shall be deleted. All sign illumination shall comply with Section 13.4.5 of the 1985 City of Woburn Zoning Ordinance as amended (the "WZO"). The signs shall be constant with no flashing lights.
7. City Council Condition 9 of the 1997 Special Permit shall be deleted.
8. The two (2) parking spaces reserved for the ATM shall be located within 100 feet from the ATM machine and equipped with signage indicating those spaces are reserved for the ATM.
9. All compact spaces will be identified by signage.
10. Except as modified by this Decision and any building permits issued to date all Conditions set forth in the Landowner's Decision and Notice of Special Permit dated September 25, 1997 shall remain in full force and affect.
11. The parking spaces shall be striped and maintained for the lifetime of the special permit.
12. The petitioner shall file a snow storage plan with the Building Department.
13. The special permit relative to the Dunkin Donuts fast food use shall not be transferable except for the same or similar use.
14. That the Memorandum of Understanding entered into shall be substantially in the form submitted to the City Council by the City Solicitor on October 18, 2016.
15. The Petitioner shall provide the City Council with a landscaping plan prior to groundbreaking,

all in favor, 9-0.

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On the petition by Alton Acquisition II, LLC, 327 W. Maple Avenue, Monrovia, California 91016 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.42a, 7.3, 9 and 12.2.4 to allow for a self-storage warehouse facility within the Flood Plain District at 39 Olympia Avenue. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "back for action with the following proposed conditions attached to the report:

1. The Petitioner shall construct and improve the Site as substantially described on the Plan of Record which for this project shall be "Revised Conditions Plan #39 Olympia Avenue, Woburn, Massachusetts dated December 18, 2014 revised January 30 2015; revised August 8, 2016 and September 6, 2016 prepared by Hayes Engineering, Inc., 603 Salem Street, Wakefield, MA 01880 (hereinafter the "Site Plan") although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" or (ii) site conditions shall be permitted so long as such

changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.

2. All dumpsters shall be enclosed, by means of a fence, wall or landscaping in compliance with the Woburn Zoning Ordinances.
3. Hours of operation for office staff will be Monday through Friday 9:30 a.m. to 6:00 p.m.; Saturday 8:30 a.m. to 5:00 p.m.; Sunday 11:00 a.m. to 3:00 p.m.
4. No outside storage shall be permitted for the Petitioner's self-storage facility.
5. There shall be no residential occupancy of any portion of the Premises.
6. No gasoline or other combustible material shall be stored in the units.
7. The keypad access use shall be restricted to the regular hours of operation.
8. The petitioner shall file a snow storage plan with the Building Department.
9. The parking spaces shall be striped and identified for use of the business."

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 building is nonconforming because it was built prior to the 1985 amendment to the zoning code which placed the property in the Flood Plain District, that the proposed Condition 7 relative to the keypad is consistent with other area storage facilities, that the use is low volume in terms of traffic, that the petitioner is an experienced operator, that he asks that the special permit be granted with conditions as revised, that the petitioner proposes hours of operation that are the same or less than the nearby Public Storage and U-Haul facilities, that there will be no exterior units, that there will be no garage units, there will be all interior units, that the keypad use will be consistent with the hours of operation determined by the City Council, that the petitioner will have employees in the office from 7:00 a.m. to 7:00 p.m. to avoid the issue of an unmanned facility, tha there are 127 parking spaces, that the tenant NASDI requires 68 parking spaces, that there are 59 parking spaces remaining for the 100,000 square foot self-storage facility, that Alton Acquisition II LLC will be the purchaser of the property, that LR-Woburn 1, LLC will be the owner of the property, and that he asks that this information be referenced in the special permit. Attorney Tarby offered a document with proposed conditions and a communication dated October 14, 2016 from the petitioner for the City Council to review. Motion made and 2nd that the documents be received and made part of the record, all in favor, 9-0. Claudio Chavez of the petitioner stated that the keypad access is in the office, that there are all interior storage units, and that there is a swipe pad that could be used by tenants from 7:00 a.m. to 7:00 p.m. to get into the building and to gain access to the keypad. Alderman Mercer-Bruen stated that the lighting should be referred to in the conditions, that the storage unit facilities do not generate a lot of traffic, and that the hours of operation are similar to hours at another facility on the street because of that facility's proximity to neighbors. Alderman Gately stated that he is concerned that the petitioner does not take responsibility for any flood damage that may occur because the

property is located in the flood plain district, and that the city cannot be liable for 50 or 100 year flood damage. Alderman Tedesco stated that in committee he understood that the keypad was inside the building where the office is located, and that he does not want a situation where tenants are using the facility if there are no employees in the building, and that he would prefer the keypad be restricted to use when employees are onsite. Alderman Concannon stated that proposed Condition 7 indicates that a tenant can get to their storage locker whether there is an employee on site or not, that the keypad use was described differently in committee, and that the proposed hours will restrict the petitioner severely in comparison to its competitors. PUBLIC COMMENTS: Lori Medeiros, 9 Marietta Street stated that there are too many storage facilities in the city, that these uses do not bring job opportunities to the community, that trucks, traffic and trailers are generated by the use, that the locus is not near residences but users must pass residences in order to get to the facility, that there has been use of on-street parking at this locus, that the no parking signs were removed, that the conditions of the special permit are meaningless if not monitored, and that the city should not approve further businesses of this kind. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows:

1. The Petitioner shall construct and improve the Site as substantially described on the Plan of Record which for this project shall be "Revised Conditions Plan #39 Olympia Avenue, Woburn, Massachusetts dated December 18, 2014 revised January 30 2015; revised August 8, 2016 and September 6, 2016 prepared by Hayes Engineering, Inc., 603 Salem Street, Wakefield, MA 01880 (hereinafter the "Site Plan") although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.
2. All dumpsters shall be enclosed, by means of a fence, wall or landscaping in compliance with the Woburn Zoning Ordinances.
3. Hours of operation for office staff will be Monday through Friday 9:30 a.m. to 6:00 p.m.; Saturday 8:30 a.m. to 5:00 p.m.; Sunday 11:00 a.m. to 3:00 p.m.
4. No outside storage shall be permitted for the Petitioner's self-storage facility.
5. There shall be no residential occupancy of any portion of the Premises.
6. No gasoline or other combustible material shall be stored in the units.
7. The keypad access use shall be restricted to the regular hours of operation.
8. The Petitioner shall file a snow storage plan with the Building Department.
9. The parking spaces shall be striped and identified for use of the business.
10. No business shall operate from any of the storage units.

11. No electricity, cabling, internet or other utilities (except for light fixtures in storage units greater than 100 square feet) shall be installed in any of the storage units.
12. The Petitioner shall file correspondence with the City Clerk acknowledging that the Premises are located within the flood plain area as shown on FIRM Flood Insurance Rate Map Parcel 294 of 656 Map Number 25017CO294E Effective June 4, 2010 and shall indemnify and hold the City of Woburn harmless from any liability as a result of damage due to flooding in the flood plain area.
13. The special permit shall issue to Alton Acquisition II LLC and LR-Woburn 1, LLC and shall not be transferable.

ROLL CALL: Anderson – Yes, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – No, Higgins – Yes, Mercer-Bruen – No, Tedesco – Yes, Haggerty – No, Motion Passes.

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On the petition by NAI Entertainment Holdings LLC, 846 University Avenue, P.O. Box 9108, Norwood, Massachusetts 02062-9108 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.15b to amend a special permit dated May 6, 1994 to allow for: 1. A revised site plan for is existing cinema building entitled "Showcase Cinemas, 25 Middlesex Parkway Woburn, MA" dated June 10, 2016 and prepared by Allen & Major Associates Inc., 100 Commerce Way, Woburn, MA 01888-0118 (the "Site Plan"); 2. A modification to II Grant of Special Permit (b)(ii) by eliminating the reference to Condition No. 17; 3. A modification to III Cinema Conditions Condition 17 by deleting said Condition 17 in its entirety; and 4. A modification to IV General Condition by deleting "Site" on the third line and the sixth line and replacing with "Parcel II" as shown on the Site Plan, at 25 Middlesex Canal Park. 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. A modification to II Grant of Special Permit (b) (ii) is hereby granted eliminating the reference to Condition No. 17;
2. A modification to III Cinema Conditions Condition 17 is hereby granted by deleting said Condition 17 in its entirety;
3. The Petitioner's Request to withdraw the remaining requests for Modification to the Special Permit without prejudice is hereby granted.
4. All other conditions, except as modified herein, remain in full force and effect."

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

Re: Special Permit Petition of NAI Entertainment Holdings LLC, 25 Middlesex Canal Park, Woburn, Massachusetts

Dear Mr. Campbell:

I respectfully request that the requested modifications set forth in Paragraph 1 and Paragraph 4 on Exhibit A to the above-referenced Special Permit Petition be given leave to withdraw without prejudice. If you need any further information, please contact me. Thank you.

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

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing was Attorney Tarby and he stated that he filed a request for leave to withdraw without prejudice the requests under paragraph 1 and paragraph 2 of Exhibit A to the special permit petition, and that he asks that the City Council act on the committee report. Alderman Concannon stated that in 1994 the petitioner was to complete certain work under a special permit, that the work is not completed, and that the city is not getting what was bargained for. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the requested modifications set forth in Paragraph 1 and Paragraph 4 on Exhibit A to the special permit petition be given leave to withdraw without prejudice, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED by deleting Condition 17 to II Grant of Special Permit (b)(ii) and by deleting Condition No. 17 to III Cinema Conditions and, except as modified herein, all other conditions of the special permit issued May 6, 1994 shall remain in full force and effect, 6 in favor, 3 opposed (Concannon, Mercer-Bruen, Haggerty opposed).

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of $134,000.00 from BLS Ambulance Receipts Acct to Fire Ambulance Salary Acct and Fire/Equipment Acct, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 20, 2016

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ORDINANCES:

On the Order to amend the 1989 Woburn Municipal Code, as amended, Section 2-180 relative to cell monitors and school traffic guards salaries, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor October 20, 2016, 2016 and ten days having elapsed without same being approved, said Order became effective without his signature on November 1, 2016.

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On the Order to amend the 1989 Woburn Municipal Code, as amended, Section 2-180 relative to early voting clerks stipends, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 24, 2016

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PUBLIC SAFETY AND LICENSES:

On the petition by Carmargo Chauffer Service LLC for a new Livery License, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor October 20, 2016, 2016 and ten days having elapsed without same being approved, said License became effective without his signature on November 1, 2016.

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On the petitions for renewal of First Class Motor Vehicle Sales Licenses C.N. Wood Company, Inc., 200 Merrimac Street; Woodco Machinery, Inc., 22 North Maple Street; and Woburn Foreign Motors, Inc., 394 Washington Street, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 20, 2016

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On the petitions for renewal of Second Class Motor Vehicles Sales Licenses Second Class Motor Vehicle Sales Licenses by: Robert McSheffrey dba Bob McSheffrey Auto Sales, 880 Main Street; Kenneth L. O'Connor and Thomas F. Norton dba City Line Motors, 30 Rear Torrice Drive; McSheffrey Auto Sales, Inc., 878 Main Street; Ollie's Service Center, 310 Main Street; David Dellarocco dba Woburn Auto Sales; Woburn Gas & Services, Inc., 545 Main Street; and Donald J. Socorelis dba Woburn Glass Co., 243 Main Street, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 20, 2016

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NEW PETITIONS:

Petition by Tanner Ta Ta Foundation, 100 Tower Office Park, Woburn, Massachusetts 01801 for a Special Event Permit to allow a road race and health walk along the roadways beginning and ending at 15 Middlesex Canal Park on November 27, 2016.

Motion made and 2nd that the SPECIAL EVENT PERMIT be GRANTED, all in favor, 9-0.

Presented to the Mayor: October 20, 2016 s/Scott D. Galvin October 20, 2016

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Petition for renewal of First Class Motor Vehicle Sales License by Northeast Tree, Inc., 62 Holton Street. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petitions for renewal of Second Class Motor Vehicle Sales License by Capelo's Auto Service, Inc. dba J.C. Auto Sales, 84-86 Winn Street; Enterprise Rent-A-Car Company of Boston, LLC, 248 Mishawum Road; George's Auto Body of Woburn, Inc., 19 Jefferson Avenue, #C; Oliver M. McDermottroe dba McDermottroe Auto Sales, 229 Lexington Street; Southside Associates, Inc. dba Burke's Garage, 71 Main Street; and Wassim (Sam) Nicolas dba Woburn Square Mobil, 23 Pleasant Street. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by National Grid for a grant of right in a way to install approximately 174 feet of six (6) inch plastic gas main in Dexter Avenue to Baldwin Avenue to private way. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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Petition by All-Tex Inc. dba Inline Distributing Co., 14093 Balboa Boulevard, Sylmar, California 91342 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.42, 5.1.57b, 7.3 and 9 to allow for a wholesale establishment, warehouse and distribution center, overnight parking of commercial motor vehicles and for the continued use of the nonconforming parking and loading docks, at 23 Normac Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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COMMUNICATIONS AND REPORTS:

A communication dated September 30, 2016 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 August 2016. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A communication dated September 30, 2016 was received from Surface Transportation Board, Washington D.C. 20423 relative to New England Transrail LLC relative to a notice of intent to prepare an environmental impact statement and draft scope of study for

construction, acquisition and operation exemption in Wilmington and Woburn. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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UNFINISHED BUSINESS OF PRECEDING MEETING: None.

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APPOINTMENTS AND ELECTIONS: None.

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MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED Pursuant to Woburn Municipal Code Title 2, Section 2-194, the City Council as appointing authority for the position of Deputy Superintendent of Public Works review the qualifications of the temporary appointment to the position made by the Mayor under Woburn Municipal Code Section 2-9.

s/Alderman Gately

Alderman Concannon stated that he understands the City Council is the appointing authority for the petition, that he views this as a temporary appointment for a short time, and that there is no reason for the City Council to be involved at this time. Alderman Anderson stated that he sees this as a temporary appointment. Alderman Gately stated that the proper procedure was not followed, that there are other department employees who have more longevity and are more qualified, that he is not certain whether the Superintendent of Public Works was involved in the appointment, that there should be a review of the compensation for temporary employees, that he spoke to the Mayor who said this was not a City Council matter at this time, and that since the Deputy Superintendent of Public Works is appointed by the City Council this is a matter of interest to the City Council. Alderman Mercer-Bruen stated that the City Council has the right to appoint the Deputy Superintendent of Public Works when the position is vacant, that she hopes that the position does not become vacant and the individual returns to work, that the Mayor made a temporary appointment until the current Deputy Superintendent of Public Works returns, and that if the ordinances need to be changed this can be done in the Committee on Ordinances. President Haggerty stated that he would like to review Woburn Municipal Code Section 2-9 and update the section if needed, and that this matter should be placed on file and reviewed in 90 days when more specifics are known. Made and 2nd that the order be adopted and be referred to Committee on Liaison, 1 in favor (Gately in favor), 8 opposed. Motion made and 2nd that the MATTER be PLACED ON FILE, 8 in favor, 1 opposed (Gately opposed).

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RESOLVED That the City Engineer meet with and provide a briefing to the City Council relative to the status of land acquisition required for the proposed Montvale Avenue widening project and a general update on the current

project timeline, and that His Honor the Mayor and City Solicitor be invited to attend the meeting.

s/Alderman Mercer-Bruen, Alderman Concannon and President Haggerty

Alderman Mercer-Bruen stated that the city is close to beginning the work on Montvale Avenue, and that the City Council should be informed of the status of the project. President Haggerty stated that City Council should be fully informed as the project moves forward. Motion made and 2nd that the RESOLVE be ADOPTED and be referred to Committee on Infrastructure and Public Lands, all in favor, 9-0.

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1ORDERED That due to the State Election to be held on November 8, 2016, the City Council Regular Meeting scheduled for November 1, 2016 be canceled.

s/President Haggerty

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:30 p.m.

A TRUE RECORD ATTEST:

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