

**CITY OF WOBURN  
DECEMBER 4, 2012 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

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**MAYOR'S COMMUNICATIONS:**

A communication dated November 29, 2012 was received from His Honor the Mayor as follows:

Dear President Denaro and Members of the City Council:

I am submitting for your review an order to accept the provisions of M.G.L. c.32B, s.20, and establish and Irrevocable OPEB Trust Fund.

As you know, GASB 45 requires all municipalities to disclose the present value of their incurred OPEB (Other Post Employment Benefits) costs for both current retirees and active employees already eligible for benefits; defining the contribution that must be set aside today in order to continue providing these benefits over time.

As of June 30, 2011, the City has an unfunded OPEB liability of \$234,982,000. In addition to the annual budgetary appropriation for health insurance, an additional annual contribution (ARC) of more than \$3 million would be required to tackle Woburn's outstanding OPEB liabilities.

By accepting M.G.L. c.32B, s.20, we will begin the task of recognizing this massive liability that every single city and town in the Commonwealth of Massachusetts must also recognize and address.

Respectfully, s/Scott D. Galvin

Attached thereto was the following:

ORDERED Be it ordained that the City Council of the City of Woburn hereby accepts and adopts the provisions of M.G.L. c.32B, §20, and establishes the "Other Post-Employment Benefits Trust Fund" to be referred to as the "OPEB Trust Fund" in accordance with Chapter 68, Section 57 of the Acts of 2011, that the sum of \$1,143,428.99 be appropriated as the initial investment to the OPEB Trust Fund, and that to meet this appropriation, that the sum of \$1,143,428.99 be appropriated from Reserve for Medicare Part D subsidy account number 01-357500.

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

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**PUBLIC HEARINGS:**

On the matter relative to Tax Classification for the City of Woburn. PUBLIC HEARING OPENED. Attending were the Board of Assessors Robert E. Maguire, Jr., Chairman, Lori S. Medeiros and William F. Sullivan, Jr. as well as the Department Professional Staff Chief Appraiser Andrew Creen, Senior Appraiser John Connolly, System Manager John McDonough and Appraiser Joan Corey. Appearing was Andrew Creen, Chief Appraiser, Board of Assessors, and he offered a communication dated December 4, 2012 with a series of charts entitled Analysis of Levy Limit, Analysis of Levy Limit Increase, Fiscal 2013 New Growth, Valuation by Class of Property, Classification Options, Tax Rate History, Median Sales Price of Single Family Homes, Analysis of Competitive Communities attached thereto entitled Fiscal Year 2013 Classification Hearing, and Comparison Fiscal 2012-2013 to the City Council as follows:

Dear President Denaro and Council Members:

The Board of Assessors is pleased to report that the valuation roll for fiscal 2013 has been finalized after a reappraisal of all taxable properties was conducted by this office. The total assessed valuation for all real and personal property in the City effective January 1, 2012 is \$5.716 billion. This represents an increase from the prior fiscal year's total of \$5.619 billion. This increase in taxable valuation is attributable to the ongoing audit of business personal property accounts and appreciation of investor owned apartment properties for this fiscal year.

The City Council must now determine the relative tax burden to be borne by each class of property by selecting a "residential factor". To assist the Council in its deliberations, several charts have been prepared and are attached to this correspondence. These charts illustrate relevant valuation and tax levy data and the impact of your vote this evening.

By selecting a residential factor of "1" a single tax rate of \$15.43 results. Choosing a factor less than "1" results in a portion of the tax levy shifting from residential properties

to commercial, industrial and personal property taxpayers. For example, adopting a residential factor of ".67" means that the residential class of property would pay 67% of the levy they would pay if there were no classification. Under this scenario, the levy increases for the other classes of property by a factor of 175 percent. The chart entitled "Classification Options" best illustrates the various scenarios available to you.

Woburn Board of Assessors,  
s/Robert E. Maguire, Jr., Chairman  
s/Lori S. Medeiros  
s/William F. Sullivan, Jr.

Motion made and 2<sup>nd</sup> that the documents be received and made part of the record, all in favor, 9-0. Appearing was Chief Appraiser Andrew Creen and he stated that the 2013 levy limit is \$93,963,879.00, the that prior levy limit \$89,899,039.00 together with 2.5% increase of \$2,247,478.00 and new growth of \$1,817,262.00, that actual levy is based on the Mayor's budget of \$88,211,000.00, that \$5,752,00.00 less than the allowable limit, that the city has an excess levy capacity of over \$5,000,000.00, that the levy limit increase of \$4,064,740.00 consists of the 2.5% increase \$2,247,478.00 which is gradual over the years and new growth of \$1,817,262.00 which varies over the years, that new growth this year consists of 10% residential, 13% commercial and industrial and 77% personal property, that this is a slight increase in base calculations, that the industrial component is down a bit and the residential component is increasing which results from increase in the valuation base for residential multi-families, apartments and new construction, that the factor of 67.4005% results in a residential tax rate of \$10.40 and a commercial/industrial rate of \$27.01, that single family home prices in Woburn are trending with other communities in the Boston Metro Area, that the information has been certified by the Department of Revenue, that last year the city can set the residential factor a little lower than last year due to the commercial property valuation, that the average tax bill for a single family home would decrease slightly with this factor, that the average assessed value of \$341,000.00 is determined by dividing the total single family valuation by the number of single family homes, that Woburn has a favorable tax rate in comparison to other communities, that the past three fiscal years the city entered into an agreement with an outside consultant to value personal property accounts, that the consultant identifies account, gathers the inventories and assigns value, that the property is depreciated pursuant to recognized schedules, that the contract for the current year is \$20,000.00, that the tax recap sheets include revenue from local receipts when the information is submitted to the Department of Revenue, that the City Auditor estimates the amount of local receipt and submits the information to the Board of Assessors, that the value of single-family, two-family and three-family houses has remained stable, that the city has determined that vacancies and rental loss for multi-family homes is less than has been historically and the cost of financing for investor owned residential property has decreased, that there has been an increase in demand for these type of properties which has resulted in a 15% increase in valuation for that group, that these properties are taxed at the residential rate and not the commercial rate, that personal property assets which show up on the tax rolls for the first time are reflected as new growth, that examples of taxable business personal property include computers, equipment, machinery and

wireless antennas, that these are business and utility assets, that the city will continue its efforts to identify all personal property assets that come on line and value those fairly, that there has been an increase in commercial assessments over the last year for particular types of property, and that for example retail shopping centers have seen an increase in value as have higher rent commercial properties. Mayor Galvin stated that the city makes conservative estimates of local receipts particularly with recent announced cuts by the Governor to 9C accounts, and that the city will be well positioned with the 9C cuts because of the conservative estimates. Alderman Drapeau stated that in a recent report Woburn ranked fifty-four in house values, that the city does not levy tax up to allowed limits which can be a struggle as there are many demands, and that taxes have been decreased or kept level the past few years. Alderman Raymond stated 77% of the new growth is personal property, and that he is concerned what will happen in FY2014 when such an effort has already been made to identify personal property accounts. Alderman Haggerty stated that he is interested in the direction of the commercial account values, and that he supports the shift but it watchful of the assets. John Connolly, City of Woburn Commercial Industrial Appraiser stated that the values depend upon the type of property, location and valuation, that some biotech companies are moving back into the area which is absorbing some of the vacant industrial space, that small and mid-size industrial spaces have held stable, that large industrial property values are down, that retail uses have been strong, and that Class A office space is doing well. Alderman Mercer-Bruen stated that the valuation of large apartment buildings is higher which benefits the city with additional revenue but the city should not seek out more development of these properties because they are a greater burden on the city's resources. President Denaro inquired as to whether the small increase in the commercial rate could be brought level. Mayor Galvin stated that this would not be possible, that there will be uncertainty with finances in FY2013, that the Governor has already made additional cuts and the concerns of the so-called "fiscal cliff" being discussed in Washington, D.C., that the commercial rate results in 18¢ per \$1,000.00 with relatively stable values of commercial property, that businesses have been good for the city and the city has been fair to businesses, that the water and sewer rates were reduced a couple of years ago and have not been increased, that the budget was passed in June, that the city has been conservative with its spending, and that it would be helpful to approve the classification tonight and send the matter onto the Department of Revenue. PUBLIC COMMENTS: Paul Meaney, for Woburn Business Association, Ten Tower Office Park stated that he is in favor of the tax classification, that the commercial rate increased 18¢ this year and 51¢ last year, that businesses and homeowners are not having the best of times, that this country has never been so dysfunctional at the federal level, that the federal government does not care about Woburn, that the Mayor and City Council members do care about the city and are responsible for the homeowners and businesses in the city, that the vacancy rate fluctuates between 18% and 22% and is currently approximately 18%, that the city has to be fair with people, and that there is nothing that the city can do about the issues in the federal government. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that a TAX CLASSIFICATION RESIDENTIAL FACTOR OF 67.4005% be ADOPTED, ROLL CALL: Anderson – Yes,

DiTucci - Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, Motion Passes.  
**Presented to the Mayor: December 7, 2012** **s/Scott D. Galvin Dec. 7, 2012**

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Motion made and 2<sup>nd</sup> for five minute recess, all in favor, 9-0.

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President Denaro called the meeting back to order.

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On the matter pursuant to M.G.L. c.82, §§1-13, inclusive, and Chapter 120 of the Acts of 2011 “An Act Relative to the Acceptance of Streets as Public Ways in the City of Woburn” to consider whether to lay out as public ways the following streets: Adele Road, Albert Drive, Altavesta Circle, Anthony Drive, Arrow Drive, Atlantic Avenue, Battlemarch Way, Birchwood Lane f/k/a Sanborn Avenue, Blueberry Hill Road, Bonnie Way, Cabot Road, Carmen Terrace, Cedarwood Road, Fox Road, Kosciusko Road, Loker Lane, Manny Terrace, McDevitt Drive, Morningside Circle, New Village Road, Pigeon Road, Rag Rock Drive, Sonar Drive, Spartan Circle, State Street, Strawberry Lane. PUBLIC HEARING OPENED. Appearing was City Solicitor Ellen Callahan Doucette and she stated that the City Council submitted the issue to the Legislature to accept a number of streets, that this is a portion of the streets that the Legislature has allowed to be accepted under this process, that the special act allows the city to circumvent the usual process for accepting streets, that generally after a street is developed the developer deeds the street to the city, that at this point with many of these streets the city would have to obtain deeds from the individual property owners but the special act would allow the process to be circumvented, that this will allow the city to plow and maintain the streets, that some of the streets were laid out as private ways and were not supposed to be accepted but she has not researched this particular issue, that the city should be accepting streets as they are developed, and that accepting streets does increase the reimbursement from the State for road repairs but this process is not related the street maintenance schedule of the Department of Public Works. Alderman Mercer-Bruen stated that when a street is accepted it allows the city to obtain additional funds from the State, that this was one of the factors that prompted this process, and that there was some confusion that accepting the streets would move the streets up on the Department of Public Works street maintenance schedule. Alderman Drapeau stated that he concurs that acceptance of the streets allows maintenance reimbursement of the street, that the street maintenance process is separate and controlled by the Mayor and Superintendent of the Department of Public Works, and that this is a good process to accept the streets as they can be maintained by the city and the city will be in line for reimbursement from the State upon repaving. Alderman Gately stated that four or five years ago a study showed over two hundred streets across the city were not accepted particularly on the west side, that there are many reasons why this is the case, and that accepting the roadways as public ways increases the mileage used to calculate the reimbursement by the State for repairs. President Denaro stated that he lived on a street that has not been accepted, that there are 150 houses in the neighborhood that have been there for fifty years and the street has not

been accepted, and that the repair work is being performed but the city gets no credit and no revenue from the State for the work. PUBLIC COMMENTS: Paul Meaney, 1 Brandt Drive stated that he was told by the Department of Public Works that his street was not accepted, that a record in the City Clerk's office showed that the street was accepted in 1974, and that it is hard to believe that a number of these streets have not been accepted. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED ACCEPTING THE STREETS AS PUBLIC WAYS, all in favor, 9-0.  
**Notice of intent to reconsider his vote on the matter was filed by President Denaro on December 5, 2012 at 9:58 a.m.**

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On the petition by National Grid for a grant of right in a way to extend gas main 240 feet on Naples Avenue to serve 15 Naples Avenue. PUBLIC HEARING OPENED. A communication dated November 30, 2012 was received from Superintendent of Public Works John Duran as follows:

Subject: National Grid – Naples Avenue

I am providing this memorandum pursuant to the request for the Grant of Right in a Way on Naples Avenue to allow National Grid to install a new main to service the home at 15 Naples Avenue as shown on the attached plan. I recommend that the Council allow this under the following conditions. That all utilities including the water, sewer and drains be field marked in the field and that the proposed main be clearly marked in the field prior to cutting the roadway. The main must be installed in the location shown on the plan and marked on the ground unless written permission is granted from the DPW Superintendent in a mutually agreed upon location and associated roadway restoration. Please feel free to call me with any questions or concerns pursuant to this matter.

No one appeared for the petitioner. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED, with the conditions as follows: 1. That the recommendations of the Superintendent of Public Works be adopted as conditions of the grant of right in a way, all in favor 9-0.

**Presented to the Mayor: December 7, 2012**

**s/Scott D. Galvin Dec. 7, 2012**

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On the petition by NStar Electric Company for a grant of right in a way to install a new stub pole and anchor guy on Roman Road southerly side approximately 694 feet southeast of Russell Street. PUBLIC HEARING OPENED. A communication dated November 30, 2012 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Petition-Howard Court

Pursuant to the request from NStar Electric and other utility companies for the relocation of a pole and associated wires and conduit, I recommend the following. Pole numbered Nstar 466/6S should be allowed to be repositioned approximately 8 feet northeasterly as field staked on the ground. This location slightly deviates from the location shown on their plan dated October 1, 2012. However, this proposed plan location would inconvenience a long standing improvement for the adjacent neighbor at 9 Howard Court. The staked location will eliminate this problem and will not have any adverse impact to the City of Woburn. The pole is being repositioned to remove it from private property at 19 Roman Road. Therefore, the pole must be removed in its entirety.

In my professional opinion, it should be a condition of this and all future permits that NStar, as well as, all related utility companies be required to remove the poles, wires etc. within 30 days of permit issuance and eliminate the need for double poles from the City of Woburn right of way(s). NStar has verbally agreed with me and the other utility companies to work on a program to systematically eliminate the double pole problem. Please feel free to contact me with any questions, concerns or recommendations on this matter.

Appearing for the petitioner was Jacqueline Duffy, Right of Way Agent and she stated that this is necessary to move a pole from a backyard on Roman Road to a position on Howard Court, that the determination of the location of the pole is made by an NStar designer, that to further move the location of the pole would require a site visit to address concerns, and that a stub pole means that it is an NStar pole only and no other utility is placed on the pole. Alderman Drapeau stated that he received additional comments from the Superintendent of Public Works that there is a sewer that must be located before approving the location of the pole, that the Superintendent of Public Works is looking for two additional weeks to research the location of the sewer, that he is willing to move forward with the approval following the explanation of the homeowner, that he supports keeping the project on target and meeting the abutters concerns, that the City Council can move forward with approval and leave it to the Superintendent of Public Works to determine the necessary adjustments for the appropriate location, and that the matter does not have to be locked into a specific location but can allow the Superintendent of Public Works to make field adjustments. Alderman Gately stated that the City Council must be mindful of the concerns of the Superintendent of Public Works relative to the sewer. PUBLIC COMMENTS: Frank Privitera, 10 Roman Road stated that he owns the property, that his backyard abuts Howard Court but his house is on Roman Road, that this process was started in the Summer 2012, that the sewer main takes a sliver of land, that the proposed utility pole relocation is not near the sewer main, and that the project would be delayed two weeks if the matter was continued and then the holidays, a three day wait for Dig Sage and the possibility of further storms puts the work into the middle of winter. Mr. Privitera offered a copy of a plan entitled "Survey Plan, 19 Roman Road, Woburn, Mass." dated December 3, 2012 prepared by Edward J. Farrell, Professional Land Surveyor for the City Council to review. Motion made and 2<sup>nd</sup> that the plan be received and made part of the record, all in favor, 9-0. Scott Verrow, 9 Howard Court stated that the schematic included with the petition proposes to move the utility pole to the rear of his property, that the area is marked "grassy sidewalk", that he would prefer the utility

pole be moved slightly northwest of the proposed location, that it is not known where the sewer is, and that he does not want to delay the process. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED with the conditions as follows: 1. That the utility pole shall be located as determined by the Superintendent of Public Works within thirty days of this Order, 2. That an as-built plan shall be filed by NStar Electric Company with the Woburn City Clerk indicating the approved location of the utility pole meeting the approval of the Superintendent of Public Works, and 3. That the Superintendent of Public Works shall approve the location of the utility pole within thirty days of this Order, all in favor 9-0.

**Presented to the Mayor: December 7, 2012** **s/Scott D. Galvin Dec. 7, 2012**

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On the petition by NStar Electric Company for a grant of right in a way to install approximately 91 feet of conduit in Middlesex Canal Road northwesterly approximately 215 feet west of Main Street. PUBLIC HEARING OPENED. A communication dated November 30, 2012 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Grant of Way – Middlesex Canal Park Drive

I am providing this memorandum pursuant to the request for the Grant of Right in a Way on Middlesex Canal Park Drive. I have performed a site visit for the proposed electrical crossing and I have no concerns on this matter. All work shall be performed in compliance with all Woburn DPW and Mass DOT Specifications. Applicant shall secure all pertinent permits from the DPW prior to construction to ensure public safety and minimize impacts on traffic during the proposed construction.

Appearing for the petitioner was Jacqueline Duffy, Right of Way Agent and she stated that the petition is to provide service to four new townhouses on the roadway. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Superintendent of Public Works be adopted as conditions of the grant of right in a way, all in favor, 9-0.

**Presented to the Mayor: December 7, 2012** **s/Scott D. Galvin Dec. 7, 2012**

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On the petition by Peterson Party Center Inc., 139 Swanton Street, Winchester, Massachusetts for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to modify special permits issued August 11, 2011 and January 26, 2012 by deleting the reference to the plan entitled “Proposed Parking Layout” Sheet PK-1 dated November 15, 2011 in Condition 2 and replacing same with the plan filed with this petition entitled “Proposed Parking Layout” Sheet PK-1 dated June 4, 2012 as the plan of record, at 36 Cabot Road. PUBLIC HEARING OPENED. A communication

dated November 29, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Peterson Party Center, Inc. - 36 Cabot Road, Woburn, Massachusetts

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for December 4, 2012 be continued to the City Council meeting on January 2, 2013. If you need any further information, please contact me. Thank you.

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

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 JANUARY 2, 2013, all in favor 9-0.

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Motion made and 2<sup>nd</sup> to hold the public hearing on the following two matters collectively, all in favor, 9-0.

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On the petition by Woburn Armory LLC to amend the Zoning Map of the City of Woburn by changing the zoning district for the entire parcel known as 286 Main Street a/k/a 320 Main Street, containing approximately 38,344 square feet of land as shown on a plan by Design Consultants, Inc., entitled "Plan of Land in Woburn, Massachusetts" dated June 23, 2005 from the R-2/B-D zoning districts to the B-D zoning district. PUBLIC HEARING OPENED. A communication dated November 29, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Woburn Armory LLC/Proposed Amendment to Zoning Map of the City of Woburn

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for December 4, 2012 be further continued to the City Council meeting on January 2, 2013. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

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 JANUARY 2, 2013 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON ORDINANCES, all in favor 9-0.

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On the petition by Woburn Armory LLC to amend the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. By revising Section 11.11 entitled "Affordable Housing Requirement" by adding a new Paragraph 8 to Section 11.11 as follows: "8. The City Council by majority vote, may waive the requirements of this Section 11.11 if the development includes dwelling units in a building deemed "Significant" by the Woburn Historical Commission.", and 2. By revising Section 18.8.2 "Waivers" by adding the following language to the end of Paragraph 18.8.2 as follows: The "period" after "site" shall be deleted and the following language added: "or the renovation, rehabilitation or redevelopment of a building deemed "Significant" by the Woburn Historical Commission." PUBLIC HEARING OPENED. A communication dated November 29, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Woburn Armory LLC/Proposed Amendment to the 1985 City of Woburn Zoning Ordinance, as amended

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for December 4, 2012 be further continued to the City Council meeting on January 2, 2013. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

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 JANUARY 2, 2013 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON ORDINANCES, all in favor 9-0.

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On the petition by Luigi Colucciello, 142 Washington Circle, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow addition to a pre-existing nonconforming structure and to convert from a single-family to a two-family residence at 142 Washington Circle. PUBLIC HEARING OPENED. A communication dated November 29, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Luigi Colucciello – 142 Washington Circle – To allow addition to a pre-existing nonconforming structure and to convert from a single-family to a two-family residence pursuant to Section 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on November 27, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Luigi Colucciello to allow an addition to a pre-existing nonconforming structure and to convert from a single-family to a two-family residence pursuant to Section 7.3 regarding the property at 142 Washington Circle subject to the following condition that two 9' x 18' parking spaces shall be provided side by side beginning 5' south of the rear stairs of the existing unit and to the north of the front door of new second unit and staying to the rear of the existing house.

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 Linda Covert, 138A Washington Circle and she stated that she is the petitioner's daughter, that the petitioner wants to change the property from a single-family house to a two-family house with construction of an addition to the existing home where the petitioner resides. PUBLIC COMMENTS: Glen Turgiss, 4 Central Street stated that he is concerned about the proposal, that he wants assurances that this will only be a two-family house, that the addition will be sixty feet by forty feet with an upstairs and a downstairs, and that the plans look like the property could easily be converted to a three-family or a four-family house. Ruth Lafayette, 2 Central Street stated that she owns 146 Washington Circle, and that she is concerned about the property being extended beyond a two-family house. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JANUARY 15, 2013, THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS and that a communication be directed to the City Solicitor as to whether the petition is properly before the City Council under Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended or whether the matter should be handled by the Board of Appeals and whether in general the change of a structure from a single-family house to a two-family house under Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended is under the jurisdiction of the City Council or the Board of Appeals, all in favor 9-0.

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On the petition by Charles J. Sillari, Jr., 382 Lowell Street, Wakefield, Massachusetts 01880 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow an alteration of a non-conforming use from warehousing to business services and business sales to allow use as a catering kitchen at 1 Sullivan Street. PUBLIC HEARING OPENED. A communication dated November 29, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Charles J. Sillari, Jr. – 1 Sullivan Street – To allow an alteration of a non-conforming use from warehousing to business services and business sales to allow use as a catering kitchen pursuant to Section 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on November 27, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Charles J. Sillari, Jr. to allow an alteration of a non-conforming use from warehousing to business services and business sales to allow use as a catering kitchen pursuant to Section 7.3 regarding the property at 1 Sullivan Street subject to the following conditions:

1. That a landscape and parking plan for at least 5 parking spaces shall be approved by the Planning Board and the Planning Board shall retain jurisdiction over the landscaping;
2. That no more than one commercial van shall be parked overnight on the site.
3. Other than van parking, there shall be no outside storage on the lot;
4. That the dumpster shall be screened by a sight impervious fence;
5. That trash pick-up shall be limited to 9 A.M. to 4 P.M. Monday through Saturday;
6. There shall be no customer pick up of food, prepared or unprepared, at the site;
7. There shall be no sale of food, prepared or unprepared, at the site;
8. All serving of food, prepared at the site, shall be off site; and
9. That the hours of operation shall be limited to 8AM to 5PM Monday through Saturday.

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 November 26, 2012 to Edmund Tarallo, Planning Director from Brett F. Gonsalves, Senior Engineer was received as follows:

Subject: 1 Sullivan Street Alteration of a Non Conforming Use Special Permit – Special Permit Application Dated September 27, 2012 – Plan Dated 10/2/2012

The applicant is seeking to allow for the alteration of a non conforming use and allow for business services and business sales as well as to allow the use as a catering kitchen.

Based on a review of the submitted materials, this office offers the following comments. The submitted plan just shows the existing lot and building. It is unclear if there is any site or utility work being proposed or if the work will be all interior.

The applicant should check with the plumbing inspector to determine if a grease trap will be required for the proposed use.

A narrative explaining what work is being proposed should accompany the special permit application to clarify the above mentioned comments.

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

Appearing was the petitioner was Charles Sillari and he stated that the proposal is for a catering kitchen and for storage, that the petitioner does on-site catering at events, that they will use the kitchen for preparation work, that he has two restaurants which are located in Somerville and Boston and operate under the name Boston Burger Company, that he does not have enough room in the kitchens to also accommodate catering activities, that all of the proposed conditions of the Planning Board are acceptable, that the property is currently a warehouse use, that there will be interior work with some siding on the exterior to improve the outside appearance of the building and improved landscaping, that they will not use the portion of the building shown on the plan marked "beekeepers warehouse and storage" on the lower portion of the building, that a non-transferable condition would be acceptable, that they will prepare food on-site but will deliver it to locations, that they will not have any items sold directly from the location, that the company has twenty-eight signature burgers, that they provide catering at events, festivals and corporate outings where the cooking is done on-site, that they will do minimal cooking at the locus such as baked beans and chili with most of the cooking done on location, that they are willing to locate the hood fan in a location suitable to the neighborhood, that they will be preparing a parking plan, that they may locate the dumpster to the right of the loading dock, that if there was a need to do catering preparation on a Sunday they could do that at one of their restaurants, that any vehicle to the locus would be a cargo van large enough to hold a grill, that there would not be a large vehicle on the locus, that the equipment will be stored in the building and not in the van, that there will not be any large delivery trucks, that they pick up most of their product in their van, that their produce supplier also uses a van for deliveries, that the Planning Board has to approve the parking plan, the location of the dumpster and the landscaping, and that they will have a pest control company on site twice a month. Mr. Sillari offered a plan to the City Council for review. Motion made and 2<sup>nd</sup> that the plan be received and made part of the record, all in favor, 9-0. Alderman Gately stated that there will be less traffic and congestion with this proposed use, that it will be a clean operation, that he has no issue with the property, that the petitioner will have to follow the code with respect to grease traps, and that he wants a condition that the special permit be non-transferable. Alderman Raymond stated that he is concerned about odors that may be vented to the neighborhood. Alderman Haggerty stated that the parking plan should be submitted for the record. Alderman Mercer-Bruen stated that the petitioner's vehicles should be registered in Woburn. President Denaro stated that integrated health management is part of health control for food services, and that the petitioner will have to provide a pest management plan to obtain the license to operate the facility. PUBLIC COMMENTS: Gerard Scalley, 18 Dartmouth Street stated that he is concerned about odors that may be emitted in this residential neighborhood. Bob Brennan, 12 Eastern Avenue stated that he is concerned about deliveries to the property, that if the petitioner has larger than a big box truck going to and from the property it will be difficult to accommodate Sullivan Street, and that this is a tight roadway. Debbie McCall, 35 Riverdale Street, Methuen stated that he husband owns 2 Sullivan Street, and that she is concerned about the location of the dumpster, the size of the trucks, the number of trucks

and the traffic flow. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. 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 nine recommendations of the Planning Board, as further amended herein, be adopted as conditions of the special permit, 2. That the special permit shall be granted to Charles J. Sillari, Jr. only and shall not be transferable, 3. That Planning Board condition 4 be amended by adding “and that the location of the dumpster shall be determined by the Planning Board, and 4. That deliveries made to the premises shall be made in a vehicle nothing larger than a cargo van and shall only be made during the hours between 9:00 a.m. and 4:00 p.m. Monday through Friday, all in favor, 9-0.

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On the petition by Main Street Woburn RX, LLC, 300 Trade Center, Suite 7700, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.22c and 63a of the 1985 Woburn Zoning Ordinances, as amended, to allow for: 1. A retail establishment greater than 15,000 square feet of gross floor area, and 2. A Drive-up Customer Service Facility, at 1 School Street, 3 School Street, 13 School Street, 891 Main Street, 893 Main Street and 895 Main Street. PUBLIC HEARING OPENED. A communication dated November 29, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Main Street Woburn RX, LLC – 1 School Street, 3 School Street, 13 School Street, 891 Main Street, 893 Main Street and 895 Main Street – To allow for a retail establishment greater than 15,000 square feet of gross floor area and a drive-up customer service facility pursuant to Sections 5.1.22c and 5.1.63a

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on November 27, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Main Street Woburn RX, LLC to allow for a retail establishment greater than 15,000 square feet of gross floor area and a drive-up customer service facility pursuant to Sections 5.1.22c and 5.1.63a, regarding the properties at 1 School Street, 3 School Street, 13 School Street, 891 Main Street, 893 Main Street and 895 Main Street subject to the following conditions:

1. The Petitioner shall construct and improve the Site in conformance with the plans submitted with the Petition for Special Permit unless modified by these conditions entitled “Site Improvement Plans for Main Street (Route 38) and School Street, Main Street/School Street, Woburn, MA 01801” Prepared for: Main Street Woburn RX, LLC, 300 Trade Center, Suite 7700, Woburn, MA 01801, prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888-0118 dated August 24, 2012, revised November 1, 2012 and November 16, 2012 ABB-1, ABB-2, EX-1, C-1, C-2, C-3, C-4, C-5, C-6A, C-6B, C-7, C-8, C-9, C-10A, C-10B, C-10C, D-1, D-2, D-3, D-4, D-5, D-6 and D-7 (the "Plans");
2. That the Planning Board shall retain jurisdiction over the landscaping;

3. That no exterior storage containers or material shall be allowed on site;
4. That all deliveries shall be between 9AM and 5PM Monday to Saturday with no Sunday deliveries allowed;
5. That if a drainage easement to allow the connection of the overflow to the City drain is not granted, the applicant may revert back to the original design depicting a free outlet on the CVS property;
6. That the petitioner shall complete the roadway widening on Main Street as shown on the revised plans;
7. That the petitioner shall replace the 6" water main on Main Street to 10" DI from Newbridge St. to the 12" main on School St.;
8. That the drive-up customer service facility shall be closed during deliveries; and
9. That up to a 15' wide strip of land on Main Street beginning at the proposed driveway southerly to the property line shall be given by easement or deed for the purpose of continuing a future second lane southerly on Main Street.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

A copy of a communication dated November 26, 2012 to Ed Tarallo, Planning Director from City Engineer John Corey was received as follows:

Subject: CVS Pharmacy, School and Main Streets – Special Permit - Site Improvement Plans, dated August 24, 2012 - Drainage Calculations, dated August 24, 2012 - Development Impact Statement, dated August 24, 2012 - Traffic and Access Study, dated August 22, 2012 - Revised Plans, dated November 16, 2012

The applicant, based on the engineering department's memorandum, dated October 26, 2012 has submitted revised plans addressing our comments. Specific actions that the applicant has taken include the following:

#### Drainage

The engineering department has recommended that the City grant a drainage easement to allow the connection of the overflow to the City drain to eliminate an open outlet. In the event that such an easement is not granted, the applicant can revert back to the original design depicting a free outlet on the CVS property.

All other comments have been addressed.

#### Water

The engineering department had requested that the applicant review the opportunity to improve the Main St. 6" water main to 10" DI from Newbridge St. to the 12" Main on School St. as part of the site mitigation. The applicant has, by way of an email (see attached) indicated that the project mitigation will not support this improvement in

conjunction with other mitigation improvements. The applicant proposes to contribute the excess mitigation fees to the city to put towards the main replacement.

#### Sewer

All comments concerning the sewer system have been addressed.

#### Traffic and Site Access

The applicant has revised the site drawings to extend the turning lane in the northbound direction of Main St. as part of the site mitigation. We believe that this will improve turning movements during the AM and PM peak periods.

The applicant has not submitted a project cost on a formal basis for the project. The replacement of the existing 6" cast iron main in Main St. with a new 10" DI main between Newbridge Ave. and School St., as well as extending the turning lane on Main St. should be considered as part of the mitigation package.

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

Appearing for the petitioner was Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the original public hearing on this matter was held on October 16, 2012, that the petitioner has met with the Planning Board, that the Planning Board gave a favorable recommendation with several proposed conditions, that the petitioner met with the Committee on Special Permits, that the Committee voted to keep the matter in committee to be heard on December 10, 2012 and to continue to December 18, 2012, that the Committee requested additional landscaping at the retaining wall, a schematic of what the building will look like and an easement being given to the City and the MassDOT at the south end of the site, that the petitioner will submit proposed conditions and discuss them in committee, and that revised plans will be filed by the end of this week for committee discussion. Attorney Tarby offered the following proposed conditions for the City Council to review:

DRAFT OF PROPOSED CONDITIONS TO  
SPECIAL PERMIT PETITION OF  
MAIN STREET WOBURN RX, LLC

1. Special Permit Petition filed pursuant to Section 5.1(22c) and (63a)a) to allow for a retail establishment over 15,000 square feet and (b) a Drive-up Customer Service Facility

DECEMBER 4, 2012

1. The Petitioner shall construct and improve the Site in conformance with the plans submitted with the Petition for Special Permit unless modified by these conditions entitled "Site Improvement Plans for Main Street (Route 38) and School Street, Main Street/School Street, Woburn, MA 01801" Prepared for: Main Street Woburn RX, LLC, 300 Trade Center, Suite 7700, Woburn, MA

01801, prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888-0118 dated August 24, 2012, revised November 1, 2012 and November 16, 2012 ABB-1, ABB-2, EX-1, C-1, C-2, C-3, C-4, C-5, C-6A, C-6B, C-7, C-8, C-9, C-10A, C-10B, C-10C, D-1, D-2, D-3, D-4, D-5, D-6 and D-7 (the "Plans");

2. That the Planning Board shall retain jurisdiction over the landscaping;
3. That no exterior storage containers or material shall be allowed on site;
4. That all deliveries shall be between 7:00AM and 9:00 PM Monday to Saturday with no Sunday deliveries allowed;
5. That if a drainage easement to allow the connection of the overflow to the City drain is not granted, the applicant may revert back to the original design depicting a free outlet on the CVS property;
6. That the Petitioner shall complete the roadway widening on Main Street as shown on the revised plans and subject to the following:
  - (a) The Petitioner's obligation to perform the roadway widening on Main Street within the portion of Main Street under jurisdiction of MassDOT as shown on the Plan is contingent upon approval of the proposed roadway widening by the MassDOT. In the event that MassDOT does not approve the proposed widening within that portion of Main Street under its jurisdiction, the Petitioner shall grant an easement to MassDOT or the City of Woburn for the purpose of continuing a future second lane on Main Street;
  - (b) The Petitioner shall complete the roadway widening within the portion of Main Street within the jurisdiction of the City of Woburn as shown on the Plan. In addition, the Petitioner shall grant to the City of Woburn an easement over said areas for all purposes for which public ways in the City of Woburn are used;
7. The Petitioner shall grant to the City of Woburn or MassDOT an easement on Main Street beginning at the proposed driveway southerly to the property line as shown on the Plan for the purpose of continuing a future second lane southerly on Main Street.
8. That the drive-up customer service facility shall be closed during deliveries;
9. All dumpsters and waste containers shall be enclosed, by means of a fence, wall or landscaping in compliance with the Woburn Zoning Ordinances;
10. Exterior construction activities on the Site shall not commence prior to 7:00 a.m. and shall cease no later than 6:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday. This condition shall not apply to any on street utility work;
11. During the Site redevelopment and construction phases, the Petitioner shall maintain all adjoining roadways free and clear of all debris;
12. All exterior building illumination shall be shielded in such a manner that will prevent direct light from impacting any abutting properties;
13. That the hours of operation for the store and pharmacy shall be limited to 7:00 a.m. to midnight seven days per week; and
14. The Petitioner shall file with the City Clerk a snow storage plan prior to the issuance of an occupancy permit.

Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 9-0. Tim Williams, Allen and Major Associates, Inc., 250 Commercial Street, Suite 1001, Manchester, New Hampshire 03130 stated that the Building Commissioner determined that the six foot fence over the wall violated zoning restrictions, that there is added landscaping at that location, that a bicycle rack was added, that drainage modifications were made, that there was a recommendation to tie into the existing drain line that drains to Main Street, that they submitted that drainage change to the City Engineer who was satisfied with the plan, that there was a concern with the means and methods of tying utilities into the street, that there will be a temporary patch for shutoffs and during proposed connections, that they agree to grind and repave for final resurfacing, that there were concerns expressed about possible graffiti on a wall, that the petitioner will install climbing vine of Virginia Creeper to cover that wall, that the petitioner added a couple of more pear trees along Main Street, that the petitioner does not want to hide the building with the trees, that pear trees have a tight canopy with a good aesthetic without overwhelming the property, that the petitioner will have enhanced screening along the residential property lines with a six foot white vinyl fence and evergreen trees planted along the property line, that the petitioner will add two hundred more feet of queuing length to the turning movement on Main Street which has been preliminarily approved by MassDOT, that the petitioner has received an access easement from MassDOT today, that the petitioner will grant an easement to the city and the State for widening Main Street, that the petitioner has made provisions for future widening for a possible additional northbound lane, that there will be a five hundred square foot easement, that the petitioner will work with MassDOT on establishing the easement, and since this is an easement the building will not be put into nonconformity, that parking has to be five feet off the property line, that elevation plan have been submitted by the petitioner, that the petitioner can obtain a schematic of what the building will look like, that there were concerns about extending a third lane without the remaining street being widened as well, that there may be traffic movement issues with that proposal, and that with the granting of the easement the extension may be possible in the future. Alderman Mercer-Bruen stated that a schematic of the building should be submitted so that the neighbors can see what the building will look like. Alderman Raymond stated that a point was made that the third lane was to be extended down before the driveway to allow vehicles time to turn into the locus. 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 DECEMBER 18, 2012 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 Robert C. McSheffrey, 878 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.23, 5.1.29, 7.3 and 13 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing nonconforming use and structure to relocate the existing Mr. Charlie's from 891 Main Street to 880 Main Street, to allow for 47 parking spaces and for the alteration of the existing nonconforming pylon sign, all at 880 Main Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows:

“Back for action.” A communication dated November 2, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Robert C. McSheffrey – 880 Main Street – To allow for the alteration of the existing nonconforming use and structure to relocate the existing Mr. Charlie’s from 891 Main Street to 880 Main Street, allow for 47 parking spaces and for the alteration of the existing nonconforming pylon sign as pursuant to Sections 5.1.23, 5.1.29, 7.3 and 13.

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 30, 2012, the Planning Board voted to send an unfavorable recommendation to the City Council on the Special Permit application of Robert C. McSheffrey to allow for the alteration of the existing nonconforming use and structure to relocate the existing Mr. Charlie’s from 891 Main Street to this locus, allow for 47 parking spaces and for the alteration of the existing nonconforming pylon sign as pursuant to Sections 5.1.23, 5.1.29, 7.3 and 13., regarding the property at 880 Main Street because the parking is not adequate to meet the needs of this proposal in accordance with Section 8 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

A copy of a communication dated October 29, 2012 from Brett F. Gonsalves to Edmund Tarallo, Planning Director was received as follows:

Subject: 880 Main Street – Mister Charlie’s Special Permit - Site Plan Dated August 28, 2012 - Special Permit Application Dated August 30, 2012 - Traffic Study Dated August 28, 2012

The applicant has submitted a special permit application to allow for an alteration of an existing non conforming use and to relocate the existing Mr. Charlie’s from 891 to 880 Main Street as well as to allow for 47 parking spaces as shown on the submitted plans.

The submitted site plan shows the location of the fast food restaurant, existing parking spaces, relocated light poles, signage as well as four dedicated parking spaces for auto sales at the rear of the building.

The parking summary outlines that the site requires 71 parking spaces, however, only 47 are being provided. It would appear that the site does not have sufficient parking for the existing and proposed uses.

The traffic summary outlines the 2017 build and no-build scenarios and included the proposed condo/townhouse and proposed CVS development in their analysis. There is no

mention of traffic queuing on Main Street at the School Street or the Elm Street intersections. The only analysis was conducted on the northerly and southerly driveways for the site.

What impact will the queuing have during the AM and PM peak hours have on the vehicles entering and exiting the site? The traffic summary concluded that the southerly entrance to the site will have delays on the weekday evening peak hour for the 2017 build and no-build scenarios.

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, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner met with the Committee on Special Permits, that there was a request for speed bumps and an additional light pole at the location, that the locus is nonconforming and therefore the present zoning restrictions do not apply, and that the study shows that based on the uses on the property there is sufficient parking. Attorney Tarby offered a set of proposed conditions to the City Council for review as follows:

PROPOSED CONDITIONS TO  
SPECIAL PERMIT PETITION OF  
ROBERT MCSHEFFREY

1. Special Permit Petition filed pursuant to Section 5.1(23) (29), 7.3 and (13) to allow for the alteration of the existing nonconforming use and structure to relocate the existing Mr. Charlie's from 891 Main Street to 880 Main Street, allow for 47 parking spaces and for the alteration of the existing nonconforming pylon sign as shown on the plan filed with the Special Permit Petition.

DECEMBER 3, 2012

1. The Petitioner shall construct and improve the Site substantially in conformance with the plans submitted with the Petition for Special Permit entitled "Site Layout Plan" Prepared for: Mr. Robert McSheffrey, 878 Main Street, Woburn, MA 01801, prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888-0118 dated August 24, 2012, revised November 16, 2012 and December 3, 2012 Sheet C-1 (the "Plan").
2. That the Planning Board shall retain jurisdiction over the landscaping.
3. All dumpsters and waste containers shall be enclosed, by means of a fence, wall or landscaping in compliance with the Woburn Zoning Ordinances.
4. That the hours of operation for the fast food restaurant shall be limited to 10:00 a.m. to midnight seven days per week.
5. The Petitioner shall file with the City Clerk a snow storage plan prior to the issuance of an occupancy permit.
6. The Petitioner shall install a speed bump as shown on the Plan.

7. The Petitioner shall install three (3) light posts along the front of the property as shown on the Plan.
8. That 47 parking spaces be provided on the Premises as shown on the Plan.
9. That this Special Permit is granted to the Petitioner only. Any change in the operator of the fast food restaurant shall require an amendment to this Special Permit.

Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 9-0. Tim Williams, Allen and Major Associates, Inc., 250 Commercial Street, Suite 1001, Manchester, New Hampshire 03130 stated that a proposed speed bump would be installed in the Spring and removed in the Fall each year, and that the light pole has been positioned to serve the purpose requested. Alderman Mercer-Bruen was concerned about the negative recommendation of the Planning Board with respect to the parking. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor 9-0. 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 Proposed Conditions offered by the petitioner, as further amended herein, be adopted as conditions of the special permit, and 2. That Proposed Condition 3 be amended by striking therefrom the words "Police and License Committee" and inserting in their place the word "Committee on Public Safety and Licenses", 7 in favor, 2 opposed (Anderson, Denaro opposed).

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On the petition by Robert C. McSheffrey, 878 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.45 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the sale or rental of automobiles, trucks, truck trailers and motorcycles and for Second Class Motor Vehicle Sales License, at 880 Main Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "Back for action." A communication dated November 2, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Robert C. McSheffrey – 880 Main Street – To allow for the sale or rental of automobiles, trucks, truck trailers and motorcycles pursuant to Sections 5.1.45 and 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 30, 2012, the Planning Board voted to send an unfavorable recommendation to the City Council on the Special Permit application of Robert C. McSheffrey to allow for the sale or rental of automobiles, trucks, truck trailers and motorcycles pursuant to Sections 5.1.45 and 7.3, regarding the property at 880 Main Street because the parking is not adequate to meet the needs of this proposal in accordance with Section 8 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

A copy of a communication dated October 29, 2012 from Brett F. Gonsalves to Edmund Tarallo, Planning Director was received as follows:

Subject: 880 Main Street – Automobile Sales Special Permit - Site Plan Dated August 28, 2012 - Special Permit Application Dated August 30, 2012

The applicant has submitted a special permit application to allow for the sale of automobiles, trucks, truck trailers and motorcycles at the above referenced location.

The site plans parking summary outlines that the required parking for the existing site is 71 spaces and that there are only 47 spaces are being provided. The plan denotes that there are four spaces at the rear of the building that are designated for auto sales.

There are two spaces that are located next to the drive through. This location may be difficult to navigate the drive through when cars are situated in these two proposed spaces.

It will be the discretion of the board whether to grant to special permit application as submitted.

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, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that incorporates by reference the presentation of the previous matter for this petition which was as follows: That the petitioner met with the Committee on Special Permits, that there was a request for speed bumps and an additional light pole at the location, that the locus is nonconforming and therefore the present zoning restrictions do not apply, and that the study shows that based on the uses on the property there is sufficient parking. Attorney Tarby offered a set of proposed conditions to the City Council for review as follows:

PROPOSED CONDITIONS TO  
SPECIAL PERMIT PETITION OF  
ROBERT MCSHEFFREY

1. Special Permit Petition filed pursuant to Section 5.1(45) and Section 7.3 of the 1985 City of Woburn Zoning Ordinance, as amended, to allow for a the sale or rental of automobiles, trucks, truck trailers and motorcycles at 880 Main Street, Woburn, Massachusetts.

DECEMBER 3, 2012

1. The Petitioner shall construct and improve the Site substantially in conformance with the plans submitted with the Petition for Special Permit entitled "Site Layout Plan" Prepared for: Mr. Robert McSheffrey, 878 Main Street, Woburn, MA 01801, prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888-0118 dated August 24, 2012, revised November 16, 2012 and December 3, 2012 Sheet C-1 (the "Plan").
2. That no vehicles for sale or rent may be stored on the Premises.
3. Subject to the approval of the City Council Police and License Committee at the annual renewal of the Petitioner's Second Class Motor Vehicle License, the Petitioner may store no more than two (2) vehicles for sale or rent on the Premises.
4. Any vehicles approved for lease or rent on the Premises shall be parked in those spaces noted on the Plan as "Spaces Reserved for Auto Sales."

Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 9-0. Tim Williams, Allen and Major Associates, Inc., 250 Commercial Street, Suite 1001, Manchester, New Hampshire 03130 stated that a proposed speed bump would be installed in the Spring and removed in the Fall each year, and that the light pole has been positioned to serve the purpose requested. IN FAVOR: None. OPPOSED: None.

Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor 9-0. 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 Proposed Conditions offered by the petitioner, as further amended herein, be adopted as conditions of the special permit, and 2. That Proposed Condition 3 be amended by striking therefrom the words "Police and License Committee" and inserting in their place the word "Committee on Public Safety and Licenses", 6 in favor, 3 opposed (Anderson, Denaro, Mercer-Bruen opposed). Motion made and 2<sup>nd</sup> that the SECOND CLASS MOTOR VEHICLE SALES LICENSE be GRANTED, AS AMENDED with the conditions as follows: 1. That the Proposed Conditions offered by the petitioner, as further amended herein, be adopted as conditions of the special permit, and 2. That Proposed Condition 3 be amended by striking therefrom the words "Police and License Committee" and inserting in their place the word "Committee on Public Safety and Licenses", 6 in favor, 3 opposed (Anderson, Mercer-Bruen, Denaro opposed).

**Presented to the Mayor December 7, 2012 and ten days having elapsed without same being approved, said Second Class Motor Vehicle Sales License became effective without his signature on December 18, 2012.**

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:** None.

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**NEW PETITIONS:**

Petitions for renewal of Second Class Motor Vehicle Sales Licenses by Joseph P. Mahoney Company, Inc., 293 Salem Street; and Luis Jean Brunet dba Woburn Motors, 104 Winn Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by Great Dog Rescue NE, Joanne Reck, 9 Bartlet Street #316, Andover, Massachusetts 01810 for a special permit pursuant to Sections 35 and 35a of the 1985 Woburn Zoning Ordinances, as amended to operate a kennel or pet care facility at 34 Holton Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated January November 15, 2012 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 October 2012: number of parking violations issued 764, number of violations paid 354, number of violations outstanding 296, amount collected and submitted to the Office of the Collector \$30,907.40. There exists a backlog of 5,844 tickets for 1982 through 2011. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$5,350.00.

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, all in favor, 9-0.

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A communication dated March 2, 2012 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 November February. Motion made and 2<sup>nd</sup> 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:**

From the Traffic Commission:

ORDERED LORD TERRACE – One way of travel on Lord Terrace in a southerly direction from the intersection with East Nichols Street to the intersection with School Street.

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

**Presented to the Mayor December 7, 2012 and ten days having elapsed without same being approved, said Order became effective without his signature on December 18, 2012.**

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RESOLVED That the two corners of Cross Street and Main Street be widened in an effort to provide a turning lane onto Main Street going north and to facilitate the traffic coming from Main Street onto Cross Street; and

Further, that traffic control signals be installed at the intersection in order to provide a safe passage for school children and pedestrians crossing Main Street.

s/Alderman DiTucci and Alderman Gately

Motion made and 2<sup>nd</sup> that the RESOLVE be ADOPTED, all in favor, 9-0.

**Presented to the Mayor December 7, 2012 and ten days having elapsed without same being approved, said Resolution became effective without his signature on December 18, 2012.**

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:29 p.m.

A TRUE RECORD ATTEST:

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