

**CITY OF WOBURN
JULY 19, 2016 – 6:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell - absent	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco

Haggerty

The City Council observed a moment of silence in memory of former Ward Two Alderman James E. McSweeney who recently passed away.

The City Council observed a moment of silence in memory of Joseph R. Tarby, Jr. who was active in the promotion of youth sports in the city for over fifty years and recently passed away.

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

MAYOR'S COMMUNICATIONS:

Motion made and 2nd to suspend the rules to hear from His Honor the Mayor Scott D. Galvin relative to a five-year capital plan, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing was Mayor Galvin and he stated that the proposal is for spending of \$70,000,000.00 over five years, that this is a blue print for city spending for the next five years, that the plan requires annual approval of the expenditures by the City Council, and that the plan will be revolving in that it will be updated every year. Mayor Galvin offered a communication dated July 19, 2016 with attachment to the City Council as follows:

Dear President Haggerty and Council Members:

I am pleased to submit a revised and updated five-year capital plan for your review and approval. This plan will serve as the framework for large-scale expenditures over the next five years, and will be updated and extended on an annual basis.

This detailed capital plan, totaling \$70 million, was prepared with extensive input from all department heads and includes investments in schools, public safety, municipal buildings, parks, roadways, technology, vehicles, equipment, water and sewer. The

proposed investments will be funded by grants, additional debt, water and sewer revenue, and the general fund.

I look forward to discussing this important document in committee.

Sincerely s/Scott D. Galvin, Mayor

Attached thereto was a document entitled "Capital Improvement Plan FY2017-2012 submitted by Mayor Scott Galvin July 19, 2016". Motion made and 2nd to return to the regular order of business, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

ORDERED That the sum of \$402,603.00 be and is hereby appropriated as so stated from Mayor Salary Adjustments Acct #0112151-511019 \$402,603.00 to Union Contract Settlements \$402,603.00, Purpose: city union contract settlements.

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 a communication be sent to the Mayor and City Auditor to determine what, if any, changes need to be made to the medical insurance portion of the budget, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

PUBLIC HEARINGS:

On the petition by Houg Vong and My Thi Vong, 6 Albany Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1 Note 15 to amend a prior special permit issued September 24, 2015 to allow for an oversized garage to reference a revised set of plans showing the height of the garage to be 2.3 feet higher than previously approved at 6 Albany Street. **PUBLIC HEARING OPENED.** A communication dated July 13, 2016 was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: 6 Albany Street

Dear President Haggerty and Council Members:

Request is made to continue this matter to August 16, 2016 in order to provide the requested information.

Thank you for your attention to this matter and please call with any questions.

Very truly yours, s/Mark J. Salvati

Motion made and 2nd that the communication be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 16, 2016, 8 in favor, 0 opposed, 1 absent (Campbell absent).

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 communication dated July 13, 2016 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Request for modification to previously-approved special permit application for 25 Middlesex Canal Park Road/NAI Entertainment Holdings LLC

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which requests several modifications to a Special Permit issued by the City Council and incorporated into a 1993 Trial Court decision. The earlier Special Permit was issued in connection with an expansion of the existing movie theater on this B-I zoned lot. While the application lists the property as Assessors' Map 29, Block 01, Lot 3, the request also involves a second lot: Assessors' Map 29, Block 01, Lot 4.

The applicant is seeking several modifications to the earlier Special Permit decision:

- A reduction in the size of the subject parcel by 13.49 acres;

- Elimination of previous conditions requiring the applicant to install sidewalks and lighting along Middlesex Canal Park Road from Main Street to the southeast corner of Lot #1 on the plan; and
- Elimination of wording in the previous City Council Special Permit decision that precludes uses other than the cinema on the site.

The parking calculations included in the application indicate that the cinema use requires 330 parking spaces and 621 will be provided. This includes spaces that are on the lot not referenced in the application.

The Planning Department recommends that if the Council votes to grant the Special Permit it impose the following as conditions:

1. That the applicant file a Subdivision Approval Not Required Plan (ANR) with the Planning Board within thirty (30) days of the City Council's vote on the Special Permit decision, which plan combines the following two lots into one: Assessors Map 29, Block 01, Lots 3 and 4;
2. That the title block of the plan be corrected by replacing "25 Middlesex Canal Parkway" with "25 Middlesex Canal Park Drive";
3. That the sheet numbers in the submitted plan set be revised such that each sheet has a distinct sheet number different from the others; and
4. That the Plan of Record shall be "Showcase Cinemas, 25 Middlesex Canal Park _____, Woburn, MA; Date: 06/10/16, revised _____; Scale: 1"=50'; Applicant/Owner: NAI Entertainment Holdings, LLC, 846 University Avenue P.O. Box 9108, Norwood, MA 02062; prepared by: Allen & Major Associates, Inc., 100 Commerce Way, P.O. Box 2118, Woburn, MA 01888; Sheet C-1 (entitled Proposed Site Plan), Sheet 1 (entitled ALTA/ACSM Land Title Survey), and Sheet ____ (entitled Approval Not Required Land Court Subdivision Worksheet)."

Please feel free to contact me if you have any questions about this recommendation.

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

A communication dated July 13, 2016 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:

On behalf of my client I respectfully request that the public hearing on this matter scheduled for July 19, 2016 be continued to the City Council meeting scheduled for August 16, 2016. If you need any further information please do not hesitate to 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, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 16, 2016, 8 in favor, 0 opposed, 1 absent (Campbell absent).

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 July 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 Seaver Properties LLC the applicant in the above-referenced matter, I respectfully request that the property known as Parcel No. 94-14-02 on Monk Street be removed without prejudice from the application on the Petition to Amend Zoning Map of the City of Woburn filed with your office on June 2, 2016. If you need any further information please do not hesitate to contact me. Thank you.

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

Motion made and 2nd that the property known as Parcel No. 94-14-02 on Monk Street be removed without prejudice from the application on the Petition to Amend the Zoning Map of the City of Woburn filed with the Office of the City Clerk on June 2, 2016, 8 in favor, 0 opposed, 1 absent (Campbell absent). A communication dated July 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 public hearing on this matter scheduled for July 19, 2016 be continued to the City Council meeting scheduled for August 16, 2016. If you need any further information please do not hesitate to 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, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 6, 2016, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by Allan Danley, Food Truck Builders Group, 2 Draper Street, Unit 1, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57B to allow overnight parking of two (2) commercial vehicles at 2 Draper Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought not to pass". A communication dated July 19, 2016 was received from Attorney Kevin T. Smith, 100 Main Street, Suite 410, Concord, Massachusetts 01742 stating that he represents Kendall RC LLC as owner of the property at 2 Draper Street. Motion made and 2nd that the communication be received and made part of the record, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent). No one appeared for the petitioner. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd to make a finding for the record that the property owner of 2 Draper Street was not cooperative with the City Council or the petitioner with respect to this petition, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent). Motion made and 2nd that the COMMITTEE REPORT be ADOPTED due to lack of information provided by the petitioner in response to requests by the City Council, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent).

On the petition by Leidos, Inc./Robert Siegel, 2 Draper Street, Unit 3, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to allow parking of commercial vehicles overnight at 2 Draper Street Unit 3. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought not to pass". A communication dated July 19, 2016 was received from Attorney Kevin T. Smith, 100 Main Street, Suite 410, Concord, Massachusetts 01742 stating that he represents Kendall RC LLC as owner of the property at 2 Draper Street. Motion made and 2nd that the communication be received and made part of the record, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent). No one appeared for the petitioner. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 7 in favor, 0 opposed, 1 abstained

(Tedesco abstained), 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd to make a finding for the record that the property owner of 2 Draper Street was not cooperative with the City Council or the petitioner with respect to this petition, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent). Motion made and 2nd that the COMMITTEE REPORT be ADOPTED due to lack of information provided by the petitioner in response to requests by the City Council, 7 in favor, 0 opposed, 1 abstained (Tedesco abstained), 1 absent (Campbell absent).

On the petition by Apria Healthcare LLC, 815A Woburn Street, Wilmington, Massachusetts 01887 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to allow for the overnight parking of commercial vehicles at 4 Presidential Way. A communication dated July 12, 2016 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on special permit application for Apria Healthcare, LLC (4 Presidential Way)

Dear Honorable Council:

The Planning Department has reviewed the request to allow for overnight parking of six (6) commercial vehicles at 4 Presidential Way pursuant to Section 5.1 (57b) of the Woburn Zoning Ordinance (WZO). The property is located in the I-P2 (Industrial Park Two) zoning district (though the application lists the zoning district as IP) and the requested use is allowed by City Council special permit.

Through information provided separately by the Petitioner's attorney, the Department learned that Apria Healthcare LLC is seeking overnight parking for two (2) box trucks (approximately 22' in length), two (2) vans (approximately 20' in length), and two (2) sprinters (approximately 20' in length), which are proposed to fit within six (6) designated spaces with the dimensions of 9' x 18'. The petitioner uses the site for general warehouse space for home respiratory, infusion, and medical equipment services, as well as for general office use.

The petitioner is currently occupying approximately 12,664 square feet of the building at 4 Presidential Way. An engineer-certified plot plan submitted with the petition indicates there are eighty-six (86) parking spaces on site with only twenty-two (22) spaces required for the warehouse and office needs of Apria Healthcare LLC, per the WZO and as shown below:

- 9,308 sq. ft. of warehouse (1 space /800 sq. ft.) requires 12 spaces
- 3,356 sq. ft. of office (1 space/350 sq. ft.) requires 10 spaces

Given the request for overnight parking, an additional six (6) parking spaces leads to a total of twenty-eight (28) required parking spaces for only this tenant. The City Council will need to independently confirm that the site has sufficient parking to meet zoning

requirements for all tenants of the building and any overnight parking that may have been authorized for them. In addition, although a note has been added regarding dumpster screening, the location of the dumpster is not shown on the overall site layout plan.

If the City Council chooses to grant the special permit, the Planning Department recommends the Council consider imposing the following as conditions of the Special Permit:

1. All vehicles that will be parked on site overnight must continue to be registered in the City of Woburn;
2. That the area at the back of the building designated for “overnight parking for Apria vehicles” be relocated one parking space to the West, to ensure that no vehicle parks on an unpaved area near the wetlands;
3. That the area designated for overnight parking must be relined so that the proposed vehicles actually fit into the parking spaces marked on the ground, and the proposed edge of pavement must be relocated four (4) feet Northward in order to maintain a two-way travel lane of at least 24’ in width at the back of the building;
4. Paved surfaces shall be marked with four-inch painted lines or some other permanent curb or marking system so as to clearly indicate the stall to be occupied by each vehicle per Section 8.5.5;
5. The Special Permit shall be issued only to Apria Healthcare LLC and shall not be transferrable; and
6. The Plan of Record shall be “Apria Overnight Parking, 4 Presidential Way Development, Assessors Map 02 Block 01 Lot 06 in Woburn, MA; Prepared for Minast, LLC, 11 Presidential Way, Woburn, MA; Prepared by Design & Development Solutions, LLC., 400 Trade Center, #5900, Woburn, MA 01801; Scale: 1”=40’; Date: June 6, 2016”; and
7. That all conditions of the July 9, 2015 Special Permit Decision remain in effect unless otherwise amended by the Council.

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

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

A memorandum dated July 15, 2016 entitled “Special Permit Petition, Apria Healthcare LLC, 4 Presidential Way, Woburn, MA” was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801. Motion made and 2nd that the communication be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing for the petitioner was Attorney Derek Rodman, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the property is located in the I-P zoning district, that the use will be warehouse and distribution of home medical supplies, that the use is allowed as a business service and under a special permit, that the petitioner will have eight to ten employees at the site with an additional five employees who will drive the company vehicles for deliveries, that the hours of operation will be Monday through Saturday from 7:00 a.m. to 6:00 p.m., that the petitioner will have six commercial

vehicles consisting of two 22 foot long box trucks, two 20 foot long vans and two 20 foot long sprinters, that the vehicles will be parked at the rear of the building on pavement, that the vehicles will not be parked near the wetlands, that the vehicles will be parked in an appropriate area and therefore Planning Department proposed Condition 2 is not necessary, that Planning Department proposed Condition 3 is not necessary as the existing plans satisfy the condition, that Planning Department proposed Condition 4 is not necessary as the parking spaces have already been designated, that the vehicles are not parked on the site at this time, that the vehicles will be registered in Woburn, that the building is under construction, that having the vehicles parked together towards the end of the property is the practical approach, that the parking spaces will be lined, that the petitioner has no objection to lining the parking spaces but a condition to that affect is not necessary since the lines are shown on the plans, that the vehicles will fit by length in the proposed parking spaces, and that the longest vehicle is 22 feet long. Attorney Rodman offered a set of proposed conditions to the City Council for review as follows: 1. The Plan of Record for this Petition shall be “Apria Overnight Parking, 4 Presidential Way Development, Woburn, MA” dated June 6, 2016 prepared by Design & Development Solutions LLC, Suite 5900, 400 Trade Center, Woburn, MA 01801 (the “Plan”); 2. That all vehicles stored on site shall be registered in the City of Woburn.; 3. The Special Permit shall be issued to Apria Healthcare LLC only and shall not be transferrable.; 4. That all conditions of the July 9, 2015 Special Permit remain in effect unless otherwise modified by this Decision. Motion made and 2nd that the proposed conditions be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Alderman Mercer-Bruen stated that she is not willing to eliminate proposed Planning Department conditions without speaking to the Planning Director, that the Planning Director must have an underlying intent for the proposed conditions, and that she would need to obtain further information before eliminating a proposed condition from the Planning Department. Alderman Gately stated that the parking area has not been established as the building is under construction, that in the previous application for a special permit for this property there was much discussion regarding the parking, truck turning and wetlands, that parking commercial vehicles overnight is not a concern nor is the use by a medical supplier as long as there is no impact on wetlands, impeding the drainage or the parking, that one parking space goes to the edge of the pavement, that there is a one foot berm at the edge of the pavement as well, and that the size of the vehicles are not excessive. President Haggerty stated that if a condition states that vehicles cannot be parked on the wetland then the petitioner has to abide by that condition. PUBLIC COMMENTS: None. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the seven conditions recommended by the Planning Department be adopted, as amended, and 2. That Planning Department Condition 2 be replaced with the following: “2. That no parking shall be allowed in the unpaved area or in the wetland area,” 8 in favor, 0 opposed, 1 absent (Campbell absent).

Alderman Higgins stated that she would recuse herself from participating in the following matter and left the Council Chamber.

On the petition by Apple New England LLC dba Applebee's Neighborhood Grill & Bar, 2 Elm Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.64 to allow to allow for forty-eight (48) E La Carte Presto tablet devices at 2 Elm Street. PUBLIC HEARING OPENED. A communication dated July 13, 2016 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Special Permit application for 2 Elm Street/Apple New England LLC (d/b/a Applebee's Neighborhood Grill & Bar)

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which seeks a special permit under Section 5.1 (64) of the Woburn Zoning Ordinance (WZO) to allow for the use of 48 table-top, entertainment devices (i.e., "E La Carte" Presto tablets) for the purposes of food ordering, check payment, and offering of children's games. The property in question is zoned as Interstate-Business (B-I).

The Planning Department does not have a standard precedent with regard to processing a special permit application of this type; however, Planning staff recommend the City Council consider imposing the following as conditions of approval:

1. That the entertainment machines shall not be permitted for the use of "pay to play" or "games of chance," for which prizes or anything of monetary value are distributed;
2. That trivia games, such as those that are used on these and similar types of devices in other restaurant establishments, not be permitted;
3. That the Council establish an appropriate age limit for the intended audience of electronic games available; and
4. That the special permit be issued to Apple New England LLC and shall not be transferrable;

If you have any questions regarding this recommendation, please do not hesitate to contact me.

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

Appearing for the petitioner was Daniel Carver and he stated that the petition is for tabletop devices used for ordering food and desserts, paying the bill and children's games, that the devices are for the convenience of the customers, that there are no games of chance, payoffs or prizes, that there are some trivia games, that the games are children's games and video games, that the License Commission has approved the license for the devices, that the petitioner has no objections to the conditions recommended by the Planning Department except that there are no payoffs, and that the games allow children to occupy their time while the parent wait for the food to be served. Alderman Gately stated that he does not understand the concern with the petition, and that the type of use was previously approved for another location with no age limits set. Alderman

Concannon stated that these are a new use and a process needs to be established for consistency, and that the matter should be sent to committee to review the approval of the prior petitioner to be certain that the petitioners are treated the same. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 16, 2016 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, 7 in favor, 0 opposed, 1 abstained (Higgins), 1 absent (Campbell absent). Motion made and 2nd that the City Clerk forward a copy of the previous special permit granted to another petitioner with the conditions attached and that the Planning Director attend the Committee on Special Permits meeting concerning the matter, 7 in favor, 0 opposed, 1 abstained (Higgins abstained), 1 absent (Campbell absent).

Alderman Higgins returned to the Council Chamber.

On the petition by UPS, 1045 University Avenue, Norwood, Massachusetts 02062 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.42, 5.1.57b and 7.3 to allow for the extension and alteration of the non-conforming structure and non-conforming use for a warehouse and distribution center and the overnight parking of commercial vehicles at 1 Sixth Road a/k/a 180 New Boston Street. PUBLIC HEARING OPENED. A communication dated July 11, 2016 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Special Permit application for 1 Sixth Road (aka 180 New Boston Street)/UPS

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which seeks permission in accordance with Sections 5.1. (42), 5.1 (57b) and 7.3 of the Woburn Zoning Ordinance (WZO), for the extension and alteration of the non-conforming structure (side yard setback is 24.7 feet) and non-conforming use for a warehouse distribution center (loading docks front on New Boston Street) and overnight parking of commercial vehicles. The property is in an Industrial Park (IP) zoning district and the requested use is allowed by City Council Special Permit. Additionally, although not specifically mentioned in the application, Site Plan Review is required in accordance with Section 12.3.

A portion of the site and the existing building are within a FEMA designated area of minimal flood hazard. A very small portion of the site (northeast corner) is within a FEMA flood zone.

A modification or extension to a pre-existing, non-conforming use or structure requires a Special Permit per Section 7.3 of the Woburn Zoning Ordinances, as amended. The Petitioner is requesting a finding from the City Council that the proposed change,

extension or alteration of the existing interior building space and use of the property by UPS as a distribution center will not be substantially more detrimental than the existing (previous) nonconforming use to the neighborhood.

The proposed facility will be in operation 24 hours per day, Monday through Friday. In terms of employment, the number of employees and lengths of shifts vary throughout the 24 hour period and are outlined in the application. In summary, there will be two times of day (mornings and evenings) where the parking demand may approach or outstrip the parking available on site. At least 60-65 employees of this tenant will be on the site twice per day for various amounts of overlapping time, and this number does not include any daytime office workers of the tenant. The application specifies that forty-five (45) package delivery cars will be stored inside the building for use by some of those employees but does not indicate whether any commercial vehicles will be parked outside the building. Additionally, it is not clear where the 7-15 tractor trailers mentioned in the application will be stored while they are on site and it is not clear whether any of those will need to be accommodated on the property overnight.

An engineer-certified plot plan submitted with the petition indicates there are ninety-eight (98) parking spaces on the site and that eighty-six (86) parking spaces are required to meet the parking standards specified in the Zoning Ordinance for the warehouse and office uses:

- 65,325 sq. ft. of warehouse (1 space /800 sq. ft.) requires 82 spaces
- 1,350 sq. ft. of office (1 space/350 sq. ft.) requires 4 spaces

The petitioner plans to store forty five (45) package cars on site, inside the building. The calculations above seem to indicate there are twelve (12) parking spaces more than the Zoning Ordinance requires but it is usually the interpretation of the Building Commissioner that a site must have sufficient parking spaces to account for the employees' personal vehicles in addition to the commercial vehicles. The Building Commissioner should therefore be consulted on the parking issue once details about trailer storage and/or tractor trailers – and daytime office workers on site - are known.

If the City Council chooses to grant the special permit, the Department recommends imposing the following as conditions of the Special Permit:

1. All vehicles that will be parked on site overnight must be registered in the City of Woburn;
2. The Special Permit shall be issued to UPS only and shall not be transferrable;
3. There shall be no activity/use of the building or premises on weekends (from 12:01 a.m. Saturday morning until 3:00 a.m. Monday morning);
4. Snow storage areas should be added to the plans, deemed adequate by the City Council and submitted to the Building Commissioner prior to the issuance of a building permit; and

5. The Plan of Record shall be, "UPS Distribution Facility, 180 New Boston Street, Woburn, MA; Prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA 02471; Scale: 1"=30'; Date: June 10, 2016."

Please do not hesitate to contact me if you have any questions.

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

A memorandum dated July 15, 2016 entitled "Special Permit Petition, UPS, 1 Sixth Road a/k/a 180 New Boston Street, Woburn, MA" was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801. Motion made and 2nd that the communications be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing for the petitioner was Attorney Tarby and he stated that the building is a nonconforming structure due to a 24.7 foot side yard setback, that use is nonconforming as there are loading docks siding on a way, that the property is located in the I-P zoning district, that a special permit is required for a warehouse and distribution center and for the overnight parking of commercial vehicles, that the petitioner has no plans to use the loading docks, that the petitioner will meet local customer needs during the holiday season, that this will provide new jobs for the area, that the petitioner will have a 24 hour operation with staggered work hours, that the Planning Department issued a staff report, that the petitioner has proposed alternative language for Planning Department proposed Condition 1 and has an issue with Planning Department proposed Condition 3, that the property is located in the heart of an industrial park and with other businesses operating in the area, that the petition was reviewed by the Building Commissioner who determined the proposed use is a warehouse and distribution center under Section 5.1.42 and the overnight parking is regulated by Section 5.1.57b of the Table of Uses, that a package car is the brown UPS delivery trucks, that all package cars will be parked inside the building, that the petitioner can provide in committee information relative to parking and shift changes, that the petitioner will determine the vehicle traffic travel patterns, that the matter was reviewed with the Building Commissioner who determined that this petition was appropriate, that the building is currently empty, and that there will be seven to twelve tractor trailer trucks at the site over the course of a day. Conor Nagle, P.E., VHB, 101 Walnut Street, Watertown, Massachusetts 02472 stated that he is the site surveyor for the project, that the petitioner will be re-tenanting an existing facility, that the building is nonconforming as to the rear setback and with a loading dock on a way, that the petitioner does not propose to use the loading docks, that there are 97 parking spaces on site and 86 parking spaces are required, that there is sufficient parking, that the petitioner will not be taking the entire building, that there is sufficient parking to meet the petitioner's needs, that snow storage will be to the rear of the lot, that a tractor trailer requires a 90 foot spin circle to make a complete turn, and that the locus has sufficient spaces for vehicles to back into the loading docks. Vinod Kalikiri, P.E., PTOE, VHB, 101 Walnut Street, Watertown, Massachusetts 02472 stated that is the traffic engineer for the project, that a traffic study was prepared for the proposal, that they reviewed current traffic conditions including speed, truck traffic, vehicle volumes and other factors, that they looked at two scenarios of a generic warehouse use using standard guidelines and actual data provided by the

petitioner as to the number of employees, hours of operation, number of vehicles and delivery hours, that they compared the two scenarios and they were comparable, that the petitioner's proposed use would be similar to a generic warehouse use of the property, that the petitioner's employees will load the trucks for delivery, that the petitioner's delivery employees will come to work, park their personal vehicles on site, leave the facility in company vehicles, return to the facility and the delivery trucks will be unloaded and loaded as necessary, that there will be seven to twelve tractor trailer trucks which will operate on a staggered schedule, that the employee parking will be to the side of the building, that there will be no traffic impact or an issue with traffic circulation with the proposal, and that the analysis concerned a warehouse and distribution use. Casey Wolf, UPS Facility Manager stated that this location will be an overflow for peak seasonal demand, and that the main location is in Chelmsford, Massachusetts. Alderman Concannon stated that he wants addressed the issues raised by the Planning Department relative to the possibility of parking demands outstripping available parking during employee shift changes. Alderman Anderson stated that Section 5.1.42 of the Table of Uses refers to wholesale establishment, warehouse and distribution center, that the this is not the use proposed by the petition, that the proposed use is a postal or freight terminal that is covered by the Woburn zoning ordinances by not by Section 5.1.42, that this petition does not fall under Section 5.1.42, and that the petition may allow the petitioner to eliminate some travel from Chelmsford but he is more concerned about the traffic impact on Merrimac Street. President Haggerty stated that he shares the concerns of Alderman Anderson. Alderman Mercer-Bruen stated that she shares the concerns of Alderman Anderson as well as the number of tractor trailers to and from the site each day. Alderman Gately stated that there needs to be a determination that the use is permitted at the location before this petition can move forward. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 6, 2016, THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, that a communication be sent to the Building Commissioner asking for clarification of the petition under Section 5.1.42 and to attend the committee meeting on the matter, and that the City Solicitor be asked for clarification of the use under Section 5.1.42, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by Dominic Orgettas and Adrienne Orgettas, 129 Pearl Street, Burlington, Massachusetts 01803 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1, Note 15 to allow for an oversized garage at 129 Pearl Street, Burlington (garage located in Woburn). PUBLIC HEARING OPENED. A communication dated July 13, 2016 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Special Permit application for construction of residential garage exceeding 900 sq. ft. in size at 129 Pearl Street/Dominic and Adrienne Orgettas (owners and applicants)

Dear Honorable Council:

This office has reviewed the above-referenced petition which seeks authorization for the construction of a detached three-bay garage at this residential property (zoned R-2) at 129 Pearl Street. This lot is partially located in Burlington and partly in Woburn.

The applicants are seeking a Special Permit in accordance with Section 5.1.56, Note 15, to construct a 1,748 sq. ft. detached garage that will be larger than the maximum 900 sq. ft. permitted by the Woburn Zoning Ordinance. A special permit may also be needed for the height of the garage doors. Per Note 15 to Section 5.1.56, the doors may not exceed eight (8) feet in height. The copied plan included in the application is not to scale and as a result the height of the doors cannot be ascertained by Planning staff.

The Planning Department recommends the Council require the applicant to submit to-scale drawings that prove the tops of the garage doors will not exceed eight (8) feet in height.

The Planning Department further recommends that the Council determine whether there are any other existing structures on the parcel that are not shown on the plan. The City's GIS records indicate there are (or recently were) several existing accessory buildings on this parcel but none are shown on the plan included with the application. If there are other accessory buildings on the site today, they should be shown on the plan and setbacks to property lines and other structures noted.

The Planning Department recommends that if the City Council votes to grant this special permit it consider imposing the following as conditions of approval:

1. That the Plans of Record shall be "Plot Plan, 129 Pearl Street, Burlington/Woburn, Mass. Scale: 1"=60'; Date: December 17, 2015; Prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA. (781) 933-9012;"
2. No business activity or home occupation shall be conducted in/from the garage;
3. The plan does not show any utility services to the building. If there are to be any utility connections they must be meet applicable building and zoning codes and be subject to separate applications; and
4. The garage may not be used as a dwelling unit.

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

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

Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the city line cuts the lot in two between Woburn and Burlington, that the garage will be located in Woburn, that the petitioner has no objections to the Planning Department recommendations, that any out building will be removed from the site, that all items stored in the out buildings will be stored in the new shop, that the petitioner is retired, that the petitioner has no intention to use the garage for

business purposes, that the petitioner wants to use the garage for a wood shop and for storage of two antique cars, that the garage doors will be nine feet wide and eight feet high, that the height of the building will be twenty feet, that there is no plan for heating or plumbing in the building, that there will be electricity in the building, that there will be no storage of oil or gasoline on the property, and that the proposal does not impede the wetlands. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Department be adopted as conditions of the special permit; 2. That no storage of oil or gasoline shall be allowed in the building; 3. That there shall be no utility connections to the building other than electricity subject to separate applications; and 4. That the words “special permit” shall be added between the words “separate” and “applications” in Planning Department proposed Condition 3, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by 390 Main Street Woburn Realty Trust, 182 Main Street, Medford, Massachusetts 02155 to amend the Zoning Map by changing the zoning district from R-4/B-D to B-D at 386 Main Street a/k/a 386-390 Main Street, containing approximately .57 acres of land as shown on City of Woburn Assessors Map 43. PUBLIC HEARING OPENED. A communication dated June 29, 2016 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Recommendation from Planning Board on proposed Zoning Map amendment to rezone a portion of land at 386-390 Main Street from R-4 to B-D/390 Main Street Woburn Realty Trust

Dear Honorable Council:

The Planning Board convened the public hearing on the above-referenced zoning proposal at its meeting on June 28, 2016. The public hearing was conducted and concluded in one evening.

Following the public hearing and subsequent discussion, the Planning Board voted unanimously (5-0-1) to recommend to the City Council that the requested zoning map amendment be approved.

Please feel free to contact me if you have any questions relative to the Board’s vote on this matter.

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

Appearing for the petitioner was Attorney Derek Rodman, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner plans to operate a restaurant on the first floor at the locus, that the Building Commissioner

determined that the petitioner cannot use the rear area for storage or parking for the restaurant under current zoning ordinances, that there will be an office use on the upper floors of the building, that the new zoning district line would go around the rear parking area at the locus, and that the restaurant will be a family style Asian food restaurant. Attorney Rodman offered and overhead photograph of the locus for the City Council to review. Motion made and 2nd that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). PUBLIC HEARING CLOSED. Motion made and 2nd that the ORDER be ADOPTED, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Presented to the Mayor: July 21, 2016

s/Scott D. Galvin July 21, 2016

On the petition by Cummings Foundation, Inc./New Horizons at Choate, 200 W. Cummings Park, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 7.3 to amend Condition 4 of a special permit dated February 28, 1990 to allow for the construction of a 4,965 sq. ft. addition for an existing on-site healthcare provider at 21 Warren Avenue. PUBLIC HEARING OPENED. A communication dated July 13, 2016 was received from Tina P. Cassidy, Planning Board Director as follows:

Re: Amendment to Special Permit application for 21 Warren Avenue/Cummings Foundation, Inc. (New Horizons at Choate)

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which seeks to amend a condition of a previously-issued special permit which prohibited any exterior building additions. The Petitioner is filing under Section 7.3 of the Zoning Ordinance to allow for the expansion of the existing building with a non-conforming use and the reconfiguration of parking facilities with associated landscaping. The property is zoned Residential-Two (R-2), and the use may be classified as a Townhouse or Garden Apartment: Congregate Elderly Housing and Accessory Medical Office. As indicated in the original Landowner's Notice of Special Permit, dated February 28, 1990, the purpose of the facility is "to operate surgical, emergency, and outpatient medical services, as well as congregating housing and assisted care facility for elderly and handicapped residents."

Planning staff note that compliance with the existing zoning requirements for the building, such as setbacks, open space and maximum building height, all remain the same as a result of the proposed addition. The addition will increase the building's square footage from 57,850 sq. ft. to 62,815 sq. ft. (an increase of 4,965 sq. ft.). As a result, the proposed addition will create a non-conformity in terms of building area coverage by exceeding the maximum allowable coverage of 25% (26.1%).

Additionally, the number of parking spaces, which currently exceeds the zoning requirement by 12 spaces, is proposed to remain the same. Although the proposed

addition will not affect the number of residential dwelling units, it is attributed to providing more space to Woburn Medical, the existing onsite healthcare provider. Thus, Planning staff recommends that the City Council confirm whether any net new offices will be created as a result of the addition (for medical offices, zoning requires four parking spaces for each office used by a physician, doctor or other medical professional, and one for each three employees in any laboratory or pharmacy included in such building).

Further, Planning staff recommends the City Council consider imposing the following as conditions of approval of this special permit:

1. The Plan of Record shall be “New Horizons Choate, Woburn Medical, 21 Warren Ave., Woburn, MA; Sheet 1 (Title), dated 6-1-16; Sheet 2 (Subdivision Plan of Land), dated 5-15-92; Sheet C-1 (Existing Conditions Plan) dated 3-29-16; Sheet C-2 (Proposed Conditions Plan) dated 6-1-16; Sheet A-1.0 (Schematic Floor Plan), dated 6-1-16; Sheet A-2.0 (Schematic Room Plan and Details), dated 6-1-16; Sheet A-3.0 (Schematic Exterior Elevation, dated 6-1-16; Prepared for NHC Realty, Inc., c/o Cummings Foundation, Inc., 200 West Cummings Park, Woburn, MA 01801; Prepared by Mark Sleger, Alan Engineering, LLC, 288 Littleton Road, Suite. 31, Westford, MA 01886 and Michael A. Aveni, Atlantic Boston Construction, Inc., 200 West Cummings Park, Woburn, MA 01801”;
2. That the special permit be issued to Cummings Foundation, Inc. and shall not be transferrable;
3. That any combination of net new medical offices and/or laboratory and pharmacy space not require more than the twelve (12) “excess” parking spaces currently on site; and
4. That all other conditions of the special permit decision, dated February 28, 1990, remain in effect, unless otherwise amended by the Council.

If you have any questions regarding this recommendation, please do not hesitate to contact me.

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

Appearing for the petitioner was Michael Aveni, Architect, Cummings Properties LLC and he stated that that addition will be constructed on an existing paved parking area, that the petitioner will add 4% building space to the site, that Woburn Medical has been operating at the site for 19 years, that the addition will allow the modernization of their facility, that the petitioner obtained a special permit for surgical, medical, outpatient and an assisted living facility, that there are no surgical or medical services provided on site, that the petitioner pays local taxes on the nonresidential portion of the building, that the proposed addition would add to the tax base, that the Woburn Medical operation cannot be accommodated without the addition, that there is no additional expansion space for their facility, that Woburn Medical also wants space to allow for a renovation without disrupting current operations, that without the addition Woburn Medical will have to relocate outside the facility, that the petitioner spoke to many of the direct abutters, that

petitioner will build the addition, Woburn Medical will move into the addition upon completion, the petitioner will improve the current space of Woburn Medical and then Woburn Medical will have full use of the expanded facility, that the green space is increased by 500 square feet, that the project will improve the quality of stormwater runoff, that there will be a reduction in impervious surface, that the project takes formerly non-treated stormwater runoff and convert it to improved stormwater runoff, that oil and debris traps will be installed, that according to surveys taken by the petitioner there are on average 71 vacant parking spaces on site each day, that there will be negligible impact on the neighborhood, that Woburn Medical provides valuable medical services to the local community, that the hydrant will be moved from the island, that the project will proceed upon issuance of the special permit, that the petitioner expects the installation of the foundation to take a week or so to complete, that the structural steel is minimal, that it will take eight to twelve weeks to enclose the building and complete the site work, that the intent would be to complete the exterior and site work before winter, that the petitioner is willing to limit construction to Monday through Friday, that the petitioner requests the ability to make minor adjustments without returning to the City Council, that the special permit that issued for the current uses twenty years ago provided that there would be no additions allowed to the building, that the only nonconformity is in the building area coverage, that there will be no additional residential units, that the intent is to meet the demand of Woburn Medical to expand in place, that there are twelve surplus parking spaces on site, that 219 parking spaces are required, that parking for medical space is based on the number of doctors, that the petition calculation contemplates additional parking spaces for more doctors, that the office space is based on square feet, that the 500 square feet of additional green space is equivalent to three or four parking spaces, and that the petitioner has no objections to the Planning Department recommended conditions. Mr. Aveni offered a condition to the City Council for consideration as follows: "Petitioner shall construct and improve the Site as substantially shown on the plans submitted with the Petition for Special Permit entitled: "Special Permit Amendment, New Horizons Choate, Woburn Medical, 21 Warren Avenue, Woburn, MA" dated June 1, 2016, Sheets – C-1, C-2, C-3, and C-4 prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886, Title Sheet, A-1.0, A-2.0, and A-3.0 prepared by Cummings Properties, LLC, 200 West Cummings Park, Woburn, MA 01801, and Subdivision Plan of Land in Woburn, MA, revised December 7, 1992, prepared by Allen & Major Associates, 400 West Cummings Park, Suite 5050, Woburn, MA 01801 (hereinafter the "Plans"), although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" and (ii) site conditions are permitted so long as such changes do not, in the determination of the Building Commissioner, constitute substantial changes from said Plans. In the event that the Building Commissioner determines that the building plans filed with the building permit application reflect a substantial change to the Plans, Petitioner may request a review of said plans by the City Council Special Permits Committee, who shall make the final determination. If the Special Permits Committee determines that the building permit plans reflect a substantial change to the Plans, Petitioner understands that it will need to file a Petition with the City Council seeking to modify the Plans." Motion made and 2nd that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Alderman Gately stated that this is a single story

building to be constructed on an existing parking lot, that the project will have little or no impact, that he has no issue with the petition, that he supports approving the special permit at this meeting, and that the landscaping plan dated "7-7-2016" should be incorporated into the plan of record. Alderman Concannon stated that he does not have concern with the proposed additional condition relative to minor changes as the Building Commissioner probably has that authority anyway. PUBLIC COMMENTS: None. Motion made and 2nd that that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Campbell absent). Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the Planning Board recommendations be adopted as conditions of the special permit, as amended; 2. That Planning Board recommended Condition 1 by replaced with the following: "1. Petitioner shall construct and improve the Site as substantially shown on the plans submitted with the Petition for Special Permit entitled: "Special Permit Amendment, New Horizons Choate, Woburn Medical, 21 Warren Avenue, Woburn, MA" dated June 1, 2016, Sheets – C-1, C-2, C-3, and C-4 prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886, Title Sheet, A-1.0, A-2.0, and A-3.0 prepared by Cummings Properties, LLC, 200 West Cummings Park, Woburn, MA 01801, and Subdivision Plan of Land in Woburn, MA, revised December 7, 1992, prepared by Allen & Major Associates, 400 West Cummings Park, Suite 5050, Woburn, MA 01801 (hereinafter the "Plans"), although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" and (ii) site conditions are permitted so long as such changes do not, in the determination of the Building Commissioner, constitute substantial changes from said Plans. In the event that the Building Commissioner determines that the building plans filed with the building permit application reflect a substantial change to the Plans, Petitioner may request a review of said plans by the City Council Special Permits Committee, who shall make the final determination. If the Special Permits Committee determines that the building permit plans reflect a substantial change to the Plans, Petitioner understands that it will need to file a Petition with the City Council seeking to modify the Plans.; 3. That the plan entitled "Proposed Landscape Plan" Sheet C-4 dated June 1, 2016, revised 07/07/16 shall be the landscape plan of record, 4. That there shall be no exterior construction on Saturdays or Sundays; and 5. That the plan entitled "Schematic Utility Plan" Sheet C-3 dated June 1, 2016, revised 07/07/16 shall be the schematic utility plan of record, 8 in favor, 0 opposed, 1 absent (Campbell absent).

On the petition by A.L. Prime Energy, 319B Salem Street, Wakefield, Massachusetts 01880 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to amend a special permit to allow for a reduction in the gross floor area of the proposed building, a revised site plan and 1. Pursuant to Section 5.1.22a to allow for a convenience store less than 5,000 square feet, 2. Pursuant to Section 46b to allow for a self-service gasoline stations, 3. Pursuant to Section 5.1, Note 16 to allow for hours in excess of 7:00 a.m. to 10:00 p.m., at 1 Hill Street. PUBLIC HEARING OPENED. A communication dated July 12, 2016 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

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

Dear Honorable Council:

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

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

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

Parking

The proposed uses include an office building, a convenience store and an 8-pump gas station. The parking calculation provided on the plans indicates that a total of 33 parking spaces are needed for these uses by zoning and that 37 spaces are being provided. (Note the Zoning Information Table on Sheet C-1 contains a mathematical error; it appears 30, not 33, spaces are required.) However, the calculation does not incorporate a parking requirement for gasoline stations which would fall under the category of “other uses”. Pursuant to Section 8.2 of the Zoning Ordinance, the City Council must determine whether there is sufficient parking spaces on site to accommodate that “other” use:

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

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

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

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

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

Design Issues and Questions

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

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

Recommendations

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

- The Plan of Record for this petition shall be “Site Improvement Plans for A.L. Prime Energy at 1 Hill Street, Woburn, MA 01801; Prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861; Sheets 0-0, C1-C3 and L1, Scale: 1”=20’; dated September 20, 2007; revised September 25, 2015” and “Boundary & Topographic Survey, A.L. Prime Energy, 1 Hill Street, Lot 2, Block 5, Tax Map 54, City of Woburn, MA (Middlesex); Prepared by John P. Lynch, Professional Land Surveyor, Control Point Associates, Inc., 35 Technology Drive, 1st Floor, Warren, NJ; Drawing 1 of 1; Scale 1’=20’; dated August, 23, 2007;”
- The Special Permit be issued to A.L. Prime Energy Consultant, Inc. only and shall not be transferrable without prior City Council approval;
- That permission for hours of operation outside of 7:00 a.m. to 10:00 p.m. be granted solely to (presumably) the convenience store/gas station, that the authorized hours of operation be specified in a special permit condition and that the permission for “out of hours” operation shall be granted solely to the convenience store/gas station and not to any other business or use on site;
- All signage shall be the subject of separate application and approval processes;

- That the office space shall not be used for medical offices unless a new special permit application and plan meeting all parking and other zoning requirements is submitted to and approved by the City Council; and
- That all conditions of the August 2, 2012 Special Permit Decision remain in effect unless otherwise amended by the Council.

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

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

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

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

A memorandum dated July 15, 2016 entitled "Special Permit Petition of A.L. Prime Energy, 1 Hill Street, Woburn, Massachusetts" was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801. Motion made and 2nd that the communications be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing for the petitioner was Attorney Tarby and he stated that this petition amends an August 2, 2012 special permit, that the prior special permit allows for a convenience store, gasoline station and operation 24 hours per day and seven days per week, that the property is located in the B-I zoning district, that office space under 15,000 square feet is allowed by right, that special permit required is required for the gasoline station as well as for the hours requested, that the petitioner provides fuel and consulting services, retail sale of gasoline, convenience stores and oil, that an 11,189 square foot office five story office building was proposed, that the new proposal is for a four story 8,940 square foot office building, that the office will be used for operations, wholesale, dispatch and security of the petitioner, that the convenience store will operate 24 hours per day and 7 days per week, that no medical office is proposed for the building, and that he would like to discuss in committee phasing the improvements in view of the Kraft property redevelopment. Anthony Guba, P.E., P.O.E., Ayoub Engineering, 414 Benefit Street, Pawtucket, Rhode Island 02861

A communication dated July 13, 2016 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Request for Minor Modification/Dave & Buster's of Massachusetts, Inc., 271 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent Dave & Buster's of Massachusetts, Inc. On November 14, 2013 your office issued a Landowner's Decision and Notice of Special Permit setting forth approval by the Woburn City Council of the Special Permits granted to my client (the "Decision").

Condition 4 reads as follows: "4. The hours of operation shall be limited to 11:00 a.m. – 1:00 a.m. seven days per week."

On behalf of Dave & Buster's of Massachusetts, Inc., I hereby request that Condition 4 be amended as a minor modification to allow for a 10:00 a.m. opening hour seven days per week.

If the additional hour is successful, Dave & Buster's will look to open at 10:00 a.m. during the summer months, around Holiday breaks, Spring break and other times children are out of school. Dave & Buster's believes it can offer families with children out of school, on vacation, or otherwise with free time, a safe, cool (or warm, depending on the time of year) place to go with lots of fun in one building. This is a national campaign for all stores to participate if allowed. Dave & Buster's respectfully requests to open at 10:00 a.m. at varying times of the year for this purpose.

The proposed modification does not result in a substantive amendment which changes the result of the Decision or which grants relief different from that originally granted.

On behalf of my clients, I respectfully request approval by the City Council at its meeting on July 19, 2016 of a minor modification to the Decision amending Condition 4 as referenced above. If the City Council finds that this request is not a minor modification I respectfully request that the City Council allow for a late filing of a Special Permit Petition and schedule a public hearing for August 16, 2016.

If you have any questions, please do not hesitate to contact me. Thank you.

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

Motion made and 2nd that the communication be accepted, 8 in favor, 0 opposed, 1 absent (Campbell absent). Alderman Mercer-Bruen stated that she is concerned that the abutters will not be notified and allowed to be heard on this request. Alderman Anderson stated that it would be better to accept this as a late filing and schedule a public hearing. Motion made and 2nd that the petition for a special permit be accepted as a late filing and that the

matter be scheduled for a public hearing at the City Council Regular Meeting on August 16, 2016, 8 in favor, 0 opposed, 1 absent (Campbell absent). On July 27, 2016, the following petition was filed:

Petition by Dave & Buster's of Massachusetts, Inc., 2481 Manana Drive, Dallas, Texas 75220 for a special permit to modify a special permit issued November 14, 2013 pursuant to 1985 Woburn Zoning Ordinances, as amended, to allow amendment to Condition 4 of the Decision to read as follows: "4. The hours of operation shall be limited to 10:00 a.m. to 1:00 a.m. In addition, the petitioner shall be allowed to hold private after school events." at 271 Mishawum Road.

A communication dated July 12, 2016 was received from Hugo Moraes as follows:

To Whom It May Concern,

On December 1, 2015, a public hearing was held to discuss the approval of the special permit for 434 Main Street in Woburn. As discussed at that meeting (and in regards to condition 3 of the Special Permit), parking for both the restaurant and tenants of the apartments will be in municipal lots located within 500 feet of the property, meeting the Zoning Code (5.1.72 and 8.3.2). Tenants will be expected to park at one of the three municipal lots located within 500 feet of 434 Main Street, including Walnut Street.

I would also like to explain that some of these tenants may not have a car as there is a bus stop across the street from the property. It will also be made aware to all prospective tenants of the apartments that the municipal lot where parking will be provided is slated to be metered in the future, and parking may be limited or unavailable throughout any given day.

Any questions about this matter, please call me directly.

Thank you, s/Hugo Moraes

Motion made and 2nd to suspend the rules for the purposes of hearing from Hugo Moraes on this matter, 8 in favor, 0 opposed, 1 absent (Campbell absent). Appearing was Hugo Moraes and he stated that the Planning Department request a copy of the parking plan to sign off on the building permit application, that once the Planning Department signs off on the building permit application he will obtain the building permit, and that construction will begin next month with completion in nine months. Mr. Moraes offered a parking plan to the City Council as follows:

Parking Plan for (7) Residential Dwellings at 434 Main Street

Parking facilities for the proposed (7) dwelling units to be located at 434 Main Street will be a municipal parking lot, the Walnut Street parking lot, which is located within 500 feet

of said property. This plan, along with the approval of the City Council, should satisfy the requirements of the 1985 Woburn Zoning Ordinance, section 11.6.11 – “Dwelling units above first story in commercial structures in the B-D District”.

s/Hugo Moraes, Owner, Petitioner of 434 Main Street, Woburn, Massachusetts

Motion made and 2nd that the document be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Campbell absent). President Haggerty stated that a condition of the special permit required the parking plan be provided, that a letter relative to the parking plan should satisfy the requirement referred to in the conditions. Steve Paris, 3 Fisher Terrace stated that the parking plan submitted in writing at this meeting should satisfy the Planning Department concerns. Alderman Anderson stated that he is satisfied with the letter in meeting the requirements of the special permit. President Haggerty stated that a communication could be forwarded to the Planning Department stating that the petitioner has met the condition in the special permit relative to parking. Alderman Concannon stated that it is a leap of faith for the petitioner and the City Council that there will be sufficient parking, that if a resident of the building has a car they may have difficulty finding a place to park, that the downtown area should be analyzed relative to parking, and that it is incumbent on the petitioner to notify the residents about the parking issues. Motion made and 2nd that a communication be forwarded to the Planning Department stating that the City Council made clear that as outlined in the communication received from the petitioner the accommodations for the parking spaces will be public parking although the city does not guarantee the availability of same, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by 304 Cambridge LLC, c/o Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 to amend the 1985 Woburn Zoning Ordinances, as amended, as follows:

ORDERED Be it ordained by the City Council of the City of Woburn that the 1985 City of Woburn Zoning Ordinance, as amended, be further amended as follows:

1. Amend section 5 Notes to 5.1 Table of Use Regulations by adding the following note:
 26. 1. Restaurant Full Service/Fast Food located in an S-1 Zoning District shall be subject to the following conditions:
 - a. The full service/fast food restaurant must be located in an office building containing a minimum of 50,000 square feet of gross floor area;
 - b. Any fast food restaurant shall not be visible from the exterior of the office building;
 - c. The office building shall have frontage on a State numbered road under the jurisdiction of Mass Highway

for design, construction and maintenance as of January 1, 2012.

2. Physical Fitness Training Facilities located in an S-1 Zoning District shall be subject to the following conditions:
 - a. The Physical Fitness Training Facility must be located in an office building containing a minimum of 50,000 square feet of gross floor area;
 - b. The office building shall have frontage on a State numbered road under the jurisdiction of Mass Highway for design, construction and maintenance as of January 1, 2012.

2. Amend Section 5.1 Table of Use Regulation as follows:

- a. Line 17a by replacing the “-“ with an “x” in the S-1 Zoning District and inserting: Note 26 under the heading: “Notes, Other Sections.”
- b. Line 28 by replacing the “-“ with an “x” in the S-1 Zoning District and inserting: Note 26 under the heading: “Notes, Other Sections.”
- c. Line 29 by replacing the “-“ with an “x” in the S-1 Zoning District and inserting: Note 26 under the heading: “Notes, Other Sections.”

304 Cambridge LLC, an individual owning land to be affected by change or adoption

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

Petition by Aldo Gallinelli and Judith Gallinelli, 15 Sorelle Place, Burlington, Massachusetts 01803 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.56, Note 15 of the 1985 to allow for construction of a detached 30 foot by 40 foot barn at 15 Sorelle Place. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Campbell absent).

Petition by Destination Partners, Incorporated, 12 Henshaw Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to park two (2) box trucks in connection with its event planning business at 12 Walnut Hill Park. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, 8 in favor, 0 opposed, 1 absent (Campbell absent).

COMMUNICATIONS AND REPORTS:

A communication dated June 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 June 2016. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, 8 in favor, 0 opposed, 1 absent (Campbell absent).

A communication dated June 17, 2016 was received from Charles O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of Jan. 2016 to May 2016: Number of violations issued 407, Numbers of violations paid 248, Number of violations outstanding 142, Amount collected and submitted to Collectors Office \$25,600.60, Parking fines referred to the Handicap Commission \$13,400.00.

There is a backlog of 1,657 unpaid tickets dating from January 2004 to May 2016. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O'Connor, Parking Clerk

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

A communication dated June 29, 2016 was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

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

Dear Members of the Council:

With regard to the above referenced section of the Woburn Municipal Code, I submit the following quarterly nuisance report for the period of April 1, 2016 – June 29, 2016.

The only matter that is currently pending is 6 East Dexter Avenue; I have not received any updates from the District Attorney's office in the last few months.

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

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

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

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS: None.

Motion made and 2nd to ADJOURN, 8 in favor, 0 opposed, 1 absent (Campbell absent).
Meeting adjourned at 8:37 p.m.

A TRUE RECORD ATTEST:

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