

**CITY OF WOBURN  
NOVEMBER 17, 2015 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

|           |                 |
|-----------|-----------------|
| Anderson  | Gaffney         |
| Concannon | Gately - absent |
| DiTucci   | Mercer-Bruen    |
| Drapeau   | Raymond         |
| Haggerty  |                 |

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The City Council observed a moment of silence in memory of the victims of the bombings in Paris, France.

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

**MAYOR'S COMMUNICATIONS:**

**ORDERED** That the sum of \$117,757.03 be and is hereby appropriated as so stated from Mayor Salary Adjustments Acct #0112151-511016 \$117,757.03 to Inspections #0125151-511000 \$6,277.86; Assessor #0113751-511000 \$23,948.25; Engineering #0141051-511000 \$9,968.74; Conservation #0117151-511000 \$4,840.38; Council on Aging #0154151-511000 \$6,884.08; Board of Health #0151251-511000 \$5,657.57; Parks Dept #0163051-511000 \$6,456.64; Planning Dept #0117251-511000 \$8,981.10; Purchasing Dept #0113651-511000 \$4,939.03; Recreation Dept #0162051-511000 \$15,363.45; Treasurer-Collector #0113851-511000 \$9,846.25; Veteran's Agent #0153451-511000 \$14,593.69, Total \$117,757.03 – Purpose: Teamsters Union Contract Settlement.

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 2<sup>nd</sup> that the MATTER be LAID ON THE TABLE to the next Regular Meeting of the City Council, 8 in favor, 0 opposed, 1 absent (Gately absent).

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ORDERED That the sum of \$5,000.00 be and is hereby appropriated as so stated from BLS Ambulance Receipts Acct #31359-590000 \$5,000.00 to Medical Attention/Fire Acct #0122054-558103 \$5,000.00

I hereby recommend the above: s/Scott D. Galvin, Mayor  
I hereby approve the above: s/Timothy Ring, Chief Fire Department  
I have reviewed the above: s/Charles E. Doherty, City Auditor

s/President Haggerty

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

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### **PUBLIC HEARINGS:**

On the petition by Woburn Ventures, LLC, 39 Industrial Parkway, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.57b and 7.3 to allow for the outside storage and parking of commercial motor vehicles and contractor's equipment at 39-41 Industrial Parkway. PUBLIC HEARING OPENED. A communication dated November 17, 2015 was received from Neil Cronin, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Special Permit application for outside storage and parking of commercial motor vehicles and contractor's equipment at 39-41 Industrial Parkway/Woburn Ventures, LLC

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which seeks permission, in accordance with Sections 5.1(57b) and 7.3 of the Woburn Zoning Ordinance, for the outside storage and parking of commercial motor vehicles and contractor's equipment at 39-41 Industrial Parkway. The property is in an Industrial Park (IP) zoning district and the requested use is allowed by City Council Special Permit.

In addition to the special permit request, the site plan indicates the petitioner is also seeking the following waivers from Section 6.1 (Dimensional Regulations) of the Woburn Zoning Ordinance:

- Requirement for a minimum front yard setback of 25';
- Requirement for a minimum landscaped usable open space of 30%; and
- Requirement for a maximum floor area (FAR) of 0.50

The Planning Department recommends the petitioner clarify this point. expand on the site's nonconformity. If the "waiver" requests actually pertain to existing, legal site non-

conformities, then the waiver request is moot. If waivers are in fact needed, it is unclear if the City Council can grant these waivers. Variances from the Zoning Board of Appeals may instead be required.

Also, the petitioner plans to store 32 trucks on site and 13 pieces of contractor's machinery. According to the calculations in the Woburn Zoning Ordinance, the site has 14 parking spaces more than the zoning ordinance requires. However, it is 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. No information regarding the number of employees on the largest work shift was provided with the application. As a result the Planning Department is unable to complete this analysis.

The Planning Department therefore recommends the City Council (a) clarify whether waivers or variances from zoning provisions are in fact needed and (b) request information regarding the number of employees working on the largest work shift(s) of each tenant before granting the special permit. The Planning Department is happy to follow-up with another memo after such information is available.

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

Respectfully, s/Neil Cronin, City Planner/Grant Writer

A communication dated November 17, 2015 with attachments was received from Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit petition of Woburn Ventures LLC, 41 Industrial Parkway, Woburn, MA

Dear Bill:

Enclosed please find thirteen (13) copies of Revised Sheet C-1 dated October 15, 2015 revised November 16, 2015 in connection with the Special Permit filed with the above-referenced Special Permit Petition. Thank you.

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

Appearing for the petitioner was Attorney Joseph R. Tarby, III and he stated that a special permit is required for the outside storage of commercial vehicles, that on October 28, 2005 the petitioner obtained a special permit at 39 Industrial Parkway to park vehicles and store equipment, that both buildings were constructed in the late 1970s or early 1980s but before the 1984 zoning amendments, that U.S. Paving was founded in 1985 and has operated in Woburn since 1989, that the petitioner is one of the top pavers in the Northeast, that the petitioner's corporate office, storage, equipment and supplies will be at the properties, that the petitioner has sixty employees including office staff and

laborers, that the office staff includes administration, project management, IT and the executive office, that the petitioner has not had the opportunity to speak with Planning Department representatives, that the open space and floor to area ratio (FAR) conditions refer to the nonconforming status of the building, that 1970 zoning ordinances did not require an FAR calculation but FAR calculations are required under the 1985 zoning ordinances, that both buildings are nonconforming with respect to the FAR calculation, that the 1970 zoning ordinances require 10% open space and the 1985 zoning ordinances require 30% open space, that both buildings are nonconforming due to the current open space requirements, that at the time that the buildings were constructed standards were common to refer to a setback as 25+/-, that the corner of one building may have been a surveying error however the building is protected against enforcement regarding the setback, that the vehicles on the list provided are not always left on site but at job sites, that none of the fencing in place will be removed, that some of the listed vehicles will be at job sites and some will be parked on site, that there will be fifteen employees in the office and the remainder will go to job sites, that every employee will have a parking space and there is sufficient parking for all equipment as well, that neither a waiver nor a variance is required in spite of the Planning Department recommendation, and that the proposed conditions that the petitioner has submitted is consistent with the 2005 special permit. Attorney Tarby offered documents to the City Council for review entitled “List of Vehicles and Commercial Equipment”, “City of Woburn 1970 Zoning Ordinance Updated to August 1984”, and “Proposed Conditions to Special Permit, Woburn Ventures LLC d/b/a U.S. Pavement, 39-41 Industrial Parkway, Woburn, Massachusetts, November 17, 2015” which proposed conditions read as follows:

1. The Petitioner shall construct and improve the Site as substantially described in the plans submitted with the Petition for Special Permit entitled: “Site Plan dated October 15, 2015 as revised November 16, 2015 prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, Massachusetts (hereinafter the “Site Plan”) although design adjustments and modifications generally associated with: (i) preparing so-called “working drawings” or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan
2. That all registered vehicles parked or stored overnight on the site shall be registered in the City of Woburn.
3. That no U.S. Pavement or other trucks associated with this business are allowed to use the residential streets of Merrimac Street, School Street or Mishawum Road.
4. That the landscaped and grassed areas of the property are to be regularly maintained in a proper and presentable manner.

5. That this special permit is exclusive to this Petitioner and shall not be transferred unless approved by the City Council.
6. That there will be no parking on Industrial Parkway.

Motion made and 2<sup>nd</sup> that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent. Tim Williams, Allen & Major Associates, Inc., 100 Commerce Way, Woburn, Massachusetts 01801 stated that the petitioner will be consolidating 39 Industrial Parkway and 41 Industrial Parkway into one common parcel, that the buildings are not changing, that 39 Industrial Parkway is 20,00 square feet in area and 41 Industrial Parkway is 15,000 square feet in area, that both buildings have mezzanines as opposed to a second floor, that the FAR is .31, that there is a common property line between the two buildings, that the properties will hold the four curb cuts, that the whole parking lot will be restriped to meet the client's needs, that there are 66 existing parking spaces and only 61 parking spaces are required, that the petitioner will provide 80 marked parking spaces, that there will be designated employee parking, that there are nine parallel spaces, 54 total standard parking spaces and additional truck parking along 41 Industrial Parkway, that the corner of one building is setback 24.8 feet, that 41 Industrial Parkway has 16.4% open space primarily along the front of the property, that 39 Industrial Parkway has 10% open space primarily at the front of the site, that with the two parcels combined there will be 14% open space, that the plan is to create more landscaped areas, that 39 Industrial Parkway is the existing U.S. Paving building, that there will be 38 parking spaces designated for employees, and that there will be additional parking along the building. Michael Musto stated that he is President of the U.S. Paving, that the company has been operating from the locus since 2005, that all the equipment is stored on site except for some parking down the street, that the company will be expanding and consolidating at this location, that a lot of equipment is left on job sites even in the winter as the equipment is used for snowplowing, and that they currently rent space down the street to park approximately six vehicles which will be consolidated to this site. PUBLIC COMMENTS: Tim Swain, 29 Dragon Court stated that he is in favor of the petition, and that this is a good company. Larry Guiseppe, 2 Minchin Drive stated that he is in favor of the petition, and that the company is supportive of the community particularly veterans. Michael Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that he supports the petition, that the petitioner is seeking to park its vehicles on site, that there was previously a gym at the site that had many cars parking offsite without issue, that the petitioner is a good company and expanding, that there will be no impact on residences, and that he wants to keep this business in the city. Motion made and 2<sup>nd</sup> to close the public hearing, 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 six conditions proposed by the petitioner be adopted as conditions of the special permit, and 2. That the City Council finds that the property is a preexisting nonconforming structure that was validly and legally established and that the change will not be substantially more detrimental to the neighborhood, 8 in favor, 0 opposed, 1 absent (Gately absent).

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On the petition by Lord Hobo Brewing Co., 5 Draper Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 8.2 of the 1985 Woburn Zoning Ordinances, as amended, to allow a reduction in the number of required parking spaces at 5 Draper Street. PUBLIC HEARING OPENED. A communication dated October 26, 2015 was received from Building Commissioner Thomas C. Quinn, Jr., as follows:

Re: 5 Draper Street, Lord Hobo Brewing Co.

With regard to the above referenced address and business that the Woburn City Council currently has before them for a Special Permit pursuant to section 8.2 of the Woburn Zoning Ordinances as amended to allow for the reduction in the number of required parking spaces at 5 Draper Street, I offer the following:

The current operation (Lord Hobo Brewing) was granted a Special Permit by the Woburn Planning Board pursuant to the Woburn Zoning Ordinances Section 5.1 table of use regulations line 40(ab) light manufacturing over 15,000 sf gfa on August 27, 2014. The Woburn Zoning Ordinances notes to table of use regulations (note 1) allows for a special permit to be granted for the reduction in required off-street parking stalls for mixed uses 8.2.5, as this property currently has the designation of a special permitted use a determination can be made by the special permit granting authority, I would also advise that I have reviewed the memorandum dated October 14, 2015 to the Planning Department from Lord Hobo Brewing that outlines the parking uses and if the termination of sufficient spaces to accommodate all users on the premises was a decision for the Building Commissioner under other permitted uses within section 8.2 of the Woburn Zoning Ordinances I would be satisfied that the parking count as identified on all of the documentation provided would be sufficient.

As always if I can be of further assistance with this matter do not hesitate to contact me.

A communication dated November 2, 2015 with attachments was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Special Permit Decision under Section 11.8.5 – Lord Hobo Brewing Company

This memorandum shall serve as a response to Alderman Haggerty's email regarding a potential conflict between conditions attached to special permits issue to Lord Hobo Brewing Company ("Lord Hobo") for the property at 5 Draper Street, Woburn. A copy of Alderman Haggerty's email, the conditions proposed by the Committee on Special Permits (the "Committee") and the September 5, 2014 special permit issued by the Planning Board, are attached hereto for reference and context.

Alderman Haggerty's question pertains to a potential conflict between one of the conditions in the special permit granted by the Planning Board which sets the hours of operation on Sunday at 12:00 – 6:00 p.m. and, if adopted, a condition proposed by the Committee on Special Permits which sets the hours of operation on Sunday at 12:00 –

4:00 p.m. As discussed herein, it is my opinion that the Planning Board's condition is controlling.

On September 5, 2014, the Planning Board issued a special permit to Lord Hobo for the operation of a light manufacturing use in excess of 15,000 s.f. gfa in accordance with Section 5.1.40(ab) of the Woburn Zoning Ordinance ("WZO"). Consistent with its authority as the special permit granting authority, the Planning Board imposed conditions and safeguards that are reasonably related to and appropriate for, the operation of a light manufacturing use or in this instance, a brewery. Upon information and belief, Lord Hobo is operating the brewery consistent with the conditions imposed on the special permit by the Planning Board.

The special permit application being sought from the City Council is for a reduction in the required number of off-street parking spaces pursuant to Section 8.2.5 of the WZO. In accordance with Section 11.6.5 of the WZO, a special permit for the reduction in the required number of off-street parking stalls under Section 8.2.5 can be issued if, "[t]he hours of parking needs for individual uses comprising the mixed use development will sufficiently differ so that a lower number of parking spaces than normally required will serve the operating needs of the development."

M.G.L. c.40A, §9 authorizes the issuance of special permits and states, *inter alia*, that "such permits may also impose conditions, safeguards and limitations on time or use". Therefore, when crafting conditions to be imposed on a special permit, care must be taken to relate the conditions directly to the use being authorized by the special permit. To the Committee's proposed condition, it is not clear to me how a reduction in parking spaces correlates to or requires a reduction in Lord Hobo's hours of operation on Sundays between the hours of 4:00 – 6:00 p.m. [It is also unclear why the Committee believed it necessary to restate conditions already imposed by the Planning Board.] Therefore, the City Council is advised to carefully consider whether it should impose this or any of the conditions proposed by the Committee.

Assuming that the City Council votes to grant the special permit to reduce the requisite number of parking spaces, Lord Hobo will have to file an application with the Planning Board to modify the special permit to submit a new site plan depicting the reduction in parking. At that time, any concerns related to the operation of the brewery between the hours of 4:00 – 6:00 p.m. on Sunday should be brought to the attention of the Planning Board.

Please don't hesitate to contact me if there are any further questions regarding this matter.

Sincerely, s/ Ellen Callahan Doucette

A communication dated November 9, 2015 with attachment was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: Lord Hobo Brewing Co., 5 Draper Street

Dear President Haggerty and Aldermen,

As requested by the Special Permits Committee, enclosed please find a revised site plan for 5 Draper Street showing snow storage and landscaping. If approved, the suggested conditions shall be:

1. That the plan of record shall be "Site Plan in Woburn, Mass. of 5 Draper Street" dated August 13, 2015, Revised October 7, 2015 and Revised November 5, 2015.
2. That the Planning Board amends the Special Permit under site plan review to approve the revised plan.
3. That the conditions set forth in the Special Permit issued by the Planning Board shall continue in effect including the requirement for a review.
4. That the snow storage shall be under the jurisdiction of the Building Department.
5. That this special permit is issued to "Lord Hobo Brewing Co." and shall be non-transferable.

Thank you and please call with any questions.

Very truly yours, s/Mark J. Salvati

Motion made and 2<sup>nd</sup> that the communications be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Gately absent). Appearing for the petitioner was Attorney Mark J. Salvati and he stated that the petitioner filed a revised plan with the snow storage and landscaping indicated, that the jurisdiction over the hours of operation should remain with the Planning Board, and that the petitioner offered five proposed conditions. PUBLIC COMMENTS: 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 five conditions offered by the petitioner be adopted as conditions of the special permit, 8 in favor, 0 opposed, 1 absent (Gately absent).

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On the petition by Rosematwo, LLC, 10 Dorrance Street, Boston, Massachusetts 01219 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to modify a special permit issued February 27, 2014 to eliminate the handicapped parking spaces at the front of the site at 7 State Street. PUBLIC HEARING OPENED. A communication dated November 2, 2015 with attachments was received from Kevin M. Provencher, AIA, LEED AP, Vice President, PDA Incorporated, 16 Huron Drive, Natick, Massachusetts 01760-1337 as follows:

Re: Rosematwo Building Expansion, 7 State Street, Woburn, MA 01801

Dear Mr. Campbell and Members of the City Council:

In response to your concerns regarding the deviations from the approved plans for the recently completed addition at 7 State Street, we offer the following summary and attached document describing the engineering evaluations that have been prepared to demonstrate compliance with applicable zoning and engineering best practices.

Grading and Drainage

The attached letter provided by Level Design Group, LLC describes the substitution of concrete for bituminous paving in the loading area. The change in paving material has no impact on the drainage design described on the approved plans, has no impact on abutting properties, and represents an overall improvement in durability and usefulness.

Boulder Slope Stabilization

The attached letter and sketch drawing provided by KMM Geotechnical Consultants, LLC describes the placement of boulders uncovered during excavations on a modified slope at the edge of the property. The modified slope is structurally stable and addresses surface runoff from the adjacent property by improving erosion control.

Condenser Noise

The attached report provided by Cavanaugh Tocci Associates, Incorporated describes the acoustic analysis of potential noise impact on abutting properties from condenser equipment located at grade and on the roof of the addition. The analysis indicates the resulting increase in noise level is expected to be within the allowable increase permitted by the City of Woburn noise ordinance and the Commonwealth of Massachusetts Department of Environmental Protection guidelines.

We look forward to discussing these issues with you at your next subcommittee meeting. Please let us know if we can provide any additional information.

Very truly yours, s/PDA Incorporated, Kevin M. Provencher, Vice President

No one appeared for the petitioner. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON A DATE TO BE DETERMINED BY THE CITY COUNCIL PRESIDENT, 8 in favor, 0 opposed, 1 absent (Gately absent).

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On the petition by Allan Danley, Food Truck Builders Group, 2 Draper Street, Unit 1, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.57b of the 1985 Woburn Zoning Ordinances, as amended, to allow overnight parking of commercial vehicles at 2 Draper Street, Unit 1. PUBLIC HEARING OPENED. A communication dated November 17, 2015 with attachments was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

Re: 2 Draper Street

With regard to the above referenced location, a site inspection occurred on November 5, 2015 with the owner of the property Mathew Piccione, Allen Danley Food Truck Builders Group and Justin Kadich Attorney for Food Truck Builders.

During the inspection, this writer did observe the following:

1. Two Unregistered Vehicles belonging to a tenant in unit 6 (wzo 5.1 57)
2. One Storage Container belonging to a tenant in unit 6 (wzo 51. 57a)
3. A Commercial Vehicle and trailer belonging to a tenant in unit 3 (wzo 51. 57b)
4. Two Commercial Food Trucks belonging to the tenant in unit 1 (currently in front of the City Council for a special permit for overnight parking).

I would also advise that speaking with the property owner and Alan Danley it was advised that they have a proper site survey prepared to show adequate parking, snow storage location and all other details that are required pursuant to applicable requirements. I have not seen the site survey plan and am unable to comment further on it. Also during this meeting the owner was made aware of the above referenced issues that are in violation of the Woburn Zoning Ordinances.

Since this inspection occurred, the two unregistered vehicles have been removed, the tenant in unit 3 has communicated with my office for the requirements of a special permit for overnight parking, and I am still waiting for a response on how the owner and tenant are going to resolve the storage container matter, if there is no response on this issue by December 1, 2015 further action will be taken by this writer.

Enclosed you will also find communication with Food Truck Builders outlining their process and an email from Gary Mercier of Leidos who occupies unit 3.

As always I will keep you updated on issues regarding this location.

A communication dated November 16, 2015 was received from Attorney Justin Kadich, J. Scott Law PC, 67 Battery March St. LL, Boston, Massachusetts 02210 as follows:

Dear Clerk Campbell:

I am the attorney for Food Truck Builder Group and Allan Danley. An application for a special permit to allow overnight parking for 2 commercial vehicles is currently pending and scheduled to be heard tomorrow night at the City Council meeting. I just received notice from the owner of 2 Draper St. this afternoon that an updated plan requested by the Council will not be ready for the meeting tomorrow. Therefore, I respectfully request that the Council take this item off of the agenda tomorrow and be moved to December 1<sup>st</sup>.

Please be advised that since the last meeting my client and I have met with Commissioner Quinn and addressed the use concerns brought to our attention at the last meeting. Additionally, I urge that if the Council has an additional concerns regarding Food Truck Builders Group that they contact me directly.

Thank you to your courtesy and attention to the foregoing.

Sincerely yours, Justic Kadich, Esq.

President Haggerty stated that he spoke to the attorney for the petitioner concerning the timing issues with this petition, and that the petitioner will not have the site plan available until December 22, 2015. PUBLIC COMMENTS: Cindy Nickerson, 31 Nashua Street stated that she wanted to know if the petitioner could operate the business without the special permit, that the petitioner works on large vehicles, and that she is concerned about parking on the parcel during the snow season. Alderman Mercer-Bruen stated that the vehicles cannot be parked overnight without a special permit, that the Building Commissioner would enforce this issue, that for over nine months the Building Department has been issuing warnings to the petitioner advising of violations, that she believes issuing a special permit to the petitioner will require continual follow-up by the Building Department to ensure compliance, that she has been in regular contact with the Building Commissioner concerning the matter, and that the Building Commissioner should issue a cease and desist order to the petitioner. Motion made and 2<sup>nd</sup> that a communication be forwarded to the Building Commissioner requesting that he take further action relative to the overnight parking of vehicles at the locus up to and including issuing a cease and desist order, 8 in favor, 0 opposed, 1 absent (Gately absent). Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JANUARY 5, 2016, 7 in favor, 1 opposed (Mercer-Bruen opposed), 1 absent (Gately absent).

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On the petition by New Cingular Wireless PCS, LLC (AT&T), c/o Centerline Communications, 95 Ryan Drive, Suite 1, Raynham, Massachusetts 02767 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.80b to allow AT&T antenna modification to the existing site on the roof at 397 Main Street. PUBLIC HEARING OPENED. A communication dated November 17, 2015 was received from Tina P. Cassidy, Director, Woburn Planning Board as follows:

Re: Special Permit Application for Wireless Communication Link: Building Mounted at 397 Main Street/New Cingular Wireless

Dear Honorable Council:

The Planning Department has reviewed the above-referenced petition which seeks permission, in accordance with Section 5.1(80b) of the Zoning Ordinance (Wireless Communications Link: Building Mounted Wireless Communication Link), to replace the existing stealth penthouse on top of the building at 397 Main Street with five (5) stealth chimneys that would house wireless antennae and associated equipment. The property is in the Business Downtown (B-D) zoning district and the requested use is allowed by Special Permit from the City Council.

Unfortunately, the application conflicts with Section 6.2 of the Woburn Zoning Ordinance entitled Additional Dimensional Regulations and in particular Section 6.2.8 (b) which states “*Any antenna or satellite dish shall have a fifteen (15) foot setback from all sides of the building.*” The plans accompanying this application show the stealth chimneys would be set back only 1’10” from the side of the building at their closest point. All are within fifteen (15) feet of the respective sides of the building.

Accordingly, the Planning Department recommends that prior to any City Council decision on this special permit application the applicant either revise the proposed plans to relocate the stealth chimneys and antennae to comply with the fifteen (15) foot setback requirement or obtain a variance from that setback requirement from the Zoning Board of Appeals (ZBA).

Respectfully, s/Tina P. Cassidy, Director

Appearing for the petitioner was Attorney Michael Dolan, Brown Rudnick, One Financial Center, Boston, Massachusetts 02111 and he stated that the petitioner has licenses to operate wireless across the country, that there is an existing antenna at the locus, that there is a rooftop penthouse for the equipment, that the system is being upgraded to 4G LTE service, that the petitioner is seeking to upgrade the existing facility by adding three antennas and related equipment, that the petitioner proposes to erect faux chimneys that have the look of a chimney with the antennas inside, that the design addresses a load issue, that all of the equipment cannot be located in the middle of the roof without creating load issues, that the petitioner has a special permit that allowed the placement of the current antennas, that the property is located in the B-D zoning district, that a special permit is required for the use, that the petitioner has received the Planning Department comments, that the Building Commissioner denied an application for a building permit stating that a special permit would be required but made no comment relative to the necessity of a variance, that there will be a total of nine antennas, that the petitioner is willing to obtain any dimensional permits that may be required, that there will be a new weight gain with this equipment on the roof, that the petitioner has an existing contract with the landowner of the locus in addition to cabling and other infrastructure already in place at the locus, that the petitioner must stay at the location, and that an alternative could be to continue this matter while the petitioner obtains any variances that may be required. David Ford, Centerline Communications stated that there are currently no chimneys on the building, that the original intent was to house all the antennas on the existing penthouse however this would have caused structural issues, that the design of the chimneys is to move the antennas away from each other, that to achieve the required azimuths the antennas have to be positioned in the proposed manner, that the existing antennas will not be removed, and additional antennas will be added. Mr. Ford offered a document containing photographs of the locus and property work for the City Council to review. Motion made and 2<sup>nd</sup> that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Gately absent). Alderman Concannon stated that he was not certain that the special permit could be granted conditioned on the petitioner obtaining a variance, that there is a building next to the locus that has a façade, and that the petitioner could consider adding a similar façade to the locus rather than a

chimney to screen the antennas. Alderman Drapeau stated that he does not favor the aesthetic impact of the proposal, that an alternative façade may not improve the appearance of the building, that the petitioner could consider removing the existing facility, that the chimneys appear to be a lot of material, that he is surprised that the current antennas cannot be removed and replaced with a lighter material, and that the petitioner could seek to locate the new facility on another building next to the locus. Alderman Mercer-Bruen stated that she does not favor the aesthetic look of the proposal, and that the City Council should not act on this petition until the Board of Appeals issue is resolved. Alderman Anderson stated that a similar façade screening was to be used at the new Hurd-Wyman School to hide rooftop equipment. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Gately absent). PUBLIC HEARING CLOSED. Alderman Anderson asked Attorney Dolan if the petitioner would be requesting leave to withdraw the petition without prejudice. Attorney Dolan asked for leave to withdraw the petition without prejudice. Motion made and 2<sup>nd</sup> that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, 8 in favor, 0 opposed, 1 absent (Gately absent).

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:** None.

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**NEW PETITIONS:**

Petition for renewal of Second Class Motor Vehicle Sales License by Jeffrey Pollock dba Exclusive Automobile, 7 Independence Drive. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, 8 in favor, 0 opposed, 1 absent (Gately absent).

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Petitions by Roy N. Cudmore for approval of an exemption under M.G.L. Ch. 268A, §20(b) to allow the provision of snowplow services to the city. Motion made and 2<sup>nd</sup> that the EXEMPTION PURSUANT TO M.G.L. Ch. 268A, SECTION 29(b) be GRANTED 8 in favor, 0 opposed, 1 absent (Gately absent).

**Presented to the Mayor: November 19, 2015 s/Scott D. Galvin November 19, 2015**

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**COMMUNICATIONS AND REPORTS:** None.

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**UNFINISHED BUSINESS OF PRECEDING MEETING:** None.

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**APPOINTMENTS AND ELECTIONS:** None.

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**MOTIONS, ORDERS AND RESOLUTIONS:**

ORDERED That the City Council Regular Meetings scheduled for December 1, 2015 and December 15, 2015 shall begin at 6:30 p.m.

s/President Haggerty

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

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Motion made and 2<sup>nd</sup> to ADJOURN, 8 in favor, 0 opposed, 1 absent (Gately absent).  
Meeting adjourned at 8:11 p.m.

A TRUE RECORD ATTEST:

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