

**CITY OF WOBURN
SEPTEMBER 21, 2021 – 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBER, WOBURN CITY HALL**

Roll Call

Campbell	Ferullo
Concannon	Gately
Demers	Lannan
Dillon	Mercer-Bruen
Tedesco	

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

MAYOR'S COMMUNICATIONS:

A communication was received from His Honor Mayor Galvin dated July 13, 2021 as follows:

Powers and Sullivan will be attending the October 5, 2021 city council meeting to discuss the completed audited financial statements for the city of Woburn for the fiscal year ending 6/30/2020 and preliminary information for the fiscal year ending 6/30/2021.

I have included a copy of the Report of Financial Statements, Management letter and Report on Federal Awards dated June 30, 2021 for your review prior to the meeting. If you have any questions please feel free to call.

Sincerely, s/Scott D. Galvin, Mayor

NEW PETITIONS:

Friends of Mary Cummings Park for Special Event Permit to allow a lantern walk at Horn Pond on October 10, 2021.

NStar Electric Company, d/b/a Eversource Energy, and Verizon, New England Inc. for grant of right in a way to install one (1) joint owned pole on Green Street.

PUBLIC HEARINGS:

On the petition by Jackson Lumber, 10 Jefferson Avenue, Woburn, Massachusetts 01801 for special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 7.5 and 15.6.C.i as follows: 1. To amend a special permit dated March 14, 2019 to supplement plan of record to allow additional drainage and pavement to expand parking lot; and 2. Alteration of existing use that does not conform to Groundwater Protection District to allow for drainage and pavement, at 36 Prospect Street.

On the petition by Toll Brothers, 197 First Ave Suite 110, Needham, Massachusetts 02464, to amend a prior special permit dated June 6, 2017, under Section 23.4.2 the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. Remove the requirement under Section 8 of the decision requiring installation of two islands on Mishawum Road as shown on Offsite Landscape Plan, Sheet C-6B; 2. Require the petitioner to expend funds equal to the cost the cost of above, to make other improvements related to the project as determined by the City Engineer or to deposit that amount with the City to install the islands; 3. Change the designation of “Retail” use for 3,180 square feet on the first floor to “Restaurant or Retail” at 120 Commerce Way.

On the petition by CONTINUUS Pharmaceuticals, Inc. c/o Ernest Penachio, 25-R Olympia Avenue, Woburn, Massachusetts 01801 for special permit to allow: 1. Revised site plan file with Special Permit Petition; 2. A Modification to the Landowner’s Decision and Notice of Special Permit dated March 29, 2018 (the “Decision”) to allow for a total of approximately 37,728 square feet of light manufacturing use; and approximately 13,038 square feet of office use; and 7,440 square feet of light manufacturing use; 3. A Special Permit pursuant to Section 9 to allow for the requested uses within the limits of the Floodway and Food Plain Districts; 4. Site Plan Approval pursuant to Section 12.2.4; and 5. A Special Permit pursuant to Section 5.1(53) to allow for a high hazard use, at 32 Cabot Road. PUBLIC HEARING OPENED: A communication dated August 6, 2021, was received from Dennis Clarke, Chairman and CEO of Cummings Properties, LLC, 200 West Cummings Park, Woburn, Massachusetts, 01801-6396 as follows:

Dear City Council Members:

I write to express Cummings Properties’ for support of CONTINUUS Pharmaceutical’s proposed use of the building at 32 Cabot Road. Although CONTINUUS leases space in two Cummings-owned properties in Woburn, our firm has no direct interest in 32 Cabot Road or his matter. Our interest, instead, is as a neighbor with multiple commercial buildings proximate to 32 Cabot Road.

Cummings Properties views CONTINUUS’ plans for 37,728 square feet of light manufacturing use and 13,038 square feet of office use as highly appropriate not only for the

building but also the neighborhood. We would like to go on the record as in favor of CONTINUUS' petition, and we hope the Council will approve it.

Separate and apart from this matter, we also hope the Council will reconsider the zoning for this area to allow office and light manufacturing uses by right. Firms seeking space for these uses are exactly the type of business that the City is trying to attract: life sciences, pharmaceutical, medical device, and other tech companies. Because it is often difficult for these fast-growing firms to project their needs in advance, removing the uncertainty introduced by the current special permit requirement would increase Woburn's appeal.

Thank you for your consideration.

Respectfully, s/Dennis Clarke, Chairman and CEO of Cummings Properties, LLC

Further, a communication dated August 16, 2021 was received from Attorney Joseph R. Tarby, III, Rubin and Rudman LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

RE: Responses to Comments from City Departmental Reviews, Continuous GMP Plant Project, Woburn, MA

Dear Lindsay:

Enclosed please find the response to the City of Woburn Department Heads that I mentioned at the public hearing for distribution to City Council members. If you have any questions, please do not hesitate to contact me. Thank you.

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

Further, a communication dated August 17, 2021 was received from Tina P. Cassidy, Woburn Planning Board Director as follows:

RE: PLANNING DEPARTMENT COMMENTS ON 32 CABOT ROAD:
APPLICATIONS FOR SPECIAL PERMITS AND APPROVAL OF REVISED SITE
PLAN/SPECIAL PERMIT PLAN OF RECORD / CONTINUUS

Dear Council:

The Planning Department has reviewed the above-referenced special permit requests filed with the Council for property at 32 Cabot Road located in an I-P Zoning District. The Petitioner seeks modification of a previously-approved Special Permit and Plan of Record to allow for additional manufacturing space at this address; special permits under Section 9 of the Woburn Zoning Ordinance (Floodway and Flood Plain Districts) and Section 5.1(53) (High Hazard Use); and site plan review under Section 12.2.4.

For councilors' information, the Planning Board is also reviewing this proposal because it is the Special Permit Granting Authority for certain manufacturing uses under Section 5.1(40aa) through (40bb). The Planning Board's public hearing on this project commenced on July 27th and will continue at its meeting on September 14th.

In connection with both this review of the applications before the Council and the separate review underway by the Planning Board, Planning staff organized a departmental review meeting between representatives of the Petitioner and various City departments. In attendance on behalf of the City were the Planning, Inspectional Services, Public Works, Engineering, and Fire Departments, and the Conservation Commission.

At the departmental review meeting, City staff raised questions on a number of fronts, including:

- The business operation's demand/need for water and other public utilities including a high-pressure gas main;
- The project's impact on traffic in the area;
- Security plans to safeguard the contents of the building, including any special fire suppression systems;
- The expected time line for submission of a Notice of Intent with the Conservation Commission;
- The safety of the surrounding environment in terms of the potential for outdoor spills that might contaminate groundwater or surface soil, either from surface spills or failures of the proposed chemical storage containment system;
- The types and quantities of hazardous materials that will be stored and used on site;
- The need to review prepared hazard mitigation and emergency response plans as well as floor plans documenting the location of hazards; and
- Confirmation of the status of the property in terms of any FEMA determination(s) relative to the property being located in or near a flood hazard area.

Please see the attached memos and emails from the Police Department and the departments cited above for a more complete list of the issues that were raised. These communications were sent to the Planning Board at its request, in connection with its review of the special permit application pending before it.

In response to these written communications, as well as comments made at the department review meeting and public hearing, the Petitioner has promised to submit the following additional information for consideration:

- Revised site plans that accurately depict both the existing building and all proposed new construction;
- Revised site plans that reflect any revisions made by the Petitioner in response to comments from the various departments;
- A hazard mitigation plan, an emergency response contingency plan, and fire suppression system related documents; and

- A summary of the various environmental considerations associated with the project, including an explanation of filings required with the Woburn Conservation Commission, MassDEP and/or the EPA.

As mentioned earlier, the Planning Board will resume its public hearing on September 14th. It expects to receive the above-mentioned information in advance of that meeting and if it does, the Board may reach a decision at the meeting on the 14th. I will file a written update to these comments with the Council immediately after the meeting.

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

Further, a communication dated September 10, 2021 was received from Attorney Joseph R. Tarby, III, Rubin and Rudman LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 regarding “Special Permit Petition of Continuous Pharmaceuticals, Inc., 32 Cabot Road, Woburn, MA” containing: 1. Project Impact Assessment/Statement; 2. HazMat Security Summary; 3. As Built Plan; 4. 3D View; 5. Building Occupancy Plan; 6. Lighting Plan; and 7. Revised Site Plan last dated August 4, 2021.

Further, a communication dated September 15, 2021 was received from Attorney Joseph R. Tarby, III, Rubin and Rudman LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

RE: Special Permit Petition of Continuous Pharmaceuticals, Inc. 32 Cabot Road, Woburn Massachusetts

Dear Lindsay:

On behalf of Continuous Pharmaceuticals, Inc., I respectfully request that the public hearing on this matter scheduled for September 21, 2021 be continued to the City Council meeting scheduled for October 5, 2021. If you need any further information, please do not hesitate to contact me. Thank you.

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

Further, a communication dated September 16, 2021 was received from Attorney Joseph R. Tarby, III, Rubin and Rudman LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 containing Pare Corporations “Responses to Comments from Building Commissioner, Continuous GMP Plant Project, Woburn, MA, (Pare Project No. 21043.00) as prepared by Joseph L. Weed, P.E., Project Engineer.

Further, a communication dated September 16, 2021 was received from Tina P. Cassidy, Woburn Planning Board Director as follows:

RE: CONTINUANCE OF PUBLIC HEARING: SPECIAL PERMIT APPLICATION to authorize 37,728 sq. ft. of light manufacturing floor space at 32 CABOT ROAD / CONTINUUS Pharmaceuticals, Inc.

Dear Ms. Higgins:

At a meeting of the Woburn Planning board held on Tuesday September 14, 2021, members of the Board voted unanimously 6-0-0 (Donovan, Turner, Callahan, Doherty, Ventresca, and Bolgen in favor; Edmonds absent) to continue the public hearing on the above-referenced filing. The public hearing will resume at the Planning Board's meeting on Tuesday, September 28, 2021, at 7:00 p.m.

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

Further, a communication dated September 17, 2021 was received from Tina P. Cassidy, Woburn Planning Board Director as follows:

RE: UPDATE ON PLANNING DEPARTMENT COMMENTS FOR 32 CABOT ROAD: APPLICATIONS FOR SPECIAL PERMIT AND APPROVAL OF REVISED SITE PLAN/SPECIAL PERMIT PLAN OF RECORD / CONTINUUS

Dear Council:

This communication is a follow-up to the letter I wrote to you on August 17th regarding the above-referenced project. At that time, I shared a summary of comments made at an August 3, 2021 departmental review meeting and explained that the Planning Board is also reviewing this proposal because it is the Special Permit Granting Authority for certain manufacturing uses in accordance with Section 5.1(40aa) through (40bb) of the Woburn Zoning Ordinance. The August 17th letter also listed a number of supplemental documents the Petitioner promised to submit to the Planning Board, as responses to the issues and questions that were raised by the various departments.

The Planning Board's public hearing on this project commenced on July 27th and was continued at a meeting held earlier this week on September 14th. Unfortunately, the Planning Board was unable to close the hearing and deliberate on the proposal that night. The Petitioner did in fact submit the supplemental information as promised, but did not do so until September 7th. Seven (7) days was an inadequate amount of time for all departments to have thoughtfully considered the material and provided updated comments to the Planning Board.

For that reason, the Planning Board voted unanimously this past Tuesday to continue the public hearing again, this time to September 28, 2021. Planning staff expects that written

comments will be filed by the various departments prior to that meeting and is therefore hopeful that a decision can be reached on September 28th.

I will continue to keep you updated.

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

On the petition by 304 Cambridge LLC, 304 Cambridge Road, Woburn, Massachusetts 01801, to amend the 1985 City of Woburn Zoning Ordinance, as amended, be further amended to amend Section 5, Notes to Section 5.1 Table of Use Regulations Note 26.1.a by adding a new sentence as follows: “Notwithstanding the foregoing a Restaurant, Full Service located in such an office building shall be allowed to operate outdoors and adjacent to such Restaurant, Full Service.” PUBLIC HEARING OPENED: A committee report was received “ought to pass, pending further information from City Solicitor and Planning Director.”

Further, a communication dated September 16, 2021 was received from Tina P. Cassidy, Woburn Planning Board Director as follows:

RE: CONTINUANCE OF PUBLIC HEARING on PROPOSED ZONING AMENDMENT to amend Section 5, Notes to Section 5.2 Table of Use Regulations of the 1985 Woburn Zoning Ordinances by adding the following sentence to the end of Note 26.1.a: “Notwithstanding the foregoing, a Restaurant, Full Service located in such an office building shall be allowed to operate outdoors and adjacent to such Restaurant, Full Service.” / Attorney Joseph Tarby on behalf of 304 Cambridge Road LLC.

Dear Ms. Higgins:

At a meeting of the Woburn Planning Board held on Tuesday, September 14, 2021, members of the Board voted unanimously 6-0-0 (Donovan, Turner, Callahan, Doherty, Ventresca, and Bolgen in favor; Edmonds absent) to continue the public hearing on the above-referenced filing. The public hearing will resume at the Planning Board’s meeting on Tuesday, September 28, 2021 at 7:00 p.m.

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

On the petition by President Tedesco and Alderman Ferullo to amend the 1985 Woburn Zoning Ordinances, as amended, be further amended by amending the definition of “RESTAURANT, FULL- SERVICE” in Section 2 by inserting after “space” on the first line the following language: “(including outdoor seating and rooftop dining)” so that the revised definition will be as follow: “RESTAURANT, FULL-SERVICE: Any building, room space

(including outdoor seating and rooftop dining) or portion thereof where food is sold for consumption on premises, customers are provided an individual menu, a restaurant employee serves the customer at the same table or counter at which items are consumed. A restaurant, full-service may provide “accessory” delivery service, takeout service (except drive-up customer service) and related retail sales items. PUBLIC HEARING OPENED: A committee report was received “ought to pass, as amended.”

On the petition by Alderman Tedesco, Alderman Ferullo, and Alderman Demers to amend the 1985 Woburn Zoning Ordinances, as amended, be further amended as follows: 1. That Section 11.6.12. entitled “Rooftop Dining in the B-D District.” of the 1985 City of Woburn Zoning Ordinance as amended be further amended to be named “Rooftop Dining.” 2. That Section 11.6.12 entitled “Rooftop Dining in the B-D District.” of the 1985 City of Woburn Zoning Ordinance as amended be further amended as followed: 4. The rooftop dining use shall comply with the buffer requirement set forth in Section 5.7. 3. That Section 11.6.12 entitled “Rooftop Dining in the B-D District.” of the 1985 City of Woburn Zoning Ordinance as amended be further amended as followed: 6. Use of the rooftop shall not exceed the hours of operation for the Full-Service Restaurant establishment doing business within the same building. 4. That Section 5.1 entitled “Table of Use Regulations”, Note 27 of the 1985 City of Woburn Zoning Ordinance as amended be further amended as followed: 27. Rooftop dining may be authorized by Special Permit from the City Council if the conditions outlined in Section 11.6 are met. PUBLIC HEARING OPENED: A committee report was received “back for action, pending comments from the Planning Board.”

UNFINISHED BUSINESS OF PRECEDING MEETING:

ORDERED

Be it Ordained by the City Council of the City of Woburn, that Title 10, Schedule 1, Parking Restrictions, of the City of Woburn 2017 Traffic Code, as amended, be further amended, by repealing the following regulation:

Blueberry Hill Road: No parking southerly side beginning at the intersection with Holton Street westerly a distance of 500 feet between December 31st and March 31st.

s/President Tedesco

A proposed escrow agreement was received from the City Solicitor on September 16, 2021, as follows:

ESCROW AGREEMENT

BLUEBERRY HILL ROAD IMPROVEMENTS

This Agreement (“Agreement”) made this day of September, 2021, by and among E.A.

Spry & Co., Inc., a Massachusetts corporation with a principal place of business at 54 Holton Street, Woburn, MA 01801, and doing business as Spry Moving Company (“Spry”), and the City of Woburn, a municipal corporation with executive offices at City Hall, 10 Common Street, Woburn, MA 01801 (“City”).

WHEREAS, Spry filed a complaint against the Woburn City Council and the Woburn Traffic Commission challenging the enactment of a parking regulation in the Superior Court case of Spry v. Woburn Traffic Commission and Woburn City Council, et al, (C.A. No. 1981-cv01512); and

WHEREAS, the City, by and through its City Council and Traffic Commission and Spry wish to come to mutually acceptable arrangement as a means for resolving the litigation matter;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. That Spry shall deliver to the City the amount of Twenty-Five Hundred (\$2,500.00) Dollars (the “Escrow Funds”) to be held by the City in accordance with this Agreement.
2. The Escrow Funds shall be deposited in an interest bearing account and held by the City in a separate account designated as “Spry - Blueberry Hill Improvements”. The Custodian of the funds shall be the City’s Treasurer/Collector, Timothy Donovan. In the event interest accrues, interest shall follow the principal amount of the deposit.
3. Upon payment of the Escrow Funds and satisfactory proof that an escrow account has been established pursuant to this agreement, Spry shall be deemed in compliance with this Agreement; and the City Council shall vote on the Order to amend Title 10, Schedule 1, Parking Restrictions, of the City of Woburn 2017 Traffic Code, as amended by repealing the regulation which provides, “Blueberry Hill Road: No parking southerly side beginning at the intersection with Holton Street westerly a distance of 500 feet between December 31st and March 31st” (hereinafter referred to as the “Order to Amend”).
4. Within forty-five days of an affirmative vote by the City Council adopting the Order to Amend, the City shall permit and Spry shall cause the following improvements to be made on Blueberry Hill Road, Woburn, MA, to wit, the installation of a stop sign at the intersection of Blueberry Hill and Holton Street; the installation of a double yellow center line along Blueberry Hill between Holton Street and Fox Road; and the installation of parking signage to restrict the parking of vehicles affiliated with businesses in the residential area (“No Parking this Side’), (the Improvements”). The Improvements shall be substantially based upon the Conceptual Improvement Plan attached to this Agreement.
5. In the event Spry does not complete the Improvements as set forth herein, the City shall be entitled to utilize the Escrow Funds for the purpose of making the Improvements and shall return to Spry any unused balance upon the completion of the Improvements.

6. In the event the City Council fails to pass the Order to Amend, the Escrow Funds shall be promptly returned to Spry and all of the parties' respective obligations, rights and responsibilities set forth herein shall be null and void except for the obligations set forth in Paragraph 7 below

7. Both the City and Spry agree to indemnify, save, defend and hold harmless the Treasurer/Collector from any liability associated with action or inaction taken hereunder except such action as is in willful and knowing disregard of the escrow agent's obligations hereunder.

8. Upon the establishment of the escrow account and the signing of this Agreement, the parties shall execute a Stipulation of Dismissal as to all claims associated with the litigation matter and stating that each party shall bear its own costs and attorney's fees, and file said Stipulation with the Court.

9. This Agreement may be executed in multiple parts, in which case each executed copy shall be deemed an original for all purposes.

Signed this _____ day of September, 2021.

City of Woburn

E.A. Spry & Co., Inc.

Scott D. Galvin, Mayor

Woburn City Council

Edward Tedesco, President duly authorized

COMMITTEE REPORTS:

INFRASTRUCTURE AND PUBLIC LANDS:

A committee report was received "ought to pass" for the following:

ORDERED

Be it ordained by the City Council of the City of Woburn that the Mayor be and is hereby authorized to accept on behalf of the City drainage and access easements from Cattle Crossing, LLC as shown on a plan entitled "Drainage and Access easements Plan of Land 88-92 Pearl Street & 1-7 Alan R. Gerrish Drive, Woburn Mass. Scale 1" = 20'" dated June 18, 2021 Benchmark Survey 41 Elm Street Suite 4A

Stoneham MA, to be recorded in the Middlesex South Registry of Deeds.

s/President Tedesco
Per Request of the Mayor

CITIZEN’S PARTICIPATION:

Richard English, Local 971, to discuss firefighter retirement benefits.

COMMUNICATIONS AND REPORTS: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED

That in accordance with Massachusetts General Laws Chapter 54, Section 25B(c), and Section 1 of Chapter 255 of the Acts of 2020, and upon request and recommendation of the City Clerk, IN-PERSON EARLY VOTING is hereby authorized to take place at Woburn City Hall, 10 Common Street for all wards on SATURDAY, the TWENTY-THIRD DAY OF OCTOBER, 2021 and SUNDAY, the TWENTY-FOURTH DAY OF OCTOBER, 2021 from 9:00 a.m. to 1:00 p.m., for all inhabitants of the City of Woburn as are qualified to vote in the MUNICIPAL ELECTION for the candidates for the following offices:

ENTIRE CITY	MAYOR, ALDERMAN-AT-LARGE, SCHOOL COMMITTEE
EACH WARD	WARD ALDERMAN

s/President Tedesco

ORDERED

That the City Council Regular Meeting scheduled for November 2, 2021 shall be rescheduled to November 9, 2021 due to the Municipal Election.

s/President Tedesco

ORDERED

Be it Ordained by the City Council of the City of Woburn, that the 1985 Zoning Ordinances, as amended, be further amended by amending Section 2, Definitions, to insert the following:

OUTDOOR DINING: the use of an adjacent, outside area by a Restaurant, Full-Service establishment for the same eating and drinking activities that occur within that establishment, operating in the same manner thereof including hours of operation, and which is continuously supervised by management or employees of the establishment. The outdoor dining use is not permitted at a Restaurant, Fast Food.

s/President Tedesco

Motion made and 2nd to ADJOURN.