

1. City Council Regular Meeting Agenda (PDF)

Documents:

[05-02-2016 COUNCIL CALENDAR.PDF](#)

2. City Council Regular Meeting Agenda & Packet (PDF)

Documents:

[05-02-2016 COUNCIL CALENDAR AND PACKET.PDF](#)



City of Gardner, Massachusetts

Office of the City Council

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### CALENDAR FOR THE MEETING

of

MONDAY, MAY 2, 2016

COUNCIL CHAMBER

7:30 P.M.

### ORDER OF BUSINESS

#### I. CALL TO ORDER

#### II. CALL OF THE ROLL OF MEMBERS

#### III. OPENING PRAYER

#### IV. PLEDGE OF ALLEGIANCE

#### V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

#### VI. READING OF MINUTES OF PRIOR MEETING(S)

Reading and Approval of the Minutes of the April 19, 2016 Public Hearing and the Regular Meeting.

#### VII. PUBLIC HEARINGS

#### VIII. COMMUNICATIONS FROM THE MAYOR

#### APPOINTMENTS

**9612** – A Measure Confirming the Mayor’s Appointment of Claude Leger to the Position of Senior Citizens’ Director for term expiring April 13, 2018 (*Finance Committee*).

**9613** – A Measure Confirming the Mayor’s Appointment of Alanna Toomey to the Position of Member, Historical Commission, for term expiring April 19, 2019 (*Finance Committee*).

#### ORDERS

**9614** – An Order Appropriating \$208,000.00 from Free Cash to Veterans’ Department, Veterans’ Benefits (*Finance Committee*).

**9615** – An Order Appropriating \$12,000.00 from Free Cash to City Treasurer, Minor Equipment (*Finance Committee*).

**9616** – An Order Appropriating \$10,000.00 from Free Cash to Building Department, Repairs and Maintenance (*Finance Committee*).

## **IX. PETITIONS, APPLICATIONS, ETC.**

- 9617** – A Measure Authorizing an Amendment to a Lease Between the City of Gardner and Henry Heywood Memorial Hospital (*Finance Committee*).
- 9618** – An Application by ecoATM, Inc. for a License to Deal in Second Hand Articles at 677 Timpany Boulevard (*Public Safety Committee*).
- 9619** – An Application by Gardner Coins & Cards, Inc. for a License to Deal in Second Hand Articles at 25 Pleasant Street (*Public Safety Committee*).
- 9620** – An Application by GameStop, Inc. for a License to Deal in Second Hand Articles at 376 Timpany Boulevard (*Public Safety Committee*).
- 9621** – An Application by Gardner Ten Pins, Inc., 560 West Broadway, for a Bowling Alley License (*Public Safety Committee*).
- 9622** – A Resolution Designating the City Hall Annex Second Floor Conference Room as the “Robert L. Hubbard Conference Room” (*Finance Committee*).

## **X. REPORTS OF STANDING COMMITTEES**

### **PUBLIC SAFETY COMMITTEE**

- 9582** – A Communication from Seven Point of Massachusetts, Inc. Relative to Support/Non-opposition to Siting a Registered Marijuana Dispensary in the City of Gardner (*In City Council and Referred to Council as Committee of the Whole 2/16/2016; Meeting with Seven Point 3/21/2016; Referred to Public Safety Committee and the Mayor 3/21/2016*).

### **FINANCE COMMITTEE**

- 9588** – A Notice Under G.L. Chapter 61, §8, Right of First Refusal, Sale of Land Classified as Forest Land (Parcel M32-6-5, 85.41 acres easterly of Clark Street; Parcel M-37-21-42, 3.37 acres easterly of Century Way; M32-6-10, 0.34 acres easterly of Clark Street) (*Referred to Finance and Law Department for Study and Report 3/7/2016*).
- 9599** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171-68, Entitled “Personnel,” to Change Compensation Schedule 2 (*In City Council and Referred to Finance Committee 3/21/2016*).

### **COMMITTEE OF THE WHOLE**

- 9234** – Law Department Charter Review (*Referred to the City Solicitor 10/20/2014; Charter Review Received and Referred to the Committee of the Whole 3/3/2015*).
- 9611** – A Resolution Relative to Aggregation of Electric Power and a Measure Accepting G.L. Chapter 164, § 134, Load Aggregation Programs (*In City Council and Referred to Committee of the Whole 4/19/2016; Informal Meeting with Colonial Power scheduled for 5/16/2016 at 6:15 p.m.*).

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

- 9551** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675, Zoning, Adding New Section 675-590, Mill Street Corridor Development Overlay District (*In City Council and Referred to Public Welfare 1/19/2016; Ordered to Public Hearing 2/16/2016; Joint Hearing 4/19/2016; Planning Board Final Report Pending*).
- 9569** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675, Zoning, Section 675-970, Signs Permitted in Commercial and Industrial Districts, Perpendicular Signs, and Section 675-980, Special Regulations for Signs in Historic Areas, Perpendicular Signs (*In City Council and Ordered to Public Hearing 2/16/2016; Joint Hearing 4/19/2016; Planning Board Final Report Pending*).
- 9576** – A Resolution to Rename a Portion of Matthews Street to Old Matthews Street (*In City Council and Ordered to Public Hearing 2/16/2016; Hearing Scheduled 5/16/2016 at 7:00 p.m.*).
- 9577** – A Resolution to Rename a Portion of Summit Avenue to Clairmont Street from Union Street for approx. 210' southeasterly. (*In City Council and Ordered to Public Hearing 2/16/2016; Hearing Scheduled 5/16/2016 at 7:00 p.m.*).
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## **XII. NEW BUSINESS**

## **XIII. CLOSING PRAYER**

## **XIV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



# City of Gardner, Massachusetts

## Office of the City Council

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CALENDAR FOR THE MEETING

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XII. NEW BUSINESS

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PUBLIC HEARING OF APRIL 19, 2016

Tuesday evening, April 19, 2016. Joint Public Hearing of the City Council and Planning Board held in the Council Chamber, City Hall.

CALL TO ORDER

Council President James Walsh called the Public Hearing to order at 6:30 o'clock p.m.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of City Councillors. Ten (10) members were present, including President Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance. Councillor Marc Morgan was absent.

The City Clerk called the Roll of Planning Board Members. Three members were present including, Robert Bettez, Sr., Laura Casker, and Robert Swartz. Chairman Allen Gross and Member Mark Schafron were absent.

President Walsh announced that the Public Hearing was called, as follows:

Pursuant to the provisions of Section 5 of Chapter 40A of the General Laws, notice is hereby given that the Gardner City Council and Planning Board will conduct a Joint Public Hearing on Tuesday, April 19, 2016 at 6:30 P.M. in the City Council Chamber, Room 219, Gardner City Hall to consider amending the Code of the City of Gardner, Chapter 675, Zoning, by adding new Section 675-590, Mill Street Corridor Development Overlay District. The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City's website – www.gardner-ma.gov. All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

GARDNER CITY COUNCIL
ALAN L. AGNELLI, City Clerk

President Walsh asked if any person in attendance wished to speak in favor of the proposed Ordinance.

Trevor Beauregard, Community Development & Planning Director, presented the Planning Board's Transmission. He stated that the Planning Board voted to support the Amendment, noting that the overlay would allow additional uses in the Corridor consistent with the City's Urban Renewal Plan and that the underlying zoning restrictions would remain. He stated that all existing uses are "by right" and subject to Planning Board Site Review and that setbacks in both Districts would be increased.

PUBLIC HEARING OF APRIL 19, 2016

President Walsh asked three times if any person in attendance wished to speak in opposition to the proposed Ordinance. No one responded.

There being no response, President Walsh declared the Hearing closed at 6:37 p.m.

President Walsh announced that the Public Hearing was called, as follows:

Pursuant to the provisions of Section 5 of Chapter 40A of the General Laws, notice is hereby given that the Gardner City Council and Planning Board will conduct a Joint Public Hearing on Tuesday, April 19, 2016 at 6:30 P.M. in the City Council Chamber, Room 219, Gardner City Hall to consider amending the Code of the City of Gardner, Chapter 675, Zoning, Section 675-970, Signs Permitted in Commercial and Industrial Districts, Perpendicular Signs, and Section 675-980, Special Regulations for Signs in Historic Areas, Perpendicular Signs. The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City's website – www.gardner-ma.gov. All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

GARDNER CITY COUNCIL
ALAN L. AGNELLI, City Clerk

President Walsh asked if any person in attendance wished to speak in favor of the proposed Ordinance.

Trevor Beauregard, Community Development & Planning Director, presented the Planning Board's Transmission.

Mr. Beauregard stated that his office was approached by local businesses seeking to ease the application process for perpendicular signs, which currently requires a Special Permit from the Zoning Board of Appeals. He said that the change would "fit well in the Downtown area."

President Walsh asked three times if any person in attendance wished to speak in opposition to the proposed Ordinance. No one responded.

There being no response, President Walsh declared the Hearing closed at 6:40 p.m.

Accepted by the City Council:

**REGULAR MEETING OF APRIL 19, 2016**

Regular Meeting of the City Council was held in the City Council Chamber, 2nd Floor, City Hall, on Tuesday evening, April 19, 2016.

CALL TO ORDER

President James Walsh called the meeting to order at 7:30 o'clock p.m.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present, including President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance. Councillor Marc Morgan was absent.

OPENING PRAYER

President Walsh led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

President Walsh led the Council in reciting the "Pledge of Allegiance".

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

READING & ACCEPTANCE OF MINUTES

On a motion by Councillor Ronald Cormier and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to waive reading and to accept the Minutes of the April 4, 2016 Public Hearings and Regular Meeting, as printed.

COMMUNICATIONS FROM THE MAYOR**ORDERS**

#9602

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the funds represented by the Order were not properly encumbered from the prior fiscal year and should not have reverted to Free Cash.

REGULAR MEETING OF APRIL 19, 2016

On a motion by Councillor Ronald Cormier and seconded by Councillor James Boone, it was voted on roll call, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO CITY HALL HEATING SYSTEM CAPITAL PROJECT.

ORDERED: That there be and is hereby appropriated the sum of Thirty-Two Thousand Five Hundred Forty-Two Dollars and No Cents (\$32,542.00) from Free Cash to City Hall, Heating System Capital Project.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9603

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that \$200,000 was appropriated to the Termination Leave account in FY2016; however, nearly \$224,000 has been paid-out due to employee departures. He noted that three employees (Firefighters) recently and unexpectedly retired, thus the unanticipated need for additional funding. He added that the additional appropriation would leave a small balance in order to provide termination leave benefits to the recently-retired Public Health Director.

Citing the Mayor's list of employees that have or will draw from the Termination Leave account, Councillor James Boone questioned the absence of the Termination Leave due to the retiring Health Director.

Councillor Ronald Cormier responded, stating that the Termination Leave for the Health Director had not yet been computed, as he is currently using accrued vacation leave. He added that the Mayor provided the Committee with an estimate of projected termination leave for the Health Director, which should be covered by the Order.

On a motion by Councillor Ronald Cormier and seconded by Councillor Karen Hardern, it was voted on roll call, eight (8) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, and Paul Tassone; two (2) nays, Councillors James Boone and Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO MAYOR'S UNCLASSIFIED TERMINATION LEAVE RESERVE.



 REGULAR MEETING OF APRIL 19, 2016

ORDERED: That there be and is hereby appropriated the sum of Forty Thousand Dollars and No Cents (\$40,000.00) from Free Cash to the Mayor's Unclassified Termination Leave Reserve.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9604

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the bulk of overtime is the result of coverage for firefighters on various leaves (sick, injured, vacation) or as a result of retirements. The new vehicle, he stated, was included in the City's Capital Improvement Plan and would replace "a considerably-older vehicle," noting that the Fire Department utilizes its vehicles well in excess of five years. With regard to Holiday Pay, College Credits, and Sick Leave Incentive, Councillor Cormier reported that the appropriation would provide for contractual items negotiated after the FY2016 Budget was adopted.

On a motion by Councillor Ronald Cormier and seconded by Councillor Paul Tassone, it was voted on roll call, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING A SUM OF MONEY FROM FREE CASH TO FIRE DEPARTMENT - VARIOUS ACCOUNTS.

ORDERED: That there be and is hereby appropriated the sum of One Hundred Forty-Five Thousand Three Hundred Twenty Dollars and No Cents (\$145,320.00) from Free Cash to the following accounts:

Fire Department Overtime	\$84,000.00
Fire Department New Vehicle	\$48,000.00
Fire Department Holiday Pay	\$ 5,500.00
Fire Department College Credits	\$ 4,620.00
Fire Department Sick Leave Incentive	\$ 3,200.00

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9605

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the vehicle is not included on the Capital Improvement Plan; however, it is a specialty Police

REGULAR MEETING OF APRIL 19, 2016

vehicle used by the School Safety Officer, used for transporting trailers/signage, and would replace an older vehicle that “has outlived its usefulness.” He added that the vehicle would be purchased from the State Bid List, which provides the City with upfront costs.

Councillor James Johnson questioned the disposition of ancillary vehicle equipment once the vehicle is disposed.

Councillor Ronald Cormier noted that the price quote lists the cost to transfer radio equipment from the old vehicle to the new vehicle, but that he was unsure as to the disposition of other equipment.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Johnson, it was voted on roll call, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO POLICE DEPARTMENT, NEW VEHICLE.

ORDERED: That there be and is hereby appropriated the sum of Forty Thousand and No Cents (\$40,000.00) from Free Cash to Police Department, New Vehicle.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9606

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Finance Committee voted, by majority, to recommend adoption of the Order Appropriating \$40,000.00 from Free Cash to Debt Service. He explained that two and one – half years earlier, the City Council voted to authorize borrowing for its share of the MSBA Project for Gardner High School, noting that the City issued Bond Anticipation Notes (“BANs”) as opposed to Bonds. He said that the Mayor wishes to pay-off the Debt using Free Cash as opposed to paying borrowing costs.

Councillor Ronald Cormier moved to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO DEBT SERVICE.

ORDER: That there be and is hereby appropriated the sum of Forty Thousand and No Cents (\$40,000.00) from Free Cash to Debt Service.

Councillor Karen Hardern seconded the motion.

REGULAR MEETING OF APRIL 19, 2016

On the motion, Councillor Matthew Vance voiced opposition to the Order, saying that there are better things to spend the City's Free Cash on than paying off a debt that has a low borrowing interest rate.

On roll call, three (3) yeas, Councillors Craig Cormier, Ronald Cormier, and Karen Hardern; seven (7) nays, President James Walsh and Councillors James Boone, Nathan Boudreau, Scott Graves, James Johnson, Paul Tassone, Matthew Vance, the Order was not adopted.

#9607

On a motion by Councillor Ronald Cormier and seconded by Councillor Paul Tassone, it was voted on roll call, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO PUBLIC WORKS, NEW BUILDING.
ORDERED: That there be and is hereby appropriated the sum of One Hundred Thousand and No Cents (\$100,000.00) from Free Cash to Public Works, DPW New Building.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9608

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Committee voted unanimously to recommend that the Order be referred to the Council as a Committee of the Whole in order to allow for a full and complete report from the presenting parties with respect to implementing a Fire Department Ambulance service.

Councillor Ronald Cormier moved to refer AN ORDER APPROPRIATING FROM FREE CASH TO FIRE DEPARTMENT, PRIVATE SALARIES to the Council as a Committee of the Whole to allow a full and complete report from the presenting parties with respect to implementing a Fire Department Ambulance service.

Councillor James Johnson seconded the motion.

On the motion to refer, Councillor Karen Hardern stated that the issue has been discussed for more than a year, acknowledging, however, that the Council has two new members, but that she believes that they have “been brought up to speed as to what’s been going on,” and that she would like to see it move forward.

Councillor Hardern the then moved to adopt the Order.

REGULAR MEETING OF APRIL 19, 2016

President Walsh informed the Council that the motion to refer is a priority motion.

Councillor James Johnson stated that he would not support the motion to refer the measure; however, acknowledged that more discussion is necessary to review the measure. He said that getting the process started with passage of the Order and the hiring the new employees is not a bad idea.

Councillor Paul Tassone stated his opposition to the motion to refer, saying that the Council has the data to start the process and the Council doesn't need to slow down the process at this point.

Councillor Ronald Cormier stated that the intent of the Finance Committee is not to slow down the process, but to make certain that it be done expeditiously but with all the facts and figures. He noted that not only are the salaries of the firefighter/EMTs part of the overall cost, but that the cost of equipment isn't known. He added that the earlier presentation lacked data and specifics, specifically the number of calls. He added that further discussion and review would make the Council "far more informed," particularly for something that would be very costly in the future if a wrong decision is made.

Councillor James Boone stated that as a new member [of the Council], the "numbers before me seem to make a lot of sense," however, saying that he needs time to digest them. He added that he supports a presentation in order to "bring him up to speed" on the issue.

Councillor James Johnson questioned if it would be possible to vote on the Order as well as to schedule a full presentation before the Council.

President Walsh replied that the Council could still hold a meeting if the Order passes.

On the motion, four (4) yeas, President Walsh and Councillors James Boone, Ronald Cormier, and Scott Graves; six (6) nays, Councillors Nathan Boudreau, Craig Cormier, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance, the motion to refer the Order did not pass.

Councillor Matthew Vance moved to adopt the Order. Councillor Paul Tassone seconded the motion.

Councillor James Johnson then moved to amend the Order to include a meeting of the Council as a Committee of the Whole with a presentation.

President Walsh ruled the motion out of order, saying that such a proviso cannot be attached to a money order. He added, however, that if there is a sense of the Council to have such a meeting, then one would be scheduled.

REGULAR MEETING OF APRIL 19, 2016

On the motion, it was voted on roll call, eight (8) yeas, Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance; two (2) nays, President Walsh and Councillor Scott Graves, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO FIRE DEPARTMENT, PRIVATE SALARIES.

ORDERED: That there be and is hereby appropriated the sum of Sixty-One Thousand Five Hundred Sixty Nine Dollars and No Cents (\$61,569.00) from Free Cash to Fire Department, Private Salaries.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

PETITIONS, APPLICATIONS, ETC.

#9609

On a motion by Councillor Ronald Cormier and seconded by Councillor James Boone, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Measure:

VOTED: To approve an exemption pursuant to G.L. C. 268A, §20(b) in the Matter of a Financial Interest by Erica Corral for a Contract for Interpretive Services in the Translation of Documents.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9610

On a motion by Councillor Ronald Cormier and seconded by Councillor James Boone, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Measure:

VOTED: To approve an exemption pursuant to G.L. C. 268A, §20(b) in the Matter of a Financial Interest by Traci Podrazik for a Contract for Interpretive Services in the Translation of Documents.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

REGULAR MEETING OF APRIL 19, 2016

#9611

On a motion by Councillor Ronald Cormier and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to refer to the Council as a Committee of the Whole the following:

ELECTRIC POWER AGGREGATION RESOLUTION
AND ACCEPTANCE OF G.L. CHAPTER 164, § 134

WHEREAS, the Commonwealth of Massachusetts has engaged in a process to establish a competitive market place through the restructuring of the electricity market; and

WHEREAS, citizens of Gardner have a substantial economic and social interest in terms of greater customer choice and opportunities for savings in this restructured market—and

WHEREAS, the City of Gardner hereby finds that it may be in the interest of its citizens who are electric ratepayers, both residential and commercial/industrial, to develop and secure such approvals and enter into appropriate agreements with consultants, experts and attorneys in connection with the establishment and operation of an electricity aggregation plan.

BE IT THEREFORE RESOLVED that the City of Gardner hereby:

Accepts the provisions of M.G.L. c. 164, § 134, and publicly declares its intent to become an aggregator of electric power on behalf of its residential and business electric customers and to authorize the Mayor, as provided by such statute to develop a plan, for review by the citizens of the City of Gardner, detailing the process and consequences of aggregation and further to reestablish such plan if its operation is suspended, and to negotiate and enter into such contracts for power supply pursuant to the plan or services for such plan, with the understanding that if a power supply contract is executed, individual consumers would retain the option not to participate in the aggregation plan and, instead, to choose any electricity alternatives they desire and, further, to take such other action relative hereto as may be appropriate and necessary.

REPORTS OF STANDING COMMITTEES

PUBLIC SAFETY COMMITTEE

#9582

There being no objections, the Public Safety Committee was granted more time to report on the request of Seven Point of Massachusetts, Inc. for Support/Non-opposition to siting a Registered Marijuana Dispensary in the City of Gardner.

FINANCE COMMITTEE

#9588

There being no objections, the Finance Committee was granted more time to report on A NOTICE UNDER G.L. CHAPTER 61, §8, RIGHT OF FIRST REFUSAL, SALE OF LAND CLASSIFIED AS FOREST LAND (PARCEL M32-6-5, 85.41 ACRES EASTERLY OF CLARK STREET; PARCEL M-37-21-42, 3.37 ACRES EASTERLY OF CENTURY WAY; M32-6-10, 0.34 ACRES EASTERLY OF CLARK STREET).

REGULAR MEETING OF APRIL 19, 2016

#9595

On a motion by Councillor Ronald Cormier and seconded by Councillor James Boone, it was voted on roll call, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

AN ORDER APPROPRIATING FROM SEWER SURPLUS TO SEWER, SEWER CLERK.

ORDERED: That there be and is hereby appropriated the sum of Four Thousand Five Hundred Forty-four Dollars and No Cents (\$4,544.00) from Sewer Surplus to Sewer, Clerk.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9599

President Walsh, addressing the Council as Chairman of the Finance Committee, reported that the Committee anticipates that a report will be made to the Council at the next regular meeting, adding that Councillors wishing to offer input into the Committee's deliberations to please transmit their comments to the Committee at least 48 hours before its next meeting. There being no objections, the Finance Committee was granted more time to report on AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED "PERSONNEL," TO CHANGE THE COMPENSATION SCHEDULE.

COMMITTEE OF THE WHOLE**#9234**

President Walsh stated that each Councillor was provided with a copy of the City Solicitor's letter to Assistant Attorney General Kelli Gunagan regarding proposed Charter provisions. He said that he spoke with Attorney Gunagan who informed him that she had not reviewed it. President Walsh added that he hoped that a response would be forthcoming within thirty days. There being no objections, the Committee of the Whole was granted more time.

UNFINISHED BUSINESS**#9551**

President Walsh informed the Council that the Council cannot act on AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675, ZONING, SUBSECTION 675-970, SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS, PERPENDICULAR SIGNS, AND SUBSECTION 675-980, SPECIAL REGULATIONS FOR SIGNS IN HISTORIC AREAS, PERPENDICULAR SIGNS, until the Planning Board issues its Final Report to the City Council. He said that the Community Development Director informed him that the Planning Board is scheduled to meet on May 10; therefore, the Council should expect the Final Report by the second Council meeting in May.

REGULAR MEETING OF APRIL 19, 2016

#9569

President Walsh informed the Council that the Council cannot act on AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675, ZONING, ADD A NEW SECTION 675-590, MILL STREET CORRIDOR DEVELOPMENT OVERLAY DISTRICT, until the Planning Board issues its Final Report to the City Council. He said that the Community Development Director informed him that the Planning Board is scheduled to meet on May 10; therefore, the Council should expect the Final Report by the second Council meeting in May.

#9570

Councillor Matthew Vance moved to amend the Order discontinuing John Street as a public way by substituting language that was submitted by the City Engineer, as follows:

DISCONTINUING AS A PUBLIC WAY
JOHN STREET FROM PLEASANT STREET
TO THE ROUTE 2 RIGHT-OF-WAY

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as John Street running between Pleasant Street and Route 2 is in excess of the City's current and future needs, it is therefore;

ORDER: That the portion of John Street from Pleasant Street running east 334 feet to the layout of Route 2 (as laid out and accepted as a Town road in 1881 and in 1921) be discontinued as a public way, with the following conditions:

The City and Others shall retain existing easement rights in and over the parcel for maintenance of utilities and access. Abutting property owners shall have a right-of-way over the discontinued way to or from their property to the nearest or most accessible roadway.

The parcel as described contains approximately 4,300 square feet.

Councillor James Johnson seconded the motion.

Councillor James Boone sought clarification as to the section of John Street to be discontinued.

President Walsh confirmed that the section includes only the portion off Pleasant Street.

On the motion, it was voted viva voce, eight (8) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, James Johnson, Paul Tassone, Matthew Vance; two (2) nays, Councillors Scott Graves and Karen Hardern, to adopt the amendment substituting a new Order.

Mayor Hawke addressed the City Council, stating that the original intent was to discontinue John Street as a public way and to construct a cul-de-sac on John Street on the south side of

REGULAR MEETING OF APRIL 19, 2016

Route 2 to serve the two homes, which would still be plowed and maintained by the City. He said that the former owners of the two homes on John Street were in favor of discontinuing the road. The goal is to then discontinue Risley Street which is surrounded by a single landowner, the Salvadore Family. He added that the Salvadore's planned to submit a letter to the City Council in support of the measure; however, no letter arrived.

Councillor Craig Cormier questioned whether the City Council received any complaints from the residents of John Street off Pleasant Street.

President Walsh stated that nothing was received by the Clerk or anyone else to his knowledge.

On a motion by Councillor Matthew Vance and seconded by Councillor James Boone, it was voted viva voce, eight (8) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, James Johnson, Paul Tassone, Matthew Vance; two (2) nays, Councillors Scott Graves and Karen Hardem, to adopt the following Order:

DISCONTINUING AS A PUBLIC WAY
JOHN STREET FROM PLEASANT STREET
TO THE ROUTE 2 RIGHT-OF-WAY

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as John Street running between Pleasant Street and Route 2 is in excess of the City's current and future needs, it is therefore;

ORDERED: That the portion of John Street from Pleasant Street running east 334 feet to the layout of Route 2 (as laid out and accepted as a Town road in 1881 and in 1921) be discontinued as a public way, with the following conditions:

The City and Others shall retain existing easement rights in and over the parcel for maintenance of utilities and access. Abutting property owners shall have a right-of-way over the discontinued way to or from their property to the nearest or most accessible roadway.

The parcel as described contains approximately 4,300 square feet.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

REGULAR MEETING OF APRIL 19, 2016

#9571

Councillor Matthew Vance moved to adopt the following Order with intent to defeat:

DISCONTINUING AS A PUBLIC WAY
RISLEY STREET FROM WEST BROADWAY
TO JOHN STREET

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as Risley Street running between West Broadway and John Street is in excess of the City's current and future needs, it is therefore;

ORDER: That the entire length of Risley Street from West Broadway running north and east 334 feet to John Street (as laid out and accepted as a Town road in 1881 and in 1921) be discontinued as a public way, with the following conditions:

The City and Others shall retain existing easement rights in and over the street for maintenance of utilities and access. Abutting property owners shall have a right-of-way over the discontinued way to or from their property to the nearest or most accessible roadway.

The parcel as described contains approximately 19,000 square feet.

Councillor James Johnson seconded the motion.

Mayor Hawke addressed the Council, saying that he spoke with the Salvadore Family and the two homeowners on John Street and all expressed support for discontinuing Risley Street. He noted that the road is in dire condition and that Risley Street entering onto West Broadway is a traffic hazard.

Councillor James Johnson expressed opposition to the Order, citing the need to access West Broadway due to the closure of the Pleasant Street Bridge.

Councillor Scott Graves stated that he has heard the arguments for discontinuing Risley Street as a public way "and it doesn't pass the smell test." He said that the proposal "came out of nowhere" and that no facts about accidents, injuries, or floods have been presented, thus he would not support the measure.

Mayor Hawke addressed Councillor Graves' comments, saying that the genesis of the measure is not with the current Council, but that a past Council approved an Order for \$10,000 to \$12,000 to study the City's roadways, which incorporated accepting certain streets, such as those being addressed by the Council at this meeting. He added that a committee was named to review the roadways, noting that former Councillor Edward Gravel served on that Committee.

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Councillor James Boone stated that he would like to hear more from the residents of John Street since they expressed opposition [at the recent hearing] to discontinuing the street as a public way. He added that he supports the motion to defeat the measure until the Council hears more from the John Street residents and the Salvadore family.

On the motion to adopt, it was voted viva voce, zero (0) yeas; ten (10) nays, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance; accordingly, the Order did not pass.

#9572

Councillor Matthew Vance moved to adopt the following Order with intent to defeat:

DISCONTINUING AS A PUBLIC WAY
SAINT JOHN'S ROAD FROM WEST STREET
TO LAND OF THE ROMAN CATHOLIC BISHOP

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as Saint John's Road running between West Street and Saint John's Cemetery is in excess of the City's current and future needs, it is therefore;

ORDER: That the portion of Saint John's Road from West Street running south 334 feet to land of the Roman Catholic Bishop (as laid out and accepted as a Town road in 1881 and in 1921) be discontinued as a public way, with the following condition:

The City and Others shall retain existing easement rights in and over the street for maintenance of utilities and access.

The parcel as described contains approximately 14,500 square feet.

Councillor Nathan Boudreau seconded the motion.

On the motion, Councillor Karen Hardern questioned the urgency to discontinue the road as a public way, particularly since the City has plowed and maintained the road for 95 years.

Mayor Hawke addressed the Council, saying that Father Brian, the former Pastor of Annunciation Parish, approached him and asked if the City would upgrade the road. The Mayor advised him that he did not anticipate that the City could pave the roads (St. John's Road and Notre Dame Road) for a very long time due to the very lengthy list of City roads that need to be improved. He continued, saying that the idea was broached that if the City paved the roads, then the Church would take over responsibility for them. "So, I took the priest at his word and here we are a few years later," the Mayor added.

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Councillor James Boone stated that he would like to see financials, specifically the cost to the City to maintain both roads. He added that the City could think about discontinuing one road and still maintain the other road.

Councillor Graves said, "Every city and town has a soul. We had a soul, we still have a soul," adding that a lot of the City's factory buildings "are being torn down one by one," so "the 'Furniture Capital of the World' and the 'Chair City Capital of the World' is slowly losing its soul-filled buildings." He continued, saying "We have another soul called Acadiens and Canadians...that came and served in the factories for decades. We went from 5,000 people to 21,000 people virtually overnight. The Acadiens and Canadians worked day and night in those factories."

Referring to remarks about "financials," Councillor Graves stated that if the City cannot afford to plow these streets, then something is dead wrong. "Ninety-five years ago, there was a thing called the First Amendment...people are saying that there's a thing called separation of church and state. Yes, but the First Amendment was there when we started plowing these places back then." He continued, saying that there are three City-owned cemeteries, asking "What religion are the people in those cemeteries? We are plowing them! Should we be plowing those because they have religion, too? It's not about religion. It's about the soul of the City. And, I do not understand why this is even before us. It's shameful and disgraceful and objectionable to me."

Councillor James Boone stated that he did not think that the issue is only about plowing, but the DPW Director and the Mayor pointed out that there is also a cost to maintain and repave the road. He added that they [cemeteries] are private property, which is why he suggested the possibility of maintaining one of the roads.

Councillor Karen Hardern stated that she agreed with Councillor Graves' comments, saying that St. John's Road and Notre Dame Road have been cared for by the City for 95 years, "so what is the big deal? It's only 500 feet."

Councillor Paul Tassone stated his agreement with Councillors Graves and Hardern "to a degree," adding that if the City does not maintain the roads, they could become safety hazards.

On the motion to adopt, it was voted viva voce, one (1) yea, Councillor James Boone; nine (9) nays, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance; accordingly, the Order did not pass.

REGULAR MEETING OF APRIL 19, 2016

#9573

Councillor Matthew Vance moved to adopt the following Order with intent to defeat:

DISCONTINUING AS A PUBLIC WAY
NOTRE DAME ROAD FROM WEST STREET
TO LAND OF THE ROMAN CATHOLIC BISHOP

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as Notre Dame Road running between West Street and Notre Dame Cemetery is in excess of the City's current and future needs, it is therefore;

ORDER: That the portion of Notre Dame Road from West Street running south 1242 feet to land of the Roman Catholic Bishop (as laid out and accepted as a Town road in 1921) be discontinued as a public way, with the following condition:

The City and Others shall retain existing easement rights in and over the street for maintenance of utilities and access.

The parcel as described contains approximately 47,000 square Feet.

Councillor Nathan Boudreau seconded the motion.

On the motion, Councillor Scott Graves added to comments that he made earlier, saying that "there are also a lot of Irish people in there [cemeteries], Scandinavian people from Finland, Sweden, Norway, not just all Canadian people in these cemeteries. But, whoever is in there, [they] made this City great...to what it is today. That's why we are all here!"

On the motion to adopt, it was voted viva voce, zero (0) yeas; ten (10) nays, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance; accordingly, the Order did not pass.

#9574

Councillor Matthew Vance moved to adopt the following Order with intent to defeat:

DISCONTINUING AS A PUBLIC WAY
MATTHEWS STREET FROM STATION 70 OF THE
RELOCATED MATTHEWS STREET TO ROUTE 140

WHEREAS: In the opinion of City Council of the City of Gardner, a certain parcel of land known as Matthews Street running between Route 140 and the relocated portion of Matthews Street is in excess of the City's current and future needs, it is therefore;

REGULAR MEETING OF APRIL 19, 2016

ORDER: That the portion of Matthews Street from Route 140 and running southwesterly approximately 2600 feet to the relocated Matthews Street (as laid out and accepted as a Town road in 1803 and in 1980) be discontinued as a public way, with the following conditions:

The City and Others shall retain existing easement rights in and over the street for maintenance of utilities and access. Abutting property owners shall have a right-of-way over the discontinued way to or from their property to the nearest or most accessible roadway.

The parcel as described contains approximately 90,420 square feet.

Councillor Craig Cormier seconded the motion.

Councillor Karen Hardern stated that she visited Matthews Street and noted that a single home is served by the road. She questioned the impact on the home's value if the road were to be discontinued.

Councillor Paul Tassone noted that if the City discontinues the road and no longer plows it, then how would public safety services reach the home?

Councillor Craig Cormier stated that the road has not been paved in the fifteen years that the current resident has lived in the home, which is partially the reason that the road is in such disrepair.

On the motion to adopt, it was voted viva voce, one (1) yea, President Walsh; nine (9) nays, Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance; accordingly, the Order did not pass.

#9575

On a motion by Councillor Scott Graves and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to indefinitely postpone and remove from the Calendar *A Resolution to Rename Matthews Road to Matthews Street (Route 140 to Green Street)*.

#9576

On a motion by Councillor Scott Graves and seconded by Councillor Craig Cormier, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to schedule a Public Hearing on *A Resolution to Rename a Portion of Matthews Street to Old Matthews Street*.



REGULAR MEETING OF APRIL 19, 2016

#9577

On a motion by Councillor Craig Cormier and seconded by Councillor Nathan Boudreau, it was voted viva voce, nine (9) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, and Paul Tassone; one (1) nay, Councillor Matthew Vance, to schedule a Public Hearing on *A Resolution to Rename a Portion of Summit Avenue to Clairmont Street (from Union Street for approx. 210' southeasterly)*.

#9578

On a motion by Councillor James Boone and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

ORDER OF TAKING IN FEE
FOR PUBLIC WAY
BY THE CITY OF GARDNER BY AND THROUGH ITS CITY COUNCIL
FOR CLAIRMONT STREET

In City Council 19th day of April, 2016

RESOLVED:

Whereas, in the opinion of the Mayor and City Council of the City of Gardner, the Public convenience and necessity of the inhabitants of the City require that the roadway known as Clairmont Street be laid out as a public street of the City of Gardner, from its beginning at Union Street to its dead end a distance of approximately 600 feet and of a width of 40.00 and 50.00 feet, all as more particularly hereinafter described, and for that purpose it is necessary to take the parcel of land, it is therefore:

ORDERED:

That by virtue of the authority conferred by Chapter 79 and every other power and authority thereto enabling, the City of Gardner, acting by its City Council, hereby lays out and establishes as a public street or way on behalf of the City of Gardner as described in "Exhibit A" attached hereto, and as shown on a plan entitled "Street Plan of a Portion of Clairmont Street, Gardner, MA", prepared for the City of Gardner. Plan Date: September 19, 2007, prepared by Szoc Surveyors, to be recorded, and made a part of this taking with a copy filed in the office of the Survey Department, of the City of Gardner Massachusetts.

The City Council, having considered the question of damages sustained by persons or corporations in their property, are of the opinion that no damages have been sustained, and, therefore award no damages.

EXHIBIT A

Being more specifically described as follows:

Beginning at a stone wall on the southerly side of the Union Street layout, approximately 66 feet west of an iron pipe located on the Union Street sideline.

THENCE: S.16° 41' 35"E., one hundred twenty four and 29/100 feet (124.29') to an iron pin;



REGULAR MEETING OF APRIL 19, 2016

THENCE: S.15° 02' 19"E., eighty five and 00/100 feet (85.00') to a corner;
 THENCE: N.74° 57' 47"E., fifty and 00/100 feet (50.00') to a corner;
 THENCE: S.15° 02' 13"E., forty and 00/100 feet (40.00') to a corner;
 THENCE: S.74° 57' 47"W., fifty and 00/100 feet (50.00') to a corner;
 THENCE: S.15° 02' 13"E., fifty and 00/100 feet (50.00') to a corner;
 THENCE: S.74° 57' 47"W., fifty and 00/100 feet (50.00') to a corner;
 THENCE: N.15° 02' 13"W., fifty and 00/100 feet (50.00') to a corner;
 THENCE: S.74° 57' 47"W., four hundred eleven and 08/100 feet (411.08') to a corner;
 THENCE: N.08° 16' 56"E., twelve and 28/100 feet (12.28') to a point;
 THENCE: N.10° 35' 18"E., thirty one and 85/100 feet (31.85') to a corner;
 THENCE: N.74° 57' 47"E., three hundred ninety two and 44/100 feet (392.44') to a corner;
 THENCE: N.15° 02' 13"W., eighty four and 28/100 feet (84.28') to a point;
 THENCE: N.16° 41' 35"W., one hundred twenty six and 25/100 feet (126.25') to a corner;
 THENCE: N.76° 22' 23"E., fifty and 07/100 feet (50.07') to the point of beginning.

The total area described by this order of taking is 33,073 square feet.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9579

On a motion by Councillor Matthew Vance and seconded by Councillor Craig Cormier, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, Matthew Vance, to adopt the following Order:

ORDER OF TAKING IN FEE
 FOR PUBLIC WAY
 BY THE CITY OF GARDNER BY AND THROUGH ITS CITY COUNCIL
 FOR WILKINS ROAD AND FREDETTE STREET

In City Council 19th day of April, 2016

RESOLVED:

Whereas, in the opinion of the Mayor and City Council of the City of Gardner, the Public convenience and necessity of the inhabitants of the City require that the unaccepted portions of Wilkins Road and Fredette Street be laid out as public streets of the City of Gardner, from the end of the 1974 layout of Wilkins Road to the end of the 1979 layout of Fredette Street a distance of approximately 2,226 feet and of a uniform width of 50.00 feet throughout, all as more particularly hereinafter described, and for that purpose it is necessary to take the parcel of land hereinafter described, it is therefore:

ORDERED:



REGULAR MEETING OF APRIL 19, 2016

That by virtue of the authority conferred by Chapter 79 of the General Laws of the Commonwealth of Massachusetts, and every other power and authority thereto enabling, the City of Gardner, acting by its City Council, hereby lays out and establishes as public streets or ways on behalf of the City of Gardner as described in "Exhibit A" attached hereto, and as shown on a plan entitled "Fredette Street, Acceptance Plan of Land in Gardner, MA, prepared for the City of Gardner. Plan prepared by Szoc Surveyors to be recorded, Plan Book _____ Page____, herewith and made a part of this taking with a copy filed in the office of the Survey Department, of the City of Gardner Massachusetts.

The City Council, having considered the question of damages sustained by persons or corporations in their property, are of the opinion that no damages have been sustained, and, therefore award no damages.

EXHIBIT A

The following described parcel of land is taken in fee from the Greater Gardner Industrial Foundation as the layout of Wilkins Road/Fredette Street and is more particularly bounded and described as follows:

BEGINNING at the northeasterly corner of the end of the 1974 layout of Wilkins Road at a concrete bound.

Thence S 43° 33' 47" W, 50.00 feet to a concrete bound; thence N 46° 26' 13" W, 32.12 feet to a concrete bound and point of curvature; thence along a curve to the right of radius 270 feet and length of 137.21 feet to a concrete bound and point of tangency, thence N 17° 19' 10" W, 644.27 feet to a concrete bound and point of curvature, thence along a curve to the left of radius 475.00 feet and length of 366.73 feet to a concrete bound and point of tangency, thence N 61° 33' 20" W, 130.01 feet to a concrete bound and point of curvature, thence along a curve to the right of radius 525.00 feet and a length of 478.12 feet to a concrete bound and a point of tangency, thence N 09° 22' 35" W, 143.62 feet to a concrete bound and a point of curvature, thence along a curve to the left of radius 475.00 feet and 294.93 feet in length to a concrete bound and a corner, thence N 45° 02' 55" E, 50.00 feet to a concrete bound and a corner, thence along a curve to the right of radius 525.00 feet and a length of 325.97 feet to a concrete bound and a point of tangency, thence S 09° 22' 35" E, 143.62 feet to a concrete bound and a point of curvature, thence along a curve to the left of radius 475.00 feet and of 432.58 feet in length to a concrete bound and point of tangency, thence S 61° 33' 20" E, 130.01 feet to a concrete bound and a point of curvature, thence along a curve to the right of radius 525.00 feet and of length 405.33 feet to a concrete bound and point of tangency, thence S 17° 19' 10" E, 644.27 feet to a concrete bound and a point of curvature, thence along a curve to the left of radius 220.00 feet and of length 111.80 feet to a concrete bound and a point of tangency thence S 46° 26' 13" E, 32.12 feet to a concrete bound and the point of beginning.

The above described layout of Wilkins Road and Fredette Street comprises an area of 111,318 square feet, more or less all from separate lots of the Greater Gardner Industrial Foundation.

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9580

On a motion by Councillor James Boone and seconded by Councillor James Boone, it was voted viva voce, nine (9) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, and Paul Tassone; one (1) nay, Councillor Matthew Vance, to adopt the following Order:



 REGULAR MEETING OF APRIL 19, 2016

 ORDER OF TAKING IN FEE
 FOR PUBLIC WAY
 BY THE CITY OF GARDNER BY AND THROUGH ITS CITY COUNCIL
 FOR SNAKE POND ROAD

 In City Council 19th day of April, 2016

RESOLVED:

Whereas, in the opinion of the Mayor and City Council of the City of Gardner, the Public convenience and necessity of the inhabitants of the City require that the roadway known as Snake Pond Road be laid out as a public street of the City of Gardner, from its beginning at Airport Road to its dead end a distance of approximately 1,465 feet and of a uniform width of 40.00 feet throughout, all as more particularly hereinafter described, and for that purpose it is necessary to take the parcel of land, it is therefore:

ORDERED:

That by virtue of the authority conferred by Chapter 79 and every other power and authority thereto enabling, the City of Gardner, acting by its City Council, hereby lays out and establishes as a public street or way on behalf of the City of Gardner as described in "Exhibit A" attached hereto, and as shown on a plan entitled "Snake Pond Road, Acceptance Plan of Land in Gardner, MA, prepared for the City of Gardner. Plan Date: August 25, 1997, prepared by Szoc Surveyors, recorded in Plan Book 722, Page 19, and made a part of this taking with a copy filed in the office of the Survey Department, of the City of Gardner Massachusetts.

The City Council, having considered the question of damages sustained by persons or corporations in their property, are of the opinion that no damages have been sustained, and, therefore award no damages.

EXHIBIT A

Being more specifically described as follows:

Beginning at a point on the northeasterly side of the Airport Road layout, 33.95 feet southwest from the highway bound located at a point of curvature.

THENCE: Turning to the left along a curve to the left having a radius of ten and 00/1000 feet (10.00') a distance of twenty five and 236/100 feet (25.236') to a point;

THENCE: N.59° 22' 55"E., three hundred eighty one and 92/100 feet (381.92') to a point;

THENCE: Turning continuing in a southerly direction on a curve to the right having a radius of one hundred eighty five and 00/1000 feet (185.00') a distance of two hundred fifty five and 838/100 feet (255.838') to a point;

THENCE: S.41° 23' 00"E., twenty four and 22/100 feet (24.22') to a point;

THENCE: S.72° 00' 28"E., one and 86/100 feet (1.86') to a point;

THENCE: S.21° 24' 29"E., two and 77/100 feet (2.77') to a point;

THENCE: S.41° 23' 00"E., one hundred seven and 93/100 feet (107.93') to a point;

THENCE: Turning continuing in a south westerly direction on a curve to the right having a radius of one hundred eighty and 00/100 feet (180.00') a distance of one hundred eighty four and 202/1000 feet (184.202') to a point;

THENCE: S.17° 15' 00"W., sixty five and 27/100 feet (65.27') to a point;

REGULAR MEETING OF APRIL 19, 2016

THENCE: Turning to the left along a curve to the left having a radius of forty and 00/100 feet (40.00') a distance of thirty four and 267/1000 feet (34.267') to a point;

THENCE: S.31° 50' 00"E., eighty one and 34/100 feet (81.34') to a point;

THENCE: Turning to the right along a curve to the right having a radius of two hundred and 00/100 feet (200.00') a distance of ninety two and 416/1000 feet (92.416') to a point;

THENCE: Turning to the right along a curve to the right having a radius of five hundred and 00/100 feet (500.00') a distance of sixty eight and 462/1000 feet (68.462') to a point;

THENCE: Turning to the left along a curve to the left having a radius of thirty seven and 50/100 feet (37.50') a distance of fifty six and 435/1000 feet (56.435') to a point;

THENCE: S.83° 44' 24"E., five and 01/100 feet (5.01') to a point;

THENCE: S.06° 15' 36"W., forty and 00/100 feet (40.00') to a point;

THENCE: N.83° 44' 24"W., eighteen and 79/100 feet (18.79') to a point;

THENCE: Turning to the left along a curve to the left having a radius of twenty seven and 50/100 feet (27.50') a distance of thirty eight and 799/1000 feet (38.799') to a point;

THENCE: Turning to the right along a curve to the right having a radius of three hundred and 00/100 feet (300.00') a distance of fifty seven and 092/1000 feet (57.092') to a point;

THENCE: N.81° 09' 02"W., forty two and 26/100 feet (42.26') to a point;

THENCE: Turning to the left along a curve to the left having a radius of two hundred sixty and 00/100 feet (260.00') a distance of eighty and 996/1000 feet (80.996') to a point;

THENCE: Turning to the left along a curve to the left having a radius of four hundred sixty and 00/100 feet (460.00') a distance of eighty and 053/1000 feet (80.053') to a point;

THENCE: N.16° 38' 06"W., thirty four and 09/100 feet (34.09') to a point;

THENCE: N.07° 10' 56"W., fifty one and 96/100 feet (51.96') to a point;

THENCE: N.14° 01' 36"E., fourteen and 43/100 feet (14.43') to a point;

THENCE: Turning to the left along a curve to the left having a radius of one hundred sixty and 00/100 feet (160.00') a distance of twenty seven and 689/1000 feet (27.689') to a point;

THENCE: N.31° 50' 00"W., fifty and 17/100 feet (50.17') to a point;

THENCE: N.61° 41' 50"W., two and 16/100 feet (2.16') to a point;

THENCE: N.40° 32' 55"W., forty two and 00/100 feet (42.00') to a point;

THENCE: N.16° 11' 01"W., forty seven and 00/100 feet (47.00') to a point;

THENCE: N.19° 35' 25"E., twenty eight and 00/100 feet (28.00') to a point;

THENCE: N.35° 15' 16"E., thirty six and 41/100 feet (36.41') to a point;

THENCE: N.17° 15' 00"E., twenty one and 51/100 feet (21.51') to a point;

THENCE: Turning to the left along a curve to the left having a radius of one hundred forty and 00/100 feet (140.00') a distance of forty seven and 812/1000 feet (47.812') to a point;

THENCE: N.21° 24' 29"W., ninety one and 58/100 feet (91.58') to a point;

REGULAR MEETING OF APRIL 19, 2016

THENCE: Turning to the left along a curve to the left having a radius of one hundred forty and 00/100 feet (140.00') a distance of two and 162/1000 feet (2.162') to a point;

THENCE: N.41° 23' 00"W., one hundred thirty six and 36/100 feet (136.36') to a point;

THENCE: Turning to the left along a curve to the left having a radius of one hundred forty five and 00/100 feet (145.00') a distance of two hundred and 522/1000 feet (200.522') to a point;

THENCE: S.59° 22' 55"W., four hundred fifty and 69/100 feet (450.69') to a point;

THENCE: N.48° 44' 25"W., eleven and 43/100 feet (11.43') to a point;

THENCE: N.23° 58' 33"E., eighty one and 62/100 feet (81.62') to the point of beginning;

Presented to Mayor for Approval – April 20, 2016

Approved – April 20, 2016

MARK P. HAWKE, Mayor

#9582

There being no objections, the Council postponed discussion on the referral to the Mayor to negotiate a Host Community Agreement with Seven Point of Massachusetts, Inc. as it relates to the City's Support/Non-opposition to siting a Registered Marijuana Dispensary in the City of Gardner.

#9588

There being no objections, more time was granted to the Law Department for study and report on A NOTICE UNDER G.L. CHAPTER 61, §8, RIGHT OF FIRST REFUSAL, SALE OF LAND CLASSIFIED AS FOREST LAND (PARCEL M32-6-5, 85.41 ACRES EASTERLY OF CLARK STREET; PARCEL M-37-21-42, 3.37 ACRES EASTERLY OF CENTURY WAY; M32-6-10, 0.34 ACRES EASTERLY OF CLARK STREET).

#9606 - AN ORDER APPROPRIATING FROM FREE CASH TO DEBT SERVICE

Mayor Hawke rose to address the Council, recommending that Councillors speak to the City Treasurer with regard to #9606, *An Order Appropriating \$242,000 from Free Cash to Debt Service*, which the Council defeated earlier in the meeting. He stated that "despite a grossly misleading headline in *The Gardner News*, the measure "was not a battle over taxes versus paying off debt," but by not paying off the debt, "it forces the Mayor to find \$242,000 worth of room in next year's budget." He continued, saying that it is not just a matter of small borrowing costs, but that the money would have to be borrowed this fiscal year and the City would have to incur bonding costs, as well, which amounts to \$10,000 to \$15,000. He closed by stressing that by not paying off the debt in the current fiscal year, it will force the City to find room in next year's budget for \$242,000.



REGULAR MEETING OF APRIL 19, 2016

NEW BUSINESS

On a motion by Councillor James Boone and seconded by Councillor James Johnson, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, Karen Hardern, James Johnson, Paul Tassone, and Matthew Vance, to consider New Business.

#9606 – An Order Appropriating from Free Cash to Debt Service

Councillor Matthew Vance said “Fortunately, the City had almost one and one-half million dollars in Free Cash, so I imagine we could find \$250,000 in the budget if we had to with how much Free Cash we have left over. But, I don’t write the budget, so I could be wrong.”

Announcements and Commentary

Councillor Scott Graves stated that every year, it seems, that homeowners’ real estate taxes go up, the City basically runs on the backs of real estate owners. “There’s money to be found. That’s why the Mayor gets the big bucks.”

Councillor James Johnson suggested that the City consider committing Free Cash to improve local roads.

Councillor James Johnson informed Councillors that Saturday, April 23 is Citywide Cleanup Day, sponsored by the Leo Club.

#9572 & #9573 – Discontinuance of St. John’s Road and Notre Dame Road

Councillor James Boone stated that it was his intent to seek a compromise and to not offend any particular groups, but provide for safe passage to the top of the hill leading to the cemetery. He added that if the measure should come before the Council at a later time that the Council would be provided with financial information concerning improvements and maintenance costs for the roads.

CLOSING PRAYER

President Walsh led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Nathan Boudreau and seconded by Councillor Paul Tassone, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Scott Graves, James Johnson, Paul Tassone, and Matthew Vance, to adjourn at 8:31 o’clock p.m.

Accepted by the City Council:

9612

April 13, 2016

RECEIVED

Commonwealth of Massachusetts

2016 APR 13 P 2:41
Worcester County
CITY CLERKS OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Claude Leger to the position of Senior Citizens' Director, and I certify
34 Coburn Avenue, Gardner, MA

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the
duties of said office, and that I make the appointment solely in the interests of the City.



Mark P. Hawke

Confirmed by City Council _____

City Clerk

Alan L. Agnelli

Expires: April 13, 2018

Worcester, ss., _____

Then personally appeared the above named Claude Leger and made oath that he/she
would faithfully and impartially perform the duties of the office of Senior Citizens' Director
according to law and the best of his/her abilities.

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

April 19, 2016

RECEIVED

Commonwealth of Massachusetts

2016 APR 19 P 2:13
Worcester County
CITY CLERKS OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Alanna Toomey to the position of Member, Historical Commission, and I certify
118 Kelton Street, Gardner, MA
that in my opinion he/she is a person specially fitted by education, training, or experience to perform the
duties of said office, and that I make the appointment solely in the interests of the City.



Mark P. Hawke
Mayor

Confirmed by City Council _____

Alan L. Agnelli
City Clerk

Expires: April 19, 2019

Worcester, ss., _____

Then personally appeared the above named Alanna Toomey and made oath that he/she
would faithfully and impartially perform the duties of the office of Member, Historical
Commission according to law and the best of his/her abilities.

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

9614-9616



CITY of GARDNER

Office of the City Auditor

John Richard, City Auditor
95 Pleasant Street, Room 126
Gardner, MA 01440

Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778

Email: jrichard@gardner-ma.gov

To: City Council

Re: Money Orders for consideration on April 27, 2016

Listed below are balances in various ledger accounts that pertain to Money Order transfers for your consideration.

These balances are as of April 25, 2016:

			<u>Money Order</u>		<u>Balance</u>
Free Cash				\$	921,560
10000-					
35400	to Veteran Benefit Account	15543-67100	\$ 208,000	\$	713,560
	to Building Inspector Dept. for Repairs and Maint.	12241-52030	\$ 10,000	\$	703,560
	to Treasurer Dept. for Minor Equipment	11145-52050	\$ 12,000	\$	691,560
				\$	691,560

The Snow & Ice account currently has available \$59,299.96
14421-52210

Sincerely

John Richard
City Auditor

copies: Mayor
City Clerk

9614

AN ORDER APPROPRIATING FROM FREE CASH TO VETERAN'S BENEFITS.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Eight Thousand Dollars and No Cents (\$208,000.00) from Free Cash to Veteran's Benefits.

RECEIVED

2016 APR 22 A 8:04

CITY CLERKS OFFICE
GARDNER, MA

City of Gardner, *Executive Department*

Mark Hawke, Mayor



RECEIVED

2016 APR 22 A 8:04
CITY CLERKS OFFICE
GARDNER, MA

April 22, 2016

James M. Walsh, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash Appropriation to Veterans, Veterans Benefits

Dear President Walsh and Councilors,

After consultation with the Veterans Agent, we are requesting \$208,000 to be transferred from Free Cash to Veterans, Veterans Benefits. The Veterans Agent estimates approximately \$20,000 per week will be required for the remainder of the fiscal year. With ten (10) weeks remaining, \$200,000 is the estimated need. He estimates \$8,000 will be needed to cover encumbered expenses such as funeral costs and the like.

The City will once again break a record for the amount of Veterans Benefits dispersed. This will place our Veterans Benefits budget at \$908,000 for FY 2016. By way of comparison, in FY 2006, we spent \$206,409 for Veterans Benefits. While we do receive 75% reimbursement, it is a 6-12 month lag from expenditure to receipt. Based upon FY 2017 Cherry Sheet estimates, this amount of funding would place Gardner thirteenth (13th) in the state with regard to total veterans benefits allocated.

Respectfully,

Mark Hawke
Mayor, City of Gardner

9615

AN ORDER APPROPRIATING FROM FREE CASH TO TREASURER
MINOR EQUIPMENT.

ORDERED:

That there be and is hereby appropriated the sum of Twelve Thousand
Dollars and No Cents (\$12,000.00) from Free Cash to Treasurer – Minor Equipment.

RECEIVED
2016 APR 22 A 8:04
CITY CLERKS OFFICE
GARDNER, MA

9615

City of Gardner, *Executive Department*



RECEIVED

Mark Hawke, Mayor

2016 APR 22 A 8: 04

CITY CLERKS OFFICE
GARDNER, MA

April 22, 2016

James M. Walsh, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash Appropriation to City Treasurer, Minor Equipment

Dear President Walsh and Councilors,

The City's postage machine is approximately fifteen (15) years old and is no longer going to be serviced by our current provider due to its age. Also, due to new postal regulations, we will no longer be able to re-fill our postage via a telephone line. The new regulations require all transactions to be performed via the internet and our current postage machine only has telephonic capabilities.

Therefore, I am requesting \$12,000 for the purchase of a new postage machine for City use.

Respectfully,

Mark Hawke
Mayor, City of Gardner

9616

AN ORDER APPROPRIATING FROM FREE CASH TO BUILDING REPAIRS
AND MAINTENANCE.

ORDERED:

That there be and is hereby appropriated the sum of Ten Thousand
Dollars and No Cents (\$10,000.00) from Free Cash to Building Repairs and Maintenance.

RECEIVED

2016 APR 22 A 8: 04

CITY CLERKS OFFICE
GARDNER, MA

9616

City of Gardner, *Executive Department*



RECEIVED

Mark Hawke, Mayor

2016 APR 22 A 8:04

CITY CLERKS OFFICE
GARDNER, MA

April 22, 2016

James M. Walsh, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash Appropriation to Building Inspector, Repairs and Maintenance

Dear President Walsh and Councilors,

The City's "School Zone" signs, to the best of our knowledge, have not been updated or replaced in many decades. The signs are grand-fathered in as they do not meet current code specifications for "School Zone" signage.

The Building Commissioner and Wiring Inspector have obtained quotes to replace four (4) School Zone signs. The cost per sign is \$2,100. This does not include the cost of the new poles, if needed. Sanding and painting of the poles (new or existing) would be done with in-house labor. The total estimated cost is \$10,000.

The signs that will be replaced are the two (2) on Waterford Street and the two (2) on Elm Street as these are in the worst condition and in the highest traffic volume areas.

Respectfully,

Mark Hawke
Mayor, City of Gardner

9617

AMENDMENT TO LEASE BETWEEN CITY OF GARDNER
AND HENRY HEYWOOD MEMORIAL HOSPITAL

VOTE: That the City of Gardner, acting through its Mayor and its Director of Public Works, amend its lease with Henry Heywood Memorial Hospital dated April 9, 1968, and recorded in Worcester District Registry of Deeds, Book 4869, Page 185, to assent to the construction and maintenance of a solar carport system, all or a portion of said system to be on a portion of leased land describe as Parcel 1; and to further authorize the Mayor and the Director of Public Works, as successor to the rights, privileges, duties and liabilities of its former Public Works Board to further to sign, seal and deliver an agreement or amendment to said lease and to do any other thing deemed necessary or advisable to give full effect to this vote, his signature on such instrument to be conclusive that its execution is within the authority conferred by this vote.

THIRD AMENDMENT TO LEASE

AGREEMENT made this ___ day of _____, 2016 by and between the CITY OF GARDNER, a municipal corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, acting by and through its Mayor and by and through its Director of Public Works, successor to the rights, privileges, duties and liabilities of its former Public Works Board (the "City") and HENRY HEYWOOD MEMORIAL HOSPITAL, a charitable corporation organized under the laws of the Commonwealth of Massachusetts and having a principal office at 242 Green Street, Gardner, Massachusetts 01440 (the "Hospital").

Recitals

1. The City is the Lessor and the Hospital is the Lessee of a certain parcel of land situated on the westerly side of Green Street in Gardner, as further described in a Lease Agreement dated April 9, 1968, and recorded in Worcester District Registry of Deeds, Book 4869, Page 185, (the "Lease"), as amended by instruments dated October December 2, 1980 recorded in said Registry in Book 7315, Page 314, (Amendment to Lease), and by instrument dated May 11, 2000 (Second Amendment To Lease) and recorded in said Registry in Book 22705 Page 320.

2. Article 6 of the Lease provides that the Hospital shall not erect any buildings on the premises except in accordance with plans approved by the City.

3. The Hospital is planning to construct and maintain a solar carport system on a portion of the existing parking lot, all or a portion of said system to be on leased land describe as Parcel 1.

Now, therefore, in consideration of the mutual promises and covenants contain herein, the parties hereby agree as follows:

Agreement

1. The City hereby authorizes the Mayor and its Director of Public Works to approve the plans and specifications for the construction of the solar carport system, subject to any necessary site plan approval, building and zoning permits, and releases of other restrictions that may be present on the property including but not limited to any municipal, state or federal provisions.

2. The City and Hospital hereby agree to amend the Lease to allow the Hospital to construct and maintain a solar carport system on the existing parking lot, all or a portion of said system to be on leased land describe as Parcel 1.

RETURN TO:
City of Gardner
c/o Jill Romer, Assist. City Solicitor
Flick Law Group, P.C.
144 Central Street
Gardner, MA 01440

Marginal Reference:
Book 4869, Page 185

3. Except as herein specifically modified, said Lease remains unaltered and is in full force and effect until the end of the original lease term, which remains to April 8, 2067.

EXECUTED in Gardner, Massachusetts as a sealed instrument the date first above written.

CITY OF GARDER
DEPARTMENT OF PUBLIC WORKS

CITY OF GARDER

By: _____
Director

By: _____
Mayor

HENRY HEYWOOD MEMORIAL HOSPITAL

By: _____
CEO/President

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

_____, 2016

Then personally appeared the above named _____, Mayor, duly authorized, and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

_____, 2016

Then personally appeared the above named _____, Director of the Department of Public Works, successor to the Public Works Board of the City of Gardner, duly authorized, and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

_____, 2016

Then personally appeared the above named _____, President of Henry Heywood Memorial Hospital, duly authorized, and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires:

Heywood Hospital Solar Project

Jill Dvareckas
Project Manager
March 12, 2014

Agenda

- **Solar PV Team**
- **System Layout and Design**
- **Construction**
- **Snow and Ice Gutter/Soffit**
- **EV Stations**

Agenda

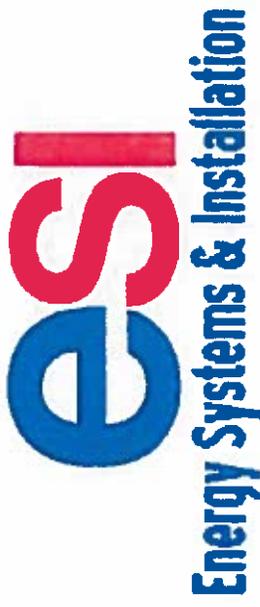
-  **Solar PV Team**
- System Layout and Design
- Construction
- Snow and Ice Gutter/Soffit
- EV Stations

Team Overview



NextEra provides a turn-key, no cost solution to its customer:

- Project development
- Procurement of incentives
- Project financing
- Construction management



- Design and Permitting
- Procurement and Construction
- Operations & Maintenance



NextEra Energy Resources (NEER) is the largest provider of wind and solar energy in North America

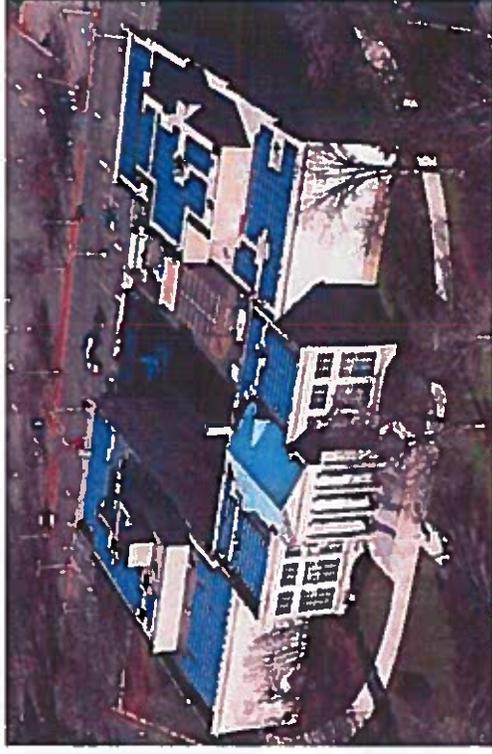
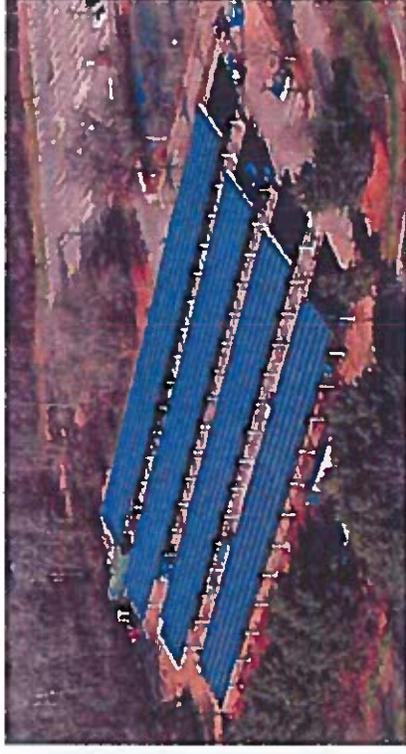
NextEra Energy Resources: Experience

Smart Energy Capital (SEC) was acquired by NEER in May 2013

- Successful wholesale generator
- U.S. leader in renewable generation
- Owns and operates 10,000+ MW of solar and wind

Prior to the acquisition SEC financed and developed >75 MW of solar

- Pre-secured financing; provides 100% of project capital



Energy Systems and Installation: Experience

- Developing over 20 MW's of Solar in 6 states
- Solar PV
- Solar Thermal
- Electric Vehicle Charging
- Renewable Energy Advisory Services



Division of Capital Asset Management
D·C·A·M
Building for the Commonwealth

Project Designers. Installers. Educators. Advisors

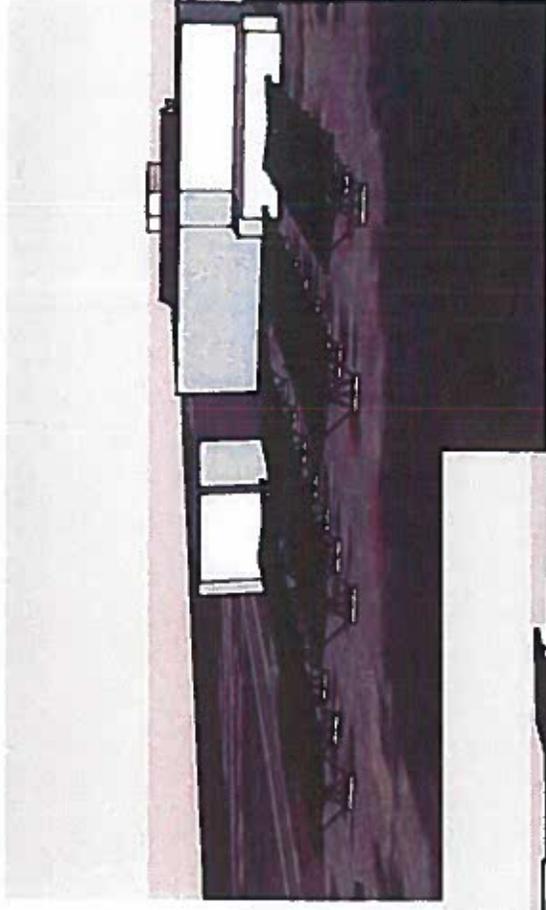
Agenda

- Solar PV Team
- **System Layout and Design**
- Construction
- Snow and Ice Gutter/Soffit
- EV Stations



Proposed Solar PV System: Project Overview

- **Project Size: 1,000 kW**
- **Carpport Mounted Solar Array**
- **Module Mounting Type: Fixed, 5 or 15 Deg**



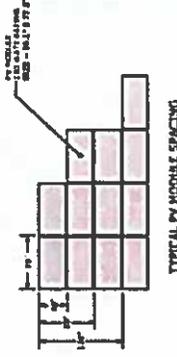
Proposed Solar PV System: Array Layout Locations



OVERALL CANOPY CONFIGURATION



NORTH CANOPY CONFIGURATION

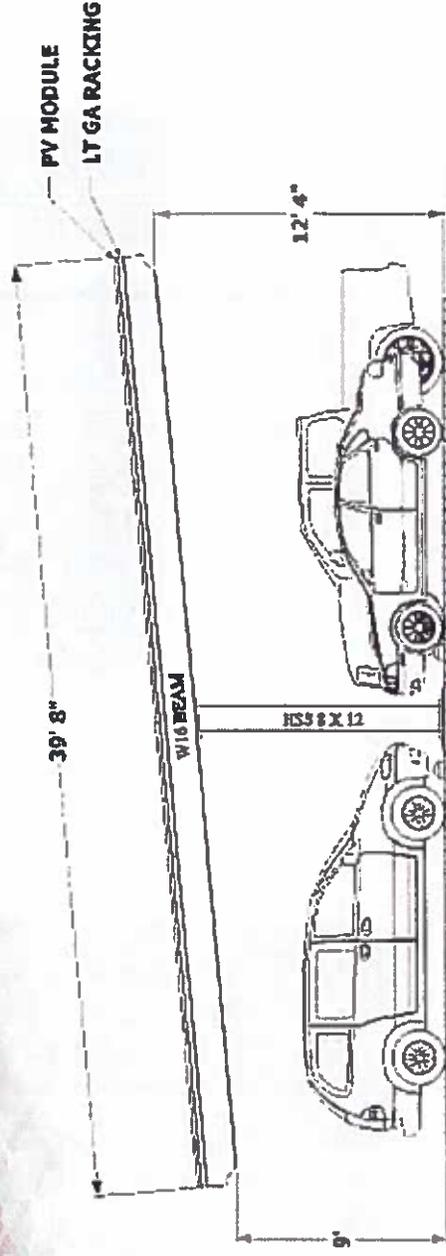


TYPICAL PV MODULE SPACING



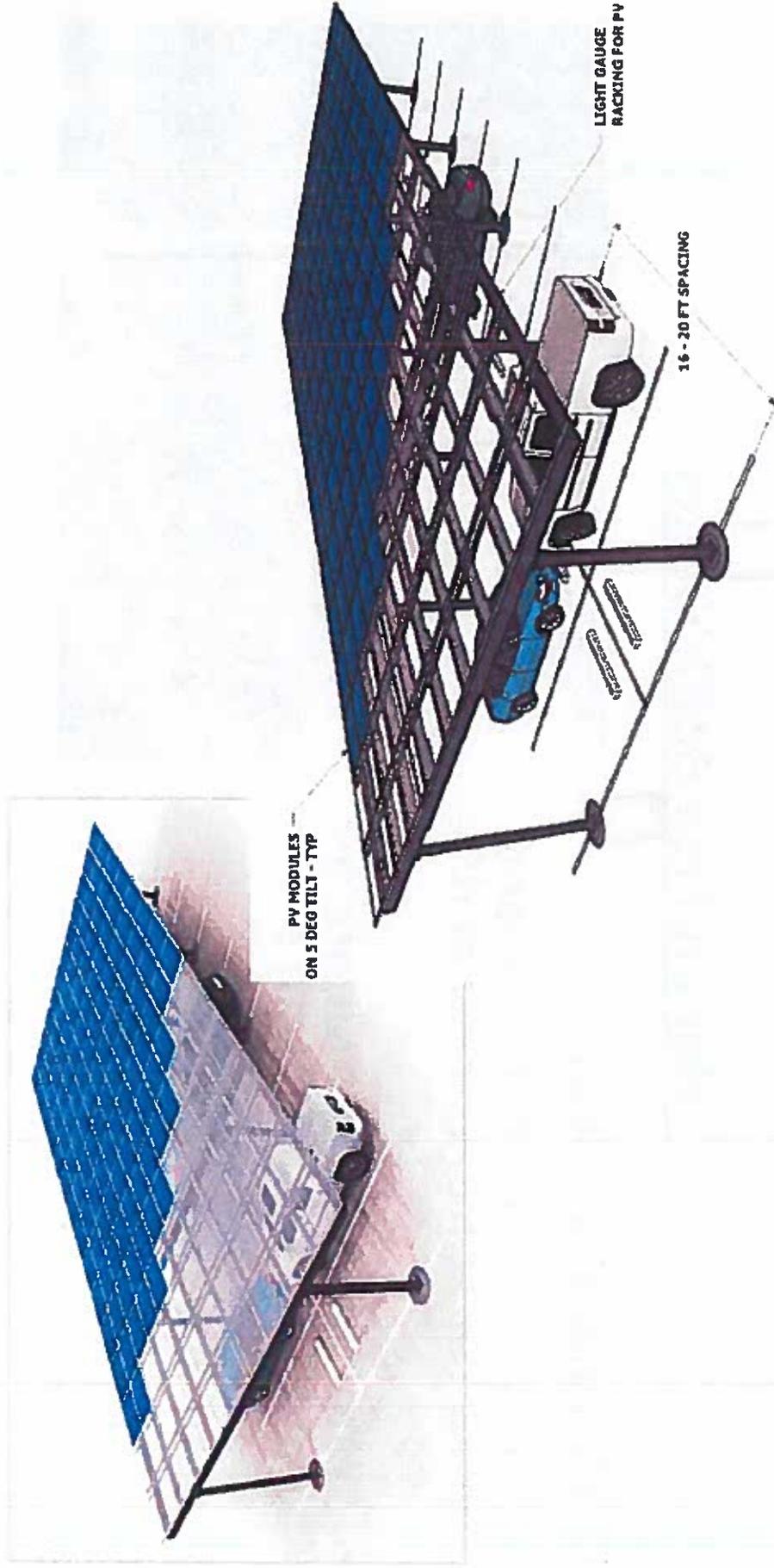
CENTRAL CANOPY CONFIGURATION

Proposed Solar PV System: 3D Renderings*



**Final Carport Structure Subject to Geotechnical Analysis*

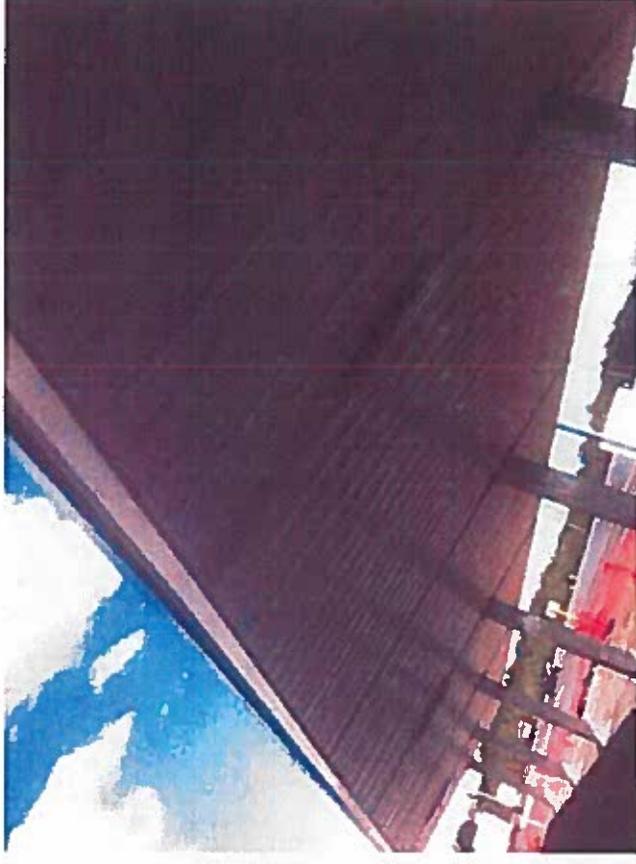
Proposed Solar PV System: 3D Renderings*



**Final Carport Structure Subject to Geotechnical Analysis*

Water and Ice Soffit/Gutter

- **Weather tight soffit**
- **Sub roof will catch rain and melt water from snow and/or ice**
- **Water diverted to gutters for connection to existing storm drainage or on site attenuation**



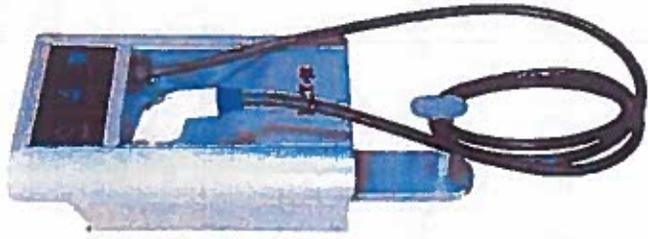
Water and Ice Soffit/Gutter

- No ice damming
- Snow break will be installed at the bottom edge to prevent snow from sliding off
- Due to the design of the structure, snow would collect at the front/hood end and thus further reduce any potential safety issue

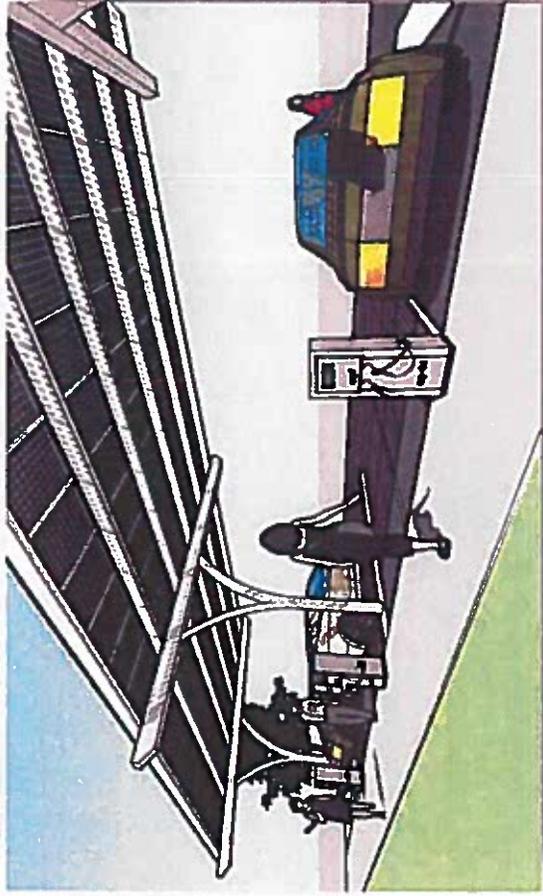


Drainage

Electric Vehicle Charging Stations: Array Layout Locations



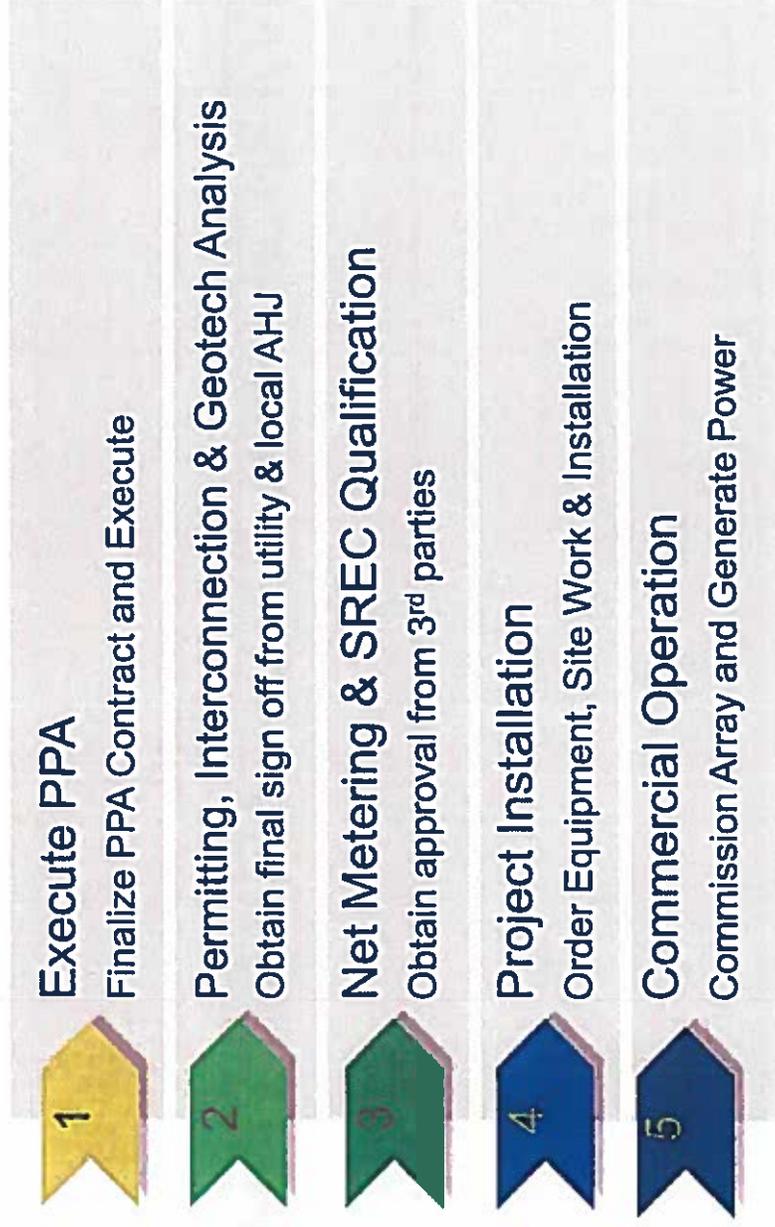
EATON
A Division of Emerson Electric



esi
Energy Systems & Installation

NEXTERA
ENERGY
RESOURCES

Proposed Solar PV System: Next Steps



APPENDIX A: WEATHER TIGHT SCHEMATICS



NORAM SERVICE GROUP
 10000 W. 10th Ave.
 Suite 100
 Denver, CO 80202
 Phone: 303.751.1111
 Fax: 303.751.1112
 Website: www.noram.com

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**JACK DANIELS AUDI
 PV ARRAY SUPPORT
 STRUCTURE**

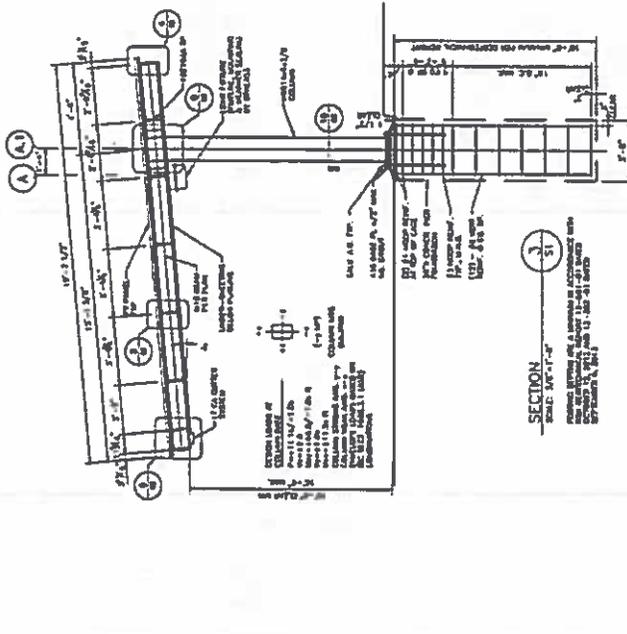
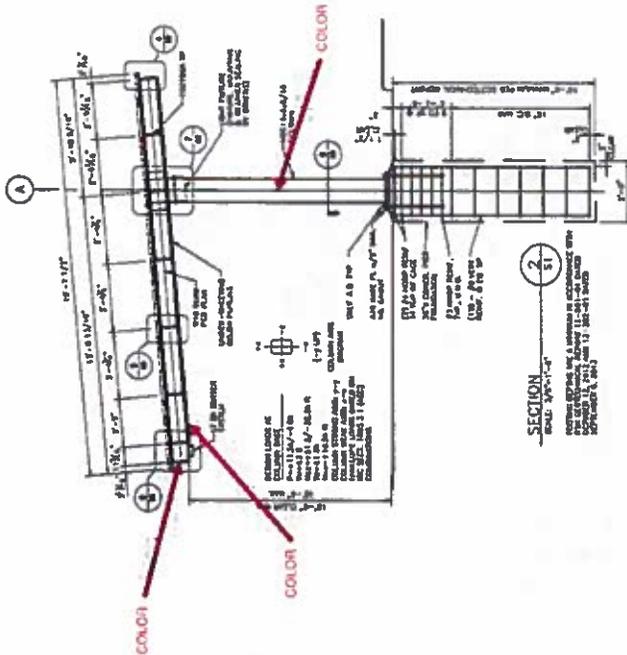
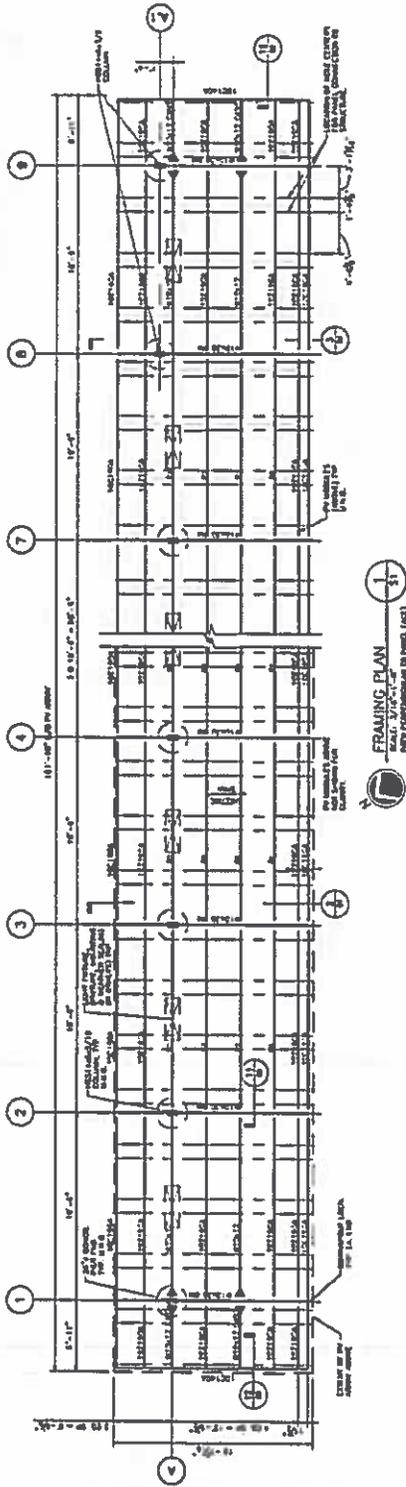
10000 W. 10th Ave.
 Suite 100
 Denver, CO 80202

**FRAMING PLAN,
 SECTIONS, AND
 DETAILS**

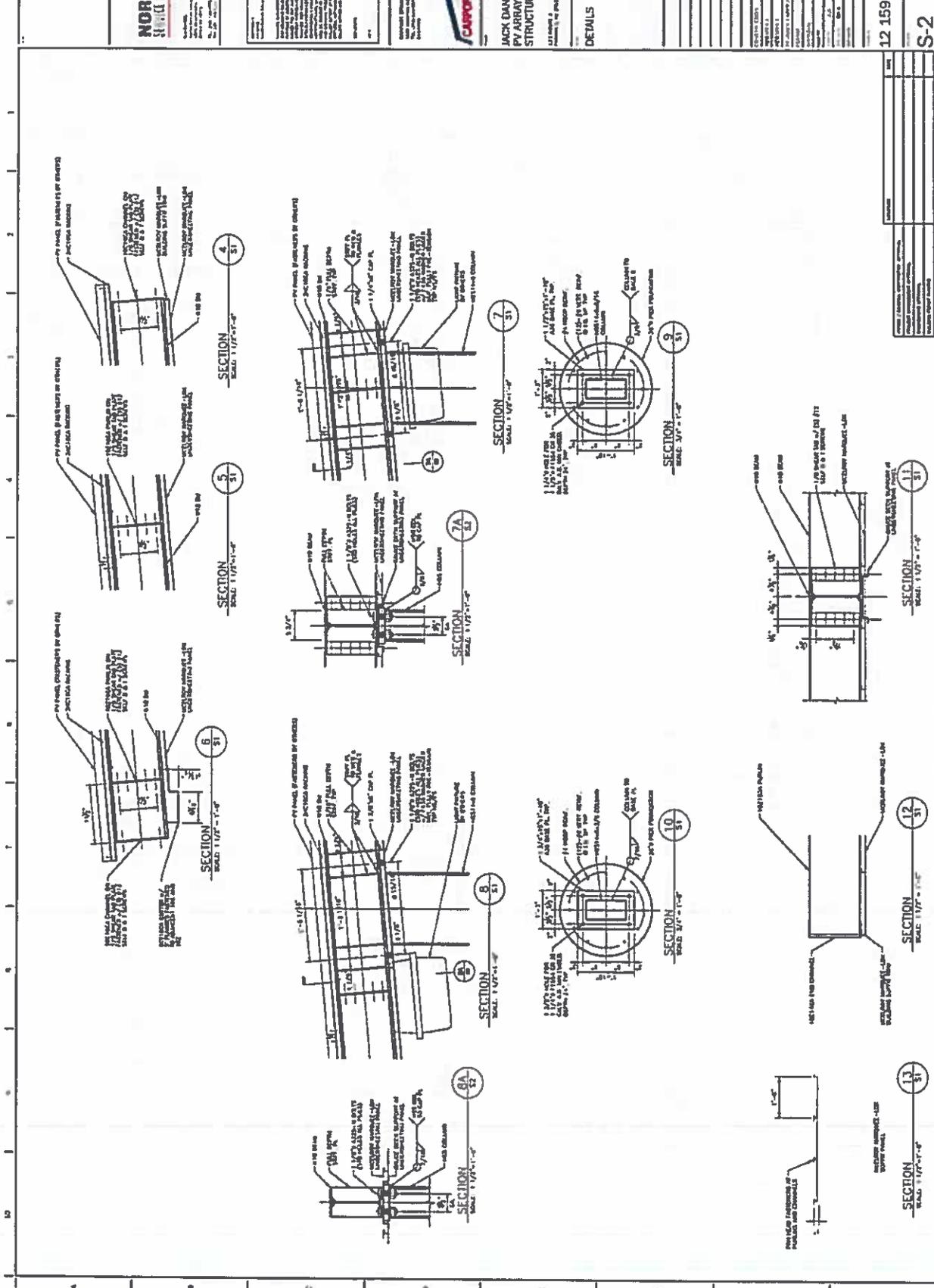
PROJECT NO.	10000 W. 10th Ave.
DATE	10/11/11
DESIGNER	JACK DANIELS
CHECKER	JACK DANIELS
DATE	10/11/11
SCALE	AS SHOWN
PROJECT	JACK DANIELS
CLIENT	JACK DANIELS
LOCATION	10000 W. 10th Ave.
CITY	DENVER, CO
STATE	CO
COUNTRY	USA

12 1593

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CONTRACT NO. 12-1593
 PROJECT NO. 12-1593
 SHEET NO. S-2
 DATE: 12/15/12



JACK DANIELS AUDI
 PYRAMID SUPPORT
 STRUCTURE

DETAILS

SECTION 4	12/15/12
SECTION 5	12/15/12
SECTION 6	12/15/12
SECTION 7A	12/15/12
SECTION 7B	12/15/12
SECTION 7C	12/15/12
SECTION 7D	12/15/12
SECTION 7E	12/15/12
SECTION 7F	12/15/12
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SECTION 10	12/15/12
SECTION 11	12/15/12
SECTION 12	12/15/12
SECTION 13	12/15/12

12 1593
 S-2



961-8

COLLECTOR LICENSE APPLICATION FEE - \$30.00
DEALER LICENSE APPLICATION FEE - \$100.00

CITY OF GARDNER MASSACHUSETTS 01440

95 PLEASANT STREET - ROOM 121
TELEPHONE (978) 630-4058
FACSIMILE (978) 630-2589

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CITY CLERK'S OFFICE
GARDNER, MA

APPLICATION FOR LICENSE TO COLLECT OR DEAL IN SECOND HAND ARTICLES

New Renewal Change of Location

APPLICANT INFORMATION

Applicant / Licensee Name: ecoATM, Inc.

Mailing address
Applicant / Licensee Address: 10121 Barnes Canyon Rd., San Diego, CA 92121

Applicant / Licensee phone number(s): 858-766-7244

Applicant / Licensee E-mail: hunter.bjorkman@outerwall.com

Social Security number: n/a OR Business FID nu [REDACTED]

ESTABLISHMENT INFORMATION

Establishment Name: ecoATM, Inc.

Establishment address (Current): 677 Timpany Blvd, Gardner, MA 01440

Establishment address (New, if applicable): n/a

Establishment Phone: 858-766-7244

On-Site manager / contact person: Hunter Bjorkman

For which type of license(s) are you applying? Junk Dealer

Check all that apply to this Application:

- SECONDHAND COLLECTOR has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? Purchase of cell phones, mp3 players, and tablets. No items are sold at the business location.

Where at the licensed address will the articles be stored, displayed, etc? The items are stored inside of the machine and are not displayed.

Massachusetts Sales & Use Tax Registration number: n/a

(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. I FURTHER CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.



INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE
OFFICER OR APPLICANT

DATE SIGNED 3/30/16

NOTICE: THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL COMPLETED APPLICATION FORMS AND THE WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.

**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES
EXPIRE ON APRIL 30TH ANNUALLY.**

7617



CITY OF GARDNER
MASSACHUSETTS 01440
95 PLEASANT STREET - ROOM 121
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GARDNER, MA

**APPLICATION FOR LICENSE TO COLLECT
OR DEAL IN SECOND HAND ARTICLES**

New Renewal Change of Location

APPLICANT INFORMATION

Applicant / Licensee Name: Joseph Valardi
Applicant / Licensee Address: 36 Donovan Rd., North Brookfield, MA
Applicant / Licensee phone number(s): 978-990-0307
Applicant / Licensee E-mail: gardnercc@yahoo.com
Social Security number: _____ **OR** Business FID nur _____

ESTABLISHMENT INFORMATION

Establishment Name: Gardner Coins & Cards, Inc
Establishment address (Current): 25 Pleasant St, Gardner
Establishment address (New, if applicable): _____
Establishment Phone: 978-632-7123
On-Site manager / contact person: Joseph Valardi
For which type of license(s) are you applying? 2ND Hand Dealer

Check all that apply to this Application:

- SECONDHAND COLLECTOR has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? Precious Metals, Antiques, Sports Memorabilia, Coins,

Where at the licensed address will the articles be stored, displayed, etc? throughout the premises

Massachusetts Sales & Use Tax Registration number: 043-073-078
(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. I FURTHER CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.


INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE OFFICER OR APPLICANT

DATE SIGNED

4/11/16

NOTICE: THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

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**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES
EXPIRE ON APRIL 30TH ANNUALLY.**

9620

COLLECTOR LICENSE APPLICATION FEE - \$30.00
DEALER LICENSE APPLICATION FEE - \$100.00



CITY OF GARDNER MASSACHUSETTS 01440

95 PLEASANT STREET - ROOM 121
TELEPHONE (978) 630-4058
FACSIMILE (978) 630-2589

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CITY CLERKS OFFICE
GARDNER, MA

APPLICATION FOR LICENSE TO COLLECT OR DEAL IN SECOND HAND ARTICLES

New Renewal Change of Location

APPLICANT INFORMATION

Applicant / Licensee Name: GameStop Inc.
Applicant / Licensee Address: 625 Westport Pkwy, Grapevine TX 76051
Applicant / Licensee phone number(s): 817. 424. 2000
Applicant / Licensee E-mail: licensing and sales tax @gamestop.com
Social Security number: _____ OR Business FID numt [REDACTED]

ESTABLISHMENT INFORMATION

Establishment Name: GameStop # 3725
Establishment address (Current): 3726 Timpany Blvd, Gardner MA 01440
Establishment address (New, if applicable): _____
Establishment Phone: 978. 630. 0282
On-Site manager / contact person: Joseph Riberio
For which type of license(s) are you applying? Secondhand Dealer

Check all that apply to this Application:

- SECONDHAND COLLECTOR has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? new and used video games, consoles, phones, electronics, accessories, etc.

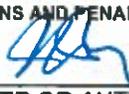
Where at the licensed address will the articles be stored, displayed, etc? _____

Massachusetts Sales & Use Tax Registration number: 1890082816
(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. I FURTHER CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.



DATE SIGNED 4-13-2016

INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE OFFICER OR APPLICANT

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JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES EXPIRE ON APRIL 30TH ANNUALLY.

9621

BOWLING ALLEY FEE - \$30.00 FOR 1ST LANE + \$15.00 FOR EACH ADDITIONAL LANE
BILLIARD TABLE FEE - \$30.00 FOR 1ST TABLE + \$15.00 FOR EACH ADDITIONAL TABLE



CITY OF GARDNER
MASSACHUSETTS 01440
95 PLEASANT STREET - ROOM 121
TELEPHONE (978) 630-4058
FACSIMILE (978) 630-2589

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2016 APR 14 A 11:38
CITY CLERKS OFFICE
GARDNER, MA
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APPLICATION FOR BILLIARD TABLE AND/OR BOWLING ALLEY LICENSE

APPLICANT INFORMATION

Applicant / Licensee Name: Michael S. Budwick
Applicant / Licensee Address: 91 CONANT ST. - APT. 1
Applicant / Licensee phone number(s): 978-895-3367 Applicant / Licensee E-mail: gardner_ten_pins@gmail.com
Social Security Number _____ OR FEIN _____

ESTABLISHMENT INFORMATION

Establishment Name: GARDNER TEN PINS, INC.
Establishment address: 560 W. Broadway
PO BOX 571 Establishment Phone: 978-632-0010
On-Site manager / contact person: MICHAEL S. BUDWICK
License(s) applied for? Bowling Alley Lic. No. of lanes? 24 No. of billiard tables? _____

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. I FURTHER CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §177 AND §§ 201-205.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Michael S Budwick DATE SIGNED 4/12/16
INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE OFFICER OR APPLICANT

NOTICE: THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL APPLICATION FORM, WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.

BILLIARD TABLE AND BOWLING ALLEY LICENSES EXPIRE ON APRIL 30TH ANNUALLY

9622

**RESOLUTION
APPROVING THE NAMING OF THE CITY HALL ANNEX CONFERENCE ROOM
IN HONOR OF ROBERT L. HUBBARD**

WHEREAS, Robert L. Hubbard was a dedicated employee of the City of Gardner serving as Director of Community Development and Planning Department for twenty-two years; and

WHEREAS, over the tenure with the City of Gardner Rob oversaw countless projects such as the Levi Heywood Memorial Library, Summit Industrial Park, the creation of two Urban Renewal Plans, the Greater Gardner Community Development Corporation building as well as renovations to the Heywood Wakefield buildings; and

WHEREAS, Rob played an instrumental role in the renovation of the Annex into professional office space for the City;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Gardner name the conference room on the second floor in the City Hall Annex, the Robert L. Hubbard Conference Room, in honor of his hard work and dedication to this City.

RECEIVED
2016 APR 22 A 8:04
CITY CLERKS OFFICE
GARDNER, MA

9622

GARDNER REDEVELOPMENT AUTHORITY

115 Pleasant Street, Room 201

Gardner, MA 01440

Phone: 978-630-4014

RECEIVED

Fax: 978-632-1905

2016 APR 22 A 9:47

CITY CLERKS OFFICE
GARDNER, MA

April 20, 2016

Mayor Mark Hawke
95 Pleasant Street, Room 125
Gardner, MA 01440

Dear Mayor Hawke:

At its meeting on April 20, 2016, the Gardner Redevelopment Authority (GRA) voted unanimously to recommend naming the conference room on the second floor in the City Hall Annex in honor of Robert L. Hubbard. As you are well aware, Rob played an instrumental role in the renovation of the Annex into professional office space for the City, so the GRA thinks it is befitting to honor his hard work with this dedication.

I respectfully ask that you please forward said request to the City Council for their consideration. I expect the improvements to the City Hall Annex to be completed by the end of June 2016. If this request comes to fruition the GRA would like to hold a formal ceremony to unveil the new sign for the room. Thank you in advance for your consideration.

Sincerely,



Trevor M. Beauregard
Executive Director

TMB/cmf

Cc: Ronald Cormier, GRA Chairman



Vicente Sederberg, LLC
VGR Law Firm, P.C.
109 State Street, Suite 404
Boston, MA 02109

9582
**VICENTE
SEDERBERG**
LLC

RECEIVED
2016 FEB -8 A 8:51
CITY CLERKS OFFICE
GARDNER, MA

February 4, 2016

Gardner City Council
President James M. Walsh
c/o Clerk Alan Agnelli
95 Pleasant Street – Room 121
Gardner, MA 01440

Re: Seven Point of Massachusetts, Inc. Request for Meeting with Gardner City Council

Dear President Walsh:

Please be advised that our firms represent Seven Point of Massachusetts, Inc. (Seven Point), a non-profit corporation that has submitted applications to the Massachusetts Department of Public Health (DPH) to operate Registered Marijuana Dispensaries (RMDs). One of the steps in the RMD application process is for the applicant to obtain a letter of support or non-opposition from the municipality in which the applicant intends to locate.

On January 26, 2016, Seven Point met with Gardner’s Executive Director of Community Development, Trevor Beauregard, and Gardner’s Building Commissioner, Jeffrey Cooke, to discuss the possibility of Seven Point locating a RMD in the City of Gardner. At the meeting, Mr. Beauregard and Mr. Cooke advised Seven Point that the next step in obtaining a letter of support or non-opposition from Gardner would be to set up a meeting with the Gardner City Council. As such, Seven Point would like to schedule a time to meet with the City Council to formally request a letter of support or non-opposition from Gardner.

In advance of that meeting, if individual members of the City Council would like to meet with members of Seven Point to address concerns and to discuss the benefits of siting a RMD in Gardner, we would welcome the opportunity. Of course, we are cognizant of open meeting requirements and do not want to jeopardize our ability to work with the City.

We look forward to the opportunity to meet with the City Council in the near future. Please do not hesitate to contact our offices if you have any questions. Thank you for your attention to this matter.

Very truly yours,


Brandon R. Kurtzman, Esq.

BRK/tc



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Care Safety and Quality
Medical Use of Marijuana Program
99 Chauncy Street, 11th Floor, Boston, MA 02111

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-660-5370
www.mass.gov/medicalmarijuana

Guidance for Municipalities Regarding the Medical Use of Marijuana
Updated August 2015

The following information is provided to assist municipalities in addressing questions related to the marijuana for medical use. Additional information is available on our website at mass.gov/medicalmarijuana or by contacting our support center at (617) 660-5370 or medicalmarijuana@state.ma.us.

Department of Public Health Regulations & Local Laws or Regulations

Role of Municipalities. The Department of Public Health Regulations, 105 CMR 725.000, et. seq. (the “Regulations”)¹ implementing the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012 (the “Act”)² recognize the role of municipalities in adopting local laws and regulations regarding uses related to marijuana for medical use that are appropriate for their community.

Local Option. The Department does not, however, mandate any involvement by municipalities or local boards of health in the regulation of registered marijuana dispensaries (“RMDs”), qualifying patients with hardship cultivation registrations, or any other aspects of marijuana for medical use. 105 CMR 725.600(B).

Compliance with Local Law. The Regulations require RMDs and all other persons registered with the Medical Use of Marijuana Program to comply with all local ordinances, bylaws and regulations. 105 CMR 725.600(A). Nothing in the Regulations will be construed to prohibit lawful local oversight and regulation that does not conflict or interfere with the operation of 105 CMR 725.000. 105 CMR 725.600(B). For example, 105 CMR 725.110(A)(11) requires that an RMD must “[e]nsure that trees, bushes, and other foliage outside of the RMD do not allow for a person or persons to conceal themselves from sight...” Local ordinances or bylaws may not require landscaping that would conflict with this provision.

The Attorney General’s Office has issued decisions regarding bylaws or ordinances that it believes to conflict with state law, including a bylaw attempted to prohibit RMDs, a bylaw requiring all registered qualified patients within a municipality to register with the municipality, bylaws requiring personal caregivers or anyone engaged in home cultivation to register with local officials who are not law enforcement personnel, bylaws requiring a special permit for home cultivation, bylaws limiting home cultivation to a particular area in the community, bylaws prohibiting home delivery, bylaws requiring buffer zones around home cultivation sites, and bylaws requiring RMDs to comply with federal law. For

¹ <http://www.mass.gov/cohhs/docs/dph/regs/105cmr725.pdf>

² <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter369>

more information on the decisions of the Attorney General's Office regarding bylaws or ordinances regarding marijuana for medical use, please consult the website for the Attorney General's Office at <http://www.mlu.ago.state.ma.us/>.

Municipalities must use their best judgment in crafting local requirements, so as not to create a conflict with 105 CMR 725.000. When in doubt, the municipality should consult its Town Counsel or City Solicitor.

Buffer Zone. One opportunity for municipalities to exercise local control over the placement of RMDs in their community is the setting of a buffer zone. The Regulations, 105 CMR 725.110(A)(14), state:

A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.

The Department measures the distance from building to building rather than property line to property line. A facility is not, however, limited to a building. For example, a playground outside a school would be considered a facility where children congregate, so in that case the line would be measured from the edge of the playground to the nearest point of the building that would house the potential RMD. If a municipality enacts its local bylaw or ordinance regarding the buffer zone, it may also determine its own standard of measure.

The Department interprets a "facility in which children commonly congregate" to include facilities in which children are gathered for a particular purposes in a structured and scheduled manner or which are dedicated to the use of children, such as playgrounds, youth services programs, day care centers, youth sports facilities, dance schools, and gymnastic schools. It includes a private home housing a family day care center, but not a private home where children happen to live. It does not include other facilities, such as ice cream shops, where children may happen to congregate, but not in a structured, scheduled manner.

Municipalities may set their own buffer zone, but if they do not, the default buffer zone will be the 500 foot distance described in the Regulations.

Local Permitting. Municipalities are not required to wait for DPH to issue an RMD a Provisional Certificate of Registration before acting on local permit applications, but may elect to require an RMD to demonstrate that it has received such a registration first. Please note, however, that under the Regulations, 105 CMR 725.100(B)(5)(f), an RMD must submit architectural plans to the Department prior to construction or renovation of an RMD. Proceeding with construction or renovation without Department approval is done at the applicant's risk and any construction or renovation already performed may need to be changed at the applicant's expense.

Registered Marijuana Dispensaries

Vertically-Integrated System. In Massachusetts, the RMDs are required to be "vertically-integrated," which means RMDs grow and process their own marijuana, with limited exceptions, rather than purchasing marijuana from a supplier.

Non-Profit Requirement. Only an entity that is incorporated in Massachusetts as a non-profit corporation under M.G.L. c. 180 can apply to operate an RMD.

Retail v. Cultivation. An RMD may have a retail facility, as well as cultivation and processing operations. Some RMDs elect to do cultivation, processing and retail operations all in one location, which is commonly referred to as a “co-located” operation. An RMD may also choose to have a retail dispensary in one location and grow marijuana at a remote cultivation location. It may conduct the processing of the marijuana at either the retail dispensary location or the remote cultivation location. The remote cultivation location need not be in the same municipality or even the same county as the retail dispensary.

Multiple RMDs. A non-profit corporation may operate up to 3 RMDs. The retail dispensaries of one non-profit corporation may share a remote cultivation facility. Different non-profit corporations may not, however, share a remote cultivation facility with each other.

Amount of Marijuana. There is no specified numeric maximum amount that an RMD may have on its premises. The Regulations require that RMDs must limit their inventory of seeds, plants, and useable marijuana to reflect the projected needs of registered qualifying patients. 105 CMR 725.105(G)(1).

Number of RMDs per Municipality. It is up to a municipality to determine how many RMDs it deems appropriate for the community. The municipality may express that determination through granting or denying a request by an applicant for a letter of support or non-opposition. An RMD will not be permitted to proceed to the Inspections Phase if it has not obtained a letter of support or non-opposition.

Taxation. The Department of Revenue (“DOR”) has determined that the sales tax exemption for prescription medicine in G.L. c. 64H, § 6(I) applies to sales of marijuana and products containing marijuana to a qualifying patient or the patient’s personal caregiver pursuant to a written certification by a licensed physician. Any other supplies, educational materials or other items sold by the medical marijuana treatment center are subject to tax unless another exemption applies. For further information, please consult the DOR website: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/directives/directives-by-years/2015-directives/dd-15-1.html>; or consult your Town Counsel or City Solicitor for further information.

Other Activities at an RMD. An RMD is defined as a non-profit entity “that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.” An RMD is not a health care provider or a provider of general wellness services. Under the Regulations, 105 CMR 725.105(N)(7), an RMD may not sell any products other than marijuana, marijuana-infused products (MIPs), marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes. RMDs may, however, conduct a patient education program in compliance with the Regulations, 105 CMR 725.105(K).

Hours of Operation. The Regulations do not specify particular hours of operation. Municipalities may set reasonable requirements in this regard.

Home Delivery. The Regulations permit, but do not require, home delivery to registered qualifying patients and personal caregivers within the Commonwealth.

Limitations on Entry. Only registered qualifying patients, personal caregivers, dispensary agents and authorized state and local officials may enter an RMD, with strictly limited exceptions.

Patient Choice. Qualifying patients may choose to purchase from different dispensaries from around the Commonwealth. RMDs are required to track purchases in the Medical Use of Marijuana Online

Registration System so that patients are not permitted to purchase more than the amount their physician has certified as appropriate for their debilitating medical condition.

Coordination with local law enforcement. The Regulations require RMDs to coordinate with local enforcement regarding panic alarms, providing hours of operation, after-hours contact information and access to RMD surveillance operations; as well as requiring dispensary agents to produce their Program ID Card to law enforcement upon request.

Certain issues must be reported to local law enforcement, often within 24 hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security.

Ongoing Inspections. The Department will conduct ongoing inspections of RMDs after they open, including scheduled and unscheduled inspections. If local officials encounter issues with an RMD, they should contact the Medical Use of Marijuana Program at (617) 66-5370 or RMDcompliance@state.ma.us.

Annual Registration Renewal. RMDs are required to renew their registration annually with the Department.

The RMD Application Process

Overview. DPH will evaluate the applications received on or after June 29, 2015 on a rolling basis, with priority given to the review of applicants proposing to site an RMD in an Open County. Each successful applicant will be notified that they are authorized to proceed to the Inspection Phase, during which they may seek all required local permits, and when authorized by their community, commence building out the RMD. The Inspections Phase also includes evaluation of documentation prepared in compliance with the Regulations and guidance provided by the Department regarding the operation of a nonprofit RMD. After passing all applicable local and state inspections, an RMD may receive a Final Certificate of Registration.

Role of Municipalities. Municipalities should determine what local permits or licenses may be required if a RMD wishes to locate there, and consult their Town Counsel or City Solicitor if there are any questions about the required process.

Proposed Locations. As part of the application process, an RMD applicant will submit an *Application of Intent*, a *Management and Operations Profile*, and a *Siting Profile* in sequential order. An applicant must be formally invited by the Department in writing in order to submit a *Management and Operations Profile* or *Siting Profile*. An RMD applicant does not inform the Department of their proposed RMD location(s) until the time of submission of the *Siting Profile*.

Letters of Support or Non-Opposition. RMDs may approach municipal officials to acquire letters of local support or non-opposition, which is required for the *Siting Profile* portion of the application. An RMD is required to obtain a letter of support or non-opposition from its host community before it will be

permitted to proceed to the Inspection Phase. In terms of the evaluation, there is no difference between a letter of support or a letter of non-opposition. Either letter will satisfy the requirement.

If the applicant is proposing a retail dispensary location and a remote cultivation facility, the applicant must submit a letter of support or non-opposition from both municipalities. This letter may be signed by (a) the Chief Executive Officer/Chief Administrative Officer, as appropriate, for the desired municipality; or (b) the City Council, Board of Alderman, or Board of Selectmen for the desired municipality. The applicant's choice of (a) or (b) should be done in consultation with the host community. Each letter requires that particular language be included in the letter, as provided in Section C of the *Siting Profile*. If the applicant and the host community choose (b), please note that the template language requires the signor to state that there was a vote to sign the letter taken at a duly noticed meeting and to identify the date of that meeting.

Notification of Municipality. After receiving an invitation to submit a *Management and Operations Profile*, the applicant must Notify the chief administrative officer, or equivalent, and chief of police, or equivalent, of the proposed city or town in which an RMD would be sited, if applicable, and the sheriff of the applicable county, of the intent to submit a *Management and Operation Profile* and a *Siting Profile*.

Municipal Approval Prior to Opening. Before an RMD can open, it must comply with all local rules, regulations, ordinances and bylaws, in addition to all applicable state laws.

Home Cultivation

Eligibility: The Regulations allow for home cultivation, also known as “hardship cultivation” when a qualifying patient meets at least one of three criteria:

- Verified financial hardship;
- Physical incapacity to access reasonable transportation;
- Lack of an RMD within a reasonable distance.
-

Until the Department announces the registration of home or hardship cultivators, qualifying patients and personal caregivers are permitted to engage in limited cultivation in compliance with the Regulations.

Where. Home cultivation may only occur at either the qualifying patient's or personal caregiver's primary residence, but not both.

How. Cultivation and storage must occur in an enclosed, locked area, not visible for the street or other public areas. Only an amount sufficient to provide the qualifying patient with a sixty day supply may be cultivated.

Online Registration System

Who. The Online Registration System provides online certification and registration for qualifying patients, as well as registration for physicians, personal caregivers and dispensary agents. Pediatric patients are registered through a paper process.

Accessible. The Online Registration System allows access for law enforcement 24 hours a day, 7 days a week.

Verification. The Online Registration System allows law enforcement to verify that an individual may legally possess marijuana.

Real-Time. The Online Registration System allows real-time updates of certification and registration information.

Secure. The Online Registration System has appropriate security and access limitations to protect sensitive or confidential information.

Additional Information. Further information regarding the Online Registration System may be found on the Medical Use of Marijuana Program website:

<http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/medical-marijuana/patients-and-caregivers.html>.

Public Records

Protection of RMD Security Information. Municipalities may receive information about RMDs in the course of the local permitting process that may compromise the RMD if disclosed.

Municipalities may refer to exemption (n) to the definition of “public records” in M.G.L. c. 4, s. 7, which provides that the following are exempt from disclosure as public records:

“(n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.”

Municipalities should consult with their Town Counsel or City Solicitor regarding Public Records laws and use their best efforts to keep confidential any information that, if released, may jeopardize public safety.

CITY OF GARDNER LAW DEPARTMENT

John M. Flick
City Solicitor

Jill A. Romer
Assistant City Solicitor



144 Central Street, Suite 201
Gardner, MA 01440

Telephone (978) 632-7948
Fax (978) 630-3703

Writer's Email:

April 14, 2016

VIA FIRST CLASS MAIL

Elisha W. Erb, Esq
Erb & Southcotte
P.O. Box 827
Fitchburg, MA 01420-0056

Re: Gardner Assessors Parcels: M32-6-5, M37-21-42, M32-6-10

Dear Attorney Erb:

The City of Gardner is in receipt of your letter dated February 10, 2016 allegedly providing notice pursuant to M.G.L. c. 61, § 8 of your client's intent to sell the subject property. The notice and the accompanying Purchase and Sale Agreement appear to be in proper form. However, your certification was not received by the City until February 16, 2016. Nevertheless, the City is relying on the February 10, 2016 letter which was received on February 12, 2016. Therefore the City's 120 day review period terminates on Monday, June 13, 2016.

As you know if the City exercises its statutory option to purchase, it must exercise its option according to the terms of the offer. To that end the City is considering the following options at this time:

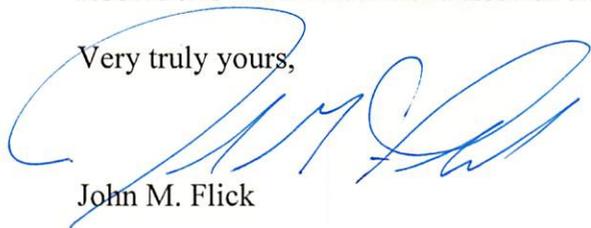
- Exercising its option in accordance with the same terms and conditions set forth in the purchase and sale agreement including the acceptance of the promissory note, or assigning its option to a nonprofit conservation organization who will exercise the option under these same terms and conditions as set forth in the purchase and sale agreement;
- Not exercise its option and record notice of the City's non-exercise and further conditioning its non-exercise on the Buyer fulfilling all obligations of the Purchase and Sale Agreement including completing all payments to your client pursuant to the Promissory Note, and further verification by the Parties that there are no side deals, early payment discounts, refunds, etc.

Notwithstanding the foregoing, the City is willing to make an offer at this time to purchase the land for \$270,000.00. The amount of this offer is based on the most recent fair market appraisal

the City obtained which was in 2015. This offer is subject to the City obtaining grant funding to fund the purchase and any approval and/or appropriation by the City Council. The City would appreciate a response by May 2, 2016 so that it can plan accordingly.

Thank you for your attention to this matter. I will keep you apprised of the City's efforts to resolve this matter before the close of the 120 day review period.

Very truly yours,



John M. Flick

Cc: Mark P. Hawke, Mayor
James M. Walsh, Esq., City Council President
Trevor Beauregard, Dir. Community Development

9588

ERB & SOUTHCOTTE

780 MAIN STREET
P.O. BOX 827

FITCHBURG, MASSACHUSETTS 01420-0056

2016 FEB 16 P 12:11

CITY CLERKS OFFICE
GARDNER, MA

Donald R. Erb
Elisha W. Erb
David G. Southcotte, Sr.*
* Also admitted in New Hampshire

Telephone (978) 343-4856
Facsimile (978) 343-4858
E Mail erbandsouthcotte@verizon.net

11 February 2016

Mark P. Hawke, Mayor
City of Gardner
95 Pleasant Street, Room 125
Gardner, Massachusetts 01440

Gardner City Council
c/o Allen L. Agnelli, City Clerk
95 Pleasant Street, Room 121
Gardner, Massachusetts 01440

Gardner Planning Board
City of Gardner - Manca Annex
115 Pleasant Street, Room 201
Gardner, Massachusetts 01440

Gardner Conservation Commission
City of Gardner - Manca Annex
115 Pleasant Street
Gardner, Massachusetts 01440

Board of Assessors
City of Gardner
95 Pleasant Street, Room 226
Gardner, Massachusetts 01440

Mr. Leo Roy, Commissioner.
Department of Conservation
and Recreation
251 Causeway Street, Suite 900
Boston, Massachusetts 02114-2104

Dear Sirs and Mesdames:

RE: Notice under Massachusetts General Laws, Chapter 61, Section 8
concerning the sale of land classified as forest land

Reference is made to the letter I mailed to each of you yesterday in which
I, on behalf of Chester E. Pultorak, gave notice of removal from classification as

forestry land of the land that he owns by virtue of the deed dated 4 December 2013, recorded in the Worcester Registry of Deeds in Book 51824, Page 38.

Enclosed with the copy of that letter mailed to each of you was a photocopy of the Purchase and Sale Agreement in which Mr. Pultorak agreed to sell such land to Conrad J. Donell. Though I stated in my letter that the enclosed copy of the Agreement "is a certified true copy of the Purchase and Sale Agreement" and that there were no additional or "side" agreements between Mr. Pultorak and Mr. Donell regarding the sale of the Subject Land or the price to be paid for the Subject Land, I overlooked including an express certification that the enclosed copy of the Agreement was a true copy of the original.

I, Elisha W. Erb, hereby certify the copy of the Purchase and Sale Agreement dated 5 February 2016 in which Mr. Chester E. Pultorak agreed to sell certain land to Conrad J. Donell in exchange for \$375,000.00 that was enclosed with the letter I sent each of you yesterday is a true and complete copy of the original document.

Kindly attach this letter to your copy of the Agreement.

Yours very truly,



Elisha W. Erb

e/1275/3A/ewe

ERB & SOUTHCOTTE

780 MAIN STREET

P.O. BOX 827

FITCHBURG, MASSACHUSETTS 01420-0056

Donald R. Erb

Elisha W. Erb

David G. Southcotte, Sr.*

* Also admitted in New Hampshire

RECEIVED

2016 FEB 12 A 8:40

Telephone (978) 343-4858

Facsimile (978) 343-4858

E Mail erband@southcotteverizon.net

CITY CLERK'S OFFICE
GARDNER, MA

10 February 2016

Mark P. Hawke, Mayor
City of Gardner
95 Pleasant Street, Room 125
Gardner, Massachusetts 01440

Certified Mail No.
7015 1520 0003 0208 9465

Gardner City Council
c/o Allen L. Agnelli, City Clerk
95 Pleasant Street, Room 121
Gardner, Massachusetts 01440

Certified Mail No.
7015 1520 0003 0208 9472

Gardner Planning Board
City of Gardner - Manca Annex
115 Pleasant Street, Room 201
Gardner, Massachusetts 01440

Certified Mail No.
7015 1520 0003 0208 9489

Gardner Conservation Commission
City of Gardner - Manca Annex
115 Pleasant Street
Gardner, Massachusetts 01440

Certified Mail No.
7015 1520 0003 0208 9397

Board of Assessors
City of Gardner
95 Pleasant Street, Room 226
Gardner, Massachusetts 01440

Certified Mail No.
7015 1520 0003 0208 9403

Mr. Leo Roy, Commissioner
Department of Conservation
and Recreation
251 Causeway Street, Suite 900
Boston, Massachusetts 02114-2104

Certified Mail No.
7015 1520 0003 0208 9410

Dear Sirs and Mesdames:

RE: Notice under Massachusetts General Laws, Chapter 61, Section 8
concerning the sale of land classified as forest land

I am sending this letter to you on behalf of my client, Chester E. Pultorak, who resides at 18 Gay Street, Orange, Massachusetts 01364. His Telephone Number is 978-544-8880.

Mr. Pultorak owns by virtue of the deed dated 4 December 2013, recorded in the Worcester Registry of Deeds in Book 51824, Page 38, the following three adjoining parcels of land:

City of Gardner's Assessor Parcel M32-6-5 located easterly of Clark Street with an area of 85.41 acres.

City of Gardner's Assessor Parcel M37-21-42 located on the easterly side of Century Way with an area of 3.37 acres.

City of Gardner's Assessor Parcel M32-6-10 located easterly of Clark Street with an area of 0.34 acres.

The foregoing three parcels of land are hereinafter referred to as the "Subject Land". Enclosed is a printout of the relevant part of the City of Gardner's online assessor's plan on which I have indicated the three land parcels that constitute the Subject Land.

The Gardner Board of Assessors, in response to an application made by Mr. Pultorak, classified the Subject Land as forestry land on 10 July 2014, the classification to take effect on 1 January 2015.

Mr. Pultorak recently entered into a Purchase and Sale Agreement to sell the Subject Land to Conrad J. Donell. Enclosed with the copy of this letter being sent to each of you is a certified true copy of the Purchase and Sale Agreement. There are no additional or "side" agreements between Mr. Pultorak and Mr. Donell regarding the sale of the Subject Land or the price to be paid for the Subject Land.

Mr. Donell has informed Mr. Pultorak, that he, Mr. Donell, intends to use the Subject Land for residential use, as permitted by the Gardner Zoning Ordinance.

If the City of Gardner determines it will not exercise its Section 8 option to purchase, notice of the decision to not exercise the option should be mailed to Chester E. Pultorak at his address set forth above. Kindly mail a copy of the notice to me.

Yours very truly,



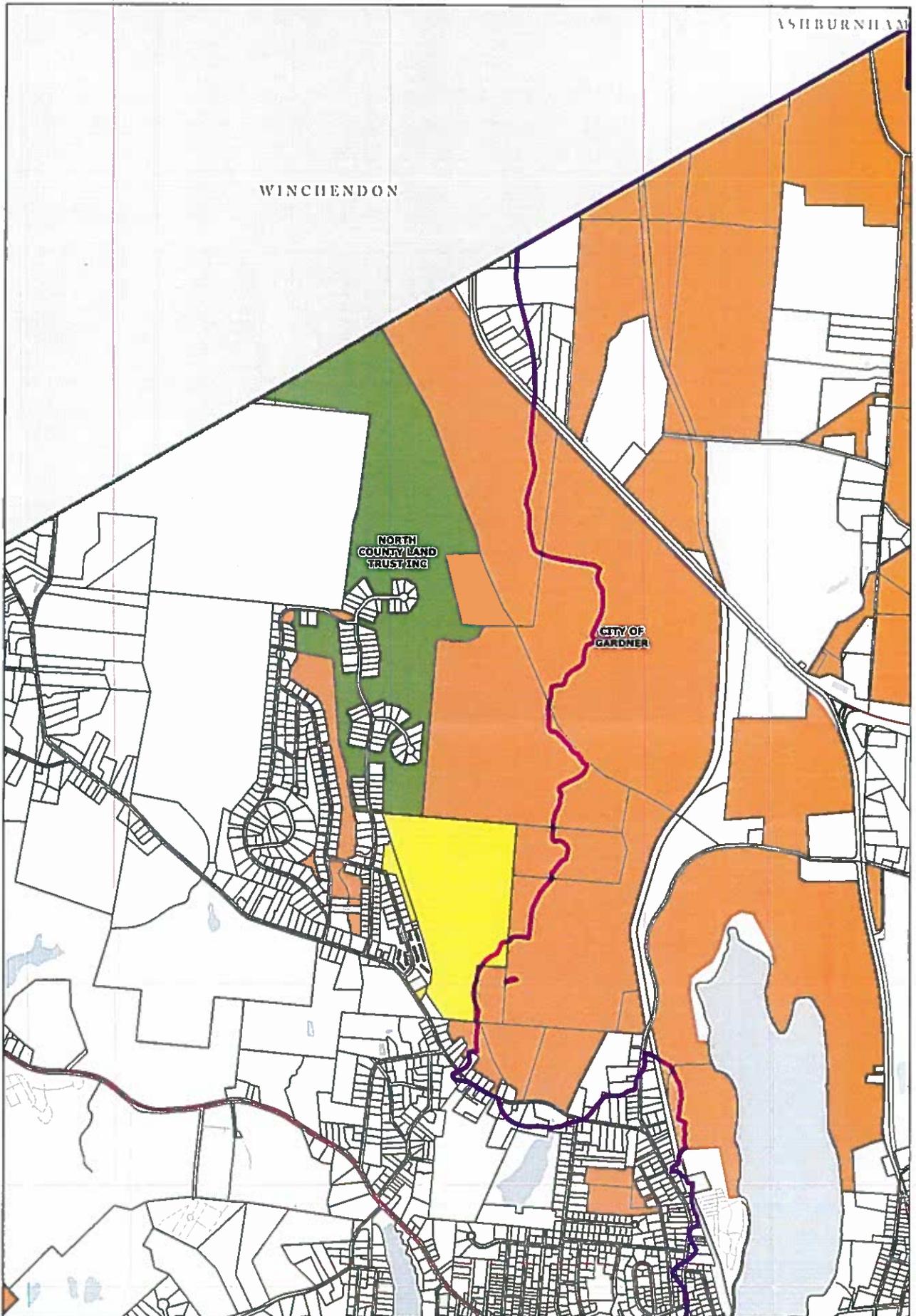
Elisha W. Erb

e/1275/3/ewe

WINCHENDON

NORTH
COUNTRY LAND
TRUSTING

CITY OF
GARDNER



- Pulaski Property
- Surface Water Protection District
- Open Space Owners**
- North Country Land Trusting
- City of Gardner

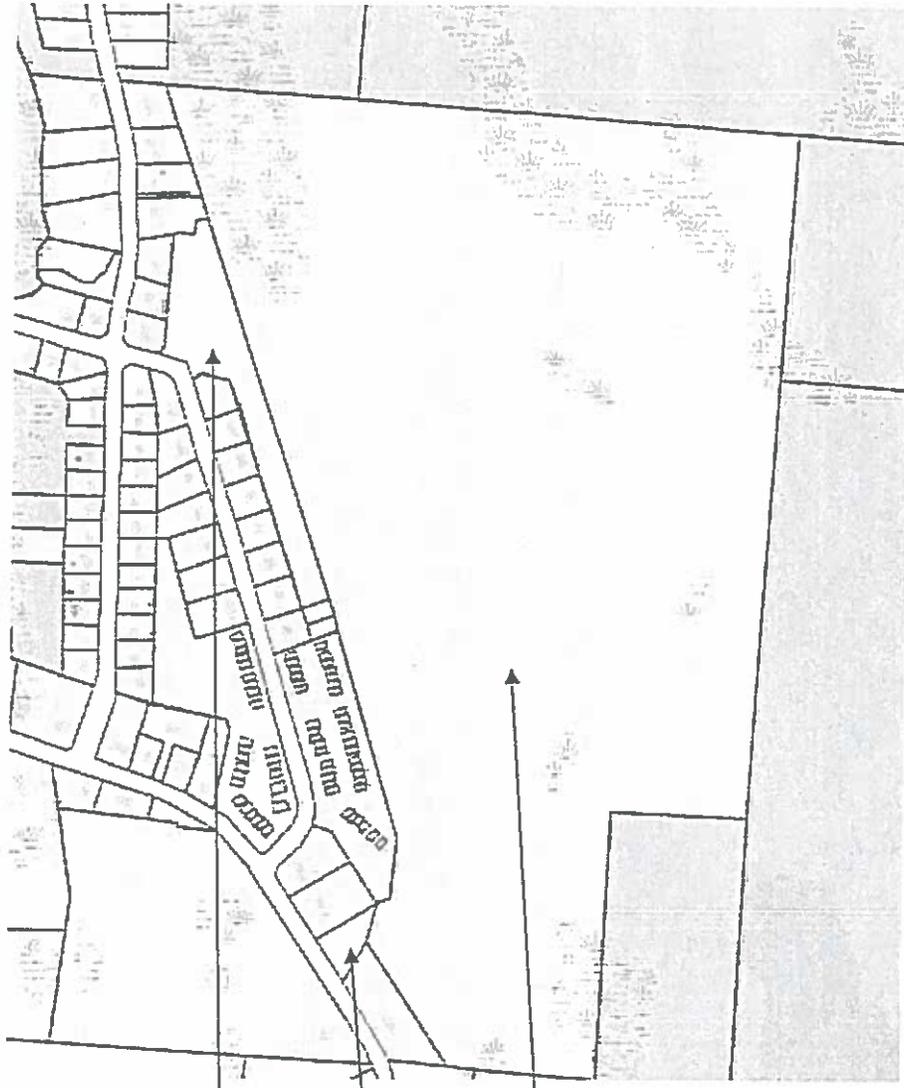
OPEN SPACE - OWNERSHIP

0 600 1,200
 Feet
 1 inch = 1,200 feet



Data Sources:
 City of Gardner,
 MassGIS

City of Gardner



M37-21-42 M32-6-10 M32-6-5,

PC: Chester E. Pultorak
Thomas A. Gibbons, Esq.

RECEIVED

AGREEMENT OF SALE AND PURCHASE OF REAL PROPERTY

2016 FEB 12 A 8:40

Chester E. Pultorak, 18 Gay Street, Orange, Massachusetts 01364,
hereinafter called "SELLER", hereby agrees to sell,

CITY CLERKS OFFICE
GARDNER, MA

AND

Conrad J. Donell, 106 Lancaster Street, Shirley, Massachusetts 01464,
hereinafter called "BUYER", hereby agrees to buy,

UPON THE TERMS AND CONDITIONS HEREAFTER SET FORTH
the three adjoining parcels of land described in the proposed deed attached
hereto as Exhibit A (the "Subject Property") and made a part hereof for the sum
of \$375,000.00

This Agreement is upon the following conditions and stipulations to all
of which the parties hereto expressly agree, they being:

- (1) Payment of Price - The said purchase price of \$375,000.00 has been,
and shall be, paid, as follows:
 - (a) a down payment of \$18,750.00, receipt of which
SELLER does hereby acknowledge \$18,750.00
 - (The \$18,750.00 has been transferred to, and shall be held by, Erb and Southcotte, Seller's attorneys, in their IOLTA Escrow Account, which does not pay available interest, and be disbursed in accordance with this Agreement.)
 - (b) a payment of \$28,125.00 to be paid by cash, cashier's check, certified check, attorney's escrow check, wired funds or a combination of the same at the consummation of the transaction 28,125.00
 - (c) the delivery to SELLER of the promissory note of which a copy is attached hereto as Exhibit B signed by BUYER'S nominee for taking title to the Subject Property, as maker, and by BUYER, as Guarantor.
 - (d) the recording in the Worcester Registry of Deeds at BUYER'S expense immediately after the recording of the SELLER'S deed conveying the Subject Property to Buyer's nominee the mortgage, fully executed, of which a copy is attached hereto as Exhibit C 328,125.00
- TOTAL \$375,000.00

RJD

- (2) Consummation of Transaction - The transaction shall be consummated by SELLER delivering to BUYER'S nominee a fully executed Quitclaim Deed conveying good record and marketable title to the Subject Property free and clear of all liens and encumbrances [except as provided in Paragraph (4)] and upon BUYER delivering to SELLER the balance of the purchase price as specified in Paragraph 1.
- (3) Place and Time - Except as provided otherwise in Paragraph 6, transfer of title to the Subject Property to BUYER'S nominee shall be consummated at the Law Office of Thomas A. Gibbons, P.C., 21 Park Street, Ayer, MA, 01432 at 10:00 AM on the day specified in Paragraph 6 or such other time of day or place in Worcester County or earlier date as BUYER selects by two (2) days' notice to SELLER.
- (4) Defective Title - In the event SELLER shall be unable to convey good record and marketable title to the Subject Property, free and clear of all liens and encumbrances, other than:
- (a) provisions of local building and zoning laws;
 - (b) taxes for the current municipal fiscal year which are not due and payable on the date of delivery of the deed; and
 - (c) liens for municipal betterments assessed after the date of this Agreement;

SELLER shall promptly use reasonable efforts to remove any defects in title and the time for performance shall be extended for a period of thirty (30) days, or such longer time as is acceptable to BUYER. Thereafter, BUYER shall have the option to accept such title as SELLER can convey and to pay therefore the full purchase price as specified in Paragraph (1) herein above, or to terminate this Agreement without liability on the part of BUYER. In the event BUYER elects to terminate hereunder, all payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

- (5) Taxes Assessed on the Subject Property - SELLER shall pay the taxes due the City of Gardner on account of the conveyance tax imposed by Chapter 61, Sections 6 of the General Laws of Massachusetts or the rollback tax imposed by Section 7, whichever applies, immediately following the consummation of the transaction and all other taxes on the Subject Property for the municipal fiscal year in which the transaction is consummated. BUYER shall pay to SELLER at the consummation of the transaction the BUYER'S prorated share of the real estate taxes for the municipal fiscal year in which the sale is consummated, the proration to be based on the full fair market value of the Subject Property real estate tax (i.e. "the regular tax") that the Gardner Assessor uses in calculating the rollback tax for the municipal fiscal year in which the sale is consummated, the pro-rated payment paid by the BUYER to be held in escrow by the BUYER'S attorney in his IOLTA Escrow Account (which does not pay available interest) and delivered to SELLER

promptly after SELLER has recorded in the Registry of Deeds a Municipal Lien Certificate that reports all taxes through to the end of such municipal fiscal year have been paid, and if such a certificate has not been recorded by the first anniversary of when the transaction was consummated, the pro-rated payment shall be paid to the City of Gardner for application to the taxes assessed on the Subject Property.

- (6) Forestry Land - The Subject Property is classified as forestry land under Chapter 61 of the Massachusetts General Laws. Chapter 61, Section 8 requires notice be given as specified in Section 8 should land classified as forestry land "be sold for, or converted to, residential, industrial, or commercial use". BUYER intends to use the Subject Property for residential use, as permitted by the Gardner Zoning Ordinance. SELLER will, promptly after this agreement has been signed, give the required notice and the consummation of the sale contemplated by this agreement will be postponed until the seventh day after the City of Gardner has released its option to purchase under Section 8, or, if the option is not released, the seventh day after the expiration of the 120 day option period of Section 8. If the option to purchase under Section 8 is exercised by the City of Gardner or by its assignee, this agreement shall immediately terminate, all payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void.
- (7) Right to Go Upon the Land - BUYER and his representatives shall at all times while this Agreement remains in effect have full right to go upon the Subject Property for the purpose of making surveys and land tests, including borings, the same to be done, however, at BUYER'S expense. BUYER will fill any holes in the land created by BUYER.
- (8) Forfeiture of Down Payment - In the event SELLER shall be able to deliver to BUYER the aforesaid Quitclaim Deed conveying good and marketable title (except as provided in Paragraph (4)) and BUYER shall fail or refuse to consummate the transaction as specified above, SELLER shall keep the aforesaid down payment of 18,750.00 as liquidated damages, unless BUYER'S failure or refusal to consummate the transaction is authorized under the provisions of Paragraphs (4) or (6) hereinabove, and this Agreement shall thereupon terminate and neither party hereto shall have any rights hereunder against the other.
- (9) Possession - Full possession of said premises **FREE OF** all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said premises to be then in compliance with provisions of any instrument referred to in clause 4 hereof.
- (10) Acceptance and Recording of Deed - The acceptance and recording of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

(11) Seller represents to the best of their knowledge and agrees with Buyer as follows:

A. Seller has the legal right, power and authority to enter into this agreement and to perform all of its obligations hereunder:

B. There are no tenancies, occupancies or licenses in or to the premises.

C. Seller has not commenced nor has Seller received notice of the commencement of any proceeding which would affect the present zoning classification of the Premises. Seller will not initiate any such proceedings and will promptly notify Buyer if Seller receives notice of any such proceeding commenced by third parties.

D. There is, to the best of the Seller's knowledge and belief, no notice, suit, order, decree, claim, writ, injunction or judgment relating to any material violations of any laws, ordinances, codes, regulations or other requirements with respect to the Premises in, of or by any court, administrative agency or office or governmental authority having jurisdiction over the Premises.

E. There are no suits, actions or proceedings current, pending or threatened against the Seller materially affecting the Premises or seller's right or power to consummate the transaction contemplated in the agreement before any court, administrative agency or office or governmental authority that will not be removed simultaneously with the delivery of the Deed.

F. There is no pending Seller bankruptcy that would inhibit this conveyance. The Seller is not applying for a short sale or would be short funds to closing. Seller has the financial ability to consummate the transaction. The Seller represents and warrants that Seller has not filed a voluntary or there has not been filed an involuntary proceeding in the United States Bankruptcy Court with competent jurisdiction in the preceding one year and that the Premises is not subject to any approval, review or control of any bankruptcy trustee whatsoever .

G. The Seller has received no notice of any eminent domain taking, condemnation, betterment or special assessment, actual or proposed, with respect to the Premises and the Seller shall have an affirmative obligation to notify the Buyer of any change in circumstances from the date of the Agreement to the date of closing.

(12) Buyer's performance hereunder is conditioned upon title to the premises being insurable on a standard ALTA form B insurance policy by companies licensed to do business in the Commonwealth of Massachusetts without exception for any matters not expressly permitted hereunder.

(13) Both parties represent to each other that they have not dealt with any real estate broker with respect to this transaction other than those set

forth herein. If either party were to breach the foregoing representation, the breaching party shall indemnify and hold the non-breaching party harmless from any claim, loss, damage, cost or liability for any brokerage commission or fee which may arise due to such breach. The Buyer's and Seller's representations to each other as set forth in this paragraph shall survive the delivery of the deed.

- (14) Any matter of practice arising under or relating to this agreement which is the subject of a title standard or a practice standard of the Massachusetts Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.
- (15) The Seller represents, that to the best of the Seller's knowledge, there are not now, nor have there ever been underground fuel storage tanks on the premises and to the best of the Seller's knowledge and belief, there are no hazardous substances on or under the premises.

SIGNED as a sealed instrument this 5th day of ~~January~~ ^{February} 2016.

BUYER:



Conrad J. Donell

SELLER:



Chester E. Pultorak

Erb and Southcotte acknowledges receiving the \$18,750.00 deposit specified in Paragraph (1), Clause (1) of the above Agreement and will hold and disburse the same as specified in the Agreement.

Erb and Southcotte

By: 

Elisha W. Erb, Partner

EXHIBIT A

QUITCLAIM DEED

CHESTER E. PULTORAK, who resides at 18 Gay Street, Orange,
Massachusetts 01364

FOR THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$775,000.00)
CONSIDERATION PAID, GRANT TO

<**NOMINEE**, 106 Lancaster Street, Shirley, Massachusetts 01464>

WITH QUITCLAIM COVENANTS

three contiguous parcels of land located in the northwesterly part of Gardner,
Massachusetts on the easterly side of Clark Street.

FIRST PARCEL

The first parcel is bounded and described as follows:

BEGINNING at the southwesterly part thereof on the easterly side of
Clark Street at land now or formerly of Irene M. Chicone;

THENCE, North 10° 46' 43" West, by Clark Street, 21.26 feet to a stone
wall at land now or formerly of Luis A. Perez, Trustee (said Perez land is
now the THIRD PARCEL herein);

THENCE, North 48° 40' 36" East, by a stone wall by said Perez land,
139.85 feet to a point;

THENCE, North 47° 29' 05" East, by a stone wall by said Perez land,
130.00 feet to an iron pipe at land now or formerly of Century Way
Development;

THENCE, North 21° 15' 01" East by said Century Way Development
land, 177.18 feet to an iron pipe;

THENCE, North 1° 35' 37" West, by a stone wall by said Century Way
Development land, 217.77 feet to a point;

THENCE, North 2° 05' 51" West, by a stone wall by said Century Way
Development land, 197.46 feet to a point;

THENCE, North 3° 25' 22" West, by a stone wall by said Century Way
Development land, 219.93 feet to a drill hole in the stone wall (the last
7.82 feet of this course, the following eight courses and part of the
following ninth course are now beside the SECOND PARCEL herein);

LOCATION OF PROPERTY: East side of Clark Street, Gardner

THENCE, North 2° 43' 56" East, across an opening in the stone wall and by said Century Way Development land, 58.70 feet to a drill hole in the stone wall;

THENCE, North 4° 00' 28" West, by a stone wall by said Century Way Development land, 91.06 feet to a corner;

THENCE, North 3° 28' 08" West, by a stone wall by said Century Way Development land, 199.49 feet to a corner;

THENCE, North 4° 37' 38" West, by a stone wall by said Century Way Development land, 199.39 feet to a corner;

THENCE, North 3° 47' 48" West, by a stone wall by said Century Way Development land, 195.26 feet to a point;

THENCE, North 4° 51' 30" West, by a stone wall by said Century Way Development land, 172.01 feet to a point;

THENCE, North 5° 03' 33" West, by a stone wall by said Century Way Development land, 117.99 feet to a point;

THENCE, North 4° 19' 36" West, by a stone wall by said Century Way Development land, 117.26 feet to a drill hole;

THENCE, North 4° 19' 36" West, by said Century Way Development land, 490.13 feet to a corner;

THENCE, South 71° 34' 55" East, partly by said Century Way Development land and partly by land now or formerly of the City of Gardner, 2,003.14 feet to a corner;

THENCE, South 18° 08' 22" West, by said City land, 704.88 feet to a point;

THENCE, South 18° 02' 43" West, by said City land, 1,253.69 feet to a corner;

THENCE, North 70° 16' 00" West, by said City land, 400 feet to a corner;

THENCE, South 18° 02' 42" West, by said City land, 779.99 feet to a corner at land now or formerly of Luis A. Perez, Trustee;

THENCE, North 74° 09' 16" West, by said Perez land, 480.86 feet to a point;

THENCE, North 73° 19' 16" West, by said Perez land, 78.24 feet to a corner at land now or formerly of Irene M. Chicone;

ASO

THENCE, North 21° 03' 01" West, by said Chicone land, 426.00 feet to a corner;

THENCE, South 49° 10' 13" West, by said Chicone land, 134.00 feet to the place of beginning.

Containing approximately 85.41 acres.

SECOND PARCEL

The second parcel is located on the northwest side of Century Way, Gardner, Massachusetts and is the parcel containing approximately 3.372 acres identified as "JAB Realty Trust" on (a) the plan titled: "Plan of Lots prepared for Jab Realty Trust, Gardner, MA", dated 18 October 1994 and recorded in the Worcester Registry of Deeds in Plan Book 689, Page 100¹ and (b) the plan titled: "Revised Definitive Subdivision Plan of Wilder Brook Estates in Gardner, Ma.", dated 7 July 1995, recorded in said Registry of Deeds in Plan Book 709, Page 122². Said parcel of land is bounded and described as follows:

Beginning at the corner in the northwesterly sideline of Century Way that is northerly of Lot 39 on the Plan Book 689, Page 100 plan and southeasterly of Lot 19 on said plan;

Thence, South 2° 53' 00" East, beside Clark Street, 78.19 feet to Lot 39 on the Plan Book 689, Page 100 plan;

Thence, northerly and easterly by a curve to the right having a radius of 25.00 feet, beside said Lot 39, a distance measured along the arc of 48.58 feet to a point of tangency;

Thence, South 71° 32' 46" East, beside said Lot 39 for 81.42 feet to a corner;

Thence, South 2° 53' 00" East, beside Lots 39 through 46 on said plan 784.11 feet to a corner at Out Lot "A" on said plan;

Thence, North 85° 05' 30" East, beside said Out Lot "A" 83.81 feet to land formerly of CEPCO Realty Trust (now the FIRST PARCEL herein);

Thence, North 03° 25' 22" West, by said CEPCO land, 7.82 feet to a point (This course and the following seven courses are now beside the FIRST PARCEL herein);

Thence, North 02° 43' 56" East, by said CEPCO land, 58.70 feet to a point;

¹ Shows part of the Second Parcel.

² Shows part of the Second Parcel. The two plans, taken together, show the entire Second Parcel.

Thence, North 04° 00' 28" West, by said CEPCO land, 91.06 feet to a point;

Thence, North 03° 28' 08" West, by said CEPCO land, 199.49 feet to a point;

Thence, North 04° 37' 38" West, by said CEPCO land, 199.39 feet to a point;

Thence, North 03° 47' 48" West, by said CEPCO land, 195.26 feet to a point;

Thence, North 04° 51' 30" West, by said CEPCO land, 172.01 feet to a point;

Thence, North 05° 03' 33" West, by said CEPCO land, 117.99 feet to a point;

Thence, North 04° 19' 36" West, by said CEPCO land, 117.26 feet to a point;

Thence, North 04° 19' 36" West by said CEPCO land approximately 100 feet to the centerline of a brook;

Thence, westerly by the center line of the brook approximately 135 feet to the northwest corner of Lot 4 on Plan Book 709, Page 122;

Thence, South 17° 59' 14" West, beside said Lot 4 approximately 150 feet to Lot 2 on said plan;

Thence, South 17° 59' 14" West, beside said Lot 2 and beside Lot 19 on said plan 162.68 feet to a point of non-tangent curvature;

Thence, by a curve to the right with a radius of 25.00 feet, beside said Lot 19, for a distance measure along the arc of 53.31 feet to Century Way

Thence, South 60° 43' 00" East, beside Century Way, 104.32 feet to the place of beginning.

EXCLUDED

Excluded from the above described Second Parcel is the approximately 8,680 square feet of land that JAB Realty Trust conveyed to George R. Drouin and Dorothy P. Drouin by the deed dated 11 June 1997 and recorded in said Registry of Deeds in Book 18904, Page 41. Said land is shown on the plan titled "Plan of Land to be Conveyed by JAB REALTY TRUST", dated 20 November 1996, recorded in said Registry of Deeds in Planbook 716, Page 74.

THIRD PARCEL

The Third Parcel is bounded and described as follows:

Beginning at the southwesterly corner thereof, at a point in the easterly line of Clark Street, at a corner of land of John C. Greenan, Jr. (the FIRST PARCEL herein);

Thence North 16° 50' 03" West by said street line, 117.29 feet to a corner of land now or formerly of Gerald L. & Donna M. Poirier;

Thence North 73° 09' 57" East by said Poirier land, 200.00 feet to a corner of other land now or formerly of Joseph L. Rome and Richard, Roger and George Tobia, and being shown as a corner of "Phase 2" on a plan hereinafter referred to;

Thence North 77° 00' 30" East by said Rome & Tobia land and "Phase 2", for 44.53 feet to an iron pipe at the end of a stone wall in line of land of John C. Greenan, Jr.;

Thence South 47° 29' 05" West, 130.00 feet to a drill hole;

Thence South 48° 40' 36" West, 139.85 feet to the easterly line of Clark Street and the point of beginning, the preceding two (2) courses being by a stone and wall and said John C. Greenan, Jr. land.

Containing 14,882 square feet.

Being shown as Lot "1" on the plan titled: "Plan of Land in Gardner, Mass. made for Century Way Development Corp." dated August, 1986, recorded in said Registry of Deeds in Plan Book 564, Page 40.

The above three parcel of land are the same land that the Trustees of the John C. Greenan, Jr., Trust conveyed to Chester E. Pultorak by the deed dated 4 December 2013, recorded in said Registry of Deeds in Book 51824, Page 38.

SIGNED as a sealed instrument this _____ day of _____
2016.

Chester E. Pultorak

CJD

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On the ___ day of _____ 2016, before me, the undersigned notary public, personally appeared Chester E. Pultorak, proved to me through satisfactory evidence of identification, which was personal knowledge of identity to be the person whose name is signed on the preceding deed and acknowledged to me that he signed it voluntarily for its stated purpose.

Elisha W. Erb, Notary Public
My commission expires 13 May 2016



PROMISSORY NOTE

<NOMINEE> hereinafter called "MAKER", FOR VALUE RECEIVED, promises, to pay to the order of Chester E. Pultorak, 18 Gay Street, Orange, Massachusetts 01364, hereinafter called "HOLDER",

THREE HUNDRED TWENTY-EIGHT THOUSAND,
ONE HUNDRED TWENTY-FIVE DOLLARS (\$328,125.00)

with interest on the unpaid balance at one percent (1%) per annum in seven (7) semi-annual installments as provided hereinafter with the first installment to be due and payable six (6) months from the date of this Note, and with each successive semi-annual installment to be due and payable semi-annually thereafter.

From date of note	Principal payment	Interest payment	Total payment
6 months	46,875.00	1,640.62	48,515.62
1 year	46,875.00	1,406.25	48,281.25
18 months	46,875.00	1,171.88	48,046.88
2 years	46,875.00	937.50	47,812.50
30 months	46,875.00	703.13	47,578.13
3 years	46,875.00	468.75	47,343.75
42 months	46,875.00	234.38	47,109.38

All payments made on account hereof shall be applied first to interest and the balance to the amortization of the principal.

PROVIDED, in the event any payment called for above shall at any time be in arrears, or the mortgage securing this Promissory Note shall be in default, the HOLDER may give written notice of such default to the MAKER, and if the MAKER shall fail to cure the default within ten (10) days after delivering or mailing of such demand by paying in full all payments then in arrears, plus interest at the rate of twelve percent (12%) per annum on the late payments until paid, and removing all defaults under the mortgage securing this Promissory Note, the entire balance of the principal and interest of this Promissory Note shall become due and payable on such tenth (10th) day and such entire balance (principal and interest) shall thereafter bear interest at the rate of twelve percent (12%) per annum. PROVIDED ALWAYS, that the failure of the HOLDER to exercise this option on any one or more occasions shall not be deemed a waiver of his right to exercise this option at any time thereafter when this Promissory Note or the mortgage securing it shall be in default.

The MAKER may at any time prepay this Note in full without penalty.

In the event any payment due hereunder is in default by fifteen (15) days, there shall be added to said payment due, a penalty of ten percent of the payment due.

The MAKER agrees to pay any and all expenses, including reasonable attorney's fees, incurred by the HOLDER in collecting any amounts due under this Note in the event of the MAKER'S default.

This Note is issued in conjunction with a commercial transaction. The proceeds of this Note will be used to pay part of the purchase price of undeveloped real property. This Note is secured by a mortgage on the purchased real estate.

SIGNED as a sealed instrument this ____ day of _____ 2016.

(In the Presence of:-)

<Nominee>

By: _____
<title>

GUARANTEE OF PAYMENT

I, Conrad J. Donell, hereby unconditionally guarantee prompt payment of the foregoing Promissory Note; waive all rights of notice of acceptance, notice of non-payment or other default, protest, notice of protest, presentment, and demand for payment; acknowledge that I shall remain bound on this Guarantee notwithstanding any steps the holder of this Note may or may not have taken to collect any or all payments due, and notwithstanding that the Maker may by operation of law or otherwise be relieved of his obligations to pay said Note; acknowledge that this is a Guarantee of payment rather than of collectability and may be enforced without the holder of said Note first having to resort to any other right, remedy or security; and agree to pay any and all expenses, including reasonable attorneys' fees, incurred by the holder of said Note in collecting any amounts due from the Maker or me.

Signed as a sealed instrument this ____ day of _____ 2016.

Conrad J. Donell

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EXHIBIT C

M O R T G A G E
(Statutory Form)

<NOMINEE>, with offices at 106 Lancaster Street, Shirley, Massachusetts 01464, hereinafter called "MORTGAGOR,"

FOR
CONSIDERATION PAID, GRANT TO

Chester E. Pultorak, 18 Gay Street, Orange, Massachusetts 01364, hereinafter called "MORTGAGEE,"

WITH MORTGAGE COVENANTS

to secure the payment of \$328,125.00 as provided in MORTGAGORS' Promissory Note of even date, bearing interest at the rate of one percent (1%) per year, and payable three and one half years from date, and also to secure all other obligations and amounts now, or at any time hereinafter owed by MORTGAGOR to MORTGAGEE on account of said Promissory Note or this Mortgage, the three contiguous parcels of land located in the northwesterly part of Gardner, Massachusetts on the easterly side of Clark Street described in attached Exhibit A.

All payments made under the Note secured by this Mortgage, and all payments made under this Mortgage, shall be applied by MORTGAGEE in the following order:

- (1) to reimburse MORTGAGEE for all expenses incurred by MORTGAGEE, including reasonable attorney's fees, to foreclose this Mortgage or enforce any of its provisions;
- (2) to the payment of real estate taxes and municipal assessments;
- (3) all other obligations of MORTGAGOR to MORTGAGEE under the provisions of this Mortgage;
- (4) interest on the Note secured by this Mortgage; and
- (5) amortization of the principal of said Note.

The MORTGAGOR covenants and agrees not to commit, permit or suffer any waste, impairment or deterioration of the property or any part thereof, and not to use or permit the premises to be used for any unlawful or improper purpose or in violation of any law or municipal ordinance or regulation.

If said premises or any portion thereof shall be taken by eminent domain or for public use by other act of any public authority, any damages in connection therewith shall, to the extent of the indebtedness then remaining

LOCATION OF PROPERTY: East side of Clark Street, Gardner

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unpaid, be paid to MORTGAGEE, and MORTGAGOR hereby assigns such damages to MORTGAGEE.

If bankruptcy or other proceedings affecting MORTGAGOR involve MORTGAGEE'S interest under this Mortgage, MORTGAGOR shall reimburse MORTGAGEE for all costs and expenses, including attorneys' fees, incurred in protecting MORTGAGEE'S interests in such proceedings.

If foreclosure proceedings are begun because of MORTGAGOR'S default hereunder and are subsequently terminated prior to a foreclosure sale for any reason whatsoever, including, but not limited to, termination caused by bankruptcy proceedings affecting MORTGAGOR, redemption or agreement of the parties, MORTGAGEE shall be entitled to all costs and expenses incurred in connection with such proceedings, including attorneys' fees.

If MORTGAGEE enters into possession of said premises because of MORTGAGOR'S default hereunder, MORTGAGORS shall reimburse MORTGAGEE for all costs and expenses incurred in the care and management of the property and in defending any action brought by MORTGAGORS arising out of MORTGAGEE'S possession.

MORTGAGORS further covenant that if foreclosure proceedings under any junior mortgage or other lien of any kind on the within described premises, or any part thereof, shall be instituted, and not cured within thirty days, or in the event of any levy or sale upon execution or other proceedings of any nature whereby the owner of said premises may be deprived of owners' title or right of possession of said premises, MORTGAGEE may immediately declare the entire debt and Note secured by this Mortgage due and payable and start foreclosure or such other proceedings as may be necessary to protect MORTGAGEE'S interest in the premises.

MORTGAGOR shall pay, no later than when due, the real estate taxes and betterment assessments assessed on the subject property. MORTGAGOR hereby irrevocably authorize MORTGAGEE to make any payment required of MORTGAGOR hereunder when due, including, but not limited to, payment of annual real estate taxes and betterment assessments. All such payments made by MORTGAGEE and the amount of any costs and expenses to which MORTGAGEE is entitled hereunder or incurs on account hereof shall bear interest at the rate of twelve percent (12%) per annum, shall be promptly reimbursed to MORTGAGEE by MORTGAGOR, shall be secured by the lien of this Mortgage and shall, in the event of foreclosure of this Mortgage, have priority of payment over the Promissory Note secured by this Mortgage.

In the event the ownership of said premises or any part thereof changes, MORTGAGEE may, without notice to MORTGAGOR, deal with MORTGAGOR'S successor or successors in interest with reference to the Mortgage and the debt secured hereby in the same manner as with MORTGAGOR without in any way vitiating or discharging MORTGAGOR'S liability hereunder or upon the debt secured hereby. No sale of the premises hereby mortgaged and no forbearance on the part of MORTGAGEE or extension of the time for the payment of the debt secured hereby, or any other indulgence given by MORTGAGEE, shall

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operate to release, discharge, modify, change or affect the original liability of MORTGAGOR, either in whole or in part. Notwithstanding the above, the entire mortgage debt secured hereby shall become due and payable at the option of the MORTGAGEE in the event legal or significant beneficial ownership of said premises or any part thereof becomes vested in any person or persons other than the MORTGAGOR.

The MORTGAGOR agrees to pay any and all expenses, including reasonable attorney's fees, incurred by MORTGAGEE to foreclose this Mortgage or enforce any of its provisions.

This Mortgage is upon the STATUTORY CONDITION, for any breach of which, or for any breach of any of the aforementioned provisions or conditions, the holder hereof shall have the STATUTORY POWER OF SALE.

SIGNED as a sealed instrument this ____ day of _____ 2016.

<NOMINEE>

<Title>

<NAME>

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On the ____ day of _____ 2016, before me, the undersigned notary public, personally appeared <nominee officer>, proved to me through satisfactory evidence of identification, which was <personal knowledge of identity><motor vehicle operator's license>, to be the person whose name is signed on the preceding mortgage and acknowledged to me that <he><she> signed it voluntarily for its stated purpose <as the Trustee of <> Trust><as the President and Treasurer of <> corporation><as manager of <> limited liability company> and as the free act and deed of said (trust, corporation, limited liability company>.

<>, Notary Public
My commission expires <>

Handwritten initials

EXHIBIT A
ATTACHED TO MORTGAGE

FIRST PARCEL

The first parcel is bounded and described as follows:

BEGINNING at the southwesterly part thereof on the easterly side of Clark Street at land now or formerly of Irene M. Chicone;

THENCE, North 10° 46' 43" West, by Clark Street, 21.26 feet to a stone wall at land now or formerly of Luis A. Perez, Trustee (said Perez land is now the THIRD PARCEL herein);

THENCE, North 48° 40' 36" East, by a stone wall by said Perez land, 139.85 feet to a point;

THENCE, North 47° 29' 05" East, by a stone wall by said Perez land, 130.00 feet to an iron pipe at land now or formerly of Century Way Development;

THENCE, North 21° 15' 01" East by said Century Way Development land, 177.18 feet to an iron pipe;

THENCE, North 1° 35' 37" West, by a stone wall by said Century Way Development land, 217.77 feet to a point;

THENCE, North 2° 05' 51" West, by a stone wall by said Century Way Development land, 197.46 feet to a point;

THENCE, North 3° 25' 22" West, by a stone wall by said Century Way Development land, 219.93 feet to a drill hole in the stone wall (the last 7.82 feet of this course, the following eight courses and part of the following ninth course are now beside the SECOND PARCEL herein);

THENCE, North 2° 43' 56" East, across an opening in the stone wall and by said Century Way Development land, 58.70 feet to a drill hole in the stone wall;

THENCE, North 4° 00' 28" West, by a stone wall by said Century Way Development land, 91.06 feet to a corner;

THENCE, North 3° 28' 08" West, by a stone wall by said Century Way Development land, 199.49 feet to a corner;

THENCE, North 4° 37' 38" West, by a stone wall by said Century Way Development land, 199.39 feet to a corner;

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THENCE, North 3° 47' 48" West, by a stone wall by said Century Way Development land, 195.26 feet to a point;

THENCE, North 4° 51' 30" West, by a stone wall by said Century Way Development land, 172.01 feet to a point;

THENCE, North 5° 03' 33" West, by a stone wall by said Century Way Development land, 117.99 feet to a point;

THENCE, North 4° 19' 36" West, by a stone wall by said Century Way Development land, 117.26 feet to a drill hole;

THENCE, North 4° 19' 36" West, by said Century Way Development land, 490.13 feet to a corner;

THENCE, South 71° 34' 55" East, partly by said Century Way Development land and partly by land now or formerly of the City of Gardner, 2,003.14 feet to a corner;

THENCE, South 18° 08' 22" West, by said City land, 704.88 feet to a point;

THENCE, South 18° 02' 43" West, by said City land, 1,253.69 feet to a corner;

THENCE, North 70° 16' 00" West, by said City land, 400 feet to a corner;

THENCE, South 18° 02' 42" West, by said City land, 779.99 feet to a corner at land now or formerly of Luis A. Perez, Trustee;

THENCE, North 74° 09' 16" West, by said Perez land, 480.86 feet to a point;

THENCE, North 73° 19' 16" West, by said Perez land, 78.24 feet to a corner at land now or formerly of Irene M. Chicone;

THENCE, North 21° 03' 01" West, by said Chicone land, 426.00 feet to a corner;

THENCE, South 49° 10' 13" West, by said Chicone land, 134.00 feet to the place of beginning.

Containing approximately 85.41 acres.

SECOND PARCEL

The second parcel is located on the northwest side of Century Way, Gardner, Massachusetts and is the parcel containing approximately 3.372 acres identified as "JAB Realty Trust" on (a) the plan titled: "Plan of Lots prepared for Jab Realty Trust, Gardner, MA", dated 18 October 1994 and recorded in the

25A

Worcester Registry of Deeds in Plan Book 689, Page 100³ and (b) the plan titled: "Revised Definitive Subdivision Plan of Wilder Brook Estates in Gardner, Ma.", dated 7 July 1995, recorded in said Registry of Deeds in Plan Book 709, Page 122⁴. Said parcel of land is bounded and described as follows:

Beginning at the corner in the northwesterly sideline of Century Way that is northerly of Lot 39 on the Plan Book 689, Page 100 plan and southeasterly of Lot 19 on said plan;

Thence, South 2° 53' 00" East, beside Clark Street, 78.19 feet to Lot 39 on the Plan Book 689, Page 100 plan;

Thence, northerly and easterly by a curve to the right having a radius of 25.00 feet, beside said Lot 39, a distance measured along the arc of 48.58 feet to a point of tangency;

Thence, South 71° 32' 46" East, beside said Lot 39 for 81.42 feet to a corner;

Thence, South 2° 53' 00" East, beside Lots 39 through 46 on said plan 784.11 feet to a corner at Out Lot "A" on said plan;

Thence, North 85°05' 30" East, beside said Out Lot "A" 83.81 feet to land formerly of CEPCO Realty Trust (now the FIRST PARCEL herein);

Thence, North 03° 25' 22" West, by said CEPCO land, 7.82 feet to a point (This course and the following seven courses are now beside the FIRST PARCEL herein);

Thence, North 02° 43' 56" East, by said CEPCO land, 58.70 feet to a point;

Thence, North 04° 00' 28" West, by said CEPCO land, 91.06 feet to a point;

Thence, North 03° 28' 08" West, by said CEPCO land, 199.49 feet to a point;

Thence, North 04° 37' 38" West, by said CEPCO land, 199.39 feet to a point;

Thence, North 03° 47' 48" West, by said CEPCO land, 195.26 feet to a point;

Thence, North 04° 51' 30" West, by said CEPCO land, 172.01 feet to a point;

³ Shows part of the Second Parcel.

⁴ Shows part of the Second Parcel. The two plans, taken together, show the entire Second Parcel.

GTD

Thence, North 05° 03' 33" West, by said CEPCO land, 117.99 feet to a point;

Thence, North 04° 19' 36" West, by said CEPCO land, 117.26 feet to a point;

Thence, North 04° 19' 36" West by said CEPCO land approximately 100 feet to the centerline of a brook;

Thence, westerly by the center line of the brook approximately 135 feet to the northwest corner of Lot 4 on Plan Book 709, Page 122;

Thence, South 17° 59' 14" West, beside said Lot 4 approximately 150 feet to Lot 2 on said plan;

Thence, South 17° 59' 14" West, beside said Lot 2 and beside Lot 19 on said plan 162.68 feet to a point of non-tangent curvature;

Thence, by a curve to the right with a radius of 25.00 feet, beside said Lot 19, for a distance measure along the arc of 53.31 feet to Century Way

Thence, South 60° 43' 00" East, beside Century Way, 104.32 feet to the place of beginning.

EXCLUDED

Excluded from the above described Second Parcel is the approximately 8,680 square feet of land that JAB Realty Trust conveyed to George R. Drouin and Dorothy P. Drouin by the deed dated 11 June 1997 and recorded in said Registry of Deeds in Book 18904, Page 41. Said land is shown on the plan titled "Plan of Land to be Conveyed by JAB REALTY TRUST", dated 20 November 1996, recorded in said Registry of Deeds in Planbook 716, Page 74.

THIRD PARCEL

The Third Parcel is bounded and described as follows:

Beginning at the southwesterly corner thereof, at a point in the easterly line of Clark Street, at a corner of land of John C. Greenan, Jr. (the FIRST PARCEL herein);

Thence North 16° 50' 03" West by said street line, 117.29 feet to a corner of land now or formerly of Gerald L. & Donna M. Poirier;

Thence North 73° 09' 57" East by said Poirier land, 200.00 feet to a corner of other land now or formerly of Joseph L. Rome and Richard, Roger and George Tobia, and being shown as a corner of "Phase 2" on a plan hereinafter referred to;

Thence North 77° 00' 30" East by said Rome & Tobia land and "Phase 2", for 44.53 feet to an iron pipe at the end of a stone wall in line of land of John C. Greenan, Jr.;

Thence South 47° 29' 05" West, 130.00 feet to a drill hole;

Thence South 48° 40' 36" West, 139.85 feet to the easterly line of Clark Street and the point of beginning, the preceding two (2) courses being by a stone and wall and said John C. Greenan, Jr. land.

Containing 14,882 square feet.

Being shown as Lot "1" on the plan titled: "Plan of Land in Gardner, Mass. made for Century Way Development Corp." dated August, 1986, recorded in said Registry of Deeds in Plan Book 564, Page 40.

The above three parcel of land are the same land that the Trustees of the John C. Greenan, Jr., Trust conveyed to Chester E. Pultorak by the deed dated 4 December 2013, recorded in said Registry of Deeds in Book 51824, Page 38.

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED "PERSONNEL," TO CHANGE THE COMPENSATION SCHEDULE.

Be it ordained by the City Council of the City of Gardner as follows:

Section 1. Section 171-68 of Chapter 171, Personnel, of the Code of the City of Gardner is hereby amended by deleting and repealing Schedule 2 – Compensation Schedule and replacing it to read as follows:

A. DEPARTMENT HEADS

Position	Grade		07/01/15		01/01/16	
			Annual	Weekly	Annual	Weekly
Building Commissioner	G-10		\$72,287.27	\$1,390.14	\$73,644.00	\$1,416.23
Chief of Police	G-13		\$90,730.00	\$1,744.81	\$92,498.00	\$1,778.81
City Assessor	G-9		\$63,781.00	\$1,226.56	\$67,568.00	\$1,299.38
City Auditor	G-10		\$75,027.41	\$1,442.83		
City Clerk	G-10		\$72,287.27	\$1,390.14	\$73,644.00	\$1,416.23
City Collector/Treasurer	G-10		\$77,706.96	\$1,494.36		
City Engineer	G-11		\$93,248.55	\$1,793.24		
City Solicitor	G-10		\$74,491.70	\$1,432.53		
Council on Aging Director	G-8		\$50,814.00	\$977.19	\$52,179.00	\$1,003.44
Director of Community Development & Planning	G-10	City	\$60,825.00			
		GRA	\$20,556.00			
		CDBG	\$4,283.00			
		Total Compensation	\$85,664.00	\$1,647.38		
Director of Local Origination & Educational Planning	G-6		\$57,846.66	\$1,112.44		
Director of Public Health	G-10		\$75,027.41	\$1,442.83		
Fire Chief	G-13		\$85,009.00	\$1,634.79	\$87,487.00	\$1,682.44
Golf Course Driving Range/Superintendent	G-9		\$70,740.67	\$1,360.40		
Human Resources Director	G-11		\$77,645.00	\$1,493.17	\$80,263.00	\$1,543.52
Information Technology Director	G-10	City	\$44,304.21			
		School	\$43,652.68			
		Total	\$87,956.89	\$1,691.48		
Library Director	G-10		\$72,287.27	\$1,390.14		
Public Works Director	G-12		\$92,470.75	\$1,778.28		
Purchasing Agent/Civil Enforcement Director	G-10		\$70,406.31	\$1,353.97	\$71,144.00	\$1,368.15
Veterans' Director	G-6		\$53,591.00	\$1,030.60		

B. NON-UNION DIRECT AND SUPERVISORY STAFF POSITIONS

Position	Grade	07/01/15			07/01/16		
		Annual	Weekly	Hourly	Annual	Weekly	Hourly
Executive Secretary	G-4	\$43,402.00	\$834.65	\$22.56	\$43,932.00	\$844.85	\$22.83
Assistant City Clerk	G-4	\$39,476.00		\$20.52	\$40,299.00		\$20.95
Assistant City Engineer	G-8	\$59,585.00	\$1,145.87		\$61,993.00	\$1,192.17	

Position	Grade	07/01/15			07/01/16		
		Annual	Weekly	Hourly	Annual	Weekly	Hourly
Assistant City Solicitor	G-3	\$41,175.03	\$791.83				
Assistant Director of Community Development	City	\$3,198.00					
	G-7 CDBG	\$60,754.00					
	Total	\$63,952.00	\$1,229.85				
Assistant Director of Public Health	G-5	\$49,306.40	\$948.20				
Assistant Library Director	G-6	\$53,972.18	\$1,037.93				
Deputy Chief of Police	G-11	\$77,645.00	\$1,493.17		\$80,263.00	\$1,543.52	
Economic Development Coordinator	City	\$46,480.00					
	G-7 Other	\$10,520.00					
	Total	\$57,000.00	\$1,096.15				
GIS Technician	G-5	\$48,231.90	\$927.54				
Golf Professional	G-6	\$1,183.67	Weekly				
Golf Pro Manager	G-6	\$1,020.00	Weekly				
Local Inspector	G-6	\$55,734.85	\$1,071.82				
Producer	G-2	\$43,841.01	\$843.10				
Senior Animal Control Officer	G-2	\$37,513.70	\$721.42				
Systems Manager	G-6	\$58,950.00	\$1,133.65				
Electrical Inspector	G-6			\$28.97			
Plumbing Inspector	G-6			\$25.89			\$27.12
Transfer Station Supervisor	G-3			\$20.48			
Conservation Agent	G-6	\$27.29					
Planning Agent	G-6	\$29.37					
		Annual	Monthly				
Civil Defense Director		\$8,473.40	\$706.12				
Sealer of Weights & Measures		\$8,629.99	\$719.17				

C. NON-UNION STAFF POSITIONS

Position	07/01/15			07/01/16		
	Annual	Weekly	Hourly	Annual	Weekly	Hourly
Animal Control Officer	\$29,160.00	\$560.77	\$14.02	\$31,000.00	\$596.15	\$14.90

Section 2. This Ordinance shall be effective July 1, 2015.

9611

City of Gardner, *Executive Department*

Mark Hawke, Mayor

RECEIVED



2016 APR 12 A 8:27

CITY CLERKS OFFICE
GARDNER, MA

April 11, 2016

James M. Walsh, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Municipal Electric Aggregation

Dear President Walsh and Councilors,

I had forwarded to you previously information regarding Municipal Electric Aggregation. I would like to schedule a time to have Colonial Power come to the City for a presentation before the City Council on Municipal Electric Aggregation.

Once a date is set, I will ask Colonial Power to forward information in advance for your review.

Respectfully,

Mark Hawke
Mayor, City of Gardner

City of Gardner, *Executive Department*



Mark Hawke, Mayor

RECEIVED

2016 APR -4 A 10:42

CITY CLERKS OFFICE
GARDNER, MA

March 31, 2016

James M. Walsh, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Municipal Electric Aggregation

Dear President Walsh and Councilors,

Municipal Electric Aggregation is the method by which the City can buy electric power on behalf of our constituents. The enabling legislation, passed in 1997, allows consumers to purchase electric power from an entity other than their distribution company. A key provision of the legislation specifically allows local municipal governments to aggregate the electric loads of the consumers within their boundaries in order to negotiate more favorable terms with a power supplier.

This process is very similar to how we are able to achieve such favorable pricing for our trash removal services. Everyone is included, but anyone may opt out. This allows us to achieve tremendous economies of scale thereby saving money.

The Department of Energy Resources has produced a useful guidebook which can be found here <http://www.mass.gov/cea/docs/doer/electric-deregulation/agg-guid.pdf>

I would like to schedule a time to have Colonial Power come to the City for a presentation before the City Council. Therefore, I ask that this item be referred to the Council as a Committee of the Whole and that we arrange a mutually agreed upon date to hold a special/informal meeting of the City Council.

Respectfully,

Mark Hawke
Mayor, City of Gardner

WHEREAS, the Commonwealth of Massachusetts has engaged in a process to establish a competitive market place through the restructuring of the electricity market; and

WHEREAS, citizens of Gardner have a substantial economic and social interest in terms of greater customer choice and opportunities for savings in this restructured market~ and

WHEREAS, the City of Gardner hereby finds that it may be in the interest of its citizens who are electric ratepayers, both residential and commercial/industrial, to develop and secure such approvals and enter into appropriate agreements with consultants, experts and attorneys in connection with the establishment and operation of an electricity aggregation plan.

BE IT THEREFORE RESOLVED that the City of Gardner hereby:

Accepts the provisions of M.G.L. c. 164, § 134, and publicly declares its intent to become an aggregator of electric power on behalf of its residential and business electric customers and to authorize the Mayor, as provided by such statute to develop a plan, for review by the citizens of the City of Gardner, detailing the process and consequences of aggregation and further to reestablish such plan if its operation is suspended, and to negotiate and enter into such contracts for power supply pursuant to the plan or services for such plan, with the understanding that if a power supply contract is executed, individual consumers would retain the option not to participate in the aggregation plan and, instead, to choose any electricity) alternatives they desire and, further, to take such other action relative hereto as may be appropriate and necessary.



**CITY OF GARDNER
MASSACHUSETTS 01440**

OFFICE OF THE
CITY CLERK

ALAN L. AGNELLI, City Clerk
TITI SIRIPHAN, Asst. City Clerk
95 Pleasant Street, Room 121
Tel (978) 630-4058
Fax (978) 630-2589

CITY OF GARDNER
NOTICE OF JOINT PUBLIC HEARING

Pursuant to the provisions of Section 5 of Chapter 40A of the General Laws, notice is hereby given that the Gardner City Council and Planning Board will conduct a Joint Public Hearing on Tuesday, April 19, 2016 at 6:30 P.M. in the City Council Chamber, Room 219, Gardner City Hall to consider amending the Code of the City of Gardner, Chapter 675, Zoning, by adding new Section 675-590, Mill Street Corridor Development Overlay District. The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City's website – www.gardner-ma.gov. All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

GARDNER CITY COUNCIL
ALAN L. AGNELLI, City Clerk

ORDINANCE

1 AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675
2 THEREOF, ENTITLED "ZONING," TO ADD A NEW SUBSECTION 675-590. MILL
3 STREET CORRIDOR DEVELOPMENT OVERLAY DISTRICT.

4
5 Be it ordained by the City Council of the City of Gardner, as follows:
6

7 Section 1. Chapter 675 is hereby amended to add a new subsection 675-590, Mill Street Corridor
8 Development Overlay District, as follows:

9 **A. Purpose**

10 To encourage commercial and industrial development and increase redevelopment options, in the
11 Mill Street Corridor Urban Renewal Area (MSCURA), to provide local employment and
12 enhance the tax base while protecting surrounding neighborhoods from land use conflicts.
13 Redevelopment options will be consistent with city-wide growth and development policies
14 within economically stressed areas within the MSCURA by providing for additional uses as a
15 matter of right and altering dimensional requirements.

16 **B. Scope of Authority**

17 1. The Mill Street Corridor Development Overlay District (MSCDOD) shall only be applied
18 over all parcels that are included in the Mill Street Corridor Urban Renewal Area.
19

20 2. Any use permitted by right or Special Permit in the underlying districts, as provided for by
21 this Ordinance, shall continue to be permitted in addition to all other uses permitted by the
22 MSCDOD.
23

24 3. Site plan review. All developments proposed for MSCDOD shall undergo site plan review in
25 accordance with § 675-1020. Site Plan Review, shall apply to any new structure or group of
26 structures under the same ownership on the same or contiguous lots that consist of 2,500
27 square feet or more of gross floor area; or any improvement, alteration, or change in use
28 which results in an increase of 2,500 square feet or more of gross floor area.

ORDINANCE

29
30 4. Waivers. The Planning Board may modify or waive any requirement of the overlay district
31 upon finding that, due to topography, location, or unusual conditions affecting the property,
32 the requirements of this section would unreasonably restrict development of the property. In
33 modifying or waiving these provisions, the Planning Board may impose conditions it deems
34 necessary to protect the public interest and promote the orderly development of the corridor.

35 **C. Designation of Mill Street Corridor Development Overlay District**

36 Designation is limited to parcels that are included in the Mill Street Corridor Urban Renewal
37 Area due to the areas economic stress. Criteria for measuring economic stress include vacancy
38 rates, incidences of arson, declining property values, building code violations, property tax
39 delinquencies and inclusion in ongoing revitalization efforts.

40 **D. Additional Uses**

- 41 1. Properties included in the MSCDOD shall be permitted for the following uses as a matter of
42 right:
- 43 a. Library, museums, art gallery or civic center.
 - 44 b. Country or tennis club, lodge building or other non-profit social, civic, conservation or
45 recreational use.
 - 46 c. Professional Office and Retail Store, regardless of square footage.
 - 47 d. Restaurant, fast food, including appurtenant structures to provide drive-through or drive-
48 in services.
 - 49 e. Restaurant serving food or beverages with live or mechanical entertainment.
 - 50 f. Indoor amusement or recreation place of assembly provided that the building is so
51 insulated and maintained as to confine noise to the premises.
 - 52 g. Commercial clubs and/or recreational establishments such as swimming pools, tennis
53 courts, ski clubs, camping areas, skating rinks or other commercial facilities offering
54 outdoor recreation.

ORDINANCE

55 **E. Dimensional Requirements**

- 56 1. Any new structure, substantial improvement or alternative to an existing structure involving
57 more than 50 percent of that structure's gross floor area shall be subject to the following:
- 58 a. Minimum lot size: 60,000 square feet
 - 59 b. Minimum frontage: none
 - 60 c. Front yard setback: none
 - 61 d. Side yard setback: 10 feet; or none if abuts commercial or industrial use
 - 62 e. Rear yard setback: 20 feet; or 40 feet if abuts residential zone
 - 63 f. Maximum building height: 5 stories or 60 feet
 - 64 g. Maximum building coverage including accessory buildings 65%

- 65
- 66 2. Improvements or alterations to an existing structure involving less than 50 percent of that
67 structure's gross floor area shall not be subject to dimensional requirements, except that the
68 minimum lot size shall not be less than 60,000 square feet and the structure shall not expand
69 in terms of percentage of lot coverage, and side and rear setbacks shall be met.

70

71 **F. Design and Preservation Standards**

- 72
- 73 1. The provisions of § 675-750, Schedule of Parking Uses; loading areas shall apply unless
74 superseded by the following standards.

75

76 **Parking Requirements MSCDOD:**

77

78 Use	Parking Spaces Required
79 Retail Store	1 space per 250 square feet gross floor area
80	
81 Business or professional office	1 space per 300 square feet gross floor area

82

ORDINANCE

83 Restaurant, lodge or club, or other place of 1 space per 4 seats plus 1 space per
84 assembly employee, or 1 space per 75 square feet of
85 assembly area

86
87 Library, museum, art gallery, civic center, or 2 spaces per 1,000 square feet gross floor
88 Recreational facilities area

89
90 Outdoor recreation 1 space per 1,000 square feet of recreational
91 land area

92

93 2. Parking Lot Design

94 a. The provisions of § 675-770, Design requirements for parking lots, facilities, and drive-
95 throughs shall apply unless superseded by the following standards.

96

97 b. Sidewalks and pedestrian paths shall connect the lots to the principal uses they will serve.
98 Facilities and access routes for deliveries, service and maintenance shall be separated,
99 where practical, from public access routes and parking areas. Car stops shall be provided
100 to prevent parked cars from damaging trees and shrubs or disrupting pedestrian
101 walkways.

102

103 c. The Planning Board may modify the above requirements for any interior landscaped
104 areas or islands that serve as vegetated swales or bioretention cells.

105

106 3. Lighting and utilities.

107 a. All lighting shall be arranged and shielded so as to prevent direct glare from the light
108 source into any public street or private way or onto adjacent property. Lighting shall
109 comply with § 675-770B, Lighting and landscaping requirements, Subsection B(4), and
110 § 675-1020F, development impact standards.

111

ORDINANCE

- 112 b. All lights and illuminated signs shall be designed to prevent objectionable light and glare
113 from crossing property lines. Externally lit signs, display, building and aesthetic lighting
114 must be lit from the top and shine downward.
115
- 116 c. All electric, telephone, television and other communication lines, both main and service
117 connections, shall be provided by underground wiring.
118
- 119 4. Complete Streets - Whenever a development within the MSCDOD fronts a public way,
120 Complete Streets design principles consistent with the Timpany Boulevard Complete Streets
121 Study, dated June 2015, shall be incorporated into the design.
122
- 123 5. Projects shall take into consideration the preservation of sensitive natural features including
124 streams and water bodies. Development shall preserve the natural features of the site, avoid
125 areas of environmental sensitivity, and minimize alteration of natural features. If appropriate
126 walking and hiking trails should be incorporated into the development to enhance walkability
127 within the development.
128
- 129 6. Bicycle accommodation.
- 130 a. Bicycle parking facilities shall be provided for any new building, addition or enlargement
131 of an existing building, or for any change in the occupancy of any building that results in
132 the need for additional vehicular parking facilities. One bicycle space shall be provided
133 for every 10 vehicle parking spaces, up to a maximum of 25 spaces.
134
- 135 b. Parking for bicycles shall include provision for secure storage of bicycles. Such facilities
136 shall provide lockable enclosed lockers or racks or equivalent structures in or upon which
137 the user may lock a bicycle.
138
- 139 c. Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas
140 to protect parked bicycles from damage by motor vehicles. The separation may be

ORDINANCE

141 accomplished through grade separation, distance or physical barrier, such as curbs, wheel
142 stops, poles or other similar features.

143
144 d. Bicycle parking facilities shall be located in a clearly designated safe and convenient
145 location. Whenever possible, the bicycle parking shall be placed within 50 feet of
146 building entrances and in well-lit areas.

147

148 7. Landscaping and screening.

149 a. A registered landscape architect shall prepare a landscape plan drawn to scale, including
150 dimensions and distances. The plan shall delineate all existing and proposed parking
151 spaces or other vehicle areas, access aisles, driveways, and the location, size and
152 description of all landscaping materials and tree cover.

153 b. Loading areas and service facilities (dumpsters, storage areas, utility boxes, etc.) shall be
154 placed to the rear of buildings in visually unobtrusive locations. Screening and
155 landscaping shall prevent direct views of such areas from adjacent properties or from
156 public ways. Screening shall be achieved through walls, fences, landscaped berms,
157 evergreen plantings, or combinations thereof. Fences made of wood, stone, or brick are
158 preferred.

159 c. Heating, ventilating and air-conditioning (HVAC) units, telephone boxes, electrical
160 transformers, etc., shall be screened through use of landscaping, berms, or fences and
161 shall be as unobtrusive as possible. Heating, ventilating and air-conditioning (HVAC)
162 units may be located behind roof ridgelines so they are not visible from the front view of
163 the building.

164 d. When a proposed development abuts a residential district, whether presently developed or
165 not, landscaped buffers shall be employed to shield the residential property from view of
166 the proposed development and to minimize lighting and noise impacts. Such a buffer
167 shall contain a screen of plantings not less than three feet in width and six feet in height at
168 the time of planting and shall thereafter be maintained by the owner or occupant so as to
169 provide a dense screen year round. At least 50% of the plants shall consist of evergreens.

ORDINANCE

170 A solid wall or fence, not to exceed six feet in height, complemented by suitable
171 plantings, may be substituted for such landscaped buffers.

172

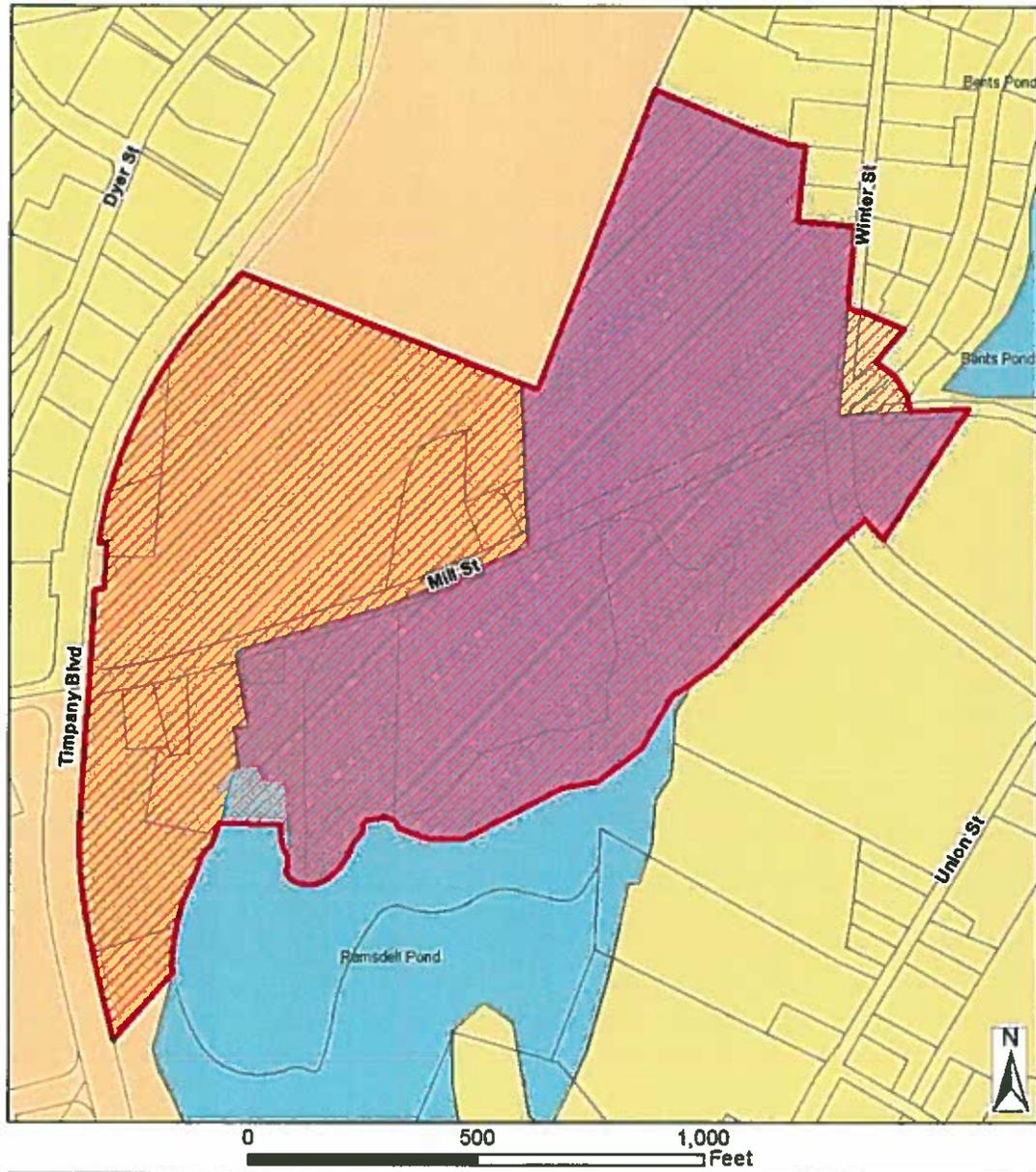
173 8. Architectural standards.

174 a. The site plan application shall contain elevations of all proposed buildings, prepared by a
175 licensed architect.

176 b. Exterior materials for the front façade and any sides of buildings fronting on public
177 streets may include clapboard, wood shingles, stone, brick, textured or coated concrete
178 block, textured or coated precast concrete, or materials of comparable appearance as
179 approved by the Planning Board. Applicants are encouraged to use green building
180 technologies and materials, wherever possible, to limit environmental impacts.

181 c. Architectural focal points. In any development with 10,000 square feet or more of retail
182 use, the principal building on a lot shall have clearly defined, highly visible customer
183 entrances featuring at least two of the following: canopies or porticos; overhangs;
184 recesses/projections; raised corniced parapets over the door; peaked roof forms; arches;
185 outdoor patios; display windows; and planters or wing walls that incorporate landscaped
186 areas and/or places for sitting.

Figure E-2: Proposed Zoning



Legend		Proposed Zoning	
	Proposed Urban Renewal Boundary		General Business
	Roads		Industrial
	Parcels		Single Family Residential 5,000-14,999 sq. ft.
	Gardner Water Bodies		Mill Street Urban Renewal Overlay District



**CITY OF GARDNER
MASSACHUSETTS 01440**

OFFICE OF THE
CITY CLERK

ALAN L. AGNELLI, City Clerk
TITI SIRIPHAN, Asst. City Clerk
95 Pleasant Street, Room 121
Tel (978) 630-4058
Fax (978) 630-2589

**CITY OF GARDNER
NOTICE OF JOINT PUBLIC HEARING**

Pursuant to the provisions of Section 5 of Chapter 40A of the General Laws, notice is hereby given that the Gardner City Council and Planning Board will conduct a Joint Public Hearing on Tuesday, April 19, 2016 at 6:30 P.M. in the City Council Chamber, Room 219, Gardner City Hall to consider amending the Code of the City of Gardner, Chapter 675, Zoning, Section 675-970, Signs Permitted in Commercial and Industrial Districts, Perpendicular Signs, and Section 675-980, Special Regulations for Signs in Historic Areas, Perpendicular Signs. The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City's website – www.gardner-ma.gov. All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

**GARDNER CITY COUNCIL
ALAN L. AGNELLI, City Clerk**

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED
2016 FEB 2 PM 1 43

CITY CLERK'S OFFICE
GARDNER MA

February 2, 2016

President James M. Walsh
C/o Alan Agnelli, City Clerk
City Hall
Gardner, MA 01440

Subject: Zoning Amendment – PERPENDICULAR SIGNAGE

Dear President Walsh:

The Planning Board voted at its meeting on October 13, 2015 to recommend that the City Council consider adopting the subject zoning amendment to the City of Gardner Code, Subsection 675-970, Signs Permitted in Commercial or Industrial Districts, and Subsection 675-980, Special Regulations for Signs in Historic Areas as follows:

Proposed amendment to Subsection 675-970, Signs Permitted in Commercial or Industrial Districts, by adding the following:

G. Perpendicular signs. One projecting, or perpendicular sign, may be erected within five feet of the business's entrance and must be erected no less than ten (10) feet from the ground level, at the base of the building above a sidewalk to the bottom of the sign, so long as public safety is not endangered, and no more than twenty (20) feet from the ground level to the top of the sign. Such sign shall not extend above the building, nor be more than eight (8) square feet in area and, when combined with any existing alternative signage, shall not exceed a total of eighty (80) square feet. All perpendicular signs must be externally lit from the top and shine downward.

Proposed amendment to Subsection 675-980, Special Regulations for Signs in Historic Areas by adding the following:

G. Perpendicular signs. One projecting, or perpendicular sign, may be erected within five feet of the business's entrance and must be erected no less than ten (10) feet from the ground level at the base of the building above a sidewalk to the bottom of the sign, so long as public safety is not endangered, and no more than twenty (20) feet from the ground level to the top of the sign. Such sign shall not extend above the building, nor be more than eight (8) square feet in area and, when combined with any existing alternative signage, shall not exceed a total of forty (40) square feet. All perpendicular signs must be externally lit from the top and shine downward.

Recently there have been a number of inquiries from local businesses that have an interest in erecting a perpendicular sign for their respective business; however, since perpendicular signs are not allowed under our current zoning, the proponents would need to seek a variance from the Zoning Board of Appeals. The timeliness, cost, and uncertainty of this process discourages many businesses from pursuing it further. Since this type of signage can be aesthetically pleasing and consistent with the character of our commercial and industrial areas, the Planning Board is proposing this amendment. Copies of the Subsections with the proposed amendments are attached for your information. The Planning Board requests that the City Council schedule a joint public hearing on the proposed amendment at your earliest convenience.

The Planning Board looks forward to joining the City Council for a public hearing regarding the subject zoning amendment. Please feel free to contact the Director of Planning and Community Development, Trevor Beauregard, at 978-630-4014 or tbeauregard@gardner-ma.gov if you have any questions or need additional information.

Sincerely,

Allen L. Gross
Allen L. Gross
Chairman 

RECEIVED
2016 FEB 2 PM 1 43
CITY CLERK'S OFFICE
GARDNER, MA

- C: Trevor M. Beauregard, Director
- Jeffrey Cooke, Building Commissioner
- Raymond F. LaFond, Zoning Board of Appeals

675-970. Signs permitted in commercial or industrial districts.

Any principal use permitted in the commercial or industrial districts may erect a sign or signs subject to the following:

- A. **Wall sign or individual letter sign.** A wall sign or individual letter sign shall not exceed four feet in height. A wall sign or individual letter sign on the exterior wall of the first floor of a building shall not exceed in area two square feet for each linear foot of the wall or 80 square feet, whichever is less. The length of signs of businesses occupying other than the first floor of a building shall not exceed six feet. No portion of a wall sign or individual letter sign shall project more than one foot from the face of the wall or above the wall of any building. In no case shall a sign project above a parapet wall. A business may divide the entire display area permitted herein into separate wall signs or individual letter signs, provided that the maximum height of each separate sign does not exceed the maximum height permitted herein and the sum of the aggregate width and area of each separate sign does not exceed the maximum permitted herein.
- B. **Secondary signs.** If a business has a direct entrance into the business in a wall other than the front wall, there may be a secondary sign affixed to such wall, and if a business has a wall, other than the front wall, that faces upon a street or parking area, there may be a secondary sign affixed to such a wall; provided, however, that no business shall have more than two secondary signs in any event. This display area of all secondary signs shall not exceed one square foot for each linear foot of the walls or 40 square feet, whichever is less.
- C. **Directory signs.** One exterior directory sign listing the name and location of the occupants of the premises may be erected on the exterior wall or pole of a building at each entrance or other appropriate location, provided that the display area shall not exceed one square foot for each occupant identified on the directory sign.
- D. **Directional signs.** Directional signs may be erected near a street, driveway, or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. The display area of each directional sign shall not exceed two square feet, and no directional sign shall be located more than six feet above the ground level if mounted on a wall of a building or more than 3 1/2 feet above the ground if freestanding. Directional signs shall not advertise, identify, or promote any product, person, premises, or activity but may identify the street name/number and provide directions.
- E. **Freestanding business signs.** One freestanding business sign which identifies only the name of a business center or a business may be erected on a lot. The display area of a freestanding business sign shall not exceed 50 square feet and the height shall not exceed 15 feet, with a maximum seven feet six inches clearance above the grade.

- F. Awning signs. Awning signs are permitted, provided that sign lettering does not occupy more than 30% of the awning area. Awnings must be placed at a minimum of seven feet six inches from the surface of the sidewalk.
- G. *Perpendicular signs. One projecting, or perpendicular sign, may be erected within five feet of the business's entrance and must be erected no less than ten (10) feet from the ground level, at the base of the building above a sidewalk to the bottom of the sign, so long as public safety is not endangered, and no more than twenty (20) feet from the ground level to the top of the sign. Such sign shall not extend above the building, nor be more than eight (8) square feet in area and, when combined with any existing alternative signage, shall not exceed a total of eighty (80) square feet. All perpendicular signs must be externally lit from the top and shine downward.*

675-980. Special regulations for signs in historic areas.

Signs erected in duly authorized historic districts and signs erected on sites listed on the National Historic Register or the State Register of Historic Places shall comply with the following requirements:

- A. Signs shall be designed to complement the historic character of the district or site. No sign shall obscure contributing architectural features of historic structures, including but not limited to cornices, lintels, transoms, windows, and doors.
- B. Wall sign or individual letter sign. A wall sign or individual letter sign shall not exceed four feet in height. A wall sign or individual letter sign on the exterior wall of the first floor of a building shall not exceed in area one square foot for each linear foot of the wall or 40 square feet, whichever is less. The length of signs of businesses occupying other than the first floor of a building shall not exceed six feet. No portion of a wall sign or individual letter sign shall project more than one foot from the face of the wall or above the wall of any building. In no case shall a sign project above a parapet wall. A business may divide the entire display area permitted herein into separate wall signs or individual letter signs, provided that the maximum height of each separate sign does not exceed the maximum height permitted herein and the sum of the aggregate width and area of each separate sign does not exceed the maximum permitted herein.
- C. Secondary signs. If a business has a direct entrance into the business in a wall other than the front wall, there may be a secondary sign affixed to such wall, and if a business has a wall, other than the front wall, that faces upon a street or parking area, there may be a secondary sign affixed to such a wall; provided, however, that no business shall have more than two secondary signs in any event. The display area of all secondary signs shall not exceed one square foot for each two linear feet of walls or 30 square feet, whichever is less.
- D. Awnings. Awning signs are permitted, provided that sign lettering does not occupy more than 20% of the awning area. Awnings must be placed a minimum seven feet six inches from the surface of the sidewalk.
- E. Commodity/trademark signs. Such signs are prohibited in historic districts and on historic structures.
- F. Freestanding business sign. One freestanding business sign which identifies only the name of a business center or a business may be erected on a lot, provided that no other sign(s) permitted under this chapter other than directory or directional signs shall be on the same lot. The display area of a freestanding business sign shall not exceed 20 square feet and the height shall not exceed six feet six inches, with a maximum three feet six inches clearance above the grade.

- G. Perpendicular signs. One projecting, or perpendicular sign, may be erected within five feet of the business's entrance and must be erected no less than ten (10) feet from the ground level at the base of the building above a sidewalk to the bottom of the sign, so long as public safety is not endangered, and no more than twenty (20) feet from the ground level to the top of the sign. Such sign shall not extend above the building, nor be more than eight (8) square feet in area and, when combined with any existing alternative signage, shall not exceed a total of forty (40) square feet. All perpendicular signs must be externally lit from the top and shine downward.**

RESOLUTION
CHANGING THE NAME OF A PORTION OF
MATTHEWS STREET TO OLD MATTHEWS STREET

WHEREAS: In the opinion of City Council of the City of Gardner, a certain way in existence known as Matthews Street running in a northeasterly direction between its end at Route 140 and its intersection with Pearl Street, is therefore;

ORDERED: To be renamed Old Matthews Street pursuant to the authority given to the City Council under Chapter 567 Article II, Paragraph 9 of the Code of the City of Gardner relative to the names of streets, squares and parks.

