

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Public Services Committee

Date: October 25, 2016

Time: 5:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2016 OCT 19 P 3:52

10-17-2016 – **Order No. 16-1006705**: Communication from Attorney Twohig, on behalf of Hines Global REIT Marlborough Campus I LLC, to extend sewer connection permit for Campus at Marlborough, 100 Campus Drive.

-REFER TO PUBLIC SERVICES COMMITTEE

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

OCTOBER 17, 2016

Marlborough, Mass., _____

ORDERED:

That the Communication from Attorney Twohig, on behalf of Hines Global REIT Marlborough Campus I LLC, to extend sewer connection permit for Campus at Marlborough, 100 Campus Dr., be and is herewith refer to **PUBLIC SERVICES COMMITTEE.**

ADOPTED

ORDER NO. 16-1006705

12

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

goulston&storrs
counsellors at law

2016 OCT 11 P 2:50

John E. Twohig
jtwhig@goulstonstorrs.com
617-574-6403 Tel

October 10, 2016



EMAIL AND OVERNIGHT DELIVERY

Councilor Edward Clancy, President
City of Marlborough
City Council
140 Main Street
Marlborough, MA 01752

**Re: Request to Extend Sewer Connection Permit for the Campus at
Marlborough – 100 Campus Drive, Marlborough, Massachusetts**

Dear President Clancy:

On behalf of Hines Global REIT Marlborough Campus I LLC (the “**Applicant**”) and in connection with proposed development of Phase Two of the Campus at Marlborough (the “**Campus**”), we are pleased to submit this request to the Marlborough City Council (the “**Council**”) for extension of an existing Sewer Connection Permit. Approval of this request will enable the Applicant to continue its efforts to develop the Campus and attract new business to the City of Marlborough.

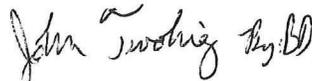
The first phase of the Campus was constructed in the 1990s and consists of four buildings containing approximately 532,000 square feet of commercial office space and approximately 57,000 square feet of amenities, including a full-service cafeteria, a fitness center and a conference center with a 300-seat auditorium, along with approximately 1,494 parking spaces. On December 19, 2005, the Council granted a Sewer Connection Permit, which was extended by the City Council on December 6, 2010, and automatically extended by operation of the Permit Extension Act until December 18, 2016 (as so extended, the “**Existing Sewer Permit**”). The Existing Sewer Permit, together with a Site Plan Permit (the “**Site Plan Permit**”) granted by the Marlborough Site Plan Review Committee on November 22, 2005, allowed for development of the Campus’s second phase, which is planned to include five (5) new buildings containing approximately 650,000 square feet of office space, and 2,528 net new surface and structured parking spaces. At this time, the Applicant proposes no changes to the development plans for Phase Two, except all final construction plans will be updated to ensure compliance with current stormwater rules and regulations.

Over the past few months, the Applicant has worked with City staff to extend the Site Plan Permit and the Existing Sewer Permit to facilitate development of Phase Two at the Campus. Based on discussions between the Applicant and City staff, on August 2, 2016, the Site Plan Review Committee voted to extend the Site Plan Permit for two years, until December 2, 2018, and on September 7, 2016, Michele Mochnoc Higgins, Assistant Commissioner (Utilities) for the City's Department of Public Works confirmed that "sewer capacity for the project still remains... [and] extending the sewer permit to match the site plan extension is acceptable."

We have included below for reference the 2005 Sewer Connection Permit, the recent extension of the Site Plan Permit, and the email from Assistant Commissioner Mochnoc Higgins referenced herein. Upon your review and confirmation that this request is complete and otherwise in order, we would appreciate your assistance in coordinating with the appropriate committee.

Thank you.

Very truly yours,



John E. Twohig, as Attorney for the Applicant

Enclosures:

Existing Sewer Connection Permit
2016 Extension of Site Plan Permit
Email from Assistant Commissioner Mochnoc Higgins

cc: City Council, c/o Karen Boule, Council Secretary
Priscilla Ryder, Conservation Officer
John Ghiloni, Commissioner, DPW
Michele Mochnoc Higgins, Assistant Commissioner, DPW
Thomas DiPersio, City Engineer, DPW
Michael Francis, Hines
Greg Brown, Hines
Brian Dugdale, Goulston & Storrs



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 19, 2005 20

ORDERED:

Marlborough Campus Limited Partnership (Applicant)

In accordance with the provisions of the Code of the City of Marlborough Chapter 161 section 161-4, the City Council grants a sewer connection permit to the Applicant its successors and assigns for use at The Campus at Marlborough Phase II Assessors Map 111 parcel 1 under the following terms and conditions:

That the application of Marlborough Campus Limited Partnership, 100 Campus Drive for a Sewer Connection Permit be and is herewith APPROVED with the following conditions

A. Permit Gallons Per Day: Fifty Thousand Two Hundred Thirty Two (50,232 GPD) Gallons Per Day.

B. Conditions: 1. Permit Period: The Permit Period is for sixty months from date of City Council approval.

2. Permit Period Extension: Upon issuance of the first building permit, the Permit Period will be extended for an additional period of two years;

3. Right to Recapture:

a. After two years and for the balance of the permit period as may be extended, the City may recapture up to, but no more than, twenty thousand (20,000 GPD) gallons per day to be transferred to actual users.

b. The recapture will be incremental, meaning, if a user only needs 10,000 GPD, that amount will be recaptured leaving the balance of the recapture amount of 10,000 GPD for the applicant or for another identified user any time after the end of the said first two years.

c. As a condition of the recapture, the Applicant will be reimbursed its original actual mitigation cost for the specific number of gallons recaptured. That cost to be paid for by the new user through the City of Marlborough.

4. The Permit with conditions runs with the land.



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 19, 2005 20

ORDERED:

5. In the event the Applicant has not used all of the permitted gallons at the end of the permit period or the extended permit period and the gallons have not been recaptured under provisions of paragraph 3. above, the permit period will end and the City of Marlborough will reimburse the Applicant for any unused sewer capacity remaining in the permit at the rate of eight (\$8.00) dollars per gallon.
6. Although the Applicant has committed to performing work identified in the Westerly Wastewater Treatment Plant Sewer System Evaluation Survey performed by Camp Dresser & McKee Inc. (CDM) in 2004, it proposes to pay the City at the rate of eight (\$8.00 pg) dollars per gallon and for the City to assume the obligation of having the work performed. The total payment would be four hundred one thousand eight hundred fifty-six (\$401,856.00) dollars. Payment would be made upon the perfection of the permit by vote of the City Council and final approval by DEP.
7. In all other respects the Applicant shall comply with the provisions of the City of Marlborough Interim Sewer Connection Policy for the Westerly Wastewater Treatment Plant.

ADOPTED
In City Council
Order No. 05-100959A

A TRUE COPY
ATTEST:


City Clerk-



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 6, 2010

ORDERED:

Suspension of the Rules requested – granted

That the owners of "The Campus at Marlborough" request an extension for a sewer connection permit granted on December 19, 2005 which expires on December 18, 2010 to allow owners to continue to market Phase II, be and is herewith **APPROVED FOR TWO YEARS FROM DATE OF APPROVAL.**

ADOPTED

In City Council

Order No. 10-1002767

Approved by Mayor

Nancy E. Stevens

Date: December 9, 2010

A TRUE COPY
ATTEST:

A handwritten signature in black ink, appearing to read "Lisa M. [unclear]", is written over the word "ATTEST:".

City Clerk

December 5, 2012

VIA E-MAIL

Donald V. Rider, Jr., Esquire
City Solicitor
City of Marlborough
140 Main Street, 4th Floor
Marlborough, MA 01752

Re: The Campus at Marlborough

Dear Mr. Rider:

As you know, certain municipal permits and approvals have been issued for the above referenced Project, which include, but are not limited to, a site plan approval and a sewer connection permit (together with any other permits issued for the Project, collectively, the "Permits").

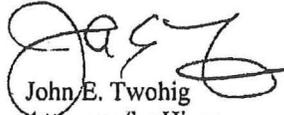
Pursuant to the Massachusetts Permit Extension Act (Section 173 of Chapter 240 of the Acts of 2010), an "approval" in effect or existence during the period beginning August 15, 2008 and continuing to August 15, 2012, is automatically extended for four years, in addition to the lawful term of the approval. "Approval" is defined to include "any *permit*, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, *or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of the municipal, regional or state governmental entity, concerning the use or development of real property*, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals." [emphasis added] In this case, the Permits are approvals or determinations of rights from a municipality concerning the use or development of real property that were in effect during the period beginning August 15, 2008 through August 15, 2012. Accordingly, the Permits have been automatically extended for four years beyond their lawful term.

On behalf of the Hines Global REIT ("Hines"), although not required by statute, we are requesting your confirmation that the Permits have been automatically extended for four years beyond their lawful term.

Also, as we discussed, to the extent staff desires an update on the Project, we would gladly do so.

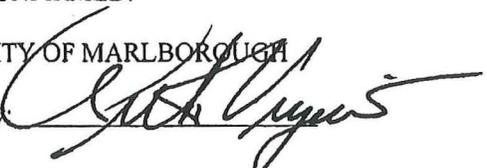
Thank you for your attention to this matter and please feel free to contact me with any questions.

Very truly yours,


John E. Twohig
Attorney for Hines

CONFIRMED:

CITY OF MARLBOROUGH

By: 

City of Marlborough Commonwealth of Massachusetts



Site Plan Review Staff

Douglas Scott, Building Commissioner
Kevin Breen, Fire Chief
Mark Leonard, Police Chief
Priscilla Ryder, Conservation Officer
Thomas DiPersio, City Engineer
Cathleen Liberty, Board of Health

Phone: (508) 460-3768

Email: sbrown@marlborough-ma.gov
pryder@marlborough-ma.gov

August 10, 2016

Hines Global REIT Marlborough Campus I LLC
c/o Goulston & Storrs PC
400 Atlantic Avenue
Boston, MA 02110-3333
Attn: John Twohig

RE: The Campus at Marlborough (SP-2005-0016) – Extension

Dear Mr. Twohig:

At its meeting on August 2, 2016, the Site Plan Review Committee voted to approve an extension of site plan approval for the above-referenced project (the "Project") until December 2, 2018. However, because regulations have changed since 2005 the Project design must be upgraded to meet the following:

1. The new DEP Stormwater Management Standards in effect as of January, 2008, and as outlined in 310 CMR 10.05(6)(k). As is standard practice, all site plan projects in Marlborough must meet the newest DEP storm water standards and local Stormwater Requirements in City Code Chapter 271.
2. When each building is advanced, further review by the Site Plan Review Committee will be required to ensure it meets current standards for utilities, layout and fire dept. requirements etc. which may have changed.
3. During the review for the first building the on- and off-site transportation commitments associated with the Phase 2 development shall be modified or supplemented, as necessary, based on an update to the existing traffic study and planned improvements referenced in prior correspondence prepared by the consulting traffic engineer, VHB.

Therefore, the plans will need to be reviewed and amended to reflect the updates required and resubmitted for site plan review and comment. Such revision may be subject to the site plan review fee structure approved by the City Council.

If you have any questions on the extension, please do not hesitate to contact me.

Sincerely,

Douglas Scott
Building Commissioner

Dugdale, Brian

From: Michele Higgins <mhiggins@marlborough-ma.gov>
Sent: Wednesday, September 7, 2016 12:42 PM
To: Dugdale, Brian
Cc: John Ghiloni
Subject: RE: The Campus at Marlborough - Sewer Connection Permit Extension

Brian,

The sewer capacity for the project still remains. As we discussed earlier extending the sewer permit to match the site plan extension is acceptable.

If you have any questions please let me know.

Thanks.

Michele Mochnoc Higgins, PE
Assistant Commissioner, Utilities
City of Marlborough
135 Neil Street
Marlborough, MA 01752
(508)624-6910, ext. 33103
(508)726-2436
mhiggins@marlborough-ma.gov

From: Dugdale, Brian [mailto:BDugdale@goulstonstorrs.com]
Sent: Wednesday, September 7, 2016 12:29 PM
To: Michele Higgins <mhiggins@marlborough-ma.gov>
Subject: FW: The Campus at Marlborough - Sewer Connection Permit Extension

Hi Michele,

I hope you enjoyed the long weekend. As requested, here is my gentle reminder.

Please let me know if there is anything I could do to be helpful.

Thank you.

Brian

From: Dugdale, Brian
Sent: Tuesday, August 30, 2016 2:18 PM
To: 'mhiggins@marlborough-ma.gov' <mhiggins@marlborough-ma.gov>
Cc: 'Thomas DiPersio' <tdipersio@marlborough-ma.gov>
Subject: The Campus at Marlborough - Sewer Connection Permit Extension

Hi Michele,

Thank you for your time this afternoon. In follow up to our conversation regarding The Campus at Marlborough, attached are copies of the original Sewer Connection Permit and its most recent extension, along with the recent Site Plan Permit Extension we received for the project.

Please let us know if you have any questions or need additional information to confirm available capacity.

Thank you.

Brian

Brian W. Dugdale
Direct (617) 574-6532
Direct Fax (617) 574-7520

goulston&storrs

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