

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 MAY -2 P 1:42

1. Minutes of the City Council Meeting, April 22, 2013.
2. PUBLIC HEARING On the Application for Fuel Storage Permit, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids, Order No. 13-1005386.
3. Communication from the Mayor re: Executive Session for the purpose of discussing litigation strategy regarding sewer contract dispute involving property on St. Martin Dr. and a contract dispute with a City DPW contractor.
4. Communication from the Mayor re: FY14 Budget Proposal. (The proposal is in the City Clerk's Office for viewing).
5. Communication from the Mayor re: Revised Salary Ordinance for the Position of Comptroller.
6. Communication from the Mayor re: MEDC (Marlborough Economic Development Corporation) transfer request in the amount of \$499,000.00 which moves funds from Economic Development to MEDC Funding to fully fund the operations of the MEDC for FY14.
7. Communication from the Mayor re: Fire Department transfer request in the amount of \$46,931.99 which moves funds from and to various accounts as noted on the attached spreadsheet to fund overtime costs incurred due to injuries and other medical absences in the department.
8. Communication from the Mayor re: Employee Retirement Benefits transfer request in the amount of \$28,834.20 which moves funds from and to various accounts as noted on the attached spreadsheet which will fund the unused sick leave and vacation payouts associated with the retirement of a long term employee of the City.
9. Communication from the Mayor re: Board of Health transfer request in the amount of \$22,014.00 and \$600.00 which moves funds from Professional & Technical to Assistant Sanitarian and from Advertising to Assistant Sanitarian respectively to provide additional support for inspections for food service and pools, and short term leave of absence for an employee.
10. Communication from the Mayor re: Personnel transfer request in the amount of \$2,000.00 and \$1,500.00 which moves funds from Advertising and Conference and Training respectively to Medical Exams to cover expenses associated with the Civil Service hiring and employment process.
11. Communication from the Mayor re: Building Department transfer request in the amount of \$300.00 which moves funds from Professional & Technical to Advertising and Board Secretary respectively to ensure adequate funding for additional cases that may come before the Zoning Board of Appeals and Planning Board before the end of the fiscal year.
12. Communication from City Solicitor, Donald Rider, re: Logical Partners LLC Special Permit, 126 Pleasant St., in amended proper legal form, Order No. 12/13-1005151G.
13. Communication from City Solicitor, Donald Rider, re: Results Way Mixed Use Overlay District, in proper legal form, Order No. 12/13-1005154E.
14. Communication from Assabet Valley Regional Vocational School District Superintendent Mary Jo Nawrocki re: Approval for \$62.4 Million Dollar Renovation project.

15. Communication from MassDevelopment re: Preliminary Approval to Issue a Revenue Bond on behalf of the STEM Soaring Eagles Foundation, Inc.
16. Application for Special Permit from Mirick O'Connell, on behalf of Sandra & Anthony Antico Real Estate LLC, for indoor recreation area that will include various children's entertainment features that can be used by children under the supervision of their parents or guardians for birthday parties and on other special occasions, 72 Jefferson St.
17. Application of Best Buy Store #1966, 601 Donald Lynch Blvd for Renewal of Junk Dealer's License.
18. Application of Best Buy Store #820, 769 Donald Lynch Blvd for Renewal of Junk Dealer's License.
19. Communication from Central Mass. Mosquito Control Project re: Earth Day 2013.
20. Communication from Department of Public Utilities, Condensed Financial Return for Year End December 31, 2012.
21. Minutes, Advisory Committee for the New Senior Center, March 19, 2013.
22. Minutes, Planning Board, April 8, 2013.
23. Minutes, Traffic Commission, March 26, 2013.
24. CLAIMS:
  - A. Thomas Tucker, 11 Hawkins Lane, other property damage,
  - B. Peter Kuchinsky, 165 Cameron Dr., residential mailbox claim 2(a)
  - C. Barry Hilts, 184 Robert Rd., residential mailbox claim 2(a)

#### REPORTS OF COMMITTEES:

#### UNFINISHED BUSINESS:

#### From Urban Affairs Committee

25. **Order No. 12/13-1005154E** - Communication from Attorney Gadbois, re: Submission of a draft of a Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District, Order No. 12-1005154C, adopted December 17, 2012.

The meeting started with Attorney Gadbois and the petitioners updating the Council on the zoning overlay and advancement in its development.

Attorney Gadbois told the Council that the apartment complex will be high end, and they have finalized an agreement with Avalon Bay to have them develop the housing.

The committee read through the development agreement and made minor changes and clarified a few sections.

**Motion by Councilor Robey to approve as amended, seconded by the Chair. Approved 4-0.**

**Motion by Councilor Robey to request that the Council suspend the rules on April 22 to forward to the Solicitor to place in proper legal form. Approved 4-0.**

**From Personnel Committee**

26. **Order No. 13-1005357** - Communication from Mayor Vigeant with appointment of Lynn Anderson as a member of the Council on Aging for a term of three years to expire on the 1<sup>st</sup> Monday in May following a City Council meeting.  
-REFER TO PERSONNEL  
**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0.**
27. **Order No. 13-1005355** - Communication from Mayor Vigeant with reappointment of Beverly Sleeper as Chief Procurement Officer for a term of three years to expire on the anniversary of her confirmation by the City Council  
-REFER TO PERSONNEL  
**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0.**

**From Public Services Committee**

28. **Order No. 13-100-1005285A** - Application by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street  
-REFER TO PUBLIC SERVICES

The Committee discussed the project with NGrid engineer.

**Motion made and seconded to recommend approval of the petition by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street with conditions recommended by the City Engineer and Councilor Clancy. Approved 2-0.**  
(Note: See (2) attachments for conditions)

**From City Council Committee**

29. **Order No. 12/13-1005151G** - City Council vote on Special Permit from Logical Partners LLC, 126 Pleasant St. **Recommendation of the City Council is to table until May 6, 2013.**

**Councilor Tunnera Abstained**





THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Room 103
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St., Library
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: AT & T Mobility LLC Special Permit, 75 Donald Lynch Blvd, in proper legal form, Order No. 13-1005342B, **MOVED TO ITEM 28**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: T-Mobile Northeast LLC Special Permit, 445 Simarano Dr., in proper legal form, Order No. 12/13-1005249B, **MOVED TO ITEM 27**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Logical Partners LLC Special Permit, 126 Pleasant St., in proper legal form, Order No. 12/13-1005151F, **MOVED TO ITEM 29**; adopted.

ORDERED: That the proposed Grant of Easement to National Grid for Easterly Wastewater Treatment Plant, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Building Commissioner, Michael Mendoza, re: Proposed Zoning Amendment, Section 41, Utility Service Vehicle Maintenance, Order No. 12/13-1005267B, **FILE**; adopted.

ORDERED: That the Communication from Attorney Bergeron re: Acceptance of Bouffard Drive as a public way, refer to **PUBLIC SERVICES COMMITTEE AND PLANNING BOARD**; adopted.

ORDERED: That the Communication from Attorney Mitrakas re: request to extend date for City Council vote on Special Permit, Logical Partners LLC, Order No. 12/13-1005151F, to May 6, 2013, **APPROVED**; adopted.

**Councilor Tunnera abstained**

- ORDERED: That there being no objection thereto set **Monday, May 20, 2013** as date for a **PUBLIC HEARING** on the Petition from National Grid to install conduit from manhole 15-22 to pole 50, Simarano Dr. and pole 50, D'Angelo Dr. and two pole installations on Simarano and D'Angelo Dr., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Application for Renewal of Junk Dealer's License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald Lynch Blvd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Application for Renewal of Junk Dealer's License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Minutes, Council on Aging, March 12, 2013, **FILE**; adopted.
- ORDERED: That the Minutes, Recreation Commission, March 13, 2013, **FILE**; adopted.
- ORDERED: That the Minutes, Conservation Commission, January 19, April 5, July 19, August 2 & 16, September 6, October 4 & 18, December 6 & 20, 2012 and January 17, 2013, **FILE**; adopted.
- ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
- A. Maranatha Christian Church, 276 Boston Post Rd. East., other property damage,
  - B. A. Richard Desimone, 54 Schofield Dr., residential mailbox claim 2(a)
  - C. Ken and Andrea Mercier, 14 Fish Lane, residential mailbox claim 2(b)
  - D. Rich Berte, 11 Paquine Dr., residential mailbox claim 2(a)
  - E. Dan Tran, 39 Desimone Dr., residential mailbox claim 2(a)
  - F. Francis McCarthy, 114 Leolis Dr., other property damage
  - G. Janice Stafford, 287 Forest St., residential mailbox claim 2(b)

#### Reports of Committees:

Councilor Elder reported the following out of Urban Affairs Committee:

Present: Chairman Elder, Councilor Robey, Councilor Landers, Councilor Tunnera, Council President Pope

Absent: Councilor Clancy

**Order No. 12/13-1005154D** - Communication from Attorney Gadbois, re: Submission of a draft of a Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District, Order No. 12-1005154C, adopted December 17, 2012.

The meeting started with Attorney Gadbois and the petitioners updating the Council on the zoning overlay and advancement in its development.

Attorney Gadbois told the Council that the apartment complex will be high end, and they have finalized an agreement with Avalon Bay to have them develop the housing.

The committee read through the development agreement and made minor changes and clarified a few sections.

**Motion by Councilor Robey to approve as amended, seconded by the Chair. Approved 4-0.**

**Motion by Councilor Robey to request that the Council suspend the rules on April 22 to forward to the Solicitor to place in proper legal form. Approved 4-0.**

Councilor Tunnera reported the following out of the Personnel Committee:

Present: Chairman Tunnera; Councilors Seymour and Elder

Also: Councilors Pope, Robey and Landers

**Order No. 13-1005357** - Communication from Mayor Vigeant with appointment of Lynn Anderson as a member of the Council on Aging for a term of three years to expire on the 1<sup>st</sup> Monday in May following a City Council meeting.

-REFER TO PERSONNEL

**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0**

**Order No. 13-1005355** - Communication from Mayor Vigeant with reappointment of Beverly Sleeper as Chief Procurement Officer for a term of three years to expire on the anniversary of her confirmation by the City Council

-REFER TO PERSONNEL

**Motion made by Councilor Seymour and seconded to recommend approval – Approved 3-0**

Councilor Landers reported the following out of the Public Services Committee:

**Order No. 13-100-1005285A** - Application by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street

-REFER TO PUBLIC SERVICES

The Committee discussed the project with NGrid engineer.

**Motion made and seconded to recommend approval of the petition by NGRID to install six (6) new heavy duty hand holes in the area of BIGELOW STREET, URD: Bergeron Road, Ahlgren Circle, Duca Drive, Rodgers Avenue, Evelina Drive and Houde Street with conditions recommended by the City Engineer and Councilor Clancy. Approved 2-0**

**(Note: See (2) attachments for conditions)**

**Suspension of Rules requested – granted**

**ORDERED:** That the Development Agreement for Results Way Mixed Use Overlay District, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE MAY 6, 2013 CITY COUNCIL MEETING**; adopted.

**Suspension of Rules requested – granted**

ORDERED: That the Appointment of James Griffin to the Board of Health for a term of three years, expiring on February 1, 2016, **APPROVED**; adopted.

ORDERED: That the Comptroller's transfer request in the amount of \$10,308.00 which moves funds from Bond Issue Expense to Finance Assistant to fund costs associated with the unanticipated short term absence of payroll personnel, **APPROVED**; adopted.

FROM:

Acct. # 11330006-57850 \$10,308.00  
Bond issue Expense

TO:

Acct. # 11330002-50062 \$10,308.00  
Finance Assistant

**Councilor Seymour abstained**

ORDERED: That City Clerk's transfer request in the amount of \$18,712.85 which moves funds from Assistant City Clerk to appropriate \$14,680.85 to Pollworker and \$4,032.00 to Constables to fund Special State Elections, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		City Clerk/Election				FISCAL YEAR: 2013			
FROM ACCOUNT:		TO ACCOUNT:							
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$39,315.16	<b>\$18,712.85</b>	11610002	50290	Assistant City Clerk	<b>\$14,680.85</b>	11620006	53871	Poll Workers	\$5,400.00
	Reason:	Fund two Special State Elections			<b>\$4,032.00</b>	11620003	51460	Constables at Poll	\$5,968.00
	<b>\$18,712.85</b>	Total			<b>\$18,712.85</b>	Total			

ORDERED: That the Public Service Internship Program transfer request in the amount of \$25,000.00 which moves funds from Loan Origination Fee to Summer Employment Initiative which will allow the City to hire a maximum of twenty college interns for the remainder of FY2013 and to allow advertising well in advance of summer breaks, **APPROVED**; adopted.

FROM:

Acct. # 60019906-58891 \$25,000.00  
Loan Origination Fee

TO:

Acct. # 11210003-51250 \$25,000.00  
Summer Employment Initiative

ORDERED: That the Comptroller's transfer request in the amount of \$6,176.00 which moves funds from Bond Issue Expense to Widows Pensions, **APPROVED**; adopted.

FROM:

Acct. # 11330006-57850 \$6,176.00  
Bond Issue Expense

TO:

Acct. # 11940006-51860

\$6,176.00

Widows Pensions

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**T-MOBILE NORTHEAST LLC (OMNIPOINT HOLDINGS, INC.)**

**CITY COUNCIL ORDER NO. 12/13-1005249C**

Re: 445 Simarano Drive, fka 40 Crane Meadow Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 01-9069D, submitted by Crown Castle on behalf of T-Mobile Northeast LLC, having a usual place of business at 15 Commerce Way, Suite B, Norton, MA 02766 as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Crown Castle (Crown Castle USA Inc) with a principal office located at 2000 Corporate Drive, Canonsburg, PA 15317 (hereinafter, "the Applicant"), on behalf of T-Mobile Northeast LLC (Omnipoint Holdings, Inc.), with its principal office located at 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006.
2. On November 19, 2001 , the City Council granted to Omnipoint Holdings, Inc., Division of VoiceStream Wireless, Inc., a special permit to locate and operate a wireless communications facility located at 445 Simarano Drive, fka 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2006, Omnipoint Holdings, Inc. converted into a limited liability company named T-Mobile Northeast LLC. The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 34813, Page 247. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter, "the Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter, "the Application"), the Applicant seeks permission to allow the replacement of six (6) panel antennas currently located on the wireless communication facility. Applicant also seeks to add one (1) fiber optic cable (1" O.D.) to the wireless communication facility (hereinafter, "the Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Site Name: BOS Marlborough 2 969202, Site ID Number: 4BS0494A, Site Address: 40 Crane Meadow Road, Marlborough, MA 01752," by Tectonic Engineering & Surveying Consultants P.C., 1279 Route 300, Newburgh, NY 12550, dated 10/10/12 and last revised 4/3/13, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").

4. The Applicant is the Wireless Communication Facility owner and lessee of the Site's owner for purposes of the Application.
5. The Proposed WCF Project is located in the Industrial (I) Zoning District. Wireless communication devices are allowed by grant of special permit in the Industrial (I) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 28, 2013, continued to February 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.

C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit, as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) Applicant agrees to all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Applicant's existing WCF.
- 4) The issuance of this Modified Special Permit is further subject to Site Plan Review in accordance with the City of Marlborough's Ordinance, prior to the issuance of an actual building permit. Any additional changes, alterations, modifications or amendments, as required by Site Plan Review, shall be further conditions attached to this Modified Special Permit. No occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified Special Permit. Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.

- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
  
- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.
- 10) All conditions set forth in the Original Special Permit shall apply to this Modified Special Permit.

**Yea: 10 - Nay: 0 – Absent:1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram & Robey**

**Absent: Clancy**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**AT&T Mobility LLC, successor to AT&T Wireless Services (“ATT”),  
by its contractor and agent Tower 16, Inc. (“Tower 16” and collectively with ATT, the  
“Applicant”)**

**CITY COUNCIL ORDER NO. 13-1005342C**

Re: 75 Donald Lynch Blvd, Marlborough, Massachusetts (the “Site”)

The City Council of the City of Marlborough (the “City Council”) hereby GRANTS the application to modify Special Permit No. 97-6754F, as previously modified by City Council Order No. 11-1002955 (collectively, the “Existing Special Permit”), submitted by Applicant, having a usual place of business at 550 Cochituate Road, Framingham, MA 01701, as provided in this Decision and subject to the following findings of fact and conditions.

**EVIDENCE**

1. On April 29, 1997, by Order No. 97-6754F, the City Council granted Applicant a special permit to construct a 130.5 foot monopole wireless communication facility at the Site (the “Existing WCF Tower”). The 1997 Special Permit is recorded at the Middlesex County South District Registry of Deeds (“MSDRD”) in Book 27316, Page 532, and was later modified in 2011 and recorded at the MSDRD in Book 57756, Page 356. The Site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 13, Parcel 2. The current owner of record for the Site is Albert D. Bombard.

2. Through its Application for Modification of Special Permit for a Wireless Communication Facility submitted to the City Council on February 21, 2013 (“the Application”), the Applicant seeks permission to perform general maintenance to the Existing WCF Tower consisting of (i) reinforcing the Existing WCF Tower by installing 1.25 inch thick steel plating to the surface of the Existing WCF Tower up to a height of 87.5 feet, and (ii) reinforcing and reconfiguring the subgrade foundation and concrete pads at the base of the Existing WCF Tower (the “Proposed WCF Project”), all as substantially depicted on those certain plans entitled “Marlborough 290/495, USID #: 3083, 130.5’ FWT Monopole,” prepared by GPD Group, 520 South Main Street, Suite 2531, Akron, OH 44311, and issued as of November 2, 2012 (the “Plans”).
3. The Applicant holds a leasehold interest in the Site for purposes of the Application.
4. The Site is located in the Limited Industrial zoning district. Wireless communication facilities are allowed in the Limited Industrial zoning district by special permit of the City Council.
5. Applicant seeks modification of the Existing Special Permit pursuant to Article VI, Section 650-25 et seq. the Zoning Code of the City of Marlborough.
6. Pursuant to the Rules and Regulations of Application for Special Permit (“Rules and Regulations”), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
7. The Applicant has complied with all of the applicable Rules of the Rules and Regulations.
8. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on March 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
9. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project continues to meet all the applicable Special Permit criteria of Article VI, Section 650-25 et seq.
10. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.

11. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Existing WCF Tower to minimize adverse impact on the abutting neighborhood and on nearby residential properties. The Proposed WCF Project will not change the visual appearance of the Existing WCF Tower.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Existing Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**
  1. Applicant agrees to comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts, and the federal government as they may apply to the construction, maintenance and operation of Applicant's Proposed WCF Project.
  2. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, as amended, are herein incorporated and become conditions and requirements of this Modified Special Permit unless otherwise altered by the City Council.

3. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
4. All conditions set forth in the Existing Special Permit are applicable to this Modified Special Permit.
5. Since the Existing Special Permit requires Applicant to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 (the "Open Space Payment"), failure to make the Open Space Payment shall constitute a violation of this Modified Special Permit, and pursuant to the terms of the Existing Special Permit the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment. No additional Open Space Payment above that which is required pursuant to the Existing Special Permit is imposed or required in connection with the Proposed WCF Project or the issuance of this Modified Special Permit.
6. Applicant shall provide landscaping around the equipment cabinets owned by Applicant at the Site to adequately shield them from view, if required by Site Plan Review.
7. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
8. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system for such hazardous materials.
9. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards.

10. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.

**Yea: 10 - Nay: 0 – Absent:1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram & Robey**

**Absent: Clancy**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:45 PM.



# IN CITY COUNCIL

APRIL 8, 2013

Marlborough, Mass., \_\_\_\_\_

## ORDERED:

That there being no objection thereto set **MONDAY, MAY 6, 2013** as date for a **PUBLIC HEARING** On Application for Fuel Storage License, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids as noted on attached spreadsheets, be and is herewith refer to **PUBLIC SERVICES COMMITTEE, AND ADVERTISE.**

ADOPTED

ORDER NO. 13-1005386



# City of Marlborough

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

## Office of the Mayor

2013 MAY -2 A 11: 55  
140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### Re: Executive Session

Honorable President Pope and Councilors:

I respectfully request an executive session with the Council for the purpose of discussing litigation strategy on two (2) different matters:

1. a sewer contract dispute involving a property on St. Martin Drive; and
2. a contract dispute with a City DPW contractor.

I have enclosed a proposed motion for this request.

Please do not hesitate to contact my office with any questions or concerns.

Sincerely,

**Arthur G. Vigeant**  
Mayor

Enclosure (Motion)

MOTION:

It is moved, in conformance with the provision of section 21(a)(3) of Chapter 30A of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing litigation strategy:

- 1) regarding a sewer contract dispute involving a property on St. Martin Drive; and
- 2) regarding a contract dispute with a City DPW contractor,

as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the Marlborough City Council will re-convene in open session after the executive session.



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 MAY -2 A 11:55

# City of Marlborough

## Office of the Mayor

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: FY14 Budget Proposal**

Honorable President Pope and Councilors:

As Chief Executive of the great City of Marlborough, I am proud to present before you tonight my administration's proposed Fiscal Year 2014 (FY14) budget. I wish to recognize the work of our City Auditor, Diane Smith, and our retiring Comptroller, Tom Abel, who is embarking on his last municipal budget process for the City of Marlborough. Both Tom and Diane were an integral part of my budget meetings and I am grateful for their contributions.

This year's budget brings with it a reminder of the investments we have made in our treatment plants as well as our public schools over the past few years. I am pleased to submit for your consideration my Fiscal Year 2014 budget proposal in the amount of \$132,923,877.00. This budget represents a 4.89% increase over FY13 that is largely driven by the two items previously mentioned.

For your benefit, I have highlighted those notable changes, financial considerations, organizational adjustments and other items of significance contained in this year's proposal.

### **Local Aid and Revenue**

Based on the figures passed by the Massachusetts House of Representatives, overall local aid increased by 2.6% or \$593,282.00. With anticipated local aid and local receipts, the impact to the taxpayer's projects to be less than a 2% increase on the property tax levy.

In terms of local revenue, I anticipate our new growth figures to remain strong at an estimated \$2 million which is largely owed to our joint efforts to ensure our community remains economically competitive.

### **Water and Sewer Bonds**

The FY14 budget carries with it significant increases due to the investments made in our sewer treatment plants over the past several years. This fiscal year represents the first full year in which we will be paying the bonds on the Easterly and Westerly Treatment Plant renovations.

### **Financial Team Augmentations**

The past fiscal year has brought in new faces to our departments and, with it, opportunities to evaluate areas for improvement.

Beginning with the Assessor's Office, we are contracting with Regional Resource Group to assume daily responsibility of the office. This restructuring has resulted in a 14% decrease in their overall budget while increasing the operational effectiveness of the office.

I am also seeking funding to add \$15,000.00 to the salary of the Comptroller to allow our community to be more competitive as we look to replace Tom Abel. I will be submitting to you through another communication a salary ordinance adjustment including relevant information that will substantiate this increase.

Another change this year is that the position of Chief Procurement Officer (CPO) is being moved from the Legal Department to the City Auditor's office. The move to the Auditor's office is a more accurate reflection of the role that the Chief Procurement Officer plays in handling items such as for Quotes, Invitation for Bids, Request for Proposals, administering contracts and issuing purchase orders.

### **Public Safety**

Pending the successful graduation of new recruits and resolution of long term injury cases, I am happy to inform you that both our Police and Fire Departments are operating at full staff.

Two items of note are the substantial decrease in overtime costs in the Fire Department. Chief James Fortin has done a great job working with the department to address this issue that has lingered the past several years.

I am also including funding to establish a K-9 unit within the Police Department. After consulting with Chief Leonard, the police union, as well as other communities in which this program was launched, I believe that this program will strengthen our ability to preserve and protect the safety of our community. Although funding is included in this budget, I will not authorize any expenditure for this program until such time as an acceptable amendment to the patrolmen's contract has been agreed upon.

### **New Positions**

I have included for you a breakdown of the various positions that have been added or eliminated in this year's budget. Although this budget proposal contains no new net employees on the municipal side, I am seeking to increase a part-time position in the Personnel Office as well as to add a part-time position to the City Council Office.

If the full-time position in the Personnel Office is funded, this position will be cross trained in several different departments, allowing us the flexibility to use the increase in hours to ensure coverage in other offices on an as needed basis.

**Summer Employment Initiative**

This budget also seeks \$40,000.00 in funding for our Public Service Internship and Youth Employment Programs. Through the financial investments you approved last year, our city was able to collectively impact the lives of nearly 40 college and high school students by providing them with a unique opportunity to work and gain valuable experience working for the city. I am seeking funding for these programs once again that will allow us to fund the program through the July and August months. As you may recall, the high school program runs only for a six week period beginning in mid-July. We will again work with Partnerships for a Skilled Workforce to provide job readiness skills training for our high school participants.

**School Department**

The School Department budget represents an increase of 7.3% over the original FY13 budget appropriation. In looking at the numbers more closely over the past six years, net school spending, including Chapter 70 appropriations, in the City of Marlborough has increased by only 4.2% since FY08. Moving forward, allowing for steady, incremental increases should be our practice while relying on Chapter 70 education appropriations to fund any future increases.

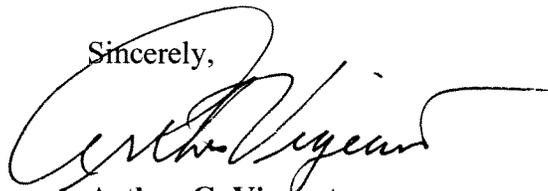
I would also be remiss if I did not mention the \$2.6 million supplemental budget transfer that was approved by the Council in December. We were aware that this appropriation's impact would be truly felt in this upcoming fiscal year.

Our schools continue to move in the right direction and much of that progress is owed to Interim Superintendent Dr. Steve Dlott. Our school system is fortunate to have had his dedication and leadership over the past nine months.

I have enclosed for you a letter from City Solicitor Don Rider outlining Massachusetts General Law c. 44, § 32 detailing the forty-five day timetable for Council action on the FY14 Budget.

In closing I want to thank you in advance not only for your partnership and commitment to strengthening our community but for also carrying out your duties with a strong sense of cooperation, civility, and pride. On behalf all our department heads, thank you for your consideration. We look forward to the upcoming budget hearings.

Sincerely,



**Arthur G. Vigeant**  
**Mayor**



*City of Marlborough*  
**Legal Department**

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
LEGAL@MARLBOROUGH-MA.GOV

*DONALD V. RIDER, JR.*  
CITY SOLICITOR

*CYNTHIA M. PANAGORE GRIFFIN*  
ASSISTANT CITY SOLICITOR

*BEVERLY J. SLEEPER*  
CHIEF PROCUREMENT OFFICER

*ELLEN M. STAVROPOULOS*  
PARALEGAL

May 1, 2013

Mayor Arthur G. Vigeant  
City Hall, 4<sup>th</sup> Floor  
Marlborough, MA 01752

RE: City Council's Receipt of Mayor's Annual Budget

Dear Mayor Vigeant:

You have inquired as to how Massachusetts law determines the date of a city council's receipt of a mayor's annual budget.

In pertinent part, Mass. Gen. Laws c. 44, § 32 provides that a city council must take action, whether by approval, reduction or rejection, with respect to any amount recommended in a mayor's annual budget "within forty-five days after the receipt of the budget." Section 32 does not itself define how "the receipt of the budget" is determined, nor has there been occasion for a court to supply that definition. However, a proper reading of § 32 is that a city council receives the annual budget on the date when the mayor submits it to the city clerk on behalf of the city council.

Therefore, if you submit your annual budget to the Marlborough City Clerk, in her capacity as Clerk of the Marlborough City Council, on Thursday, May 2, 2013, that date would be the date of receipt by the Council. In turn, the Council would be required by § 32 to take action within 45 days of May 2, 2013, i.e., on or before June 16, 2013. However, since that date will be a Sunday, Mass. Gen. Laws c. 4, § 9 dictates that the Council's 45-day deadline would be "on the next succeeding business day," i.e., Monday, June 17, 2013.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor



# City of Marlborough

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

## Office of the Mayor

140 Main Street

2013 MAY -2 A 11:55  
Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### Re: Salary Ordinance

Honorable President Pope and Councilors:

I wish to submit for your consideration a revised salary ordinance for the position of Comptroller. As you know, our long time Comptroller is retiring and it is of the utmost importance to our city that we find a highly qualified and experienced candidate who can hit the ground running from day one.

After consulting with several different comparable communities, I believe that our existing salary ordinance does not position us to attract the best and brightest to this critical position. Therefore I have enclosed a proposed ordinance that increases the minimum salary to \$101,695.70.

The new ordinance adds \$15,000 plus 2% COLA to minimum salary for FY 14, which, if not for the \$15,000 increase, would in FY14 be \$88,695.71. Each amount after the minimum step accounts for a 4% step increase, which is the customary difference between each step.

I look forward to your input and counsel on this matter. Please do not hesitate to contact me with any additional questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor

Enclosure (Motion)

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED "PERSONNEL," AS FOLLOWS:

POSITION	EFFECTIVE DATE	MINIMUM 1 <sup>st</sup> 6 mos.	STEP 1 2 <sup>nd</sup> 6 mos.	STEP 2 Next 12 mos.	MAXIMUM
Comptroller/Treasurer	7/1/13	101,695.70	105,763.28	109,994.07	114,393.83

ADOPTED

In City Council  
Order No. 13-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:



RECEIVED  
CLERK'S OFFICE  
CITY OF MARLBOROUGH

*City of Marlborough*  
*Office of the Mayor*

140 Main Street

2013 MAY -2 A 11: 55

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Transfer Request – MEDC**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request to fully fund the operations of the Marlborough Economic Development Corp. (MEDC) for the Fiscal Year 2014.

- 1) Transfer in the amount of \$499,000.00 from 270000099-42440 (Economic Development) to 11740006-53950 (MEDC Funding).

Since taking office in January 2012, the MEDC has played a central role in the economic development successes we have achieved. I am grateful to the City Council for your willingness to embrace the mission of the MEDC and for consistently providing feedback and direction as to how they can build on our shared success, improve their operations, and effectively carry out the directives from city government. This partnership has allowed them to grow and mature immensely over these past sixteen months to the point where I believe we can fund their operations for a full year.

I respectfully seek your approval and I thank you in advance for your consideration.

Sincerely,

**Arthur G. Vigeant**  
Mayor



### MEDC FUNDING

9/30/2011 State Aid	\$165,166.12
12/31/2011 State Aid	\$190,224.55
3/31/2012 State Aid	\$132,447.82
6/29/2012 State Aid	\$146,495.56
9/30/2012 State Aid	\$185,400.20
12/31/2012 State Aid	\$182,736.99
3/31/2013 State Aid	\$123,837.95
Total Funding	<u>\$1,126,309.19</u>

12/5/2011 CO# 11-1003048	-\$146,837.00
12/19/2011 CO# 11-1004004	-\$3,163.00
5/21/2012 CO# 12-1005008	-\$200,000.00
12/17/2012 CO# 12-1005205	-\$277,099.00
Total Transfers	<u>-\$627,099.00</u>

Available for future transfers            \$499,210.19

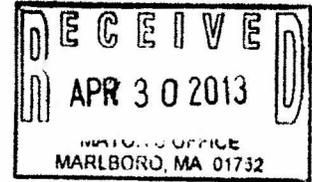


**Marlborough**  
ECONOMIC DEVELOPMENT CORPORATION

*Building on a Common Vision*

April 29, 2013

Honorable Arthur G. Vigeant, Mayor  
City Hall, 4<sup>th</sup> Floor  
140 Main Street  
Marlborough, MA 01752



RE: FY'14 Transfer Request

Dear Mayor Vigeant:

I am writing seeking a transfer request.

On behalf of the Marlborough Economic Development Corporation (MEDC), I am herewith submitting this letter requesting a transfer of funds to the Marlborough Economic Development Corporation in the amount of \$499,000.00 to fund operations and special projects for FY'14.

I would appreciate your approving this request as soon as possible and allowing MEDC an opportunity to update the City Council on the progress made thus far in implementing the City's Economic Development Master Plan.

Thank you for your kind attention to this matter.

Very truly yours,

Arthur P. Bergeron, Chairman

Attachments

Cc: Diane Smith, Marlborough City Auditor  
Tom Abel, Marlborough City Comptroller/Treasurer

Marlborough Economic Development Corporation

91 Main Street, Suite 204  
Marlborough MA 01752  
508-229-2010

# Invoice

Date	Invoice #
4/29/2013	7

Bill To
City of Marlborough Mayor, Arthur G. Vigeant City Hall, 4th Floor 140 Main Street Marlborough, MA 01752

Description	Terms	Amount
	July 1, 2013	
	Rate	Amount
Funds for operations and special projects for FY'14 (July 1, 2013 - June 30, 2014)	499,000.00	499,000.00
<b>Make all checks payable to Marlborough Economic Development Corporation or MEDC Thank You</b>		<b>Total</b> \$499,000.00



*City of Marlborough*  
*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 MAY - 2 AM 11:55  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
Marlborough, Massachusetts 01752  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Transfer Request – Fire Department**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request totaling \$46,931.99 for the Fire Department.

The bulk of this transfer is needed to fund overtime costs incurred due to injuries and other medical absences in the department. Additionally, there are several upgrades and repairs needed to for some of the older equipment and vehicles in the Fire Department's fleet.

Funding for this request is made possible through 111F payments that are utilized when a firefighter is out on a work related injury.

Thank you in advance for your consideration.

Sincerely,

**Arthur G. Vigeant**  
Mayor





**City of Marlborough**  
**FIRE DEPARTMENT**

April 30, 2013

Mayor Vigeant,

I am requesting a transfer to our overtime account from 111F payments in the amount of \$26,931.99; this transfer should carry us through the remainder of FY13 and is necessary due to injuries, vacant positions and personal medical reasons.

I am requesting a transfer in the amount of \$20,000.00 also from 111F payments to fund the vehicle repair and maintenance account for the remainder of FY13. Due to the age and increased use of the fleet, we have had several repairs that are above and beyond preventative maintenance.

Please feel free to contact me if you have any further questions.

A handwritten signature in black ink, appearing to read "J. M. Fortin", with a long horizontal flourish extending to the right.

James M Fortin  
Fire Chief



# City of Marlborough

## Office of the Mayor

140 Main Street

2013 MAY -2 A 11: 56  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Transfer Request – Employee Retirement Benefits**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer requests totaling \$28,834.20. This transfer request will fund the unused sick leave and vacation payouts associated with the retirement of a long term employee of the city.

Please do not hesitate to contact my office with any questions or concerns.

Sincerely,

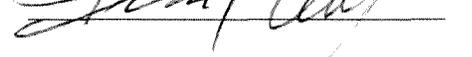
**Arthur G. Vigeant**  
Mayor

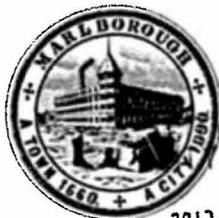
CITY OF MARLBOROUGH  
BUDGET TRANSFERS --

DEPT: Fringe		FROM ACCOUNT:					FISCAL YEAR:			TO ACCOUNT:		Available	
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$454,218.00	\$18,736.20	11990006	51500	Fringe	\$18,736.20	11330001	50015	Comptroller					\$14,689.54
		Reason: Retirement Payout of Vacation											
	\$1,000.00	11990006	51500	Fringe	\$1,000.00	11330003	51920	Sick Leave					\$0.00
		Reason: Retirement Payout Sick Leave											
	\$6,245.00	11990006	51500	Fringe	\$6,245.00	11330002	50062	Finance Asst.					\$25,886.09
		Reason: Employee Resignation Payout Vacation Time											
	\$2,853.00	11990006	51500	Fringe	\$2,853.00	11330003	51920	Sick Leave					\$0.00
		Reason: Employee Resignation Payout Sick Time											
		Reason:											
	\$28,834.20	Total			\$28,834.20	Total							

Department Head signature: 

Auditor signature: 

Comptroller signature: 



RECEIVED  
CLERK'S OFFICE  
OF MARLBOROUGH

# City of Marlborough

## Office of the Mayor

2013 MAY -2 A 11:56

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Transfer Request – Board of Health**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer requests:

- 1) Transfer in the amount of \$2,014.00 from 15120006-53180 (Professional & Technical) to 15120001-50611 (Assistant Sanitarian).
- 2) Transfer in the amount of \$600.00 from 15120004-53150 (Advertising) to 15120001-50611 (Assistant Sanitarian).

This transfer is needed to provide additional support for inspections for food service and pools. Adding to the need for this transfer is the short term leave of absence of a department employee.

Please do not hesitate to contact my office with any questions or concerns.

Sincerely,

**Arthur G. Vigeant**  
Mayor



*Board of Health*

---

Frank D. Walker Building  
255 Main Street, Room 101  
Marlborough, MA 01752  
(508) 460-3751 ~ Fax (508) 460-3625

May 1, 2013

The Honorable Arthur Vigeant, Mayor  
Office of the Mayor-City Hall  
140 Main Street  
Marlborough, MA. 01752

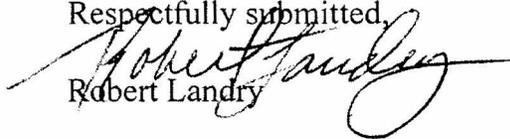
*Re: Transfer requests*

Dear Mayor Vigeant,

The Board of Health has provided two transfer requests for your review and consideration. Funds from Line item 15120006-53180, **Professional/Technical** in the amount of **\$2014.02** and Line item 15120004-53150 **Advertising** in the amount of **\$600.00** are being transferred to Line item 15120001-50611, **Assistant Sanitarian**, to cover the costs of a temporary Assistant Sanitarian to perform Food Establishment and Swimming Pool Inspections as well as coverage for emergencies.

The addition of this inspector will allow the Board of Health to "Catch-up" with Food Establishment inspections and provide much needed assistance with the upcoming Swimming Pool openings and yearly inspections.

Respectfully submitted,

  
Robert Landry

CC:

Tom Abel, Comptroller  
Diane Smith, Auditor  
Board of Health

CITY OF MARLBOROUGH  
BUDGET TRANSFERS --

DEPT: Board of Health

FISCAL YEAR: FY 2013

FROM ACCOUNT:

TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$2,014.02	\$2,014.02	15120006	53180	Professional/Technical	\$2,014.02	15120001	50611	Assistant Sanitarian	\$8,311.36
	Reason:	Professional/Technical funds have not been used				Funds used to pay for temporary food/pool inspector			
\$600.00	\$600.00	15120004	53150	Advertising	\$600.00	15120001	50611	Assistnat Sanitarian	\$8,311.36
	Reason:	Advertising funds not spent to date				Funds used to pay for temporary food/pool inspector			
	Reason:								
	Reason:								
	Reason:								
\$2,614.02	Total				\$2,614.02	Total			

Department Head signature:

Auditor signature:

Comptroller signature:

*[Handwritten signatures]*



# City of Marlborough

## Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

2013 MAY -2

A 11: 5

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Transfer Request – Personnel Office**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request:

- 1) Transfer in the amount of \$2,000.00 from 11520004-53150 (Advertising) **AND** in the amount of \$1,500.00 from 11520006-57380 (Conference and Training) to 11520004-53010 (Medical Exams).

This \$3,500.00 transfer request is necessary to cover the expenses associated with the Civil Service hiring and employment process. Please do not hesitate to contact my office with any questions or concerns.

Sincerely,

**Arthur G. Vigeant**  
Mayor



*City of Marlborough*  
*Personnel Department*

140 MAIN STREET  
MARLBOROUGH, MA 01752  
TELEPHONE (508) 460-3705, FACSIMILE (508) 481-6354

**DAVID BRUMBY**  
PERSONNEL DIRECTOR

**MARY WARD**  
PERSONNEL ASSISTANT

**DIANE REGO**  
ADMINISTRATIVE CLERK

May 1, 2013

To: Chairman Ossing, Finance Committee

Re: Budget Transfer Request

Due to greater than anticipated hiring activity across the City, particularly within the Police and Fire Departments which require more expensive medical exams, I respectfully request approval of the attached funds transfer.

The attached request transfers \$3500.00 from the Personnel Department Advertising and Conference and Training accounts to the Personnel Department Medical Exams account.

Please feel free to contact me with any questions.

Best regards,

*David Brumby*  
David Brumby  
Personnel Director





# City of Marlborough

RECEIVED  
CITY CLERK'S  
CITY OF MARLBOROUGH

## Office of the Mayor

140 Main Street

2013 MAY - 2 A 11:51 AM  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

May 2, 2013

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Transfer Request – Building Department**

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer requests:

- 1) Transfer in the amount of \$150.00 from 12410004-53180 (Professional & Technical) to 12410004-53150 (Advertising).
- 2) Transfer in the amount of \$150.00 from 12410004-53180 (Professional & Technical) to 12410002-51050 (Board Secretary).

This transfer is needed to ensure adequate funding for additional cases that may come before the Zoning Board of Appeals and Planning Board before the end of the fiscal year.

Please do not hesitate to contact my office with any questions or concerns.

Sincerely,

**Arthur G. Vigeant**  
Mayor





*City of Marlborough*  
**BUILDING DEPARTMENT**

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3776 Facsimile (508) 624-6504 TDD (508) 460-3610

Michael Mendoza  
Building Commissioner

May 1, 2013

Re: Budget Transfer

To Whom It May Concern:

Due to the number of cases that has been reviewed by both the ZBA and Planning Board, I am for seeing a shortage in both the areas of advertising and payment to the secretarial staff for the remainder of FY 13 if more cases occur:

12410004 53180 Professional & Tech \$150.00 to 12410004 53150 Advertising

12410004 53180 Professional & Tech \$150.00 to 12410002 51050 Board Secretary

Total: \$300.00

Sincerely,

Michael Mendoza  
Building Commissioner



**City of Marlborough**  
**Legal Department**

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
DONALD V. RIDER, JR.  
CITY SOLICITOR

2013 MAY - 2  
CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER  
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS  
PARALEGAL

May 1, 2013

Patricia Pope  
President  
Marlborough City Council

RE: Order No. 12/13-1005151F  
Application for Special Permit  
Logical Partners LLC  
126 Pleasant Street, Marlborough

Dear President Pope and Members:

As you know, Logical Partners LLC has applied for a special permit to construct three (3) residential townhouse style condominium units on the property located at 126 Pleasant Street in Marlborough. For the April 22, 2013 agenda, I had submitted my certification letter on the proposed special permit decision. However, Attorney Mitrakas was on vacation at the time and did not have an opportunity to fully review the proposed decision. He has now done so, and the only revised language, which is minor in nature and with which I agree, is contained in the first sentence of condition J.

Accordingly, I am enclosing the revised special permit decision for the Council's consideration this evening. Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I certify it as being in proper legal form.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Gregory Mitrakas, Esquire

**SPECIAL PERMIT  
LOGICAL PARTNERS LLC  
CITY OF MARLBOROUGH, MA  
CITY COUNCIL ORDER 12/13-1005151G**

The City Council of the City of Marlborough hereby **GRANTS** the Application for Special Permit of Applicant, as provided in the Decision and **SUBJECT TO THE FOLLOWING FINDINGS OF FACT AND CONDITIONS:**

**EVIDENCE**

1. The Applicant is Logical Partners LLC, a Massachusetts LLC with a principal place of business at 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752 (the "Applicant").
2. The location of the proposed project is 126 Pleasant Street, Marlborough, MA and more particularly identified on the City of Marlboro Assessor's Map as Lot 466 of Map 68, and furthermore particularly described in a deed recorded with the Middlesex South District Registry of Deeds, Book 58142, Page 503 (the "Site").
3. The Applicant seeks a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site (the "Project").
4. The Applicant is the Owner for the purpose of this Special Permit Application (the "Application").
5. The property is located in zoning district Residence B (RB), which allows multifamily dwellings as a matter of special permit.
6. The Building Inspector, acting on behalf of the City Planner, provided a Certificate of Completeness of Application as required by Para. 7 of the Rules and Regulations of Application/Petition for Special Permit by the City of Council under the Marlborough Zoning Ordinance, Chapter 650-59.
7. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to demolish the current structures at the Site and construct three (3) residential Townhouse style Condominium units on the Site.
8. The Applicant obtained all necessary zoning variances to allow its project to proceed, said variance being recorded with the Middlesex South District Registry of Deeds, Book 59143, Page 190.
9. A public hearing was held on October 15, 2012, in compliance with the requirements of the Code of the City of Marlborough and by the provisions of MGL Chapter 40A, as amended, and all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlborough. The time for the City Council to take final action on the Application was timely extended by the parties' agreement to May 15, 2013.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing and demonstrated that the Project meets all applicable Special Permit criteria provided by MGL Chapter 40A, as amended, and the Code of the City of

Marlborough including, without limitation, Article VII, Section 650, Paragraph 40, Subparagraph B, and generally Section 650-59.

11. The plan submitted with the Application is entitled "Preliminary Site Plan, 126 Pleasant Street, Marlborough, MA," Prepared for Logical Partners LLC, 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752; Owned by Logical Partners LLC, 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752; Prepared by Thomas Land Surveyors & Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, scale 1" = 20', dated June 28, 2012 and revised October 11, 2012, December 11, 2012 and February 25, 2013 (the "Plan"), attached hereto as "Attachment A."

**BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL  
MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE  
FOLLOWING ACTIONS:**

The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site.
2. The Marlborough City Council finds that all necessary Fees for the proposed Special Permit have been paid.
3. The Marlborough City Council finds that the Application was properly completed and filed by Applicant, and that all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlboro prior to Application submission.
4. The Plan accompanying said Application was completed in accordance with the all applicable Rules and Regulations.
5. The Summary Impact Statement filed with said Application is sufficient for said Application and that no further studies or requirements are necessary.
6. The City Department reports as required by the Code of the City of Marlborough have been received and incorporated as deemed appropriate by the said Marlborough City Council into this final decision.
7. The Marlborough City Council finds generally that the use sought by Applicant and its impact and characteristics is not in conflict with the public health, safety, convenience and welfare and is not detrimental or offensive; and further, that the use of the Site for three (3) residential Townhouse style Condominium units is appropriate for the Site and does not derogate from the intent and purpose of MGL Chapter 40A and/or the Code for the City of Marlborough.
8. The Marlborough City Council therefore **GRANTS** to the Applicant a Special Permit to construct three (3) Residential Townhouse Units on the Site, pursuant to its authority under MGL Chapter 40A and the Code of the City of Marlboro, **with the following conditions:**

- A. The Marlborough City Council conditions its approval on subsequent Site Plan Review and approval as provided under Chapter 270, Building and Site Development. The Plan may be subject to modification by the Site Plan Review Committee to the extent allowed by the Code of the City of Marlborough. Other conditions and limitations may be imposed at the time of the final Site Plan Approval by said Committee, which are not inconsistent with any term or condition attached to this Special Permit.
- B. The applicant will work with Site Plan Review to coordinate minor cosmetic and mutually acceptable modifications to the building and/or site to make the same more Colonial in appearance so as to fit into the neighborhood.
- C. The drainage from the site shall be reviewed during the Site Plan Review process to ensure that any excess drainage is adequately mitigated.
- D. The building will be protected by an automatic sprinkler system under a NFPA Section 13R installation due to the low water pressure in the area and proposed garage spaces.
- E. All existing structures and improvements at the Site will be removed pursuant to Code and subject to the approval of the Marlborough Building Inspector and the resulting residue disposed of in accordance with all applicable Federal, State, and municipal statutes, rules and regulations; in particular, within ninety (90) days after approval of this Special Permit, the Applicant shall remove the barn from the Site.
- F. Construction of the three (3) new Single-Family Townhouse Condominium units is to be in accordance with all applicable building codes currently in effect in the City of Marlborough.
- G. Pursuant to recommendations from the Urban Affairs Committee of the Marlborough City Council, the number of bedrooms for each Unit has been reduced from three (3) bedrooms to (2) bedrooms. Accordingly, each Unit will contain no more than two (2) bedrooms, be approximately 1,400 square feet, and will otherwise be substantially similar to that as shown on a 10-page set of plans entitled Project Description – Pleasant St. Project,” Builder: Lisboa; Builder’s customer: spec; Prepared by Westchester Modular Homes, Inc., 30 Reagans Mill Rd., Wingdale, NY 12594; scale ¼” = 1””; dated July 6, 2012 and revised on July 11, 2012, July 16, 2012, August 22, 2012, February 24, 2013 and March 4, 2013, attached hereto as “Attachment B.” The Units will be serviced by public water and public sewer separately metered.
- H. All Units shall be required to be owner-occupied, i.e., no leasing shall be allowed, and a restriction for same shall be inserted into the Master Deed

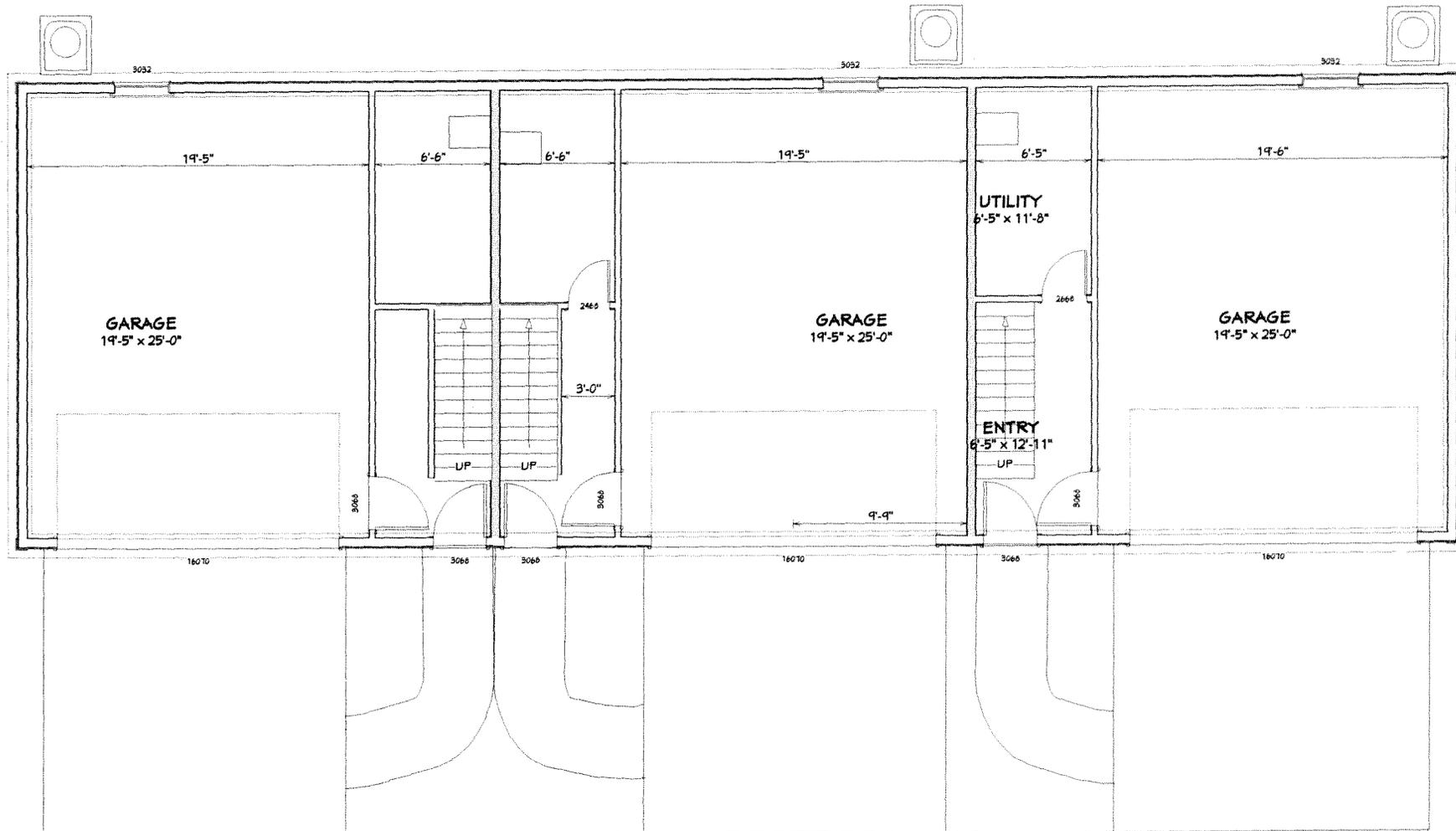
creating the Condominium, and shall also be incorporated into the Unit deed for each Unit conveyed by Applicant, its successors and assigns.

- I. Existing building sewers or portions thereof may be used in connection with new construction only when they are found, on examination and testing by the Marlborough Commissioner of Public Works, to meet all Code requirements. The applicant will be required to confirm the size, material, slope, and condition of the existing sewer service. This can be accomplished via test pits and/or video-taping of the existing sewer service. A single service to the proposed building shall only be allowed if allowed and approved by the Marlborough Department of Public Works.
- J. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Inspector for a building permit concerning the Project. Applicant shall provide a copy of the recorded Special Permit to the City Council's office and to the City Solicitor's office.
- K. All work performed at the Site shall be in compliance with this Special Permit decision. No other building or construction shall occur or happen without a change or modification of this Special Permit.
- L. Applicant shall provide side yard and rear yard fencing as depicted on the Plan.

**ATTACHMENT A**



**ATTACHMENT B**



SCALE: 1/4" = 1'  
8' CEILINGS

REVISIONS NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



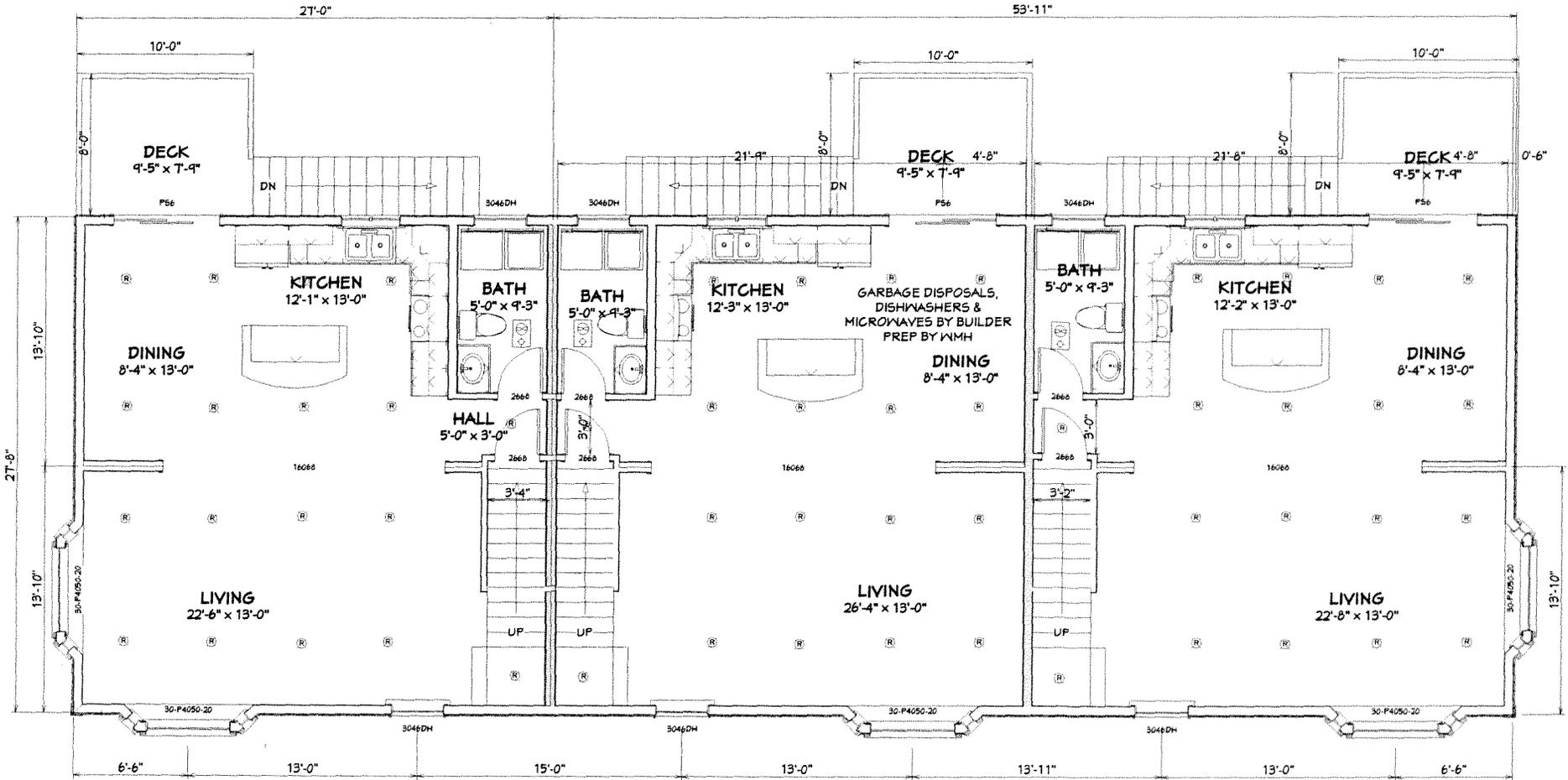
**WESTCHESTER MODULAR HOMES, INC.**  
 AN EMPLOYER OWNED COMPANY  
 CONTACT US: 1-800-832-3888 800-832-3888

[www.westchestermolecular.com](http://www.westchestermolecular.com)

PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**  
 BUILDER: LISBOA  
 BUILDER'S CUSTOMER: SPEC

SHEET TITLE  
**LOWER LEVEL**  
 DRAWN BY: DW  
 DATE: 7/6/12  
 SCALE: AS NOTED

SHEET NO.  
**A-0**



SCALE: 1/4" = 1'  
8' CEILINGS

NO.	REVISIONS	BY	DATE
1	REVISIONS	DN	7/11/12
2	REVISIONS	DN	7/16/12
3	REVISIONS	DN	8/22/12
4	REVISIONS	DN	2/24/13
5	REVISIONS	DN	3/4/13



**WESTCHESTER MODULAR HOMES, INC.**  
AN EMPLOYEE OWNED COMPANY  
CONTACT US: 1-858-832-3888

[www.westchestermodular.com](http://www.westchestermodular.com)

30 REAGANS MILL RD  
WINGDALE, NY 12594  
800-832-3888

PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**

BUILDER:  
LISBOA

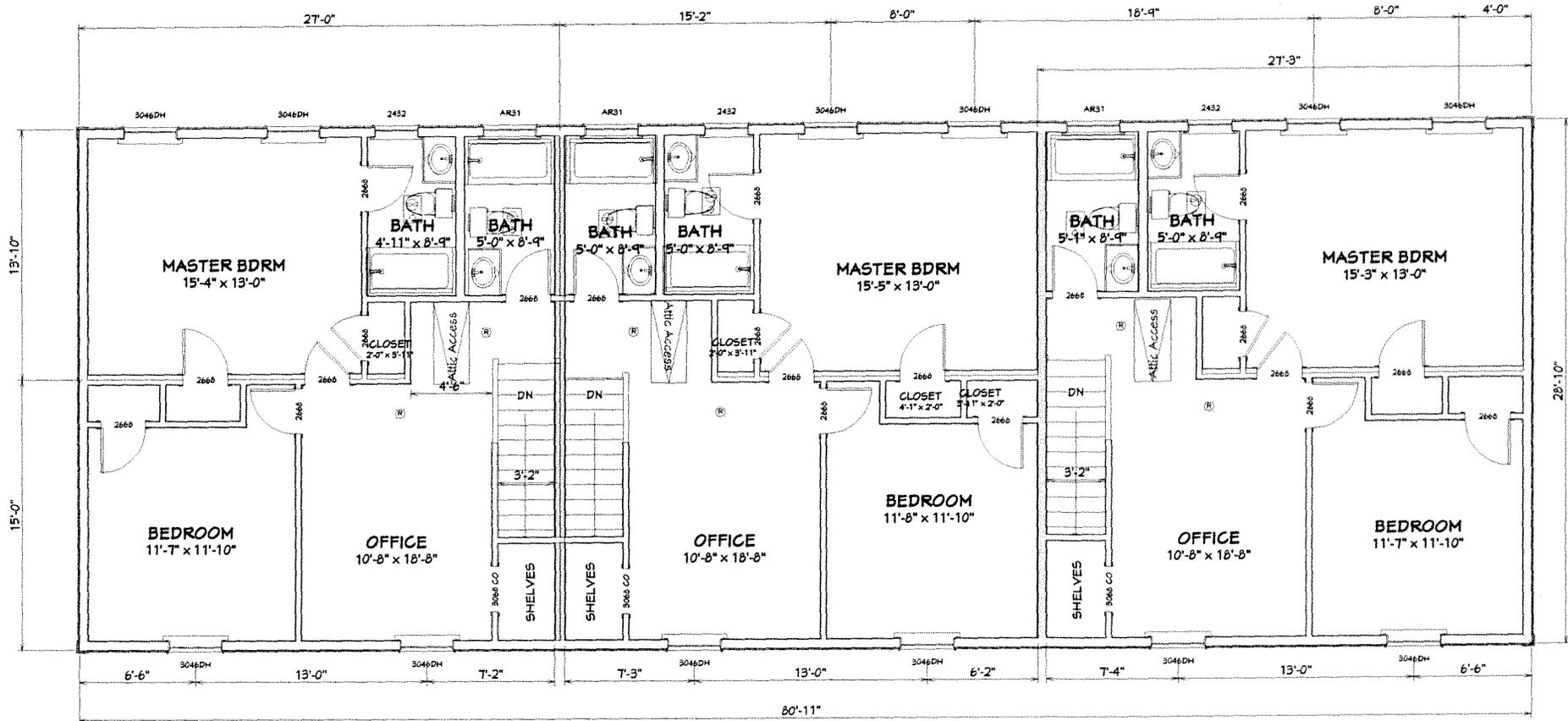
BUILDER'S CUSTOMER:  
SPEC

SHEET TITLE  
**FIRST FLOOR**

DRAWN BY: DN  
DATE: 7/6/12  
SCALE: AS NOTED

SHEET NO.

**A-1**



SCALE: 1/4" = 1'  
8' CEILINGS

NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13


**WESTCHESTER MODULAR HOMES, INC.**  
 AN EMPLOYER OWNED COMPANY  
 CONTACT US: 1-800-832-3888  
[www.westchestermodular.com](http://www.westchestermodular.com)

30 REAGANS MILL RD  
 WINGDALE, NY 12594  
 800-832-3888

PROJECT DESCRIPTION	
<b>PLEASANT ST. PROJECT</b>	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC

SHEET TITLE	
<b>SECOND FLOOR</b>	
DRAWN BY:	DATE: 7/6/12
DW	SCALE: AS NOTED

SHEET NO.  
**A-2**



SCALE: 1/4" = 1'

NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



**WESTCHESTER MODULAR HOMES, INC.**  
AN EMPLOYEE OWNED COMPANY  
CONTACT US: 1-858-832-3888

30 REAGANS MILL RD  
WINGDALE, NY 12594  
800-832-3888

[www.westchesterm modular.com](http://www.westchesterm modular.com)

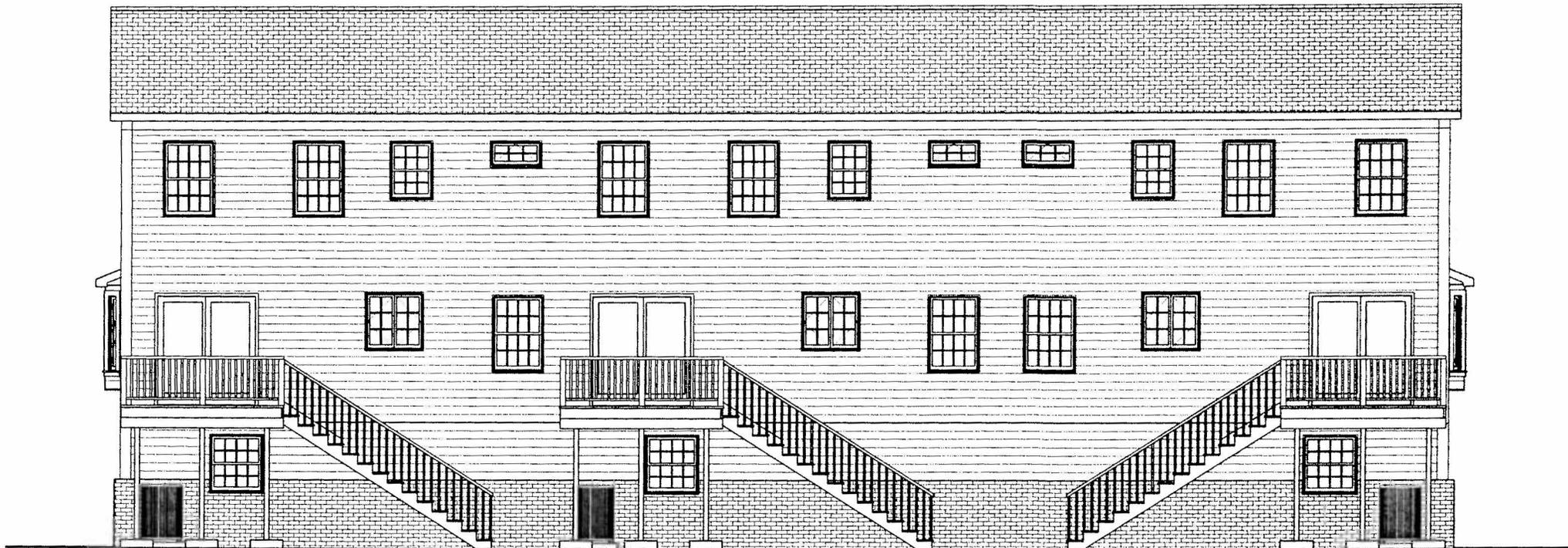
PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**

BUILDER: LISBOA  
BUILDER'S CUSTOMER: SPEC

SHEET TITLE  
**FRONT ELEVATION**

DRAWN BY: DW  
DATE: 7/6/12  
SCALE: AS NOTED

SHEET NO.  
**A-3**



SCALE: 1/4" = 1'

REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



**WESTCHESTER MODULAR HOMES, INC.**  
 AN EMPLOYEE OWNED COMPANY  
 CONTACT US: 609-832-3888

[www.westchestermodular.com](http://www.westchestermodular.com)

30 REAGANS MILL RD  
 KINGDALE, NY 12594  
 800-832-3888

PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**

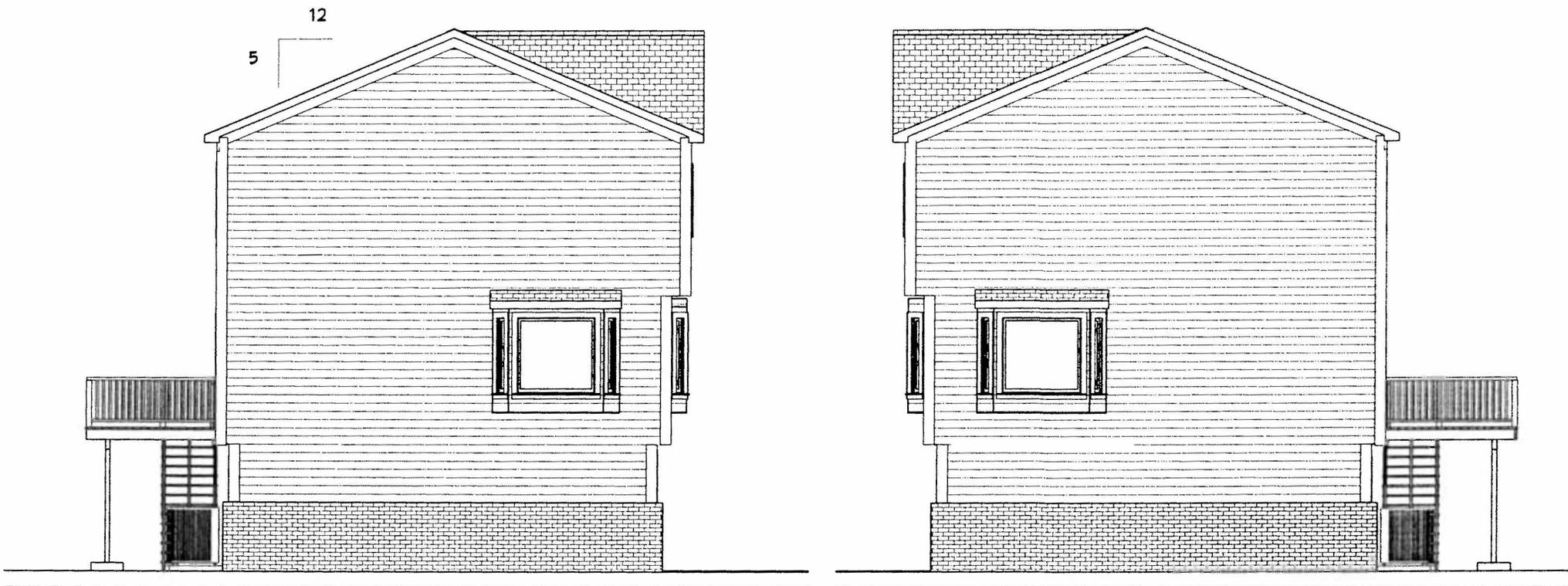
BUILDER: LISBOA  
 BUILDER'S CUSTOMER: SPEC

SHEET TITLE  
**REAR ELEVATION**

DRAWN BY: DW  
 DATE: 7/6/12  
 SCALE: AS NOTED

SHEET NO.

**A-4**



LEFT ELEVATION

SCALE: 1/4" = 1'

RIGHT ELEVATION

NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



**WESTCHESTER MODULAR HOMES, INC.**  
 AN EMPLOYER OWNED COMPANY  
 CONTACT US: 1-800-832-3888

30 REAGANS MILL RD  
 WINGDALE, NY 12594  
 800-832-3888

[www.westchestermodular.com](http://www.westchestermodular.com)

PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**

BUILDER:

LISBOA

BUILDER'S CUSTOMER:

SPEC

SHEET TITLE

**ELEVATIONS**

DRAWN BY:

DW

DATE: 7/6/12

SCALE: AS NOTED

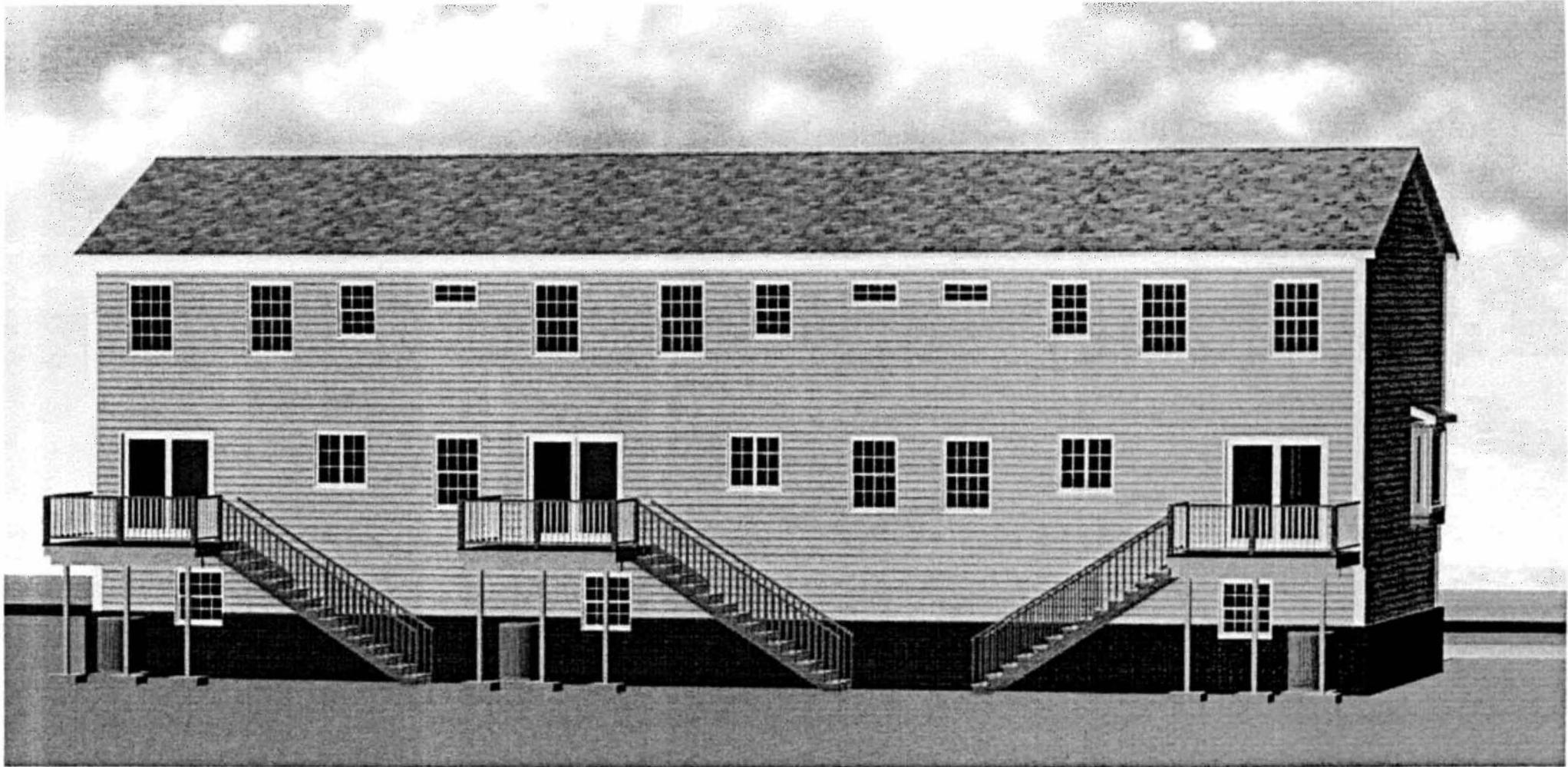
SHEET NO.

**A-5**



REVISIONS			 <b>WESTCHESTER MODULAR HOMES, INC.</b> <small>AN EMPLOYEE OWNED COMPANY</small> CONTACT US: 1-800-832-3888	PROJECT DESCRIPTION		SHEET TITLE	SHEET NO.	
NO.	DESCRIPTION	BY DATE		<b>PLEASANT ST. PROJECT</b>				
1	REVISIONS	DW 7/11/12	30 REAGANS MILL RD WINGDALE, NY 12594 800-832-3888	BUILDER:	BUILDER'S CUSTOMER:	DRAWN BY:	DATE: 7/6/12	
2	REVISIONS	DW 7/16/12		LISBOA	SPEC		DW	SCALE: AS NOTED
3	REVISIONS	DW 8/22/12						
4	REVISIONS	DW 2/24/13						
5	REVISIONS	DW 3/4/13						

[www.westchesterm modular.com](http://www.westchesterm modular.com)



REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



**WESTCHESTER MODULAR HOMES, INC.**  
 AN EMPLOYEE OWNED COMPANY  
 CONTACT US: 1-800-832-3888

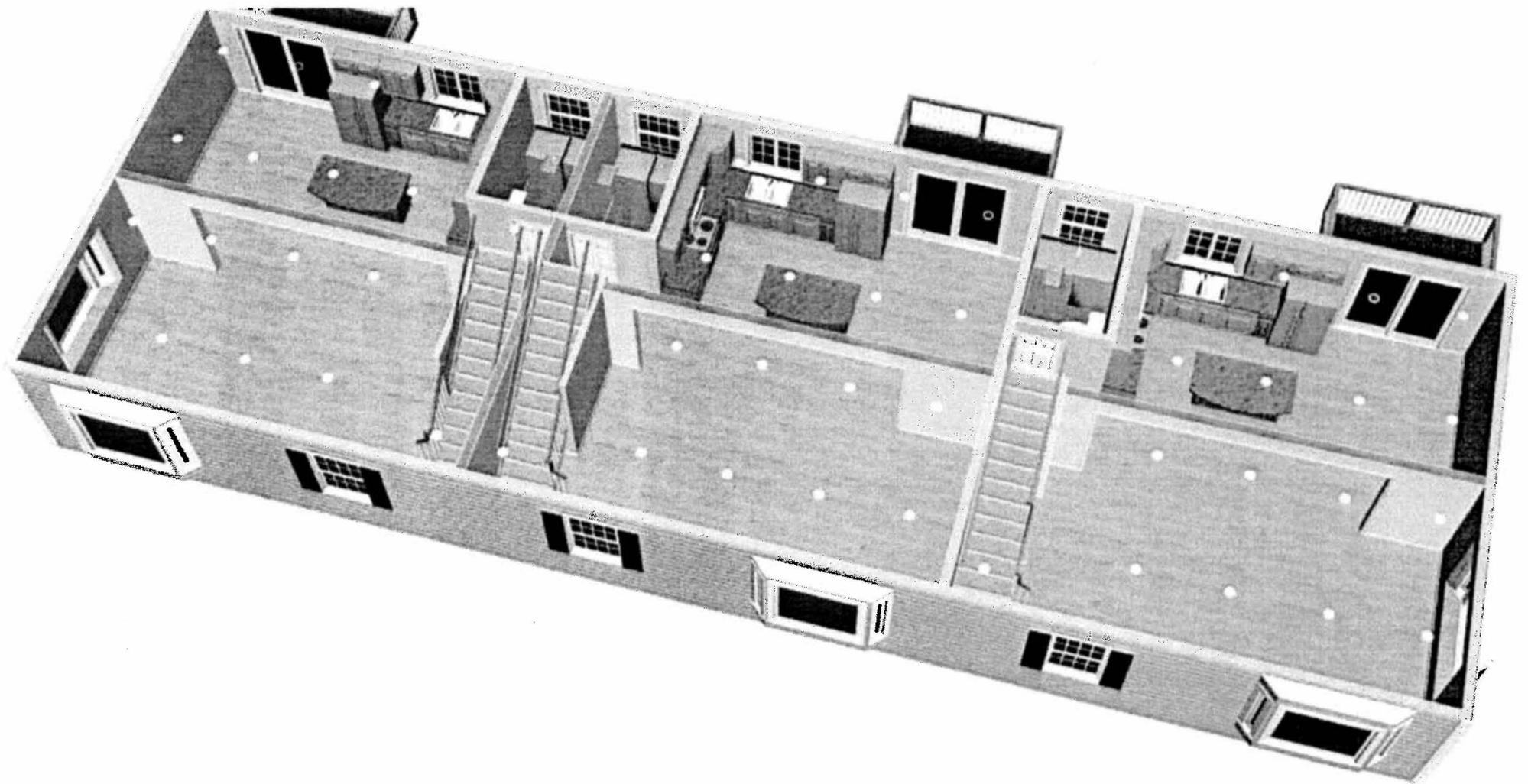
30 REAGANS MILL RD  
 WINGDALE, NY 12594  
 800-832-3888

[www.westchestermodular.com](http://www.westchestermodular.com)

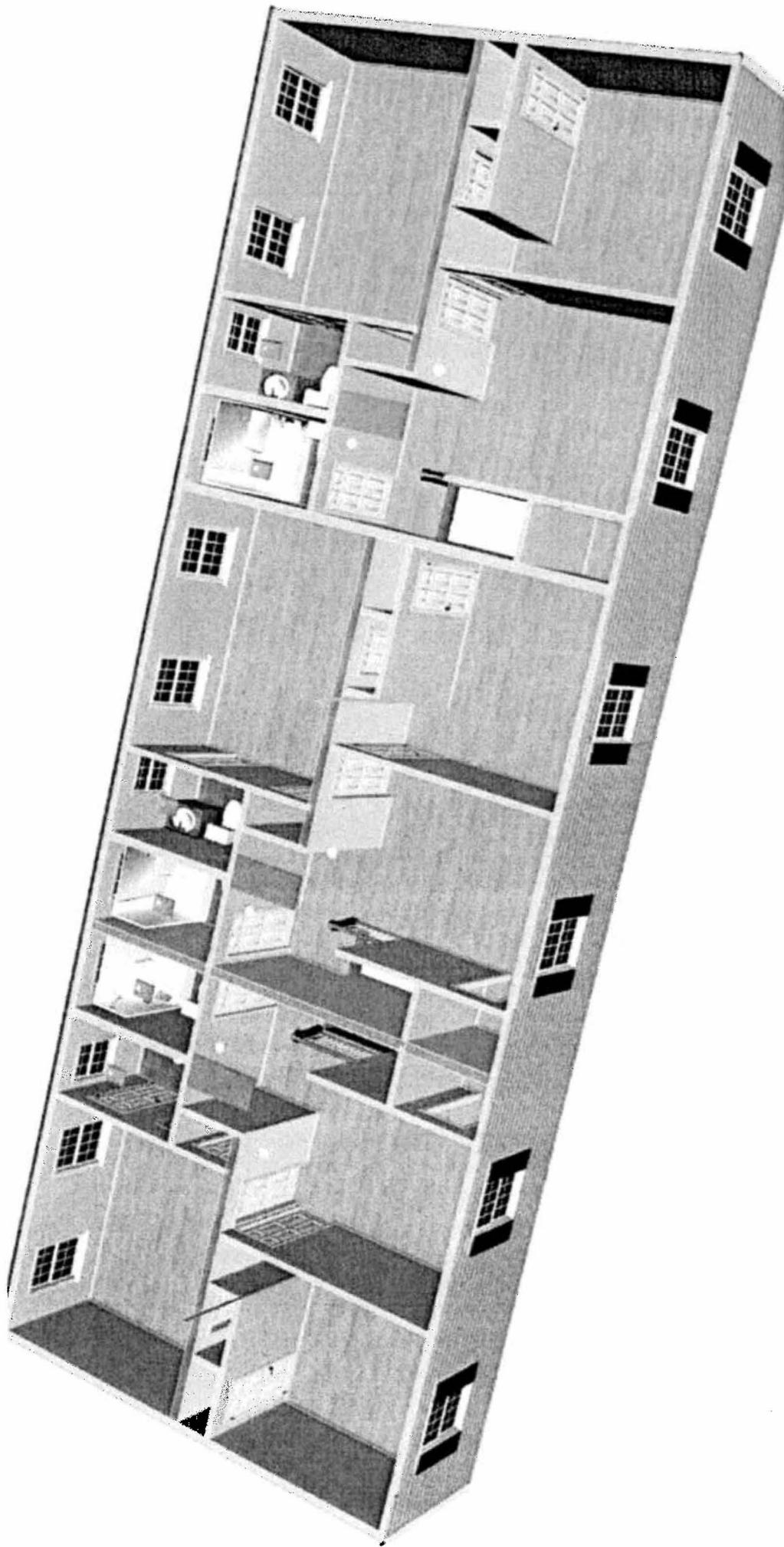
PROJECT DESCRIPTION  
**PLEASANT ST. PROJECT**  
 BUILDER: LISBOA  
 BUILDER'S CUSTOMER: SPEC

SHEET TITLE  
  
 DRAWN BY: DW  
 DATE: 7/16/12  
 SCALE: AS NOTED

SHEET NO.



REVISIONS				 <b>WESTCHESTER MODULAR HOMES, INC.</b> <small>AN EMPLOYEE OWNED COMPANY</small> <small>CONTACT US: 1-800-832-3888</small>	PROJECT DESCRIPTION		SHEET TITLE		SHEET NO.
NO.	DESCRIPTION	BY	DATE		<b>PLEASANT ST. PROJECT</b>				
1	REVISIONS	DW	7/11/12	BUILDER:	BUILDER'S CUSTOMER:	DRAWN BY:			
2	REVISIONS	DW	7/16/12	LISBOA	SPEC	DATE: 7/6/12			
3	REVISIONS	DW	8/22/12			SCALE: AS NOTED			
4	REVISIONS	DW	2/24/13						
5	REVISIONS	DW	3/4/13						
<a href="http://www.westchestermodular.com">www.westchestermodular.com</a>				30 REAGANS MILL RD WINGDALE, NY 12594 800-832-3888					



REVISIONS NO. DESCRIPTION BY DATE 1 REVISIONS DM 7/11/12 2 REVISIONS DM 7/16/12 3 REVISIONS DM 8/22/12 4 REVISIONS DM 2/24/13 5 REVISIONS DM 3/4/13		 <b>WESTCHESTER MODULAR HOMES, INC.</b> A COMMITMENT TO EXCELLENCE CONTACT US: 1-800-803-3388 <a href="http://www.westchestermodular.com">www.westchestermodular.com</a>		30 REAGANS MILL RD MINGDALE, NY 12544 800-852-3686		PROJECT DESCRIPTION <b>PLEASANT ST. PROJECT</b> BUILDER: L980A BUILDER'S CUSTOMER: SPEC		SHEET TITLE DRAWN BY: DM DATE: 7/6/12 SCALE: AS NOTED		SHEET NO.	
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------	--	--------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------	--	-----------	--

## Lisa Thomas

---

**From:** Greg <greg@mitrakaslaw.com>  
**Sent:** Thursday, May 02, 2013 9:54 AM  
**To:** Donald Rider; Lisa Thomas  
**Cc:** City Council  
**Subject:** RE: 126 Pleasant Street - Proposed Special Permit

Thank you.

Greg Mitrakas, Esq.  
Law Offices of Greg Mitrakas  
297 E. Main Street  
Marlboro, MA 01752-2653  
Tel (508) 481-4544  
Fax (508) 480-8228

This Transmission may contain confidential information belonging to the Sender which is legally privileged and which is intended solely for the use of the individual or entity named herein. Any copying, disclosure, or dissemination of this information, or the taking of any action based on the contents of this communication by another person or entity other than that to whom this communication is directed is strictly prohibited. If you have received this transmission in error, please notify us immediately either by email or telephone. Thank you.

[www.mitrakaslaw.com](http://www.mitrakaslaw.com)

---

**From:** Donald Rider [<mailto:drider@marlborough-ma.gov>]  
**Sent:** Wednesday, May 01, 2013 6:59 PM  
**To:** [lthomas@marlborough-ma.gov](mailto:lthomas@marlborough-ma.gov)  
**Cc:** City Council; [greg@mitrakaslaw.com](mailto:greg@mitrakaslaw.com)  
**Subject:** 126 Pleasant Street - Proposed Special Permit

Lisa-

Attached is a proposed special permit for 126 Pleasant Street (including 2 pdf attachments), in substitution of the proposed special permit I placed on the April 22 agenda. Also attached is a cover letter explaining why I am submitting the revised special permit for the Council's consideration.

Hard copies to be delivered tomorrow morning.

Thanks.

-Don

Donald V. Rider, Jr.  
City Solicitor  
City Hall, 4th Floor  
140 Main Street  
Marlborough, MA 01752  
T: (508) 460-3771  
F: (508) 460-3698

## Lisa Thomas

---

**From:** City Council  
**Sent:** Wednesday, May 01, 2013 7:01 PM  
**To:** Donald Rider; Lisa Thomas  
**Cc:** greg@mitrakaslaw.com  
**Subject:** RE: 126 Pleasant Street - Proposed Special Permit

Thank you.  
/KB

---

**From:** Donald Rider  
**Sent:** Wednesday, May 01, 2013 6:59 PM  
**To:** Lisa Thomas (lthomas@marlborough-ma.gov)  
**Cc:** City Council; greg@mitrakaslaw.com  
**Subject:** 126 Pleasant Street - Proposed Special Permit

Lisa-

Attached is a proposed special permit for 126 Pleasant Street (including 2 pdf attachments), in substitution of the proposed special permit I placed on the April 22 agenda. Also attached is a cover letter explaining why I am submitting the revised special permit for the Council's consideration.

Hard copies to be delivered tomorrow morning.

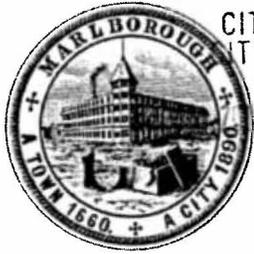
Thanks.

-Don

Donald V. Rider, Jr.  
City Solicitor  
City Hall, 4th Floor  
140 Main Street  
Marlborough, MA 01752  
T: (508) 460-3771  
F: (508) 460-3698

This e-mail message is generated from the City of Marlborough Legal Department. It may contain information that is privileged as an attorney-client communication or as attorney work-product, or that is otherwise confidential. The information is intended to be disclosed solely to, and received solely by, the intended recipient, and delivery of this message to any person other than the intended recipient shall not compromise or waive such privilege or confidentiality. If you are not the intended recipient, please be advised that any distribution, disclosure, printing, copying, storage, modification or use of the contents of this e-mail, or the taking of any action in reliance thereon, is prohibited. If you have received this e-mail in error, please notify the sender by return e-mail and delete it from your computer system. Thank you for your cooperation.

This e-mail message is generated from the City of Marlborough Legal Department. It may contain information that is privileged as an attorney-client communication or as attorney work-product, or that is otherwise confidential. The information is intended to be disclosed solely to, and received solely by, the intended recipient, and delivery of this message to any person other than the intended recipient shall not compromise or waive such privilege or confidentiality. If you are not the intended recipient, please be advised that any distribution, disclosure, printing, copying, storage, modification or use of the contents of this e-mail, or the taking of any action in reliance thereon, is prohibited. If you have received this e-mail in error, please notify the sender by return e-mail and delete it from your computer system. Thank you for your cooperation.



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

*City of Marlborough*  
**Legal Department**

MAY -2 A 11:58 140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

**DONALD V. RIDER, JR.**  
CITY SOLICITOR

**CYNTHIA M. PANAGORE GRIFFIN**  
ASSISTANT CITY SOLICITOR

**BEVERLY J. SLEEPER**  
CHIEF PROCUREMENT OFFICER

**ELLEN M. STAVROPOULOS**  
PARALEGAL

May 2, 2013

Patricia Pope  
President  
Marlborough City Council

RE: Results Way Mixed Use Overly District –  
Proposed Development Agreement with Atlantic-Marlboro Realty, LLC  
Order No. 12/13-1005154E

Dear President Pope and Members:

As per a vote of the Urban Affairs Committee, I have reviewed the proposed Development Agreement with Atlantic-Marlboro Realty, LLC. I forwarded to the LLC's counsel my series of revisions, the single most important of which was adding a new Section 9 which specifies the City's enforcement rights as to the LLC's obligations under the Agreement. The LLC's counsel has reviewed and approved my proposed revisions. Accordingly, the revised Development Agreement is enclosed for your consideration. Note that Chapter 650-33.C(2) requires a super majority (2/3) vote for approval of the Agreement.

Note, also, that Chapter 650-33.C(1) requires a super majority (2/3) vote for approval of the Master Concept Plan. While Urban Affairs did hear the LLC's presentation on the Plan, the Committee did not take a vote on the Plan. Accordingly, the full Council needs to take a vote on the Plan, separate from the vote on the Agreement (as to which Urban Affairs did recommend approval).

A proposed order covering both super majority votes is also enclosed for your convenience. Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosures

cc: David Gadbois, Esquire  
Robert Buckley, Esquire

ORDERED:

That the City Council of the City of Marlborough hereby approves the following:

- 1) By a super majority (2/3) vote pursuant to Chapter 650-33.C(1) of the City's Zoning Ordinance, the City Council hereby approves the Master Concept Plan presented by Atlantic-Marlboro Realty, LLC on a plan entitled, "Forest Park – Master Plan, Marlborough, MA," dated April 16, 2013, drawn by SMMA (Symmes Maini & McKee Associates); and
- 2) By a separate super majority (2/3) vote pursuant to Chapter 650-33.C(2) of the City's Zoning Ordinance, the City Council hereby approves the Development Agreement by and between Atlantic-Marlboro Realty, LLC and the City of Marlborough; and further, the Council hereby authorizes the Mayor to execute the said Agreement on the City's behalf, and to monitor and enforce compliance by Atlantic-Marlboro Realty, LLC and by the owner of each so-called Development Parcel with the Agreement's terms and conditions.

ADOPTED

In City Council

Order No 12/13-1005154F

Adopted

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:

## DEVELOPMENT AGREEMENT

This Development Agreement (hereinafter, the "Agreement") is entered into as of the \_\_\_\_ day of May, 2013, by Atlantic-Marlboro Realty, LLC (hereinafter with any nominee, successor or assign, the "Developer"), and the City of Marlborough, Massachusetts (hereinafter, the "City").

WHEREAS, Developer is the owner of approximately 110 acres of land known as 200 Forest Street and 2 Results Way, Marlborough, Middlesex County, Massachusetts, which land is more particularly described in a deed from Hewlett-Packard Company recorded with the Middlesex South District Registry of Deed (hereinafter, the "Registry") in Book 57382, Page 127 as further described in Exhibit "A" appended hereto (hereinafter, the "Property"); and

WHEREAS, the Developer desires to develop the Property for a mixed use development as permitted under the Results Way Mixed Use Overlay District (the "Overlay Zoning") adopted by the City on December 21, 2012 to include a variety of uses including, without limitation, office, multi-family residential, retail and restaurant uses, and to construct buildings and structures thereon (hereinafter, the "Project"), to be located on one or more subdivided portions of the Property (each, hereinafter a "Development Parcel"); and

WHEREAS, as required under the terms of the Overlay Zoning, the Developer agrees to impose on the Property the limitations set forth herein, for the benefit of the City, which shall have the power to enforce the terms hereof; and

WHEREAS, the Developer and the City wish to set forth herein their agreement on the aforementioned matters;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer hereby declares the following development restrictions on the Property, and the Developer and the City agree as follows:

1. The Developer, for itself and its nominees, successors and assigns, hereby imposes on the Property the limitations and obligations set forth below, which limitations and obligations shall be for the benefit of and be enforceable by the City. The terms hereof shall bind the Property for a period of thirty (30) years from the date when this Agreement is recorded with the Registry, which Agreement shall be senior in priority to any liens, encumbrances or mortgages. It is the intention of the parties that, except as otherwise set forth herein, the Agreement shall run with the Property

for said thirty (30) years, notwithstanding any foreclosure of any lien on the Property by any entity. The Agreement is subject to the terms of M.G.L. Chapter 184, as hereinafter provided.

2. The Developer shall enter into a reciprocal easement agreement (hereinafter, the "Reciprocal Easement Agreement") governing, at a minimum, vehicle and pedestrian access and shared parking in those areas identified as "RETAIL DEVELOPMENT ENVELOPE," "COMMERCIAL DEVELOPMENT ENVELOPE," "HOSPITALITY DEVELOPMENT ENVELOPE" and "RESIDENTIAL DEVELOPMENT ENVELOPE" on a plan entitled, "Forest Park – Master Plan, Marlborough, MA," dated April 16, 2013, drawn by SMMA (Symmes Maini & McKee Associates) (hereinafter, the "Master Concept Plan"). The Developer, at its sole expense, shall record at the Registry the executed Reciprocal Easement Agreement and shall provide the City Solicitor's Office with a copy of the recorded Reciprocal Easement Agreement.

3. The Developer shall work with the City Council to identify a mutually agreeable location for easement areas for bicycle and/or pedestrian recreation activities, and the Developer shall grant such easement areas to the City for nominal consideration. The easements shall be in form and substance satisfactory to the Developer and the City. It is the intention of the parties that, to the fullest extent permitted by law, these easements shall constitute an "interest in land" under M.G.L. Chapter 21, Section 17C and the parties hereto shall be afforded all the rights, protection and privileges and benefits granted thereunder.

4. The owner of any Development Parcel containing residential use shall make a one-time payment to the City prior to the issuance of any building permit for the construction of a residential dwelling unit on such Development Parcel equal to One Thousand Dollars (\$1,000.00) per residential dwelling unit (hereinafter, such amounts being referred to as the "Residential Development Contribution"). The Residential Development Contribution shall be used by the City, acting by and through the City Council, to assist the City in the identification and implementation of zoning, economic and other strategies to foster professional, retail and commercial development incentives as well as the development of affordable housing which may include, without limitation, the preparation of a Housing Production Plan in accordance with the rules and regulations of the Massachusetts Department of Housing and Community Development (760 CMR 56.03(4)) and the funding of the implementation of the goals and objectives set forth in such plan. The payment of the Residential Development Contribution by the owner of any Development Parcel containing residential use is made in recognition of the benefits to the Property of such undertakings by the City.

5. To assist the City in economic development activities, the Developer shall (at no out of pocket cost to the Developer) cooperate with and support the City in its application to obtain grant financing or public monies for public infrastructure improvements which monies provide a direct or indirect benefit to the Property. The City shall (at no out of pocket cost to the City) cooperate with and support the Developer in its application to obtain any required permits and approvals for the

Project, including, without limitation, approval for the Project under the Massachusetts Environmental Policy Act.

6. The City Council, in connection with its review of any special permit and/or site plan review application submitted in connection with any Development Parcel(s) under the terms of the Overlay Zoning, shall be permitted to retain the experts and consultants reasonably determined by the City Council as necessary to conduct an appropriate review of any such application. The reasonable costs and expenses of such experts and consultants shall be paid by the owner of the Development Parcel(s) submitting such application. The City Council shall provide such owner with the Council's selected name, scope of services and projected costs of the expert or consultant it proposes to retain. Such owner shall have five (5) business days, from the date of such owner's receipt of the City Council's proposed selection, to approve or object to that proposed selection, and any such objection shall be in writing and shall specify the reasons for objection. If the owner fails to object, the owner shall be deemed to have approved the City Council's selection. If the owner objects and the basis for objection cannot be resolved, the City Council shall provide the owner with an alternative selection. An owner shall, within thirty (30) calendar days of such owner's receipt, pay any invoice provided to such owner by the City Council relating to services provided by a selected expert or consultant that has been approved pursuant to the foregoing, in connection with a special permit and/or site plan review application submitted in connection with any Development Parcel(s) owned by such owner.

7. The Developer, with the filing of the first special permit and/or site plan review application in connection with any Development Parcel(s) under the terms of the Overlay Zoning, shall contribute Ten Thousand Dollars (\$10,000.00) to the City to allow the City, acting by and through the City Council, to undertake the analysis of the feasibility of implementing a shuttle or other transportation service to serve the Property as well as other properties and connecting to other locations in the City including the downtown corridor as well as other transportation hubs such as, but not limited to, commuter rail stations. Upon the City's completion of the foregoing analysis and upon written request from the City, the Developer shall contribute an additional Forty Thousand Dollars (\$40,000.00) to assist the City in implementing a pilot program based upon the findings of this analysis or, in the alternative, another traffic initiative selected by the City.

8. To mitigate potential impacts from traffic resulting from the development of the Property, the Developer shall, within thirty (30) calendar days of the filing of an approval of a special permit with the City Clerk (without appeal thereof) and/or site plan review application in connection with any Development Parcel(s) under the terms of the Overlay Zoning, pay to the City a "Traffic Mitigation Payment" equal to the product of \$1,500.00 multiplied by the resulting aggregate number of parking spaces shown on the Master Concept Plan in excess of 2,910 (the number that existed on the initial Master Concept Plan approved by the City Council). The base of 2,910 parking spaces shall be increased for any spaces for which a Traffic Mitigation Payment is made. For example, if a special permit is issued for a project at the Property the result of which is that the number of parking spaces at the Property were

to increase to 3,010, the Traffic Mitigation Payment would be \$150,000.00 (100 x \$1,500.00) and the base on which future Traffic Mitigation Payments would be calculated would be increased to 3,010 (2,910 + 100). This process of adjustment to base parking spaces on which the Traffic Mitigation Payment is calculated would continue throughout the development of the Property. For the purpose of this Agreement, a parking space is defined as an area dedicated for parking on a site plan approved by the City Council that is paved (excluding driveways) or a structure constructed, regardless of whether the spaces are actually striped or otherwise delineated. The funds paid hereunder shall be used by the City, acting by and through the City Council, to undertake traffic analysis and/or improvements that will have a direct impact on the transportation infrastructure serving the Property. Notwithstanding the foregoing, the owner of the Development Parcel identified as RESIDENTIAL DEVELOPMENT ENVELOPE on the Master Concept Plan shall have no obligation for any payments under this Section 8.

9. The City shall have the right to enforce the terms hereof insofar as they pertain to the Developer, including, without limitation, Section 3 (granting of easement areas to the City), Section 5 (cooperating and supporting the City in applying for grant financing or public monies for public infrastructure improvements), Section 7 (monetary contributions to the City as to feasibility analysis and implementation of shuttle or other transportation service), and Section 8 (making Traffic Mitigation Payments to the City). The City may elect to exercise such rights by appropriate legal proceedings for monetary and/or injunctive and other equitable relief, and such proceedings shall be in addition to, and not in limitation of, any and all other rights and remedies available to the City in law and in equity. The City shall have the option to enforce the terms hereof insofar as they pertain to the Developer, but does not have the obligation to do so. The Developer shall reimburse the City for all reasonable costs and expenses (including, without limitation, attorneys' fees) incurred by the City in enforcing this Agreement against the Developer, provided that the Developer is adjudged to be in violation of this Agreement by a court of competent jurisdiction or the Developer acknowledges the same. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

10. The City shall have the right to enforce the terms hereof against the owner of any Development Parcel(s) by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violation by such owner, including, without limitation, specific performance and/or relief requiring removal of any improvements constructed on such Development Parcel in violation of the terms hereof (it being agreed that the City has no adequate remedy at law), and such right shall be in addition to, and not in limitation of, any and all other rights and remedies available to the City in law and in equity. A default hereunder by the owner of a Development Parcel or Development Parcels shall not constitute a default hereunder by owner of any other Development Parcel or Development Parcels, and the City shall have no right to enforce the terms hereof against the owner of a Development Parcel except in the event of a violation related to the Development Parcel(s) owned by such owner. The City shall have the option to enforce the terms hereof, but does not have the obligation to do so. By its acceptance of this Agreement, the City does not undertake any liability or obligation relating to the condition of the Property, nor

does the City's execution of this Agreement operate as a waiver of the requirements of any state or local laws, rules, regulations, or ordinances applicable to the use of the Property or any part thereof. The owner of any Development Parcel(s) shall reimburse the City for all reasonable costs and expenses (including, without limitation, attorneys' fees) incurred by the City in enforcing this Agreement against such owner and/or its Development Parcel(s) or in remedying or abating any violation on such Development Parcel(s), provided that such owner is adjudged to be in violation of this Agreement by a court of competent jurisdiction or such owner acknowledges the same. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

11. The restrictions hereby conveyed do not grant to the public in general any right to enter the Property, except for the public's right to use the easement areas for bicycle and/or pedestrian recreation activities as referenced in Section 3 herein. All other rights not expressly granted hereby are reserved to the Developer, including, without limitation, fee ownership of the Property.

12. Each of the parties hereto shall be responsible for their own attorney's fees incurred in connection with the preparation and review of this Agreement.

13. The City agrees from time to time to execute a certificate in form and substance reasonably satisfactory to the owner of any Development Parcel evidencing such owner's compliance with the terms and conditions of this Agreement, provided that such owner is then, in fact, in compliance with the terms and provisions of this Agreement, and if not, such certificate shall specify such owner's non-compliance.

14. The Developer, at its sole expense, shall record this Agreement at the Registry. After it has been recorded, this Agreement can only be modified if such modification is in writing signed by the City, the Developer and, if applicable, the owners of all Development Parcels affected by such modification.

15. Any notices hereunder shall be in writing and shall be deemed duly given upon receipt if mailed by certified or registered mail, postage and registration charges paid, by overnight delivery service with receipt, or by hand delivery to the City or the Developer, as applicable, at the addresses set forth below; provided, however, that the City, the Developer and/or any owner of a Development Parcel may, from time to time, designate an additional or substitute address for such notices (provided, that such designation must be made by notice given in accordance with the foregoing).

To the City of Marlborough:

City of Marlborough  
140 Main Street  
Marlborough, MA 01752  
Attention: Mayor

With a copy (which shall not constitute notice) to:

City of Marlborough  
140 Main Street  
Marlborough, MA 01752  
Attention: City Solicitor's Office

To Developer:

Atlantic-Marlboro Realty, LLC  
c/o Atlantic Management Corporation  
205 Newbury Street  
Framingham, MA 01701  
Attention: President

With a copy to:

Riemer & Braunstein LLP  
7 New England Executive Park  
Burlington, MA 01803  
Attention: Robert C. Buckley, Esq.

16. Each and every term, condition and provision hereof shall be fully enforceable and binding on the City and the Property (and/or each Development Parcel, as applicable).

17. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

18. While market conditions shall dictate the phasing of the development of the Property, at present it is envisioned that the residential and components of the commercial development will proceed simultaneously within one (1) year of the execution of this Agreement. The hospitality and retail components of the project are presently contemplated to begin within the next twenty-four (24) – thirty-six (36) months.

19. The City Council hereby approves the provisions of this Agreement, which approval shall be set forth in an order to be recorded herewith by the Developer at its sole expense, with a copy of the recorded document to be provided to the City Solicitor's Office. The City Council hereby authorizes the Mayor to execute this Agreement on the City's behalf, and to monitor and enforce compliance by the Developer and by the owner of each Development Parcel with the Agreement's terms and conditions.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this instrument is sealed and delivered as of this \_\_\_\_ day of \_\_\_\_\_, 2013.

Atlantic-Marlboro Realty, LLC  
By its Manager

City of Marlborough

By: \_\_\_\_\_  
Arthur G. Vigeant, Mayor

By: \_\_\_\_\_

Title: \_\_\_\_\_

**THE COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013 before me, the undersigned notary public, personally appeared \_\_\_\_\_, as Manager of Atlantic-Marlboro Realty, LLC, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned,, to be the person whose name is signed on the preceding or attached document(s), and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of Atlantic-Marlboro Realty, LLC.

*(official seal)*

Notary Public  
My Commission Expires: \_\_\_\_\_

**THE COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013 before me, the undersigned notary public, personally appeared Arthur G. Vigeant, as Mayor of the City of Marlborough, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document(s), and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the City of Marlborough.

*(official seal)*

Notary Public  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

A CERTAIN PARCEL OF LAND SITUATED ON THE SOUTHERLY SIDE OF FOREST STREET, WESTERLY SIDE OF INTERSTATE ROUTE 495 AND THE EASTERLY SIDE OF SIMARANO DRIVE IN THE CITY OF MARLBOROUGH, COUNTY OF MIDDLESEX, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY CORNER OF THE INTERSECTION OF SIMARANO DRIVE AND FOREST STREET, SAID POINT BEING THE NORTHWESTERLY CORNER OF HEREINAFTER DESCRIBED PARCEL; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF ONE HUNDRED FIFTY AND THIRTY-NINE HUNDREDTHS FEET (150.39') TO A POINT; THENCE

S 89° 18' 23" E A DISTANCE OF TWO HUNDRED SIX AND THIRTY-THREE HUNDREDTHS FEET (206.33') TO A POINT THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THIRTY AND NO HUNDREDTHS FEET (1030.00'), A DISTANCE OF THREE HUNDRED FORTY-THREE AND FORTY-TWO HUNDREDTHS FEET (343.42') TO A POINT; THENCE

N 71° 35' 25" E A DISTANCE OF FOUR HUNDRED FIFTY-SIX AND SIXTY-FOUR HUNDREDTHS FEET (456.64') TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF TWO HUNDRED TEN AND EIGHTY-FOUR HUNDREDTHS FEET (210.84') TO A POINT; THENCE

S 87° 13' 00" E A DISTANCE OF FOUR HUNDRED TWENTY-EIGHT AND NINETY-TWO HUNDREDTHS FEET (428.92') TO A POINT; THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THREE HUNDRED SIXTY-TWO AND NINETY-THREE HUNDREDTHS FEET (1362.93'), A DISTANCE OF FOUR HUNDRED ONE AND FIFTY HUNDREDTHS FEET (401.50') TO A POINT; THENCE

N 75° 54' 18" E A DISTANCE OF THREE HUNDRED EIGHTY-EIGHT AND THIRTY-EIGHT HUNDREDTHS FEET (388.38') TO A POINT IN THE WESTERLY LINE OF INTERSTATE ROUTE 495, THE PREVIOUS EIGHT (8) COURSES BOUNDING ON THE SOUTHERLY LINE OF FOREST STREET; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF TEN THOUSAND ONE HUNDRED FIFTY-TWO AND NO HUNDREDTHS FEET (10152.00'), A DISTANCE

OF ONE THOUSAND SIXTY-SIX AND NINE HUNDREDTHS FEET (1066.09') BY THE WESTERLY LINE OF INTERSTATE ROUTE 495 TO A POINT; THENCE

S 78° 36' 23" W A DISTANCE OF FIVE HUNDRED THIRTY-EIGHT AND TWENTY-FIVE HUNDREDTHS FEET (538.25') TO A POINT; THENCE

S 27° 49' 51" W A DISTANCE OF ONE HUNDRED TWENTY-THREE AND THIRTY-SIX HUNDREDTHS FEET (123.36') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND ONE HUNDRED AND NO HUNDREDTHS FEET (1100.00'), A DISTANCE OF THREE HUNDRED AND EIGHTY-SIX HUNDREDTHS FEET (300.86') TO A POINT; THENCE

SOUTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF TWO HUNDRED TWENTY-THREE AND NO HUNDREDTHS FEET (223.00'), A DISTANCE OF TWO HUNDRED TWENTY-SEVEN AND NINETY-SIX HUNDREDTHS FEET (227.96') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FOUR HUNDRED FIFTY AND NO HUNDREDTHS FEET (450.00'), A DISTANCE OF FOUR HUNDRED EIGHTY-ONE AND SIXTY-EIGHT HUNDREDTHS FEET (481.68') TO A POINT; THENCE

S 42° 06' 53" W A DISTANCE OF ONE HUNDRED ELEVEN AND TWENTY-SIX HUNDREDTHS FEET (111.26') TO A POINT; THENCE

SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED TEN AND NO HUNDREDTHS FEET (510.00'), A DISTANCE OF FIVE HUNDRED SEVENTEEN AND NINETY-TWO HUNDREDTHS FEET (517.92') TO A POINT; THENCE

S 16° 04' 13" E A DISTANCE OF ONE HUNDRED FORTY-NINE AND NINETY-THREE HUNDREDTHS FEET (149.93') TO A POINT; THENCE

S 65° 34' 06" W A DISTANCE OF ONE HUNDRED THIRTY-SEVEN AND FIFTY-THREE HUNDREDTHS FEET (137.53') TO A POINT IN THE EASTERLY LINE OF SIMARANO DRIVE; THENCE

NORTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED THIRTY AND NO HUNDREDTHS FEET (530.00') A DISTANCE OF ONE HUNDRED SIXTY-EIGHT AND TWENTY-TWO HUNDREDTHS FEET (168.22') TO A POINT; THENCE

N 53° 42' 50" W A DISTANCE OF ONE THOUSAND SIX HUNDRED EIGHTY-EIGHT AND NINETY HUNDREDTHS FEET (1688.90') TO A POINT; THENCE

NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF SIX HUNDRED FORTY-SEVEN AND NINETY HUNDREDTHS FEET (647.90'), A DISTANCE OF SIX HUNDRED FIFTY-THREE AND TWENTY-FIVE HUNDREDTHS FEET (653.25') TO A POINT; THENCE

N 04° 03' 18" E A DISTANCE OF TWO HUNDRED THIRTY-FIVE AND NINETY-TWO HUNDREDTHS FEET (235.92') TO A POINT; THENCE

NORTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FOUR HUNDRED SEVENTY-SEVEN AND FORTY-NINE HUNDREDTHS FEET (477.49'), A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND SEVENTY-EIGHT HUNDREDTHS FEET (148.78') TO A POINT; THENCE

N 13° 47' 53" W A DISTANCE OF FOUR HUNDRED FORTY-ONE AND TWENTY-THREE HUNDREDTHS FEET (41.23') TO A POINT; THENCE

NORTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIFTY AND NO HUNDREDTHS FEET (50.00'), A DISTANCE OF SEVENTY-SEVEN AND NINETY-NINE HUNDREDTHS FEET (77.99') TO THE POINT OF BEGINNING. THE PREVIOUS SEVEN (7) COURSES BOUNDING ON THE SAID EASTERLY LINE OF SIMARANO DRIVE.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS AN AREA OF 109.47 ACRES AND IS MORE PARTICULARLY SHOWN ON A PLAN ENTITLED "COMPILED PLAN OF LAND IN MARLBOROUGH, MASS. & SOUTHBOROUGH, MASS." DATED NOVEMBER 23, 1994; PREPARED BY THE BSC GROUP, INC AND RECORDED WITH MIDDLESEX SOUTH DISTRICT REGISTRY OF DEEDS AS PLAN NO. 1254 OF 1994.

MARLBOROUGH ASSESSOR'S MAP 101, PARCEL 2.

03375/21

1552405.4

# Assabet Valley Regional Vocational School District

215 Fitchburg Street  
Marlborough, Massachusetts 01752-1288

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

Mary Jo Nawrocki  
Superintendent - Director

Mark R. Hollick  
Principal

Patrick C. Collins  
Assistant Superintendent

May 2, 2013

Ms. Patricia Pope, City Council President  
City Hall  
140 Main Street  
Marlborough, MA 01752

Dear Ms. Pope and Fellow Councilors:

As you know, the Assabet Valley Regional Vocational School District received approval for a 62.4 million dollar major renovation project for which we are still grateful to the city council for its support. Early in the process, the project management team, Strategic Building Solutions, inquired regarding building fees so we could build and submit to the Massachusetts Building Authority our budget plans. As is most often the case, municipalities waive these fees for public works projects. On or about August 16, 2011 Mr. Overmoyer had a confirming conversation with the former building inspector, Stephen Reid, who indicated that all permit fees would be waived. Mr. Reid indicated that this was a result of a conversation with Mayor Stevens.

Subsequently, the school building committee acted on this information and submitted a budget plan to the MSBA and it approved our budget plan without any permitting fees included.

A contract for the project was awarded to CTA Construction who submitted all plans and other requirements in order to get permits approved. At this time we learned that the building inspector's office questioned the fee waiver.

Over the past several weeks we have been meeting with the mayor and he explained that the city council has the authority to make fee waivers. At this time we are looking for your guidance to resolve this issue in order that our building project may move forward.

Sincerely,



Mary Jo Nawrocki  
Superintendent-Director

MJN/jb

Berlin, Hudson, Maynard, Marlborough,  
Northborough, Southborough, Westborough  
(508) 485-9430

STATE SCHOLARS INITIATIVE



Equal Opportunity Institution

Boylston, Clinton, Shrewsbury,  
West Boylston  
1-800-537-6663



# MASSDEVELOPMENT

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 APR 29 P 5:02

160 Federal Street  
Boston, Massachusetts  
02110

Tel: 617-330-2000  
800-445-8030

Fax: 617-330-2001  
617-451-3429

[www.massdevelopment.com](http://www.massdevelopment.com)

April 25, 2013

City Council  
Marlborough City Hall  
140 Main Street  
Marlborough, MA 01752

Dear Members of the Council:

On April 11, 2013 the Massachusetts Development Finance Agency gave preliminary approval to issue a revenue bond on behalf of STEM Soaring Eagles Foundation, Inc. The proposed project would be located in Marlborough, Massachusetts at the address listed on the attached summary included for your information. The bond would be issued pursuant to Chapter 23G and 40D of the General Laws.

The Agency's policy is to advise the appropriate local and regional planning agencies to ascertain the relationship of a proposed project to any existing state, local or regional comprehensive plan.

The purpose of this letter is to notify you of the project and to request that you advise in the event that the proposed project conflicts with an existing local or regional comprehensive plan. If you would like further information on the project, or if you would like the Agency to consider any comments you may have, please give me a call.

Sincerely,

Robert Seega  
Vice President

Enclosure: Summary

cc: Bowditch & Dewey, LLP  
One International Place  
Boston, MA 02112  
Attn: Jane V. Hawkes, Esq.

RS/jck

**SOARING EAGLES FOUNDATION**

REQUEST: To assist the applicant in financing a governmental project, approval of the proposed project for a MassDevelopment Tax-Exempt Bond issue is requested.

BORROWER: Borrower: STEM Soaring Eagles Foundation, Inc. (together, with any parent, subsidiary, or other affiliate)  
201 Forest Street  
Marlborough, MA 01752  
User(s): Advanced Math and Science Academy Charter School

PROJECT LOCATION: 251 Locke Drive, Marlborough, MA 01752

PROJECT: Proposed is the purchase and renovation of an existing 160,000 sq. ft. building located on 12.5 acres of land. The renovations will include the construction of 70 classrooms, science labs, athletic facilities, and other school activity related spaces. The STEM Soaring Eagles Foundation, Inc., which was created to support the school, will own the building and enter into a long term lease with the Advanced Math and Science Academy Charter School.

GUIDELINE ISSUES: None

SOURCES & USES: Sources:  
**Total:** \$25,000,000  
Uses:  
**Total:** \$25,000,000

BOND AMOUNT: \$25,000,000

EMPLOYMENT: Current employment at project site: 0  
Total employment in state: 130  
Borrower projected new employment at site: 0  
MDFa calculated new construction jobs: 156

INSTITUTION:

The Advanced Math and Science Academy Charter School (AMSA) is located in Marlborough, Massachusetts and was designed to meet the need for high quality math and science secondary education in the Marlborough, Hudson, Maynard, and Clinton region.

AMSA's rigorous curriculum and reputation of excellence has drawn students from many surrounding communities outside the region of service, including Shrewsbury, Worcester, Westborough, Southborough, Northborough, Ashland, Hopkinton, Upton, Bolton, Framingham, Natick, West Boylston, and Grafton.

Chartered by the Commonwealth of Massachusetts in May 2004, the school opened its doors to 239 students in grades six and seven in September 2005 and ended the year with 275 students. Each subsequent year, the school enrolled a new class of sixth graders, expanding the grade span by one year.

The Commissioner of Elementary and Secondary Education approved the renewal of the school's charter, without condition, on January 29, 2010. The Board of Elementary and Secondary Education approved a charter amendment to increase the school's enrollment maximum from 828 to 966 students and to increase grades served from six through eleven to six through twelve, on February 25, 2010. In September 2010, AMSA enrolled 966 students in grades six through twelve.

PUBLIC PURPOSE  
BENEFIT:

The project will allow the school to purchase and own its facility and reduce its occupancy costs, thus allowing the school to expand their programming for students.

PRINCIPALS:

Craig Holbrook, Chair of the Board of Trustees  
Rashid Shalkh, Vice Chair of the Board of Trustees  
John Lomot, Treasurer of the Board of Trustees  
John Brucato, Executive Director of the School

BOARD ACTION:

Approve the resolution authorizing Official Action for a MassDevelopment Tax-Exempt Bond.

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

**CITY OF MARLBOROUGH  
OFFICE OF THE CITY CLERK**

**APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT**

2013 MAY -2 A 11:42

1. Name and address of Petitioner or Applicant:

Sandra & Anthony Antico Real Estate LLC; 72 Jefferson Street, Marlborough, MA 01752

2. Specific Location of property including Assessor's Plate and Parcel Number.

72 Jefferson Street, Unit 103; Map 56, Parcel 150

3. Name and address of owner of land if other than Petitioner or Applicant:

N/A

4. Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.)

5. Specific Zoning Ordinance under which the Special Permit is sought:

Article V Section 650-17 Paragraph \_\_\_\_\_ Sub-paragraph \_\_\_\_\_

6. Zoning District in which property in question is located:

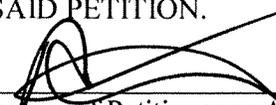
Commercial and Automotive (CA)

7. Specific reason(s) for seeking Special Permit

The Applicant seeks a special permit for an indoor recreation area that will include various children's entertainment features that can be used by children, under the supervision of their parents or guardians, for birthday parties and on other special occasions. Commercial recreation establishments and places of amusement are allowed by special permit in the CA District.

8. List of names and addresses of abutter. SEPARATE SHEET ATTACHED

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HEREWITH AND MADE PART OF SAID PETITION.

  
\_\_\_\_\_  
Signature of Petitioner or Applicant

Arthur P. Bergerson, Esq.

Address: Mirick, O'Connell, DeMallie & Lougee

100 Front Street

Worcester, MA 01608

Telephone No. (508) 791-8500

Date: \_\_\_\_\_

LIST OF NAMES AND ADDRESS OF ABUTTERS  
AS REQUESTED ON THE APPLICATION FOR SPECIAL PERMIT OF:

Sandra & Anthony Antico Real Estate LLC  
(Name of Petitioner)

FOR THE ISSUANCE OF SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH UNDER CHAPTER 650, ZONING, OF THE CODE OF THE CITY OF MARLBOROUGH.

(Abutters as defined in §650-59, Section 4H, **Powers and Procedure of Special-Permit Granting Authorities**)

See Attached Certified List of Abutters.

## SPECIAL PERMIT-SUMMARY IMPACT STATEMENT

Sandra & Anthony

Applicant's Name: Antico Real Estate LLC Address: 72 Jefferson St., Marlborough, MA 01752  
Unit 103

Project Name: Hop N Jump Address: 72 Jefferson St./, Marlborough, MA 01752

1. PROPOSED USE: (describe) Indoor children's recreation and amusement establishment.

---

2. EXPANSION OR NEW: Will operate in existing building.
3. SIZE: floor area sq. ft. 5,000 1<sup>st</sup> floor \_\_\_\_\_ all floors \_\_\_\_\_  
# buildings 1 # stories 1 lot area (s.f.) 46,921 s.f.
4. LOT COVERAGE: 90.7 % Landscaped area: 9.3 %
5. POPULATION ON SITE: Number of people expected on site at anytime:  
Normal: 15 Peak period: 60
6. TRAFFIC:
  - (A) Number of vehicles parked on site:  
During regular hours: 10 Peak period: 20
  - (B) How many service vehicles will service the development and on what schedule?  
None.

---

7. LIGHT: How will the development be lit at the exterior? How much light will leave the property and enter the abutting property? Existing building wall lights and stand-alone parking area lights will be maintained. Little to no light leaves the property.

---

8. NOISE:
  - (A) Compare the noise levels of the proposed development to those that exist in the area now.  
Same.
  - (B) Described any major sources of noise generation in the proposed development and include their usual times of operation. Noise will be limited to cars entering and existing the property and customers walking to and from their cars during regular business hours. There will be no outdoor recreation facilities.

---

9. AIR: What sources of potential air pollution will exist at the development? \_\_\_\_\_  
None other than cars entering and exiting the property.

---

10. WATER AND SEWER: Describe any unusual generation of waste. None.

---

11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will this waste be stored? Where? How much will be in storage on a daily basis? How will it be disposed? None.

**\*Attach additional sheets if necessary**



**CITY OF MARLBOROUGH  
MARLBOROUGH, MASSACHUSETTS 01752**

City Hall  
140 Main St.

Marlborough, Massachusetts 01752

Voice (508) 460-3775 Facsimile (508) 460-3723 TTD (508) 460-3610

President and Members City Council

Date: 5/2/13

**SPECIAL PERMIT APPLICATION  
CERTIFICATION BY PLANNING DEPARTMENT**

Project Name: Hop N Jump

Project Use Summary: Indoor children's recreation and amusement facility.

Project Street Address: 72 Jefferson Street, Unit 103

Plate: 56 Parcel: 150

Applicant/Developer Name: Sandra & Anthony Antico Real Estate LLC

Plan Date: April 25, 2013 Revision Date: N/A

Dear President and Members:

In accordance with the City Council's Rules for Special Permit Applications, I hereby certify that the Site Plan filed with the City Clerk has been reviewed by the Building Department within the limits of work shown on the plan, and that said plan meets all prior referenced informational requirements of Section 7; that the plan conforms in all aspects to City Code and to these Rules and Regulations, and that any necessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals, and any applicable appeal period concerning said variances have run.

Very truly yours,

Michael Mendoza

Building Commissioner

**Application Fee to submit to  
City Clerk's office**

\$250.00

**City of Marlborough, Massachusetts  
CITY CLERK DEPARTMENT**



**Lisa M. Thomas  
City Clerk**

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all Municipal tax returns and paid all Municipal taxes required under law.

N/A

**Signature of Applicant**

A handwritten signature in black ink, appearing to be 'Arthur P. Bergeron', is written over a horizontal line. The signature is fluid and cursive.

**Attorney on behalf of Applicant, if applicable**  
Arthur P. Bergeron, Esq.

The Special Permit Package will not be accepted unless this certification clause is signed by the applicant and the Tax Collector.

A handwritten signature in black ink, appearing to be 'Deborah G. F.', is written over a horizontal line. The signature is cursive and includes a small 'x' at the end.

**Tax Collector**

PAID  
4/30/13 - \$25.  
M

\$25.00



RECEIVED  
CLERK'S OFFICE  
MARLBOROUGH

**City of Marlborough, Massachusetts  
CITY CLERK DEPARTMENT**

29 P 5

If you have any questions regarding this renewal, please feel free to contact 630-857-2100

**Lisa M. Thomas  
City Clerk**

MARLBOROUGH, MA

DATE: 4/15/2013

**To the City Council:**

Owner Name: Best Buy Stores, LP #1966

Residential Address: mailing: 2200 Cabot Dr., Ste 300, Lisle, IL 60532

Telephone Number: 612-291-4863

Business Name: Best Buy Stores, LP #1966

Business Address: 601 Donald Lynch Road, Ste N137, Marlborough, MA 01752

Business Telephone Number: 508-460-0232

Owner Signature:

The above-signed Robert Jamsa

granted a Junk-Dealer's License

respectfully requests that he/she be  
\_license.

---

**In City Council**

Paid  
4/20/13 - \$25.<sup>00</sup>  
HT

\$25.00



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

**City of Marlborough, Massachusetts  
CITY CLERK DEPARTMENT**

2013 APR 29 P 5:55  
If you have any questions regarding  
this renewal, please feel free to  
contact 630-857-2100

**Lisa M. Thomas  
City Clerk**

MARLBOROUGH, MA

DATE: 4/15/2013

**To the City Council:**

Owner Name: Best Buy Stores, LP #820

Residential Address: mailing: 2200 Cabot Dr., Ste 300, Lisle, IL 60532

Telephone Number: 612-291-4863

Business Name: Best Buy Stores, LP #820

Business Address: 769 Donald Lynch Blvd., Marlborough, MA 01752

Business Telephone Number: 508-460-3775

Owner Signature

The above-signed Robert Jamsa

granted a Junk-Dealer's License

respectfully requests that he/she be

license.

**In City Council**

**MEMO**

**Central Mass.  
Mosquito Control  
Project**

[www.cmmcp.org](http://www.cmmcp.org)

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 APR 22 P 1



TO: CMMCP member Boards of Health  
FROM: Timothy Deschamps, Executive Director  
RE: Earth Day 2013  
DATE: April 18, 2013

In celebration of Earth Day 2013, CMMCP announces a goal of recycling 10,000 tires in our source reduction program. To date we have collected 9,404 tires in 34 member communities; we are only 594 off our goal!! If you would like to coordinate an event with us, please call (508) 393-3055 and ask for Tim McGlinchy, or e-mail him at [mcglinchy@cmmcp.org](mailto:mcglinchy@cmmcp.org). We also have a curbside program where residents can call our office or e-mail us at [used\\_tires@cmmcp.org](mailto:used_tires@cmmcp.org) and we will schedule a pick up.

This program was launched in 2010 in celebration of Earth Day as a value-added service to our member communities. Tires are collected at no charge to residents or member communities, and are brought to a recycling facility in Littleton, MA. Additional information on this program, including certain restrictions, can be found at this link: <http://www.cmmcp.org/tires.htm>.

Tires in the environment are a preferred larval habitat for several species of mosquitoes, some of which can transmit West Nile Virus. By removing these larval habitats, we not only beautify the environment, but reduce risk from mosquito-borne illnesses without using any pesticides – this is a major tenet of our Integrated Pest Management (IPM) program. We were recognized for our efforts in 2011 by MassRecycle, a non-profit organization of individuals, businesses and agencies that promotes recycling and waste reduction. We were selected from 54 other organizations and presented with the BRONZE Award in the Institution and Non-Profit category.

cc: Town Administrators/Managers, Boards of Selectmen & Conservation Commissions

## DEPARTMENT OF Public Utilities

This statement is filed in accordance with Chapter 164, Section 84A

## CONDENSED FINANCIAL RETURN

FOR YEAR ENDED DECEMBER 31, 2012

NSTAR GAS COMPANY

FULL NAME OF COMPANY

800 BOYLSTON STREET

LOCATION OF PRINCIPAL BUSINESS OFFICE

BOSTON, MA 02199

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 APR 25 A 10:13

## STATEMENT OF INCOME FOR THE YEAR

Item	Current Year	Increase or (Decrease) from Preceding Year
OPERATING INCOME		
Operating Revenues	376,193,409	(\$49,675,773)
Operating Expenses		
Operation Expense	285,817,071	(\$43,492,223)
Maintenance Expense	9,576,831	(\$588,040)
Depreciation Expense	25,121,953	\$1,681,581
Amortization of Utility Plant	532,506	(\$870,559)
Amortization of Regulatoru Debits	3,803,676	\$952,164
Amortization of Investment Tax Credit	(186,736)	(\$0)
Taxes other than Income Taxes	14,223,421	(\$1,080,193)
Income Taxes	(12,801,509)	(\$8,503,716)
Provisions for Deferred Federal Income Taxes	20,318,831	\$5,084,756
Federal Income Taxes Deferred In Prior Years..(Credit)		\$0
Total Operating Expenses	346,406,043	(46,816,229)
Net Operating Revenues	29,787,366	(2,859,543)
Income from Utility Plant Leased to Others	-	-
Other Utility Operating Income		
Total Utility Operating Income	29,787,366	(2,859,543)
OTHER INCOME		
Income from Mdse. Jobbing & Contract Work	-	-
Income from Nonutility Operations	32,745	-
Nonoperating Rental Income	254,356	5,032
Interest and Dividend Income	27,408	12,971
Miscellaneous Nonoperating Income	7,576	(7,526)
Total Other Income	322,085	10,477
Total Income	30,109,451	(2,849,065)
MISCELLANEOUS INCOME DEDUCTIONS		
Miscellaneous Amortization	-	-
Other Income Deductions	3,256,502	2,913,925
Total Income Deductions	3,256,502	2,913,925
Income Before Interest Charges	26,852,949	(5,762,991)
INTEREST CHARGES		
Interest on Long-Term Debt	12,311,000	0
Amortization of Debt Discount and Expense	130,897	27,144
Amortization of Premium on Debt-Credit	-	0
Interest on Debt to Associated Companies	272,954	149,838
Other Interest Expense	269,386	24,947
Interest Charged to Construction-Credit	(7,912)	(6,246)
Total Interest Charges	12,976,325	195,684
Net Income	13,876,624	(5,958,675)

## BALANCE SHEET

Title of Account	Balance End of Year	Title of Account	Balance End of Year
<b>UTILITY PLANT</b>		<b>PROPRIETARY CAPITAL</b>	
Utility Plant.....	884,214,435	<b>CAPITAL STOCK</b>	
<b>OTHER PROPERTY AND INVESTMENTS</b>		Common Stock Issued.....	71,425,000
Nonutility Property.....	4,243,352	Preferred Stock Issued.....	-
Investment in Associated Companies.....		Capital Stock Subscribed.....	-
Other Investments.....	6,000	Premium on Capital Stock.....	
Special Funds.....		Total.....	71,425,000
Total Other Property and Investments	4,249,352	<b>SURPLUS</b>	
<b>CURRENT AND ACCRUED ASSETS</b>		Other Paid-In Capital.....	215,574,703
Cash.....	2,486,859	Earned Surplus.....	(7,909,320)
Special Deposits.....	-	Surplus Invested in Plant.....	-
Working Funds.....	-	Total.....	207,665,383
Temporary Cash Investments.....	-	Total Propriety Capital.....	279,090,383
Notes and Accounts Receivable.....	47,511,687	<b>LONG-TERM DEBT</b>	
Receivables from Associated Companies.....	1,271,004	Bonds.....	210,000,000
Materials and Supplies.....	24,078,183	Advances from Associated Companies.....	-
Prepayments.....	-	Other Long-Term Debt.....	-
Interest and Dividends Receivable.....	-	Total Long-Term Debt.....	210,000,000
Rents Receivable.....	(67,344)	<b>CURRENT AND ACCRUED LIABILITIES</b>	
Accrued Utility Revenues.....	39,854,001	Notes Payable.....	
Misc. Current and Accrued Assets.....	-	Accounts Payable.....	22,351,629
Total Current and Accrued Assets.....	115,134,390	Payables to Associated Companies.....	96,064,715
<b>DEFERRED DEBITS</b>		Customer Deposits.....	1,143,390
Unamortized Debt Discount and Expense.....	1,090,996	Taxes Accrued.....	14,647,708
Extraordinary Property Losses.....	-	Interest Accrued.....	3,460,327
Preliminary Survey and Investigation Charges.....	11,364	Dividends Declared.....	-
Clearing Accounts.....	-	Matured Long-Term Debt.....	
Temporary Facilities.....	-	Matured Interest.....	-
Miscellaneous Deferred Debits.....	150,113,220	Tax Collections Payable.....	343,581
Total Deferred Debits.....	151,215,578	Misc. Current and Accrued Liabilities.....	7,630,791
<b>CAPITAL STOCK DISCOUNT AND EXPENSE</b>		Total Current and Accrued Liabilities.....	145,642,141
Discount on Capital Stock.....	-	<b>DEFERRED CREDITS</b>	
Capital Stock Expense.....	-	Unamortized Premium on Debt.....	-
Total Capital Stock Discount and Expense.....	-	Customer Advances for Construction.....	2,827,675
<b>REACQUIRED SECURITIES</b>		Other Deferred Credits.....	60,718,311
Reacquired Capital Stock.....	-	Total Deferred Credits.....	63,545,986
Reacquired Bonds.....	-	<b>RESERVES</b>	
Total Reacquired Securities.....	-	Reserves for Depreciation.....	300,372,550
Total Assets and Other Debits.....	\$ 1,154,813,757	Reserves for Amortization.....	7,333,811
		Reserves for Uncollectible Accounts.....	15,594,906
		Operating Reserves.....	13,414,429
		Reserve for Depreciation and Amortization of Nonutility Property.....	(3,197)
		Reserves for Deferred Income Taxes.....	119,822,747
		Total Reserves.....	456,535,246
		<b>CONTRIBUTIONS IN AID OF CONSTRUCTION</b>	
		Contributions in Aid of Construction.....	-
		Total Liabilities and Other Credits.....	\$ 1,154,813,757

## STATEMENT OF EARNED SURPLUS

Account	Amount for Year	Inc/(Dec) from Preceding Year
Unappropriated Earned Surplus (at beginning of period).....	\$ 5,785,944	\$ (81,598,229)
Balance Transferred from Income.....	13,876,624	(5,958,675)
Miscellaneous Credits to Surplus.....	-	-
Miscellaneous Debits to Surplus.....	-	-
Appropriations of Surplus.....	-	-
Net Additions to Earned Surplus.....	13,876,624	(5,958,675)
Dividends Declared-Preferred Stock.....	-	-
Dividends Declared-Common Stock.....	16,000,000	0
Unappropriated Earned Surplus (at end of period).....	(7,909,320)	(87,556,904)

## ELECTRIC OPERATING REVENUES

Account	Operating Revenues	
	Amount for Year	Inc/(Dec) from Preceding Year
<b>SALES OF ELECTRICITY</b>		
Residential Sales.....	\$	
Commercial and Industrial Sales.....		
Small (or Commercial).....		
Large (or Industrial).....		
Public Street and Highway Lighting.....		
Other Sales to Public Authorities.....		
Sales to Railroad and Railways.....		
Interdepartmental Sales.....		
Miscellaneous Electric Sales.....		
Total Sales to Ultimate Consumers.....		
Sales for Resale.....		
Less: Provision for Rate Refunds.....		
Total Sales of Electricity.....		
<b>OTHER OPERATING REVENUES</b>		
Forfeited Discounts.....		
Miscellaneous Service Revenues.....		
Sales of Water and Water Power.....		
Rent from Electric Property.....		
Interdepartmental Rents.....		
Other Electric Revenues.....		
Total Other Operating Revenues.....		
Total Electric Operating Revenues.....	None	None

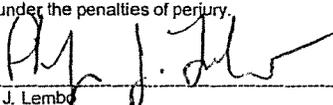
## SUMMARY OF ELECTRIC OPERATION AND MAINTENANCE EXPENSES

Functional Classification	Operation	Maintenance	Total
Power Production Expenses.....		\$	\$
Electric Generation.....			
Steam Power.....			
Nuclear Power.....			
Hydraulic Power.....			
Other Power.....			
Other Power Supply Expenses.....			
Total Power Production Expenses.....			
Transmission Expenses.....			
Distribution Expenses.....			
Customer Accounts Expenses.....			
Sales Expenses.....			
Administrative and General Expenses.....			
Total Electric Operation and Maintenance Expenses.....	None	None	None

GAS OPERATING REVENUES			
Account	Operating Revenues		
	Amount for Year	Increase or (Decrease) from Preceding Year	
<b>SALES OF GAS</b>			
Residential Sales.....	\$ 212,308,454	\$ (55,830,215)	
Commercial and Industrial Sales			
Small (or Commercial).....	81,797,615	(16,129,313)	
Large (or Industrial).....	6,470,261	(1,802,231)	
Other Sales to Public Authorities.....	311,654	(7,279,315)	
Interdepartmental Sales.....	-	-	
Miscellaneous Gas Sales.....	17,097,992	45,679,944	
Total Sales to Ultimate Consumers.....	317,985,978	(35,361,128)	
Sales for Resale.....	12,508,359	(8,766,915)	
Total Sales of Gas.....	330,494,336	(44,128,044)	
<b>OTHER OPERATING REVENUES</b>			
Forfeited Discounts-Late Payment Charges.....	222,455	(166,521)	
Miscellaneous Service Revenues.....	8,106,931	851,953	
Revenues from Transportation of Gas to Others.....	36,380,702	(5,093,090)	
Sales of Products Extracted from Natural Gas.....	-	-	
Revenues from Natural Gas Processed by Others.....	-	-	
Rent from Gas Property.....	807,245	83,138	
Interdepartmental Rents.....	-	-	
Other Gas Revenues.....	181,738	(1,223,209)	
Total Other Operating Revenues.....	45,699,073	(5,547,729)	
Total Gas Operating Revenues.....	376,193,409	(49,675,773)	

SUMMARY OF GAS OPERATION AND MAINTENANCE EXPENSES			
Functional Classification	Operation	Maintenance	Total
Steam Production.....	-	-	-
Manufactured Gas Production.....	-	-	-
Other Gas Supply Expenses.....	204,053,300	-	204,053,300
Total Production Expenses.....	204,053,300	-	204,053,300
Local Storage Expenses.....	938,717	202,725	1,141,442
Transmission and Distribution Expense.....	24,901,672	9,374,106	34,275,778
Customer Accounts Expense.....	19,881,595	-	19,881,595
Sales Expense.....	4,323,294	-	4,323,294
Administrative and General Expenses.....	31,718,493	-	31,718,493
Total Gas Operation and Maintenance Expenses.....	285,817,071	9,576,831	295,393,902

April 17, 2013, I hereby certify that the foregoing statements are full, just and true to the best of my knowledge and belief. This statement is signed under the penalties of perjury.

  
Philip J. Lembo  
Vice President and Treasurer

  
Jay S. Buth  
Vice President, Controller and Chief Accounting Officer

Minutes from the Advisory Committee for the new Senior Center

Date: March 19<sup>th</sup>, 2013 at 1:00 P.M. in the Mayor's Chambers

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 APR 19 A 10:58

Present: Debbie Beausoleil, Dennis Cavanaugh, Jennifer Claro, Brenda Costa, Councilor Don Landers, Barbara McGuire, Councilor Katey Robey, Bruce Schraft, Lydia Whitcomb and Norman Zinman.

Guests: Joseph Rizza, Principal-Courtstreet, Daniel Garte, project Architect- Dietz & CO and Kerry Logue, Project Manager and John Ghiloni, Director of Public Facilities.

Introductions were made by the Senior Center Advisory Committee, Collaborative partners and Cortstreet Architects and Dietz & CO in order to kick of the program design phase of the New Marlborough Senior Center.

Committee members began the discussion by asking members of the committee and project team to discuss what they thought was important to see in a new center. It was discussed at some point in the Advisory Committee process we have a community meeting for the public to attend to see and ask questions of the new proposed senior center.

Joe Rizza, Architect went over the proposed schedule of building a new Marlborough Senior center. There was some discussion on cost of senior center and it was clarified that this committee was not to worry about cost but to focus on what is needed for the new senior center regarding programs.

Committee requested that the Advisory Committee visit the Northborough and Franklin Senior Centers to look at different building styles and lay-out. Joe Rizza also built these two senior centers and encouraged committee members to visit centers. Advisory Committee Chairperson, Jennifer Claro agreed to organize a trip for Advisory Committee to visit these centers before their next meeting on April 18<sup>th</sup>, 2013.

Submitted by,  
Jennifer Claro   
Advisory Committee Chairperson

**MARLBOROUGH PLANNING BOARD  
MARLBOROUGH, MA 01752**

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

**Call to Order**

**April 8, 2013**  
2013 APR 23 A 9:28

The Meeting of the Marlborough Planning Board was called to order at 7:00pm in Memorial Hall, 3<sup>rd</sup> Floor City Hall 140 Main Street, Marlborough, MA. Members present included Barbara Fenby, Colleen Hughes, Sean Fay, Philip Hodge, Edward Coveney and Shawn McCarthy. Also in attendance were Board Secretary Melissa Irish and City Engineer Thomas Cullen.

Absent was Clyde Johnson

**1. Meeting Minutes:**

**A. March 25, 2013**

On a motion made by Mr. Fay, seconded by Ms. Hughes, it was voted to table the minutes of the March 25, 2013 meeting. Motion carried.

**2. Chair's Business:** None

**3. Approval Not Required:**

**A. 93 Framingham Road Lots 3&4 Decision**

Ms. Hughes read into record the letter of recommendation of approval from the Engineering Department, motion made by Ms. Hughes seconded by Mr. McCarthy to accept the recommendation and place it on file.

On a motion made by Mr. Coveney, seconded by Mr. McCarthy, it was voted to endorse the plan. Motion carried.

**B. Forest St (Partners Health Care) Decision**

Ms. Hughes read into record the letter of recommendation of approval from the Engineering Department, motion made by Ms. Hughes, seconded by Mr. Coveney, to accept the recommendation and place it on file.

On a motion made by Ms. Hughes, seconded by Mr. Coveney, it was voted to endorse the plan. Motion carried.

**4. Public Hearings:**

**A. Rescission of Definitive Subdivision Plan of Land located at Forest St and Hayes Memorial Drive**

The public hearing was opened at 7:15pm Ms. Hughes read the notice into record. The hearing was taken in the traditional 4 stages:

Presentation

Those speaking in Favor

Those speaking in Opposition

Questions from the Board Members

Presentation:

Attorney Arthur Bergeron in partnership with Mr. Scott Weiss of Gutierrez Company gave the presentation.

In Favor – No one spoke.

In Opposition – No one spoke

Questions from the Board Members: None

The Public Hearing was closed by Chairperson Fenby at 7:22pm.

On a motion made by Mr. Hodge, seconded by Mr. Coveney, it was duly voted to take the following action and act in the positive regarding:

1. Rescind approval of the plans
2. Fully release the Covenant; and
3. Fully release the Amended Covenant.

Motion carried with a vote of 6-0-0.

#### **5. Pending Sub Division Plans: Updates and Discussion:**

##### **A. City Engineers Report**

Mr. Cullen reported that the Engineering Department has supplied the Board with an updated subdivision status report. Two of the older subdivisions are still works in progress such as Waters Edge and Shaugnessy Estates II.

On a motion made by Mr. Coveney, seconded by Mr. McCarthy, it was duly voted to accept the report and place it on file. Motion carried.

##### **B. Ravenswood Discussion**

Mr. Cullen reported that he has not had a chance to fully review the plans; he will have an update for the Board at the next meeting.

Mr. Fay noted that he has received a call from Attorney Aykanian, regarding the driveway issue, as well as he will be visiting the site before the next meeting to gain a better understanding of the proposed placement of the new roadway. It was noted that it would be helpful if all members took a drive by the proposed site and any questions could be brought up at the next meeting.

#### **6. Preliminary/Open Space Submissions/Limited Development Subdivisions: None**

#### **7. Definitive Subdivision Submission: None**

#### **8. Signs: None**

#### **9. Unfinished Business:**

##### **A. Review/Discussion Support for Code Enforcement Officer Technology**

Mr. Fay noted that he has been in contact with Councilor Seymour the chair of the Legal and Legislative Affairs subcommittee regarding the issues being faced by the Code Enforcement Officer regarding signs. It is the desire to have the sign ordinance revisited and employ a stricter

wording for any possible future “grandfathering” clause. There are new “off premise” or “unpermitted” signs that have cropped up in new areas of the City such as but not limited to:

- The Piano Man, Boston Post Rd East
- McDonald’s on Maple Street
- Fay School Athletic Fields on Rte 85 South

All areas have been noted and passed along to the Code Enforcement Officer for follow up.

It has been noted that the technology request is being considered by the appropriate people.

A request has been made to place the “Downtown District” on the next agenda for review as well in regards to signs.

#### **B. Country Club Estates Update:**

Attorney Falk submitted an update for the Board, Solicitor Rider also noted that his office has been in touch with an appraiser and all is progressing. It appears that the reporting from the appraiser should be supplied to the Board for the June 3, 2013 meeting which in turn will allow time for review and approval by the Board prior to the June 30, 2013 imposed deadline.

#### **C. Black Horse Farms Update**

Mr. Cullen reported that the subdivision and roadways have been cleaned up as well as the bases for the street lighting have been delivered to the Site. Work is progressing.

It was noted to keep this item for reporting purposes on the next Planning Board agenda as well.

#### **D. Addition Hill Subdivision Modification**

Ms. Hughes read into record the findings of the City Engineer as follows:

- 1) As mentioned in the previous review of this subdivision modification, this proposed subdivision modification includes a relotting of the land, shortening the existing deadend roadway from the originally approved subdivision, modifying the profile of the existing subdivision roadway (i.e. cutting and the addition of a crest curve), adding/modifying drainage infrastructure, lowering the existing water main to maintain the required 5 feet of cover, and adding a proposed roundabout.
- 2) As previously mentioned, there were a number of waivers required for the originally approved subdivision. I believe that the waivers need to be reaffirmed, where applicable, for this subdivision modification and indicated on the plan set for consideration. This should be presented on the plan set in a table form with an approved column and not approved column for completion by the Planning Board.
  - a) Deadend length (IV,A,5a from existing subdivision plan) – The proposed subdivision modification shortens that length. Therefore, I believe the modification improves the subdivision and Engineering has no opposition to shortening the length of the deadend. I note that today’s standards require deadend roadways not to exceed 500’.
  - b) Roadway Width (V.B.2 from existing subdivision plan) – The proposed subdivision modification matches the existing roadway width. Therefore, Engineering has no opposition to matching the existing roadway width of the previously approved subdivision. I note that today’s standards require roadway widths for major streets for industrial & commercial to be 44’ minimum.
  - c) Sidewalk Both Sides (V.D.1 from existing subdivision plan) – The proposed subdivision modification matches the existing sidewalk configuration. Therefore,

Engineering has no opposition to matching the existing sidewalk configuration (i.e. sidewalk on one side). I note that today's standards require sidewalks on both sides and a 6' sidewalk width including curbing.

- d) Vertical granite curbing (V.D.2 from existing subdivision plan) along islands - Not applicable because today's standard indicated a shaped granite curbing or upright granite curbing.
- 3) There are a number of waivers being requested by the proponent and some that have not been:
- a) Comparative Analysis – The Engineering Division concurs with the statement made by the proponent relating to the shortening of the roadway network and the relotting of the subdivision. Therefore, Engineering has no opposition to this waiver request.
  - b) Major Features - The Engineering Division concurs with the statement made by the proponent relating to the shortening of the roadway network, the relotting of the subdivision, and the impacts little to no impacts on major features. Therefore, Engineering has no opposition to this waiver request.
  - c) Existing Profiles - Engineering has no opposition to this waiver request.
  - d) Hydraulic Calculations - Based on the subdivision modification being proposed, there is a net decrease in impervious area and therefore a positive impact to the existing drainage system. No further analysis is required for this portion of the project. Engineering has no opposition to this waiver request.
  - e) Locations of trees - Engineering has no opposition to this waiver request.
  - f) Streets Stationing - Engineering has no opposition to this waiver request.
  - g) Easements - Engineering has no opposition to this waiver request. The proponent has indicated a proposed 40-foot wide access easement from Lot 7 to Lot 6 on the plans.
  - h) Grading Plan - Engineering has no opposition to this waiver request based on the limited scope of the work within the proposed right of way.
  - i) Change in Grade (IV.B.4(b)) – Under IV.B.4(b), Major Street maximum slope of 5% does have applicability and the proponent has requested a waiver. Engineering would have no opposition to this waiver request noting the existing grade of the roadway is currently 6%.
  - j) With the new lotting of the subdivision, the proponent needed to ensure that access is made sufficient to serve the potential needs of said lot(s). The revised plans indicate a proposed 40-foot wide access easement from Lot 7 to Lot 6 on the plans.
- 4) The following two additional waivers are being requested by the proponent. Engineering has reviewed them with the proponent and the design constraints of both and we offer the following noting that both waivers, although independent, are connected from a design perspective for this subdivision modification:
- a) Slope of Roadway at cul-de-sac, IV.B.5(c), which states: “the slope of the road shall not exceed 3% beyond a point 75’ before the radius point of the turnaround area.” As stated, Engineering has reviewed this design criteria with the proponent and concurs with the design as currently presented noting the following:
    - i) Without lowering the cul-de-sac elevation by approximately two (2) additional feet, the design criteria cannot be met without modifying the approach roadway slope from 6% to 7.8%. A steeper roadway approach to the cul-de-sac is not a preferable design slope.
    - ii) The current approach roadway slope (Boston Scientific Way) is at 6% at the

major driveway connection from Sasseville Way. The submitted design is a design improvement to the existing conditions.

- b) Section IV.B.4(d) of the Planning Board's Rules and Regulations, Minimum Vertical Curve, states: "Vertical curves shall be a minimum of one hundred (100') feet in horizontal length and provide for a minimum sight distance of two hundred feet (200')." As stated, Engineering has reviewed this design criteria with the proponent and concurs with the design as currently presented (vertical curve 50' in horizontal length) noting the following:
- i) As previously stated, this design criteria and slope of roadway at cul-de-sac criteria for this site are connected together. To maintain a vertical curve 100' in horizontal length in combination with the slope approaching the cul-de-sac would require grading modifications to the approach roadway to the cul-de-sac which results in a steeper slope approaching the cul-de-sac which is not a preferable design slope (i.e. 7.8% and approach roadway work of approximately an additional 150' plus or minus).
  - ii) Vertical curves with a 50' length have been approved in the past noting that 50' lengths have been the minimum.
  - iii) According to the proponent's engineer, the resulting vertical curve provides a minimum sight distance of 200 feet plus.
  - iv)

In addition to the findings above the following condition was requested to be added by the City Engineer:

The proponent has provided a plan with an all stop condition entering the cul-de-sac (three driveways and Boston Scientific Way). I ask the Planning Board to condition the "stop" condition on the easterly approach to the cul-de-sac (Boston Scientific Way) such that this stop condition may be eliminated if so determined by the City Engineer. The concern is the approach slope and potential winter conditions.

The formal final plans also must have a note added stating:  
"Board of Health Approval by failure to report"

On a motion made by Ms. Hughes, seconded by Mr. Hodge, it was duly voted to accept the findings and place them on file. Motion carried.

Ms. Hughes read the requested listing of waivers into the record.

On a motion made by Mr. Fay, seconded by Mr. McCarthy, it was duly voted to approve the requested waivers numbering 1-14. Motion carried.

Ms. Hughes read the requested listing of conditions attached to the security covenant into record.

After much discussion, on a motion made by Mr. Fay, seconded by Mr. McCarthy, it was duly voted to amend the subdivision security covenant by adding the following conditions with Chairperson Fenby and Mr. Fay volunteering to work with the City Solicitor to put into proper legal form.

- Approval of the Traffic Commission regarding the stop condition

- Addition of the rail trail remote flashing beacon
- The consultation of the Conservation Officer in the improvement of the view shed pertaining to the project.

On a motion made by Mr. Fay, seconded by Mr. Coveney, it was duly voted to endorse the plan as amended. Motion carried.

On a motion made by Mr. Fay, seconded by Mr. Coveney, it was duly voted to accept the waivers on the amended plans. Motion carried.

On a motion made by Mr. Hodge, seconded by Mr. Coveney, it was duly voted to approve the certificate of vote as amended with the modifications as created by Chairperson Fenby and Mr. Fay and approved by the City Solicitor. Motion carried

**10. Informal Discussions:** None

**11. Correspondence:** None

**12. Public Notices of other Cities and Towns:**

- A. Town of Sudbury Zoning Board of Appeals, Notice of Decision March 18, 2013**
- B. Town of Berlin Zoning Board of Appeals, Public Hearing April 10, 2013**
- C. Town of Berlin Planning Board, Public Hearing May 6, 2013**
- D. Town of Hudson Zoning Board of Appeals, Notice of Decision March 14, 2013**
- E. Town of Framingham Planning Board, Public Hearing April 18, 2013**
- F. City of Marlborough Zoning Board of Appeals, Public Hearing April 9, 2013**

On a motion made by Ms. Hughes, seconded by Mr. Hodge it was voted to accept the notices A-F and place on file. Motion carried.

**Adjournment:** On a motion made by Mr. McCarthy seconded by Mr. Hodge it was voted to adjourn at 8:43pm.

Respectfully submitted,

Colleen Hughes

/mai

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2013 MAY -1 P 3:50



**CITY OF MARLBOROUGH  
OFFICE OF TRAFFIC COMMISSION  
140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on March 26, 2013 at 10:00 a.m. in the City Council Committee Room, City Hall. Members present: Chairman - Police Chief Mark Leonard, Vice Chairman – DPW Commissioner Ronald LaFreniere, Fire Chief James Fortin and City Clerk Lisa Thomas. Also present: City Engineer Thomas Cullen, Asst. City Engineer Tim Collins and local property owner Chrissy Manzi. Minutes taken by: Karen Lambert, MPD Records Clerk.

**1- Minutes**

The minutes of the Traffic Commission meeting of Tuesday, February 26, 2013.

MOTION was made, seconded, duly VOTED:  
TO APPROVE – Accept and place on file.

**2-New Business**

**2a) Parking concerns/signage on Hayden Street.**

Chrissy Manzi was in attendance for this issue. She explained in her e-mail to Chief Leonard that when events are held at Bigelow School there are problems with cars parking illegally along the guard rail on the one-way curve at the end of Hayden Street. She had pictures on her phone of illegally parked vehicles during a recent event at the school. She also noted an incident when a fire truck had to sound its horn until her tenant, who was legally parked, had to come out and move their vehicle. She has reported this situation to the police department in the past but has not had much luck. Cruisers have come down but vehicles have not been ticketed. Her concern is that emergency vehicles cannot get through. She also noted that she personally watched a garbage truck drive up onto the middle of the sidewalk to make the turn. She said that cars should not be allowed to park here illegally no matter what the circumstance. She asked if the no parking area could be extended. Tim Collins has looked at this street as the Commission was currently reviewing the “H’s” in the alphabetical street listing. He noted that the no parking sign at the fence is missing. This is in the middle of the curve.

The main issue appears to be on the curve where the fence is located. He passed out a diagram indicating the no parking area. The regulation appears to extend to 142 feet which is actually just before the curve. It was agreed that the regulation should be revised to include the full curve and for consistency it should extend to where the no parking area ends on the other side of the street. Commissioner LaFreniere thought that the Traffic Commission had looked into this issue before and that changes had already been made. He remembered a discussion with the prior Fire Chief that his trucks couldn't make the turn with vehicles parked here. Perhaps it was an oversight that the regulation wasn't amended. All agreed it was a simple matter of extending the no parking area 3 – 4 car lengths to free the curve.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to measure the linear feet for the revised regulation.

### 3-Old Business

#### **3e) Communication from Shawn Butland, re: truck exclusion on Ferrecchia Drive.**

Tom Cullen advised that Engineering has completed the traffic study on Ferrecchia Drive and he prepared a detailed summary for the Traffic Commission, including a spreadsheet with the actual breakdown of the counts and two diagrams – 1 with the proposed Detour Routes for a truck exclusion and the other with the proposed truck exclusion zoning map. He presented an overview of the analysis, the diagrams and the warrants for a truck exclusion. He found that warrant 1A was met, with regard to volume of trucks (5 to 8% of vehicles). However, based on the relatively low average daily traffic counts (i.e. 524 vehicles in a 24 hour period) he does not see that the volume of traffic reduces the utilization of Ferrecchia Drive or that it is cause for “a substantial reduction in capacity or safety.” It was also discussed that some of this truck volume is related to a particular resident who has heavy vehicles parked here and comes and goes. Buses are also counted in the truck count but are not excluded under a truck exclusion. It was noted that 8 bus routes go through here on a daily basis. Some of the other heavy vehicles could also be UPS / Federal Express trucks or other deliveries which would also still be allowed under a truck exclusion. Tom Cullen also noted that this roadway was just reconstructed in 2011 and does not feel that “further repeated heavy wheel loads will result in severe deterioration of the roadway.” If we were to move forward with a truck exclusion, trucks would then be diverted to a similar roadway.

As part of the counts, speed was determined as well. On average, 85% of vehicles were traveling under 29mph. Chief Leonard commented that according to this data, speed is not an issue. In his opinion, he does not see the need for a truck exclusion here. He said that it is not a speed issue, not a safety issue and the roadway can handle this type of traffic and volume.

Fire Chief Fortin asked if it was possible to install advisory signage that would alert trucks if they have taken a wrong turn, for example “to Locke Drive”. It appears to be GPS that is rerouting trucks through Ferrecchia. It was also noted that buses coming from Embassy Suites traveling to NESC also go out the back entrance, take a right and turn onto Ferrecchia. Chief Leonard asked if it was possible to restrict right turns for

commercial vehicles out of the lot. He mentioned that he could try to find the special permit for the back gate.

Commissioner LaFreniere advised that the State would need to approve any advisory signage, however, historically if “we are OK with this type of sign; the state is OK with it.” Step 1 would be to contact the State for approval and at least deal with one issue.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to contact the State for advisory signage for Locke Drive and to REFER to Chief Leonard to follow up on the special permit and back gate.

### **New Item not on Agenda**

#### **Request for Dead End sign on Kinder Circle**

Pam Wilderman forwarded a copy of an e-mail she received from local resident Frank Brockmeyer on March 15<sup>th</sup> in which he makes this request. Mr. Brockmeyer feels that unnecessary traffic on Kinder Circle could be reduced if there was a sign indicating that it was a dead end. He believes that many drivers take Kinder Circle by mistake thinking that they can cut through from Hemenway Street to Concord Road.

Engineering advised that this issue has already been resolved. A dead end sign has been installed at this location.

#### **3f) Communication from State Commission for the Blind, re: Farm Rd. near Country Lane pedestrian crossing.**

Engineering advised that a second crosswalk sign was added and two signs indicating “blind person” with arrows pointing to the crosswalk. Tim Collins passed out a photo of the area indicating the signage currently in place.

Commissioner LaFreniere advised that when Farm Road is reconstructed the crosswalk will be moved to the other side of Country Lane which will make for a clearer site distance from the corner at Broadmeadow. This is the best that can be done at this point.

MOTION was made, seconded, duly VOTED to REMOVE from agenda.

#### **3d) Traffic Commission rules and regulations update.**

The Commission reviewed another group of streets from the alphabetical listing on the “conflict list” at the direction of Tim Collins. The streets discussed were Hayden Street, Howe Street, High Street, Hildreth Street, Hosmer Street, Holmes Street, Hudson Street, Jefferson Street, Lambert Street, Langelier Street and Liberty Street. The purpose of this review is to be sure that the specific regulations in the manual match what is truly in existence at the street location. Final regulations for each street will be able to be viewed in the rules and regulations manual upon completion.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to make approved revisions and TABLE for discussion at next meeting.

**3a) Municipal off street parking regulation.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3b) High School parking regulations.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3c) Stop signs on Bigelow Street.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 11:16 am.

Respectfully submitted,

Karen L. Lambert  
Records Clerk  
Marlborough Police Department

**List of documents and other exhibits used at the meeting:**

-Meeting Agenda for Tuesday, March 26, 2013 (Including City of Marlborough Meeting Posting)

-E-mail from Chrissy Manzi to Chief Leonard, dated 3/13/13, re: Illegal parking on Hayden Street near Bigelow School, along with Chief Leonard's reply.

-E-mail from Pam Wilderman to Chief Leonard, dated 3/15/13, in which she forwarded request from Frank Brockmeyer for Dead End sign on Kinder Circle.

-E-mail from Tom Cullen to Ron LaFreniere, dated 2/28/13, Re: Harvard Street No Parking Restriction – Follow-up.

-E-mail from Tom Cullen to Chief Leonard, dated 3/25/13, Re: Proposed Heavy Commercial Vehicle Truck Exclusion – Ferrecchia. (Including formal proposal and supporting documents).

**Additional Handouts**

-Photograph of crosswalk on Farm Road at Country Lane indicating new signs on each side to highlight the crosswalk.

-Diagram of Hayden Street indicating "No Parking Anytime".

-Hard copy of Tom Cullen's proposal to Chief Leonard re: Heavy Commercial Vehicle Exclusion on Ferrecchia.