CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative & Legal Affairs Committee

Date: October 29, 2012

Time: 6:30 PM

Location: City Council Chamber, 2nd Floor, City Hall

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2012 OCT 17 P 7:20

Agenda Items to be addressed:

8-27-12 – ORDER #12-1005149
Communication from Solicitor re 93 Framingham Road, proposed conveyance of a portion of city-owned property – Reference: Melanson Development Group open space development
-REFER TO LEGISLATIVE & LEGAL AFFAIRS

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

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

IN CITY COUNCIL

Marlborough, Mass., AUGUST 27, 2012

ORDERED:

That the Communication from the City Solicitor re: 93 Framingham Rd., Proposed Conveyance of a Portion of City-Owned Property, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 12-1005149

10

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2012 AUG 23 A 10:01

August 23, 2012

Patricia Pope
President
Marlborough City Council

Re: 93 Framingham Road
Proposed Conveyance of a Portion of City-Owned Property

Dear President Pope and Members:

In December 2011, Melanson Development Group, Inc. ("MDG") submitted to the Marlborough Planning Board ("the Board") a special permit application for an open space development consisting of the land shown on Parcels 87, 93 and 94 of Marlborough Assessors Map 93. MDG became the owner of these parcels by deed recorded September 13, 2011. However, Parcel 87 is physically separated from Parcels 93 and 94 by a portion of a parcel owned by the City of Marlborough, namely, Parcel 93A. Enclosed for your convenience is a City GIS map denoting the various parcels.

In order for MDG to proceed with its special permit application to the Board, MDG needs to have sufficient 'legal standing' under zoning law. Section 650-28.D(2) of the Marlborough Zoning Ordinance, pertaining to site ownership in connection with open space developments, requires that a proposed open space development be "submitted with the binding consent of [the] different owners." MDG now seeks the City's "binding consent" for conveying the City's fee interest in Parcel 93A to MDG. The area in question is approximately 24,032 sq. ft. (0.55 acres). Note that, since a City sewer trunk line runs through Parcel 93A, the City would need to retain a permanent municipal easement in Parcel 93A for sewer purposes, and for passive recreation, as per the enclosed letter from the DPW Commissioner (which in turn encloses a Plan of Land showing the relevant portion of Parcel 93A as "Parcel 'D' ").

The following documents will be submitted for consideration by the relevant Council Committee and the full Council:

1. an order containing a declaration that the land is available for disposition, along with the specific restrictions that the Council will place on the subsequent use of the property, as required by MGL c. 30B, § 16(a);

2. a report by William F. Curley, Jr. Associates, Certified General Real Estate Appraisers, dated June 26, 2012, appraising the estimated value of the property to be $24,000.00, as required by MGL c. 30B, § 16(b), along with a

letter from the Marlborough Assessors Office, confirming that estimate. (Note that a request for proposals is not required for disposition of real property with a value less than $25,000. Note also that the value of the property is conceptually distinct from the price the City could seek for the sale of that property.);

3. a draft of a quitclaim deed to be prepared in final form by this office and approved by the Mayor and Commissioner of Public Works; and

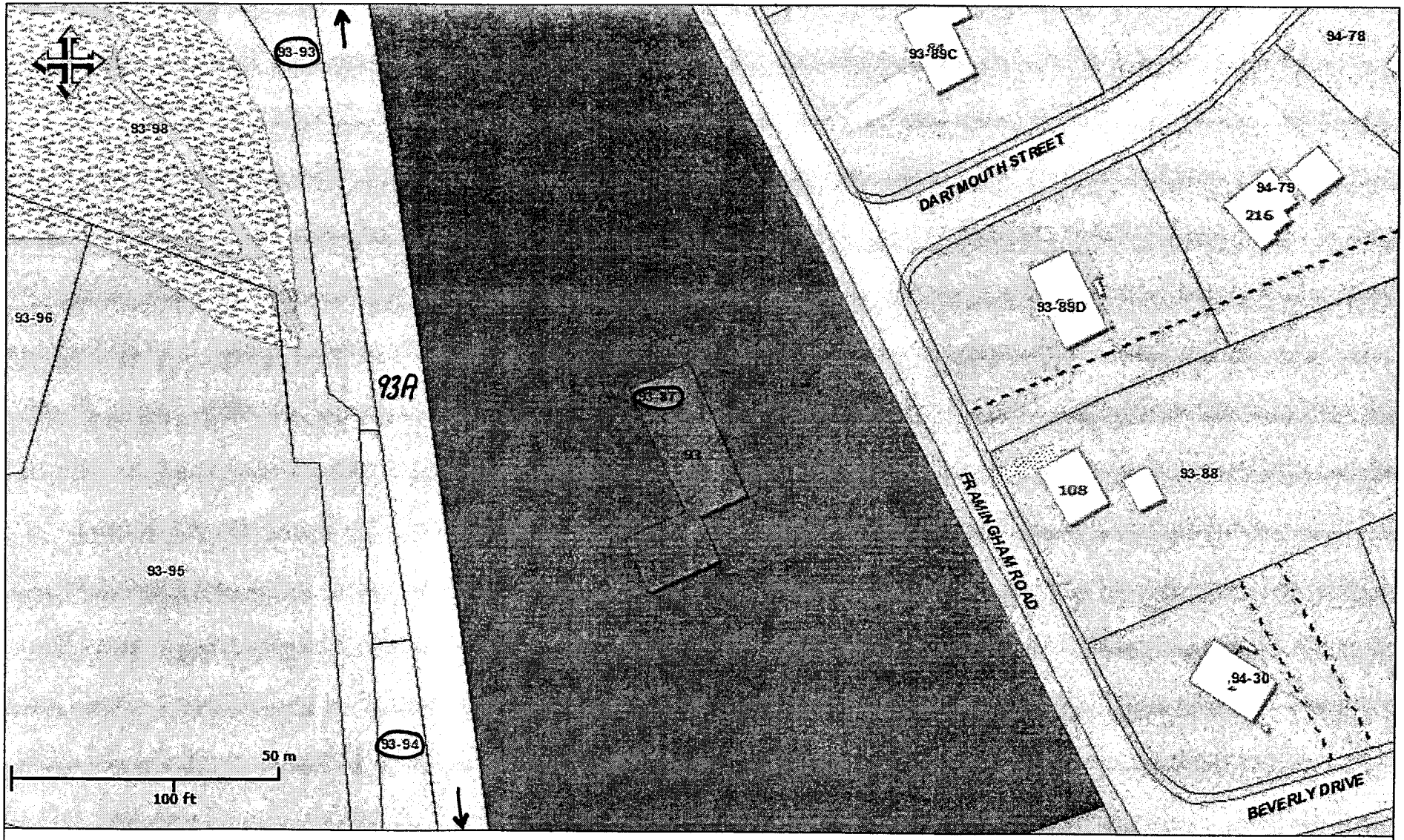
4. a Disclosure of Beneficial Interest statement to be filed with DCAM by the seller or purchaser, as required by MGL c. 7, § 40J.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosures
cc: Arthur G. Vigeant, Mayor
Melanson Development Group, Inc., c/o Arthur P. Bergeron, Esquire
Marlborough Planning Board
Ronald M. LaFreniere, Commissioner of Public Works
Beverly J. Sleeper, Chief Procurement Officer
Marlborough Assessors Office



93 Framingham Road

City of Marlborough

GIS

The City of Marlborough shall assume no liability for the use of this map nor any errors, omissions, or inaccuracies contained herein regardless of how caused. The City of Marlborough assumes no liability for any decision made or action taken or not taken by the user in reliance upon any information furnished hereunder.

CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

December 6, 2010

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

Re: Conveyance of fee interest in portion of City sewer taking behind #93 Framingham Road

Dear President and Members:

Pursuant to §15 of Chapter 40 of the General Laws, as the officer in charge of a sewer taking located in part off Framingham Road, I am notifying the City Council that, in my judgment, the fee interest by the City in a portion of that taking is no longer required for public use, provided the City retains a permanent municipal easement for sewer and passive recreation purposes.

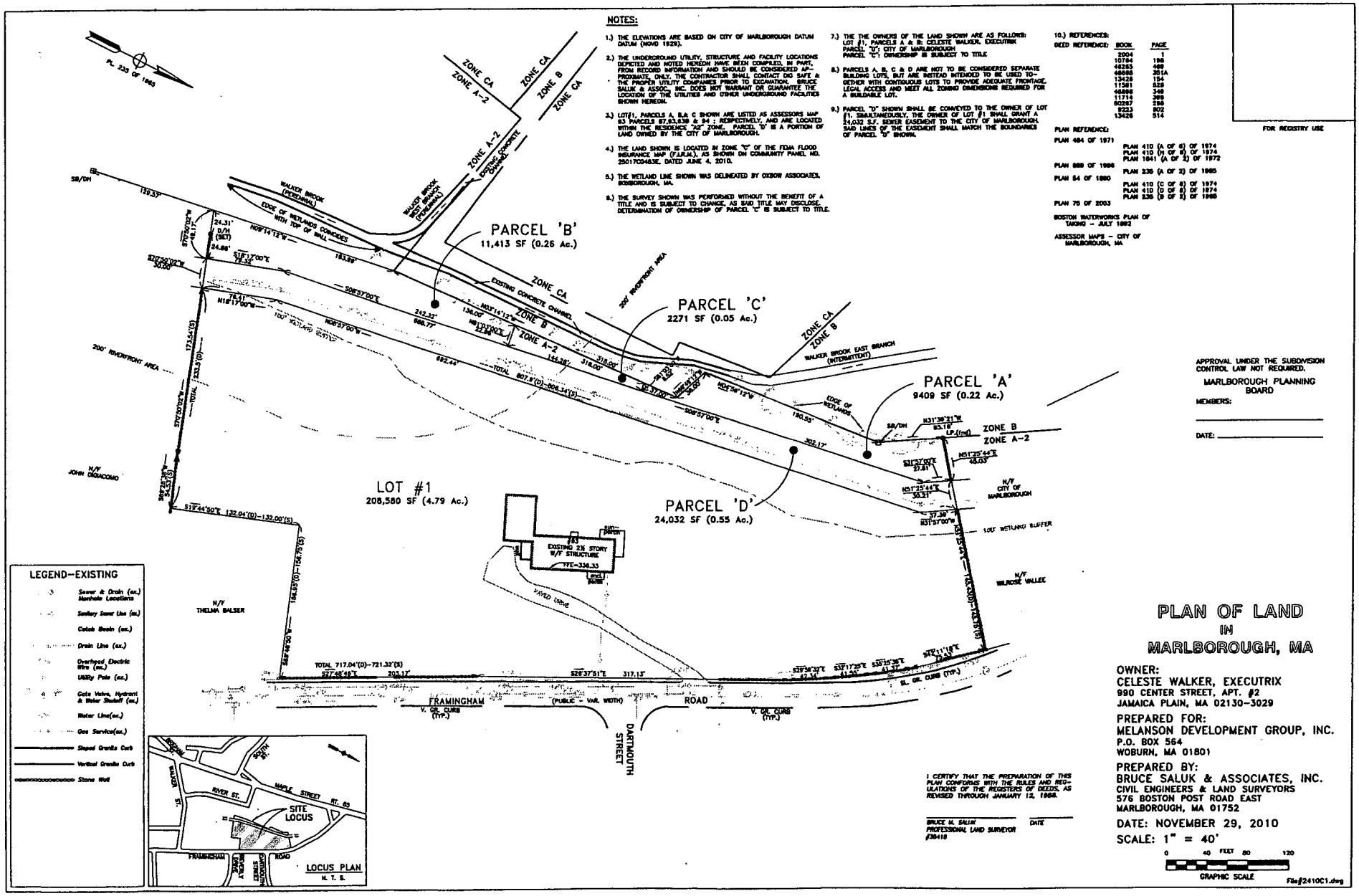
The area in question is approximately 24,032 sq. ft. +/- and is shown on a plan entitled Plan of Land in Marlborough, MA prepared for Melanson Development Group, Inc. P.O. Box 564, Woburn, MA 01801, prepared by Bruce Saluk & Associates, Inc., Civil Engineers & Land Surveyors, 576 Boston Post Road East, Marlborough, MA 01752, Scale 1"=40'" dated November 29, 2010.

The conveyance of this portion of the fee interest held by the City is appropriate provided the City retains the perpetual municipal easement noted above. I would recommend that the easement language be approved by both the City Solicitor and the Commissioner of the Public Works.

Sincerely,

Ronald M. LaFreniere, P.E.
Commissioner of Public Works

/g



NOTES:

1.) THE ELEVATIONS ARE BASED ON CITY OF MARLBOROUGH DATUM DATUM (NGVD 1929).

2.) THE UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS DEPICTED AND NOTED HEREON HAVE BEEN COMPILED, IN PART, FROM RECORD INFORMATION AND SHOULD BE CONSIDERED AP-PROXIMATE, ONLY. THE CONTRACTOR SHALL CONTACT DIG SAFE & THE PROPER UTILITY COMPANIES PRIOR TO EXCAVATION. BRUCE SALUK & ASSOC., INC. DOES NOT WARRANT OR GUARANTEE THE LOCATION OF THE UTILITIES AND OTHER UNDERGROUND FACILITIES SHOWN HEREON.

3.) LOT#1, PARCELS A, B,& C SHOWN ARE LISTED AS ASSESSORS MAP 63 PARCELS 87,83,838 & 84 ; RESPECTIVELY, AND ARE LOCATED WITHIN THE RESIDENCE "A2" ZONE. PARCEL "D" IS A PORTION OF LAND OWNED BY THE CITY OF MARLBOROUGH.

4.) THE LAND SHOWN IS LOCATED IN ZONE "C" OF THE FEMA FLOOD INSURANCE MAP (F.I.R.M.), AS SHOWN ON COMMUNITY PANEL NO. 25017C0463E, DATED JUNE 4, 2010.

5.) THE WETLAND LINE SHOWN WAS DELINEATED BY OXBOW ASSOCIATES, BOXBOROUGH, MA.

6.) THE SURVEY SHOWN WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE AND IS SUBJECT TO CHANGE, AS SAID TITLE MAY DISCLOSE. DETERMINATION OF OWNERSHIP OF PARCEL "C" IS SUBJECT TO TITLE.

7.) THE THE OWNERS OF THE LAND SHOWN ARE AS FOLLOWS: LOT #1, PARCELS A & B: CELESTE WALKER, EXECUTRIX PARCEL "D": CITY OF MARLBOROUGH PARCEL "C": OWNERSHIP IS SUBJECT TO TITLE

8.) PARCELS A, B, C & D ARE NOT TO BE CONSIDERED SEPARATE BUILDING LOTS, BUT ARE INSTEAD INTENDED TO BE USED TO-GETHER WITH CONTIGUOUS LOTS TO PROVIDE ADEQUATE FRONTAGE. LEGAL ACCESS AND MEET ALL ZONING DIMENSIONS REQUIRED FOR A BUILDABLE LOT.

9.) PARCEL "D" SHOWN SHALL BE CONVEYED TO THE OWNER OF LOT #1. SIMULTANEOUSLY, THE OWNER OF LOT #1 SHALL GRANT A 24,032 S.F. SEWER EASEMENT TO THE CITY OF MARLBOROUGH. SAID LINES OF THE EASEMENT SHALL MATCH THE BOUNDARIES OF PARCEL "D" SHOWN.

10.) REFERENCES:

DEED REFERENCE:

BOOK	PAGE
2904	1
10784	196
46265	488
46488	351A
13428	154
11561	528
46888	348
11714	389
50297	286
8223	802
13428	514

PLAN REFERENCE:

PLAN 484 OF 1971
PLAN 410 (A OF 6) OF 1974
PLAN 410 (D OF 6) OF 1974
PLAN 1041 (A OF 2) OF 1972

PLAN 880 OF 1986
PLAN 236 (A OF 2) OF 1985

PLAN 54 OF 1980
PLAN 410 (C OF 6) OF 1974
PLAN 410 (D OF 6) OF 1974
PLAN 235 (B OF 2) OF 1985

PLAN 75 OF 2003

BOSTON WATERWORKS PLAN OF TAKING - JULY 1892

ASSESSOR MAPS - CITY OF MARLBOROUGH, MA

FOR REGISTRY USE

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.

MARLBOROUGH PLANNING BOARD

MEMBERS: _____

DATE: _____

I CERTIFY THAT THE PREPARATION OF THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS, AS REVISED THROUGH JANUARY 12, 1988.

BRUCE M. SALUK
PROFESSIONAL LAND SURVEYOR
#38418

DATE

PLAN OF LAND
IN
MARLBOROUGH, MA

OWNER:
CELESTE WALKER, EXECUTRIX
990 CENTER STREET, APT. #2
JAMAICA PLAIN, MA 02130-3029

PREPARED FOR:
MELANSON DEVELOPMENT GROUP, INC.
P.O. BOX 564
WOBURN, MA 01801

PREPARED BY:
BRUCE SALUK & ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
576 BOSTON POST ROAD EAST
MARLBOROUGH, MA 01752

DATE: NOVEMBER 29, 2010

SCALE: 1" = 40'

0 40 FEET 80 120
GRAPHIC SCALE

File#2410C1.dwg