

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: September 29, 2015

Time: 6:20 PM

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

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2015 SEP 22 P 12: 21

07-27-15 – **Order No. 15-1006281:** Complete Streets Policy Proposal.
-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

09-14-2015 – **Order No. 15-1006309:** Communication from City Solicitor Rider re: Comprehensive Permit for Brookview Village (aka Talia), Public Walking Trail Easement, X14-1005759.
-REFER TO LEGISLATIVE AND 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.

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



IN CITY COUNCIL

Marlborough, Mass., JULY 27, 2015

ORDERED:

That the Complete Streets Policy Proposal be and is herewith refer to **PLANNING BOARD & LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 15-1006281



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2015 JUL 23 A 11: 20

City of Marlborough
Office of the Mayor

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Marlborough, Massachusetts 01752
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Arthur G. Vigeant
MAYOR

Nicholas Milano
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

July 23, 2015

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Complete Streets Policy

Honorable President Clancy and Councilors:

I am submitting for your review and adoption a draft Complete Streets Policy for the City of Marlborough. Complete Streets are streets designed for everyone and all users to promote safety, health, economic viability, and quality of life.

The Transportation Bond Bill passed by the Massachusetts Legislature and signed by Governor Deval Patrick in April 2014 authorized up to \$50 million for a grant program for cities and towns in the state's Complete Streets certification program. This legislation also created MGL ch. 90I which established the Complete Streets certification program.

Ch. 90I Section 1C stipulates that to be certified as a complete streets community, a city or town must adopt "a complete streets by-law, ordinance or administrative policy." I have drafted and included here for your review a Complete Streets Policy proposal.

Based on policies adopted in other cities and towns in Massachusetts, the Marlborough Complete Streets Policy directs the City Departments and developers to consistently plan, design, construct, and maintain streets to accommodate all anticipated users; Complete Streets design recommendations shall be incorporated into all public and privately funded projects, as appropriate and feasible.

The Policy instructs the City's Department of Public Works and various entities responsible for reviewing proposed projects, including the City Council, Planning Board, Zoning Board of Appeals, and Site Plan Review Committee, to review projects for Complete Streets elements and encourage their incorporation.

In order to adhere to Chapter 90I, the Policy requires the Department of Public Works ("DPW") to conduct a baseline inventory of pedestrian and bicycle accommodations in the City. It also requires the DPW to draft and submit an annual evaluation of effectiveness to me, the City Council, and the Massachusetts Department of Transportation ("DOT"), as also required by MGL c. 90I. This annual evaluation will assist the City in tracking its progress on incorporating Complete Streets elements on streets in Marlborough.

The grant program is expected to be finalized early this fall. It is my hope that Marlborough will adopt its Complete Streets program before the program is finalized; so, we can begin identifying potential projects and be prepared to apply for state funding immediately.

I look forward to your review of the proposed policy and I welcome feedback and input on making sure Marlborough has an effective Complete Streets policy. If you have any questions, City Engineer Evan Pilachowski and I will be available to answer them.

In the meantime, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur G. Vigeant", with a long, sweeping horizontal flourish extending to the right.

Arthur G. Vigeant
Mayor

City of Marlborough COMPLETE STREETS POLICY	
Effective Date	Upon approval of the City Council
Expiration Date	None
Date Last Revised	
City Council Vote to Adopt Resolution	

COMPLETE STREETS POLICY

Vision and Purpose:

Complete Streets are designed and operated to provide safety, comfort, and accessibility for all the users of our streets and trails, including pedestrians, bicyclists, motorists, commercial vehicles, and emergency vehicles and for people of all ages, abilities, and income levels. Furthermore, Complete Streets principles benefit the safety, health, economic viability, and quality of life in a community by improving the pedestrian and vehicular environments in order to provide, safe, accessible, and comfortable means of travel between home, school, work, recreation, and retail destinations. Complete Streets also furthers equity objectives by providing safe forms of travel for Marlborough residents of all income levels. The purpose of the City of Marlborough’s Complete Streets Policy, therefore, is to accommodate all road users by creating a roadway network that meets the needs of individuals utilizing a variety of transportation modes. It is the intent of the City of Marlborough to formalize the plan, design, operation, and maintenance of streets so that they are safe for users of all ages, all abilities and all income levels as a matter of routine. This Policy directs decision-makers to consistently plan, design, construct, and maintain streets to accommodate all anticipated users including, but not limited to pedestrians, bicyclists, motorists, emergency vehicles, and freight and commercial vehicles.

Core Commitment:

The City of Marlborough recognizes that users of various modes of transportation, including, but not limited to, pedestrians, cyclists, bus riders, motorists, delivery and service personnel, freight haulers, and emergency responders are legitimate users of roadways and deserve safe facilities. “All Users” includes users of all ages, abilities, and income levels.

The City recognizes that all roadway projects – including new construction, maintenance and reconstruction – are potential opportunities to apply Complete Streets design principles. The City will, to the maximum extent practical, strive to complete a comprehensive and integrated transportation network of facilities for people of all ages and abilities, and will consider Complete Streets design principles during design, construction, and maintenance of the City’s transportation network.

Complete Streets design recommendations shall be incorporated into all publicly and privately funded projects, as appropriate. All transportation infrastructure and street design projects requiring funding or approval by the City of Marlborough, as well as projects funded by the State and Federal government, including but not limited to Chapter 90 funds, City improvement grants, Transportation Improvement Program (TIP), the MassWorks Infrastructure Program, Community Development Block Grants (CDBG), Capital Funding, and other state and federal funds for street and infrastructure design shall adhere to the City of Marlborough Complete Streets Policy. Private developments and related roadway design components shall adhere to the Complete Streets principles. In addition, to the extent practical, state-owned roadways will comply with the Complete Streets Policy, including the design, construction, and maintenance of such roadways within City boundaries.

City Departments will use best judgment regarding the desirability and feasibility of applying Complete Streets principles for routine roadway maintenance and projects, such as repaving, restriping, and so forth.

Transportation infrastructure projects, including but not limited to roadway reconstruction and roadway reconfigurations, may be excluded upon approval by the Commissioner of Public Works or the Mayor when documentation, understanding of local traffic patterns, and data indicate that any of the following apply:

1. Roadways where specific users are prohibited by law, such as interstate freeways or pedestrian malls. An effort will be made, in these cases, for accommodations elsewhere.
2. Roadway reconstruction projects required to make emergency repairs.
3. Cost or impacts of accommodation are excessively disproportionate to the need or probable future use.
4. Other City policies, regulations, or requirements contradict or preclude implementation of Complete Streets principles.

All exclusions, including justification, shall be noted within the annual evaluation of effectiveness described below.

Best Practices:

The City of Marlborough Complete Streets policy will focus on developing a connected, integrated network that serves all road users. Complete Streets will be integrated into policies, planning, and design of all types of public and private projects, including new construction, reconstruction, rehabilitation, repair, and maintenance of transportation facilities on streets and redevelopment projects. Private entities proposing development projects within the City of Marlborough will be encouraged to incorporate Complete Streets principles.

Implementation of the City of Marlborough Complete Streets Policy will be carried out cooperatively within all departments in the City of Marlborough and, to the greatest extent possible, among private developers, and state, regional, and federal agencies.

Complete Streets principles include the development and implementation of projects in a context-sensitive manner in which project implementation is sensitive to the community's physical, economic, and social setting. The context-sensitive approach to process and design includes a range of goals by giving significant consideration to stakeholder and community values. It includes goals related to livability with greater participation of those affected in order to gain project consensus. The overall goal of this approach is to preserve and enhance scenic, aesthetic, historical, and environmental resources while improving or maintaining safety, mobility, and infrastructure conditions.

The City of Marlborough recognizes that "Complete Streets" may be achieved through single elements incorporated into a particular project or incrementally through a series of smaller improvements or maintenance activities over time.

The latest design guidance, standards, and recommendations available will be used in the implementation of Complete Streets, including the most up-to-date versions of:

- The Massachusetts Department of Transportation Project Design and Development Guidebook
- The National Association of City Transportation Officials (NACTO) Urban Bikeway Design Guide

- The National Association of City Transportation Officials (NACTO) Urban Streets Design Guide
- Pioneer Valley Planning Commission's Healthy Community Design Toolkit
- The latest edition of American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highway and Streets
- The United States Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Design Controls
- The Architectural Access Board (AAB) 521CMR Rules and Regulations
- Documents, plans, and studies created for the City of Marlborough

Implementation:

The City of Marlborough Department of Public Works will conduct a baseline inventory of pedestrian and bicycle accommodations in the City of Marlborough. This baseline will assist the City to identify priority projects. After the baseline inventory has been completed, the City shall maintain a comprehensive inventory of pedestrian and bicycle facility infrastructure that will highlight projects that eliminate gaps in the sidewalk and bikeway network.

The City shall make Complete Streets practices a routine part of everyday operations, shall approach every transportation project and program as an opportunity to improve streets and the transportation network for all users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve Complete Streets.

The City of Marlborough Planning Board will review subdivisions for Complete Streets principles, and encourage the implementation of these principles during design.

The City of Marlborough Planning Board, Zoning Board of Appeals, Site Plan Review Committee, the City Council and its various committees shall, during their existing respective review processes, review private development proposals for Complete Streets elements, and encourage their incorporation during design phases of proposed projects. This review will include implementation of Complete Streets practices on the site and mitigation measures required on the public transportation system.

The Department of Public Works shall draft and submit an annual evaluation of effectiveness to the Mayor, the City Council, and the Massachusetts Department of Transportation, as required by MGL c. 90I s. § 1c.

Transportation projects shall be reviewed by the City Engineer and Commissioner of Department of Public Works to ensure Complete Streets principles are being incorporated into public transportation projects, when feasible and appropriate. If Complete Streets principles are not incorporated into a project, except in the case of emergency repairs, the Department of Public Works shall make note of this exception in the annual evaluation explaining the inappropriateness or infeasibility of incorporating the principles on the project.

The City will secure training for pertinent City staff and decision-makers on both the technical content of Complete Streets principles and best practices, as well as community engagement methods for implementing the Complete Streets Policy. Training may be accomplished through workshops and other appropriate means.

The City will utilize inter-department coordination to promote the most responsible and efficient use of resources for activities within the public way.

The City will seek out appropriate sources of funding and grants for implementation of Complete Streets policies.

Evaluation of Effectiveness:

The Department of Public Works will develop performance measures to annually assess the rate, success, and effectiveness of implementing the Complete Streets Policy. The Department of Public Works will utilize appropriate metrics for analyzing the success of this policy. These metrics may include the total number of new bicycle lanes, the linear feet of new pedestrian accommodation, number of retrofitted pedestrian facilities or amenities, number of intersection improvements made to improve Level of Service (LOS) and safety for vehicles, pedestrians and bicyclists, rate of crashes by mode, rate of children walking or bicycling to school, and/or number of trips by mode. These metrics will be compiled into a report by the Department of Public Works and presented to the Mayor and City Council annually and submitted to the Massachusetts Department of Transportation.



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 14, 2015

ORDERED:

That the Communication from City Solicitor Rider re: Comprehensive Permit for Brookview Village (aka Talia), Public Walking Trail Easement, X14-1005759, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 15-1006309
X14-1005759

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RECEIVED
CITY CLERK'S OFFICE
OF MARLBOROUGH

City of Marlborough
Legal Department

SEP 10 A 10:46

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
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DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

September 10, 2015

L&L

Edward Clancy, President
Marlborough City Council

RE: Comprehensive Permit for Brookview Village (aka Talia) –
Public Walking Trail Easement
Order No. X14-1005759

Dear President Clancy and Members:

In April 2014, I submitted to the City Council a roughly 20,000 square foot public walking trail easement tendered to the City by The Gutierrez Company ("Gutierrez") (Order No. 14-1005759). Gutierrez made that tender in light of the Chapter 40B comprehensive permit ("the Permit") that had been issued to Gutierrez by the Zoning Board of Appeals in January 2013. The roughly 20,000 square foot easement, which traverses a portion of Gutierrez's property not subject to the Permit, has remained in committee (L&L) since May 2014 and has not yet been accepted by Council vote. See a drawing of this easement attached as "Exhibit 'A'."

Before you this evening is another public walking trail easement of roughly 12,000 square feet, which is proposed to connect with the 20,000 square foot easement mentioned above. This roughly 12,000 square foot easement likewise traverses a portion of Gutierrez's property not subject to the Permit, and leads directly to the Brookfield Village (aka Talia) property. See attachment marked as "Exhibit 'B'." Gutierrez proposes to grant that easement to the City once the easement (including a footbridge over a stream) has been constructed, which I am told is presently scheduled to be completed shortly.

The purpose of the 2 connected easements is set forth in condition no. 20 of the ZBA's Permit, which requires that Gutierrez design, convey to the City, and record a public walking trail easement, so as to provide passive recreational opportunities as well as access to the existing traffic light across from RK Plaza, and from there to the nearby retail centers along Route 20.

Attached for the Council's consideration is an unsigned version of the roughly 12,000 square foot public walking trail easement. A signed version will be supplied at the pertinent Council committee meeting.

Thank you for your attention to this matter.

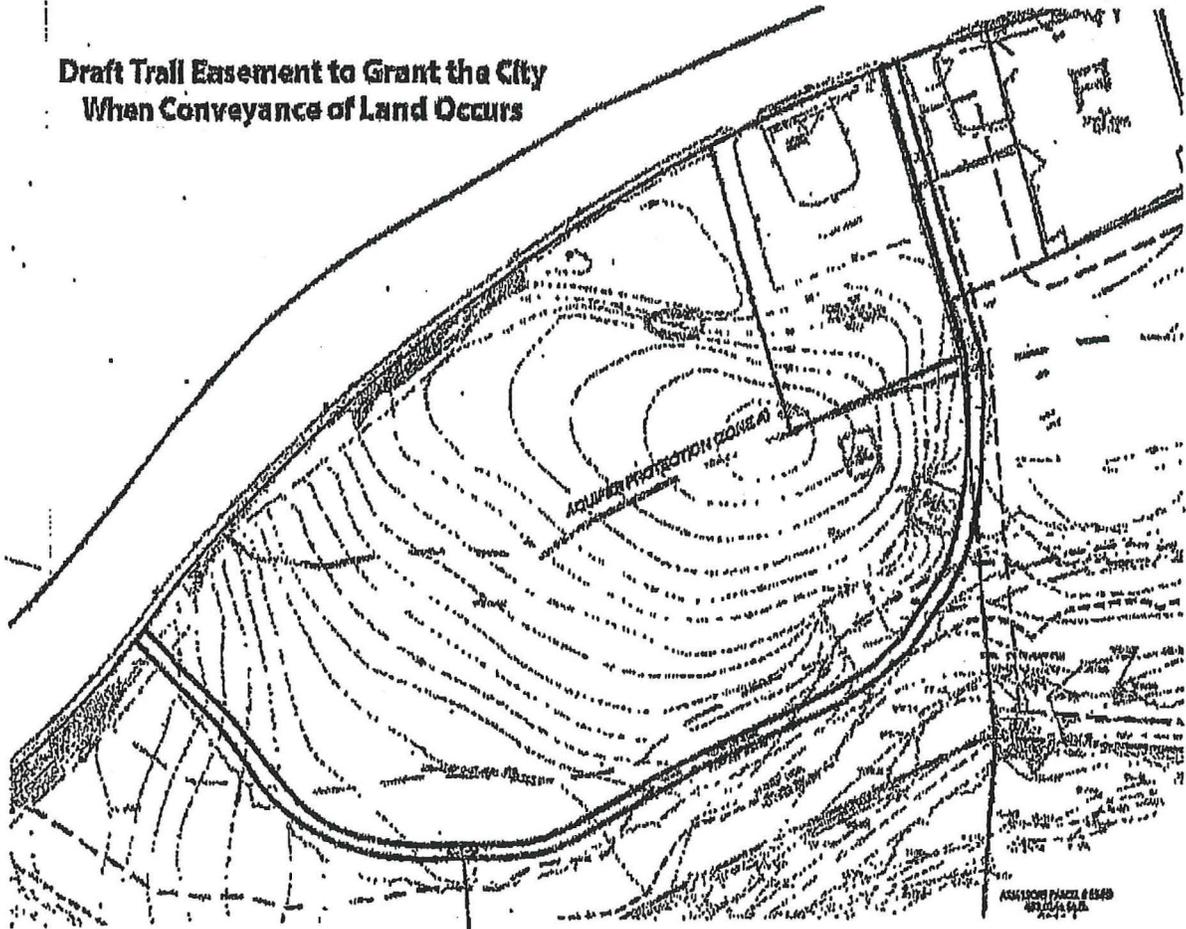
Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Attachments (3)
cc: Brian R. Falk, Esquire

EXHIBIT "A"

Draft Trail Easement to Grant the City
When Conveyance of Land Occurs



"Walking Trail"

PUBLIC WALKING TRAIL EASEMENT

We, Arturo J. Gutierrez, John A. Cataldo, Arthur J. Gutierrez, Jr., and Gloria M. Gutierrez, Trustees of the Marlborough/Northborough Land Realty Trust, u/d/t dated October 12, 2000 and recorded with the Middlesex South Registry District of Deeds in Book 31932, Page 433, as amended most recently by a Certificate of Appointment of Trustee recorded with said Deeds in Book 64574, Page 326, having an address c/o The Gutierrez Company, One Wall Street, Burlington, Massachusetts 01803 (collectively, the "Grantor"), for consideration paid of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in conformance with a comprehensive permit (No. 1410-2012) approved by the City of Marlborough Zoning Board of Appeals on January 29, 2013 and recorded with the Middlesex South District Registry of Deeds in Book 61374, Page 404, hereby grant to the City of Marlborough, Massachusetts, having an address of 140 Main Street, Marlborough, Massachusetts 01752 (collectively, the "Grantee"), with QUITCLAIM COVENANTS, the perpetual right and easement to use a certain portion of the Grantor's land located off Boston Post Road, more particularly shown as a portion of Lot 5 on a Plan of Land entitled "Plan of Land in Marlborough, Massachusetts", scale 1"=160', dated September 19, 2000, revised October 5, 2000, by Vanasse Hangen Brustlin, Inc., which plan is recorded with Middlesex South Registry of Deeds as Plan 1157 of 2000 (the "Grantor's Land"), specifically only within such portion of the Grantor's Land described as the "Easement Area", as hereinafter provided.

The easement area (the "Easement Area") consists of an approximate 12,000 square foot strip of land referred to as the "Walking Trail" currently existing on portions of the Grantor's Land, and specifically shown as the area labeled "Walking Trail" on the plan attached hereto as "Exhibit A". The Public Walking Trail Easement granted herein shall connect with an approximate 20,000 square foot strip of land as described in a Public Walking Trail Easement previously granted by the Grantor to the Grantee and recorded with Middlesex South Registry of Deeds in Book 63556, Page 554 (as connected, the "Combined Public Walking Trail Easement").

The purpose of the Combined Public Walking Trail Easement is to provide residents of a residential project being developed under the authority of the above-referenced comprehensive permit, as well as members of the general public, with the passive recreational use of said Walking Trail, including to provide access from the said residential development to Lot 14, shown on said Plan 1157 of 2000, and thence to nearby retail centers.

Upon acceptance of said easement by the Grantee, the Grantee, the residents of the said residential project, and the members of the general public shall have the perpetual right to enter onto the Easement Area granted herein. The developer of the said residential project, Fairfield Marlborough Limited Partnership, and its successors and/or assigns, shall have the obligation to maintain the Easement Area granted herein.

Notwithstanding any language to the contrary contained in this Public Walking Trail Easement, Grantor and Grantee shall all have the benefit and protection of the limitation on liability contained in Massachusetts General Laws Chapter 21, Section 17C to the fullest extent provided therein.

Grantor reserves to itself, and its successors and assigns (i) the right to relocate, at Grantor's sole cost and expense, the Easement Area as may be necessary or desirable for Grantor's use and development of the Grantor's Land (and/or its adjacent land), provided that (a) Grantor notifies Grantee in writing in advance which such notice shall contain a new description and plan, both to be prepared and recorded at Grantor's expense, and Grantee approves the proposed relocation in writing, and further provided that (b) the relocated Easement Area does not significantly lessen the utility of the Easement Area, does not increase the burdens on the use and enjoyment of the Easement Area by the Grantee and members of the general public, and does not frustrate the purpose for which the Easement Area was created but continues to provide the public with passive recreational use to provide access to the nearby retail centers, (ii) the right to use portions of the Easement Area for the purposes of providing access and egress to and from the Grantor's Land, including without limitation, for ways, drives, and parking areas; and (iii) the right to use the Easement Area for any and all purposes that do not interfere with the enjoyment by the Grantee, the residents of the said residential project, and the members of the general public, of the rights granted herein.

The rights and obligations established hereby shall run with Grantor's Land and shall be binding upon and inure to the benefit of Grantor and Grantee, and their respective successors and/or assigns. If Grantor conveys to a third party(ies) any land through which the Public Walking Trail Easement granted herein passes, any and all such conveyances shall be made expressly subject to, and with the benefit of, the continuing easement for the passive recreational use of said Easement. The Public Walking Trail Easement granted herein may not be amended without written consent of the Grantor and the Grantee.

The undersigned Gloria M. Gutierrez and Arthur J. Gutierrez, Jr., as Trustees of Marlborough/Northborough Land Realty Trust, hereby certify that said Trust remains in full force and effect and has not been altered, amended, rescinded, revoked or terminated in whole or in part; that Arturo J. Gutierrez, Arthur J. Gutierrez, Jr., John A. Cataldo, and Gloria M. Gutierrez are the current Trustees of said Trust; and that they have been authorized and directed by all of the beneficiaries of the Trust to execute and deliver the Public Walking Trail Easement granted herein and to execute and deliver such other documentation as said Trustees, in their sole discretion, deem reasonably necessary in order to effectuate the terms and provisions of this Public Walking Trail Easement.

For Grantor's title reference, see Deed recorded with said Registry in Book 31932, Page 445.

WITNESS our hands and seals as of this _____ day of _____, 2015.

By: _____
Gloria M. Gutierrez,
as Trustee on behalf of herself and
her co-Trustees, but not individually

By: _____
Arthur J. Gutierrez, Jr., as Trustee
on behalf of himself and his
co-Trustees, but not individually

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

On this ____ day of _____, 2015, before me, the undersigned notary public, personally appeared Gloria M. Gutierrez and Arthur J. Gutierrez, Jr., as Trustees of Marlborough/Northborough Land Realty Trust on behalf of themselves and their co-Trustees, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document(s), and acknowledged to me that they signed it voluntarily for its stated purpose.

(official seal)

By: _____
Notary Public
My Commission Expires:

CONSENT AND ACKNOWLEDGEMENT

The undersigned, Fairfield Marlborough Limited Partnership, a Delaware limited partnership, being the owner of Lot A as shown on an Approval Not Required plan entitled, "Plan of Land in Marlborough, Massachusetts," dated November 7, 2013, revised December 9, 2013, Scale: 1"=160', prepared by Vanesse Hangen Brustlin, Inc. and recorded with said Deeds as Plan No. 1021 of 2013, does hereby acknowledge and consent to the foregoing terms and provisions of the Public Walking Trail Easement. The undersigned hereby further agrees that the terms and provisions of that certain Walking Trail Easement dated April 30, 2014 and recorded with said Deeds in Book 63556, Page 537 shall remain in full force and effect, including, without limitation, the maintenance provisions therein contained.

FAIRFIELD MARLBOROUGH LIMITED
PARTNERSHIP, a Delaware limited partnership

By: BF VAMF II GP LLC, a Delaware limited liability company, General Partner

By: _____
Name: _____
Title: _____

STATE OF _____

_____ County, ss.

On this _____ day of _____ 2015, before me, the undersigned notary public, personally appeared _____, _____ of BF VAMF II GP LLC, a Delaware limited liability company, general partner of Fairfield Marlborough Limited Partnership, a Delaware limited partnership, 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/she signed it voluntarily for its stated purpose.

(official seal)

(type or print name) Notary Public
My commission expires:

EXHIBIT "A"

PLAN SHOWING EASEMENT AREA