



**CITY OF MARLBOROUGH**  
**City Council Agenda**

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CITY OF MARLBOROUGH

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Monday, March 28, 2022  
8:00 PM

This meeting of the City Council will be held in City Council Chambers, City Hall, 140 Main Street. **PUBLIC ATTENDANCE IS PERMITTED.** This meeting will be televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) or you can view the meeting using the link under the Meeting Videos tab on the city website ([www.marlborough-ma.gov](http://www.marlborough-ma.gov)).

1. Minutes, City Council Meeting, March 14, 2022.
2. From Council President Ossing: Mayor to update the City Council on the \$1,422,500.00 transfer from the Undesignated Fund to the West Side Fire Station Stabilization account per Council Order No. 21-1008468A.
3. PUBLIC HEARING on the Petition from Massachusetts Electric, to replace direct buried cable for Woodland Estates with 5457' of 1-2" cable in conduit install 85' of 2-3" conduit from riser poles to pullboxes, 10 pullboxes, 1 heavy duty handhole, 1 junction box, replace 3 submersible transformers with pad mounted transformers and replace 4 risers to install 1-2" cable in conduit via directional drilling on Vega Road, Order No. 22-1008541.
4. Communication from the Mayor, re: Grant Acceptance in the amount of \$25,000.00 from the Massachusetts Attorney General's Office awarded to the City of Marlborough to be administered through the Human Services Office, for fuel assistance for Marlborough residents in need.
5. Communication from the Mayor, re: Statement of Interest for Marlborough Public Schools to the Massachusetts School Building Authority (MSBA).
6. Communication from Solicitor Jason Grossfield, re: Request to present information regarding Chapter 358 of the Acts of 2020, Multi-Family Zoning Requirements.
7. Communication from Solicitor Jason Grossfield, re: Sewer and Drainage Easements relative to certain parcels on Lacombe Street, in proper legal form, Order No. 22-1008516.
8. Communication from Planning Board, re: Howes Landing Subdivision, Recommended acceptance of Gikas Lane as a Public Way.
9. Petition from Massachusetts Electric to relocate and install a new pole to remove a tree guy on Amory Road.
10. Application for Renewal of Junk Dealer/Secondhand Dealer License, Antoine Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard.

**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.**

11. Application for Renewal of Junk Dealer/Secondhand Dealer License, Gerald Dumais, d/b/a Dumais & Sons Secondhand Store, 65 Mechanic Street.
12. Application for Renewal of Junk Dealer/Secondhand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street.
13. Petition of New Cingular Wireless, PCS, LLC (d/b/a AT&T) for a grant of location for one (1) small cell wireless facility to be located on an existing pole withing the public right of way in the vicinity of 241 Forest Street.
14. Minutes of Boards, Commissions and Committees:
  - a) Conservation Commission, February 17, 2022 & March 3, 2022.
  - b) Historical Commission, January 20, 2022.
  - c) Municipal Aggregation Committee, March 22, 2022.
  - d) Planning Board, February 14, 2022.
  - e) Zoning Board of Appeals, March 8, 2022
15. CLAIMS:
  - a) Sarah Ayaz, 8 Eureka Street, #1, Worcester, pothole or other road defect.
  - b) Beth Bryant, 15 Farm Road, pothole or other road defect.
  - c) Anthony Giovane, 75 Roosevelt Street, Hudson, MA, pothole or other road defect.
  - d) Laura Henderson, 53 Clearview Drive, pothole or other road defect.
  - e) Matthew Pflieger, 16 Birchwood Lane, Hopkinton, pothole or other road defect.

## REPORTS OF COMMITTEES:

## UNFINISHED BUSINESS:

**Councilors-at-Large**

Mark A. Oram  
Michael H. Ossing  
Samantha Perlman  
Kathleen D. Robey



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**Ward Councilors**

Ward 1 – Laura J. Wagner  
Ward 2 – David Doucette  
Ward 3 – J. Christian Dumais  
Ward 4 – Teona C. Brown  
Ward 5 – John J. Irish  
Ward 6 – Sean A. Navin  
Ward 7 – Donald R. Landers, Sr.

**Council President**

Michael H. Ossing

**Council Vice-President**

Kathleen D. Robey

**CITY OF MARLBOROUGH  
CITY COUNCIL  
MEETING MINUTES  
MONDAY, MARCH 14, 2022**

The regular meeting of the City Council was held on Monday, March 14, 2022, at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 8:29 PM.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, February 28, 2022, **FILE**; adopted.

Mayor Vigeant provided the City Council with an update on COVID-19 and city events.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$19,500.00 from the Massachusetts Cultural Council awarded to the City of Marlborough to be awarded by the Cultural Council in support of worthy arts, humanities, music, and youth-based initiatives in our community; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$13,350.00 from the Federal Emergency Management Agency (FEMA) awarded to the City of Marlborough for the Building Resilient Infrastructure & Communities (BRIC) program for the Hazard Mitigation Plan Update project; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$80,436.00 from the Executive Office of Elder Affairs (EOEA) awarded to the Council on Aging to be used to fund administration, transportation, and programing services offered by the Senior Center; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the City of Marlborough, Massachusetts (“the City”) appropriate the amount of \$500,000.00 (five hundred thousand dollars) for the purpose of paying the cost of reconstruction or making extraordinary repairs to the Sligo Hill Water Tank.

That to meet this appropriation, the Comptroller/Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to MGL Chapter 44, Section 8 (4), as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; and that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with MGL Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, referred to the **FINANCE COMMITTEE & ORDERED ADVERTISED**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the City of Marlborough, Massachusetts (“the City”) appropriate the amount of \$1,000,000.00 (one million dollars) for the purpose of paying the cost of water main construction or reconstruction.

That to meet this appropriation, the Comptroller/Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to MGL Chapter 44, Section 8 (5), as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; and that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with MGL Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, referred to the **FINANCE COMMITTEE & ORDERED ADVERTISED**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

**ORDERED:** That the City of Marlborough, Massachusetts (“the City”) appropriate the amount of \$5,175,000.00 (five million one hundred seventy-five thousand dollars) for the purpose of paying the cost of street construction.

That to meet this appropriation, the Comptroller/Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to MGL Chapter 44, Section 7 (1), as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; and that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with MGL Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, referred to the **FINANCE COMMITTEE & ORDERED ADVERTISED**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$1,448,100.00 which moves funds from Undesignated Fund (Free Cash) to various departments for their Capital Requests as outlined in the transfer sheet, referred to the **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH  
BUDGET TRANSFERS --

DEPT:		Various			FISCAL YEAR:		2022		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$11,233,713.00	\$1,448,100.00	10000	35900	Undesignated Fund	\$243,100.00	19300006	58512	Capital Outlay-Fire	\$0.00
	Reason:	<u>To fund various capital requests</u>				<u>Fire Squad Truck</u>			
					\$455,000.00	19300006	58467	Capital Outlay-Public Facilities	\$0.00
						<u>Pools, Cemetery, Schools and Reservoir</u>			
					\$750,000.00	19300006	58731	Capital Outlay-DPW Equipmer	\$0.00
	Reason:					<u>DPW Equipment</u>			
	\$1,448,100.00	Total			\$1,448,100.00	Total			

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendment to Code of the City of Marlborough, Chapter 510 "Sewers" §2(D) "Use of Public Sewers" as submitted by the Mayor, referred to the **PUBLIC SERVICES COMMITTEE AND ORDERED ADVERTISED**; adopted.

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 510, ENTITLED "SEWERS," AS FOLLOWS:

- I. Chapter 510, entitled "Sewers", Section 510-2, entitled "Use of Public Sewers.", subsection (D), is hereby amended as follows (new text shown as underlined, deleted text shown as ~~strikethrough~~):

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated with the City and abutting on any street, alley or right-of-way in which there is now or may in the future be located a public sanitary sewer of the City, are hereby required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within the following time limits:

- (1) Where said public sewer now exists at the time of the effective date of this clause, or is constructed and/or located after said effective date with official notice by the Commissioner that the public sewer is available for connection, the connection shall be completed: (a) prior to transfer of the property, (b) prior to change in use of a structure as set forth in Chapter 650, Zoning, (c) prior to an increase in the sewage design flow applicable to a structure for purposes of Title 5, 310 CMR 15.000, of the State Environmental Code, or (d) upon failure of any system under said Title 5, 310 CMR 15.000, whichever shall occur first.
- (2) ~~Where said public sewer is constructed and/or located after the effective date of this subsection, the connection shall be completed within 180 days after date of official notice by the Commissioner that the public sewer is available for connection.~~

For purposes of this subsection, the term "transfer" shall mean the conveyance of any interest in real property, with or without consideration, including by deed, lease, or assignment, but excluding: (a) taking a security interest in a property, including but not limited to issuance of a mortgage; (b) refinancing a mortgage or similar instrument, whether or not the identity of the lender remains the same; (c) a change in the form of ownership among the same owners, such as placing the property within a family trust of which the owners are the beneficiaries, or changing the proportionate interests among a group of owners or beneficiaries; (d) adding or deleting a spouse as an owner or beneficiary; or a transfer between spouses during life, outright or in trust; or the death of a spouse; and (e) the appointment of or a change in a guardian, conservator, or trustee.

An exemption from the connection requirement in this section may only be granted upon application to the Board of Health, and with the recommendation of the City Engineer for reasons of ~~either~~: (a) extraordinary site conditions that prohibit or severely limit the feasibility of connection to such public sewer, due to which the land cannot be drained into such sewer, or due to weather conditions limiting the ability to connect, provided that the exemption shall apply only until such incapacity is removed and subject to a private disposal system meeting all applicable requirements and any other conditions imposed by the board; (b) an escrow or other acceptable agreement is in place requiring the connection be completed within six (6) months after a property transfer; or (c) for a period of five years from the date of installation of a new or replacement private disposal system which fully complies with Title 5, provided that the exemption shall expire upon the failure of any such system under said Title 5.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$100,000.00 which moves funds from Undesignated Fund (Free Cash) to Sewer Service Betterment to provide for low interest loans to eligible property owners to cover the costs associated with connecting to public sewer, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

CITY OF MARLBOROUGH  
BUDGET TRANSFERS --

DEPT:		Mayor		FISCAL YEAR:		2022			
FROM ACCOUNT:				TO ACCOUNT:					
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
<u>\$11,233,713.00</u>	<u>\$100,000.00</u>	<u>10000</u>	<u>35900</u>	<u>Undesignated Fund</u>	<u>\$100,000.00</u>	<u>11990006</u>	<u>55640</u>	<u>Sewer Service Betterment</u>	<u>\$0.00</u>
Reason:		<u>To fund property connections to City sewer</u>							
	<u>\$100,000.00</u>	Total			<u>\$100,000.00</u>	Total			

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Catherine Usinas to the Commission on Disabilities for 3-year term from date of Council confirmation, referred to the **PERSONNEL COMMITTEE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Mayor, re: Notification of Mayoral reappointments to the OPEB Trust and the Cultural Council, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Notice of Dismissal of the matter McDonald's Corp. v Raising Cane's Restaurants, LLC, Marlborough City Council, et al, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Brian Falk, on behalf of J&D Landscape Contractors, to construct and operate both a contractor's yard and a landscape contractor's yard at the Airport Industrial Park, 101 Airport Boulevard, Unit 12, in proper legal form, Order No. 21/22-1008441D, **MOVED TO AGENDA ITEM #19**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY MARCH 28, 2022**, as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric, to replace direct buried cable for Woodland Estates with 5457' of 1-2" cable in conduit install 85' of 2-3" conduit from riser poles to pullboxes, 10 pullboxes, 1 heavy duty handhole, 1 junction box, replace 3 submersible transformers with pad mounted transformers and replace 4 risers to install 1-2" cable in conduit via directional drilling on Vega Road, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY, APRIL 11, 2022**, as **DATE FOR PUBLIC HEARING**, on the Application for Modification of Special Permit from 587 Bolton Street, Inc., to allow for outdoor seating, a gazebo and bar area at 587 Bolton Street, referred to the **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Navin, seconded by the Chair to adopt the following:

ORDERED: That the Communication from National Grid, re: Notice of upcoming sideline vegetation maintenance within the electric transmission right-of-way easement, **FILE**; adopted.

Motion by Councilor Navin, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Executive Office of Energy and Environmental Affairs, re: Public comment period on the Yearly Operational Plan submitted by the City of Marlborough, **FILE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) School Committee, February 1, 2022 & February 8, 2022.
- b) Conservation Commission, February 3, 2022.
- c) Library Trustees, February 1, 2022.
- d) Planning Board, January 24, 2022.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the following **CLAIMS**, referred to the **LEGAL DEPARTMENT**; adopted.

- a) Alyssa Adams, 1 Andrews Way, Southborough, pothole or other road defect.
- b) Karen Brummel, 56 Simmons Street, pothole or other road defect.
- c) Danny Chaves, 3 Grove Street, Hudson, MA, pothole or other road defect.
- d) Gregory Gowaski, 126 Langelier Lane, residential mailbox claim (2b).
- e) Rebekah Honer, 41 Naugler Avenue, pothole or other road defect.
- f) Dipali Patel, 1205 Applebriar Lane, pothole or other road defect.
- g) Vicki Pineda, 105 Hildreth Street, pothole or other road defect.
- h) Jenna Schlehuder, 419 Stearns Road, pothole or other road defect.
- i) John Viggiano, 84 Emer Road, pothole or other road defect.

Reports of Committees:

**THERE WERE NO REPORTS OF COMMITTEE.**

Motion by Councilor Irsih, seconded by the Chair to adopt the following:

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," §6 "SALARY SCHEDULE" AS FOLLOWS:

I. By adding to the salary schedule referenced in Section 125-6, the following:

<u>Position</u>	<u>Rate</u>
Parking Enforcement Officer	Not to Exceed \$25 Per Hour.

II. This ordinance shall supersede and replace any existing rate for said position(s) in the current salary schedule.

**APPROVED;** adopted.

**First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Brian Falk, on behalf of J&D Landscape Contractors, to construct and operate both a contractor’s yard and a landscape contractor’s yard at the Airport Industrial Park, 101 Airport Boulevard, Unit 12, in proper legal form, Order No. 21/22-1008441D, **FILE;** adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED

**IN CITY COUNCIL**

**DECISION ON A SPECIAL PERMIT  
J&D LAND HOLDINGS LLC**

**DECISION ON A SPECIAL PERMIT  
ORDER NO. 21/22-1008441E**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to J&D Land Holdings LLC (the "Applicant") for a contractor’s yard and a landscape contractor’s yard at 101 Airport Boulevard (Unit 12), in the Limited Industrial Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, J&D Land Holdings LLC, is a Massachusetts limited liability company with an address of 804 Boston Post Road, Sudbury, MA 01776.
2. The Applicant is the owner of the property located at 101 Airport Boulevard (Unit 12), Marlborough, MA, being shown as Parcel 52-1-12 on Assessors Map 73 (the "Site").

3. In accordance with Article V, Section 650-17 and Section 650-18(A)(48), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a contractor's yard and a landscape contractor's yard at the Site (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a building, accessory parking, outdoor storage areas, and landscaped areas.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Proposed Site Plan of Use Area #12 101 Airport Boulevard in Marlborough, MA" by Connorstone Engineering, with the last revision date of October 12, 2021, and a landscaping plan entitled "Proposed Landscape Plan of Use Area #12 in Marlborough, MA" by Connorstone Engineering, with the last revision date of October 12, 2021 (collectively the "Plans") attached hereto as "Attachment A."
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site is located in the Limited Industrial Zoning District.
8. The Site has an area of 46,543 square feet +/- as shown on the Plans.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, December 6, 2021. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on December 6, 2021.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, no members of the public spoke in opposition to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING  
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

- B. The City Council finds that the proposed Use of the Site is an appropriate use and 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 as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit for a contractor's yard and a landscape contractor's yard at 101 Airport Boulevard (Unit 12) as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
  2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications, or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and a final certificate of occupancy shall not be issued until the Applicant has complied with all conditions, provided that the Site Plan Committee may authorize the phasing of site work depending upon weather conditions and other factors. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
  3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plan's, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
  4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.
6. Screening. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the Applicant shall install fencing, vegetated screening, or a combination of screening types, to screen areas of the Site used for the storage of vehicles, equipment, and materials from the street and adjacent properties, and shall maintain the fencing and plantings in good repair. Said screening shall comply with the requirements of all applicable City Ordinances.
7. Outdoor Storage Areas. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the outdoor storage of vehicles, equipment, and materials shall be located on impervious and otherwise dust-free surfaces. Materials shall be stored with sufficient protections to avoid damage to landscaped areas and to avoid interference with the proper functioning of stormwater infrastructure. Lawn areas shall be separated from adjacent parking/storage areas with curbing. Any storage of bark mulch at the Site shall be subject to fire safety conditions approved through the Site Plan Review process. The Site shall not be used to store grass clippings or similar landscaping debris that may generate odors.
8. Indoor Storage Areas. Building areas used to store vehicles, equipment, and materials indoors shall be equipped with floor drainage systems designed to prevent fuel, oil, and other hazardous materials from entering the stormwater or sewer systems, approved through the Site Plan Review process.
9. Vehicle Repairs and Maintenance. The Site may not be used for major repairs of vehicles and equipment, but minor maintenance of vehicles and equipment which are exclusively operated as part of the Use may be performed indoors only, subject to Condition 10.
10. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance, and shall comply with all state and federal requirements governing air quality and emissions.
11. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
12. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

13. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South 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 has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

**Yea: 10 – Nay: 0 – Abstain: 1**

**Yea: Wagner, Doucette, Dumais, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**Abstain: Brown.**

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED That the Proposed Zoning Map Amendment for parcels of land located on Jefferson and a small portion of Lincoln Streets, identified as Map 56, Parcels 147, 148, 150, 151, 152, & 153 in addition to Map 56, Parcels 154, 155, 156, 157 & 158, referred to **PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, APRIL 11, 2022**; adopted.

THAT, PURSUANT TO SECTION 5 OF CHAPTER 40A OF THE GENERAL LAWS, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT CHAPTER 650 OF THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. The Zoning Map established by Chapter 650, Zoning, Article III Establishment of Districts, Section 650-8 "Boundaries Established; Zoning Map" is hereby amended as follows:
  - a. The zoning map amendments set forth herein shall be as shown on the map attached herewith entitled "Proposed Zoning Change Commercial Automotive to NB & RB".
  - b. The land shown on said attached map as "CA to NB" shall be included in the Neighborhood Business (NB) District. Said land includes the following:

City Assessor Map 56, Parcels 147, 148, 150, 151, 152, 153, and land within the rail trail corridor including the former rail spur; and
  - c. The land shown on said attached map as "CA to RB" shall be included in the Residence B (RB) District. Said land includes the following:

City Assessor Map 56, Parcels 154, 155, 156, 157, and 158.
- II. The effective date of these amendments shall be the date of passage.

**Councilor Dumais recused.**

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 8:29 PM; adopted.



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 20, 2021

**ORDERED:**

**Suspension of the Rules requested – granted.**

That the Mayor and City Auditor submit for City Council approval, the establishment of a new Stabilization Account, titled "West Side Fire Station Stabilization Account", and it is further ORDERED, that the Mayor submit a transfer request in the amount of \$1,422,500.00 from the Undesignated Fund to the new "West Side Fire Station Stabilization account, be and is herewith APPROVED.

ADOPTED  
In City Council  
Order No. 21-1008468A

Approved by Mayor  
Arthur G. Vigeant  
Date: December 29, 2021

A TRUE COPY  
ATTEST:

  
City Clerk

ORDERED: That the FINCOM review Conditions 6 and 7 in Order 19-1007762B (Green District Housing) to determine the fund where the payments shall be deposited. This information shall be forwarded to the Mayor/Auditor to establish the account and submit transfers from the FY22 Undesignated account into the account "designated by the City Council." Refer to FINCOM.

**Background:**

The City Council approved the Special Permit for the Green District (475 housing units) on December 2, 2019, Council Order 19-1007762C. There were two conditions in the special permit that required the developer to submit "payable to a fund or funds designated by the City council prior to submission of each payment."

Condition 6: Requires a payment to the city of \$50,000 per dwelling unit that would have been required under Section 650-26 of the Zoning Ordinance. For both Site 1 and 2, the number of applicable units is twelve which means both sites have a \$600,000 payment to be submitted prior to the building permit being issued for each site. The Site 1 building permit was issued in February 2021. The \$600,000 for Site 1 was deposited in the General Fund and is now part of the FY22 Undesignated Fund. As the money was deposited, but no fund was established, the Council should designate the fund for this payment.

Condition 7: To mitigate any impacts associated with the Use, the special permit language requires the developer to provide a payment of \$3,500.00 for each unit. For Site 1 a payment of \$822,500 (235 units x \$3500) was received in February 2021 and deposited in the General Fund. These funds are now part of the FY22 Undesignated account. Again, as the money was deposited, but no fund was established, the Council needs to designate the fund for this payment.

It should be noted that work on Site 2 has begun and a building permit is anticipated in early 2022 so another payment of \$600,000 for Site 1 and one for Site 2 of \$840,000 (240 units x \$3500 ) will be issued prior to the building permit being issued.

Submitted by Councilors Robey and Ossing



## IN CITY COUNCIL

---

Marlborough, Mass., MARCH 14, 2022

### ORDERED:

That there being no objection thereto set **MONDAY MARCH 28, 2022**, as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric, to replace direct buried cable for Woodland Estates with 5457' of 1-2" cable in conduit install 85' of 2-3" conduit from riser poles to pullboxes, 10 pullboxes, 1 heavy duty handhole, 1 junction box, replace 3 submersible transformers with pad mounted transformers and replace 4 risers to install 1-2" cable in conduit via directional drilling on Vega Road, be and is herewith referred to the **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 22-1008541



*City of Marlborough*  
*Office of the Mayor*

RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH

*Arthur G. Vigeant*  
 MAYOR

2022 MAR 24 A 10: 56

*Patricia M. Bernard*  
 EXECUTIVE AIDE

140 Main Street  
 Marlborough, Massachusetts 01752  
 508.460.3770 Fax 508.460.3698 TDD 508.460.3610  
 www.marlborough-ma.gov

*Ryan P. Egan*  
 EXECUTIVE SECRETARY

March 24, 2022

Council President Ossing  
 Marlborough City Council  
 140 Main Street  
 Marlborough, MA 01752

**RE: Grant acceptance – Residential Energy Assistance Program**

Honorable President Ossing and Councilors,

Enclosed for your review and acceptance is a Residential Energy Assistance Grant from the Massachusetts Attorney General's Office in the amount of \$25,000.00 for FY22-FY24.

This award will be used to provide aid through our Human Services Office for fuel assistance for Marlborough residents in need. Residential heating costs are substantially higher this year and our Human Services Office expects an increase in shut off notices in the coming weeks.

I'd like to take this opportunity to thank the Attorney General's Office and the United Way for their assistance in securing this funding that will be used over the course of the next three years.

Thank you in advance for your cooperation.

Sincerely,

Arthur G. Vigeant  
 Mayor

Enclosures

CITY OF MARLBOROUGH  
NOTICE OF GRANT AWARD

DEPARTMENT: Human Services DATE: 2/14/2022

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Arthur Vigeant, Mayor

NAME OF GRANT: Residential Energy Assistance Grant

GRANTOR: Mass Attorney General's Office

GRANT AMOUNT: \$25,000.00

GRANT PERIOD: 2/14/22 - 6/15/24

SCOPE OF GRANT/  
ITEMS FUNDED Provide heating assistance to Marlborough residents in need  
Provide assistance to defray heating costs for residents who are in low income  
energy assistance program (LIHEAP)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IS A POSITION BEING  
CREATED: No  
\_\_\_\_\_

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? \_\_\_\_\_

ARE MATCHING CITY  
FUNDS REQUIRED? No  
\_\_\_\_\_

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:  
\_\_\_\_\_  
\_\_\_\_\_

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO  
BE USED:  
\_\_\_\_\_  
\_\_\_\_\_

ANY OTHER EXPOSURE TO CITY?  
NO  
\_\_\_\_\_

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: 4/25/2022  
\_\_\_\_\_

**DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER  
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL  
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT**



MAURA HEALEY  
ATTORNEY GENERAL

ATTACHMENT A  
SCOPE OF SERVICES

BETWEEN THE MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL  
AND CITY OF MARLBOROUGH

## 1 INTRODUCTION

This Scope of Services (SOS) is between the Massachusetts Office of the Attorney General (AGO) and City of Marlborough and is in regard to the **FY2022-FY2024 Residential Energy Assistance Grant**.

The entire agreement between the parties (the “Contract”) consists of the following documents in the following order of precedence:

1. The Commonwealth Standard Terms and Conditions;
2. The Commonwealth Standard Form Contract;
3. All requirements listed in the **FY2022-FY2024 Residential Energy Assistance Grant RFP**;
4. All statements of activities to be conducted in City of Marlborough’s response to **FY2022-FY2024 Residential Energy Assistance Grant RFP**; and
5. This SOS (Attachment A).

## 2 OVERVIEW, EFFECTIVE DATE, AND TERM

This Contract’s term (the “Term”) begins on the **February 14, 2022** (the “Effective Date”) and shall terminate on **June 15, 2024** (“Termination Date”).

## 3 AMOUNT OF AWARD AND CONDITIONS

The amount of this award is **\$25,000.00**. This award is subject to the provisions set forth in this Contract, including but not limited to the following conditions:

- Completion of Grant contract materials by **March 25, 2022**, including original signatures. Scanned copies of contract materials with original signatures may be accepted if original contract materials with wet ink signatures are received by mail within 30 days of signature. Scanned documents shall be sent to [Nathan.Gardner@mass.gov](mailto:Nathan.Gardner@mass.gov).
- Continued compliance, if applicable, with the statutory requirements set forth in G.L. ch. 12, secs. 8E and 8F, and G.L. ch. 68, sec. 19, including initial registration and filing of annual financial reports with the AGO’s Non-Profit Organizations/Public Charities Division.
- Submission three annual reports containing financial and programmatic information. Reports shall be submitted to the AGO on July 15, 2022, July 14, 2023, and July 12, 2024.
- The AGO may request programmatic documentation or financial records related to programming funded under this Contract at any time in its sole discretion.
- Any funds unexpended by the Contract termination date must be remitted back to the AGO within 30 days.

- Failure to submit timely reports or remit unexpended funds within 30 days of the Contract termination date may affect the AGO’s decision to act favorably on future grant applications and may result in a denial of such applications.
- The AGO will monitor the grantee to ensure that the requirements and objectives of the grant are met.
- The AGO reserves the right to revoke grant award if grantee fails to meet grant objectives and/or requirements.
- Grantee acknowledges that all documentation submitted to the AGO is subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10, and M.G.L. c. 4, § 7, cl. 26.
- Grantee attributes the AGO as a funding source or partial funding source for any materials funded by the AGO. Suggested wording for print: “Funding provided by a grant received from the Massachusetts Attorney General’s Office.”

#### 4 BUDGET AND USE OF AWARD

<b>Award Recipient</b>	<b>City of Marlborough</b>
<b>Total Award Amount</b>	<b>\$25,000.00</b>
Heating Assistance Subawards for LIHEAP-Eligible Primary Source of Heat	\$18,750.00
Heating Assistance Subawards for Natural Gas Primary Source of Heat	\$5,000.00
Flexible Fund	\$1,250.00

- Any proposed changes to City of Marlborough’s program budget or activities must be submitted in writing and approved in advance by the AGO. Proposed changes shall be submitted by email to [Nathan.Gardner@mass.gov](mailto:Nathan.Gardner@mass.gov).
- Grantees may make subawards to Massachusetts consumer households to defray eligible heating costs. Subawards shall not exceed \$1,000.00 in aggregate per household per heating season (September 15 to June 15) during the Contract period.
- Subawards shall not be granted to households making over 80 percent of the Massachusetts median income.
- Whenever possible, subawards should be designated to consumers who have household incomes between 60 and 80 percent of the Massachusetts median income.
- The Flexible Fund may be used to pay for administrative expenses or to provide subawards that defray costs of a primary source of heat eligible for the Commonwealth’s Low Income Home Energy Assistance Program. The Flexible Fund shall not total more than 5% of City of Marlborough’s total grant award or \$2,500.00 (whichever is lower).

**5 ACCEPTANCE**

By signing below, the parties agree to this SOS.

The undersigned hereby represent that they are duly authorized to execute this SOS on behalf of their respective organizations.

**Massachusetts Office of the Attorney General**

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

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

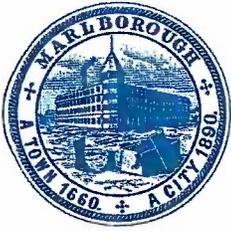
**City of Marlborough**

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

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



RECEIVED  
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MARLBOROUGH  
2022 MAR 24 A 10:56

*City of Marlborough*  
*Office of the Mayor*

*Arthur G. Vigeant*  
MAYOR

*Patricia M. Bernard*  
EXECUTIVE AIDE

140 Main Street  
Marlborough, Massachusetts 01752  
508.460.3770 Fax 508.460.3698 TDD 508.460.3610  
www.marlborough-ma.gov

*Ryan P. Egan*  
EXECUTIVE SECRETARY

March 24, 2022

Council President Ossing  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**RE: Statement of Interest for Marlborough Public Schools**

Honorable President Ossing and Councilors,

On February 8, 2022, the School Committee voted to submit a Statement of Interest (SOI) to the Massachusetts School Building Authority (MSBA), that is the first critical step in applying for funding through the MSBA's program for school building construction, addition/renovation, and repair grants. The SOI allows districts to inform the MSBA about deficiencies that may exist in a local school facility and how those deficiencies inhibit the delivery of the district's educational program.

The Marlborough Public Schools Administration and the School Committee have briefly discussed the future needs of Richer Elementary School. Since October 2021, we have 290 new students bringing us just over 5,000 in district. While I believe that we will need to address the immediate space constraints and the renovation, I'm concerned that Richer School will not provide the adequate space needed and more in-depth analysis needs to be conducted before addressing capital needs.

Enclosed is a letter from Superintendent Bergeron and Finance and Operations Director Doug Dias, as well as drafted language for the order for submission. The deadline for submission is April 29, 2022. The filing of an SOI is a formal procedure enabling a district to communicate its interest in a potential school building construction or renovation project. It does not obligate the City to commit to any project or funding of any kind.

I will await your decision on approving the submittal of the Statement of Interest.

Thank you in advance for your cooperation.

Sincerely,

*Arthur G. Vigeant*  
Arthur G. Vigeant  
Mayor

Enclosures



# Marlborough Public Schools

**Douglas Dias • Director of Finance & Operations**  
 District Education Center  
 25 Union Street, Marlborough, MA 01752  
 (508) 460-3509 ext.13810 • [ddias@mps-edu.org](mailto:ddias@mps-edu.org)

March 11, 2022

Mayor Arthur Vigeant  
 City of Marlborough  
 140 Main Street  
 Marlborough, MA 01752

**Re: Richer Elementary School Statement of Interest**

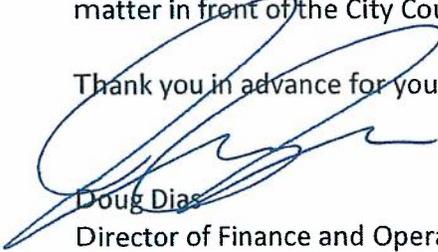
Mayor Vigeant,

The Marlborough Public Schools intends to submit a statement of interest (SOI) to the Massachusetts School Building Authority (MSBA) for a renovation/addition of the Richer Elementary School. Submitting an SOI is the initial step to inform the MSBA that Marlborough is interested in pursuing a school building renovation/addition of the Richer school with MSBA funding.

School Administrators believe that a renovation/addition of the Richer school would address the existing capital improvement needs of the school as well as address critical space constraints of our elementary program, which may soon need to give up classrooms for specials (art, music, engineering, etc.) for general teaching classrooms.

The SOI submission deadline is Friday, April 29<sup>th</sup>. Before the SOI is formally submitted, the District is required to obtain a vote of support by the School Committee and the City Council. The School Committee voted to support the SOI submission on February 8<sup>th</sup>, and we are respectfully requesting the opportunity to bring the matter in front of the City Council for a vote.

Thank you in advance for your consideration.

  
 Doug Dias  
 Director of Finance and Operations

  
 Michael Bergeron  
 Superintendent of Schools

**Enclosures:** Required MSBA vote language

[www.mps-edu.org](http://www.mps-edu.org)

*It is the policy of the Marlborough Public Schools not to discriminate on the basis of race, gender, religion, national origin, color, homelessness, sexual orientation, gender identity, age or disability in its education programs, services, activities or employment practices.*



# Marlborough Public Schools

**Douglas Dias • Director of Finance & Operations**  
*District Education Center*  
 25 Union Street, Marlborough, MA 01752  
 (508) 460-3509 ext. 13810 • [ddias@mps-edu.org](mailto:ddias@mps-edu.org)

## Required MSBA Vote Language

Resolved: Having convened in an open meeting on xx/xx/2022, prior to the SOI submission closing date, the City Council of the City of Marlborough in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated February 2022 for the Richer Elementary School located at 80 Foley Road, Marlborough, MA 01752 which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future;

The District is submitting the Statement of Interest under three priorities:

Priority 2: Elimination of severe overcrowding

Priority 4: Prevention of severe overcrowding expected to result from increased enrollments

Priority 5: Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility

The Richer Elementary School SOI would address overcrowding at the elementary level as well as capital maintenance concerns at that building. The MSBA and the District's Study Enrollment Certification for the Goodnow Brothers project predicted in 2015 that Marlborough would have 2,260 K-5 students by FY26, and the District's actual K-5 enrollment in FY22 is 2,478 students. Priorities two and four would address this overcrowding in our elementary schools, which has caused non-traditional classroom spaces throughout the District to be used as classrooms. Further, priority five would address Richer Elementary's outdated HVAC and plumbing systems, as well as aged building envelope systems (windows, roof) that require modernization;

and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the City of Marlborough to filing an application for funding with the Massachusetts School Building Authority.

[www.mps-edu.org](http://www.mps-edu.org)

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# Marlborough Public Schools

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*School Committee*  
*District Education Center*  
 25 Union Street, Marlborough, MA 01752  
 (508) 460-3509

## 8. Public Participation: None.

It should be noted that members of the public may provide comment via email before the meeting to [superintendent@mps-edu.org](mailto:superintendent@mps-edu.org). Public participation is a time for your comments to be heard by the committee; it is not a question-and-answer session.

## 9. Action Items/Reports

### A. MSBA Statement of Interest

Mr. Dias read the MSBA Statement of Interest action item into the record verbatim. Superintendent Bergeron recommended that the School Committee give the authority, by agreeing to the language, to the district to submit a SOI and approach the City Council to make the same request.

Motion made by Mrs. Matthews, seconded by Chairman Vigeant to approve the recommendation.

Motion passed 6-0-1.

### B. MPS Substitute Pay Rates

Superintendent Bergeron attached a proposed new rate for substitute teachers. Current rates are included below the table for comparison purposes. These rates would become effective tomorrow if approved.

Motion made by Mrs. Matthews, seconded by Chairman Vigeant to approve these new rates.

Motion passed 7-0-0.

### C. Superintendent Job Description

Superintendent Bergeron has worked on updating the job description for the Superintendent position with the help of Patty Brown. The job posting will hopefully be put out tomorrow.

[www.mps-edu.org](http://www.mps-edu.org)

*It is the policy of the Marlborough Public Schools not to discriminate on the basis of race, gender, religion, national origin, color, homelessness, sexual orientation, gender identity, age or disability in its education programs, services, activities or employment practices.*



# City of Marlborough

## Legal Department

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

RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH  
 JASON D. GROSSFIELD  
 CITY SOLICITOR  
 JEREMY P. MCMANUS  
 ASSISTANT CITY SOLICITOR  
 2022 MAR 23 P 4: 35  
 SUSAN A. CORREIA  
 PARALEGAL

March 23, 2022

Michael H. Ossing, President  
 Marlborough City Council  
 City Hall  
 140 Main Street  
 Marlborough, MA 01752

Re: Chapter 358 of the Acts of 2020: Multi-Family Zoning Requirements  
Presentation on Draft DHCD Guidelines for MBTA Communities

Dear Honorable President Ossing and Councilors:

As the City Council is aware, the Act Enabling Partnerships for Growth (Chapter 358 of the Acts of 2020) signed into law on January 14, 2021 incorporated several changes to state zoning laws. One aspect of this legislation included a new multi-family zoning requirement for so-called MBTA communities, which includes Marlborough. New section 3A to the Zoning Act (Chapter 40A of the General Laws) requires each of the 175 MBTA communities to have a zoning district in which multifamily zoning is permitted as of right, and that meets other requirements set forth in the statute. On December 15, 2021, the Mass. Dept. of Housing & Community Development (DHCD) issued draft guidelines regarding these new requirements.

To remain in compliance with Section 3A, it is necessary to complete a presentation on the draft guidelines in a City Council meeting by May 2, 2022. I respectfully request the opportunity to appear before the City Council, along with a representative from the Metropolitan Area Planning Council, to make the presentation at one of your upcoming April 2022 meetings.

For reference, enclosed please find the following information prepared by DHCD regarding these requirements: (1) MBTA Communities: How to Comply in 2022; (2) Draft Compliance Guidelines for Multi-Family Districts; and (3) MBTA Communities FAQ updated March 1, 2022.

Thank you for your consideration. Please contact me if you have any questions.

Respectfully,

Jason D. Grossfield  
 City Solicitor

Enclosures

cc: Arthur G. Vigeant, Mayor  
 MAPC



Commonwealth of Massachusetts  
 DEPARTMENT OF HOUSING &  
 COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

December 15, 2021

**MBTA COMMUNITIES: HOW TO COMPLY IN 2022**

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New section 3A to the Zoning Act (Chapter 40A of the General Laws) requires each of the 175 MBTA communities to have a zoning district in which multifamily zoning is permitted as of right, and that meets other requirements set forth in the statute. An MBTA community that does not comply with Section 3A is not eligible for funding from the Housing Choice Initiative, the Local Capital Projects Fund, or the MassWorks Infrastructure Program.

This document describes the actions MBTA communities must take to remain eligible for these funding sources for the next One Stop application cycle, which formally opens on May 2, 2022 and closes on June 3, 2022. These requirements supersede and replace the Preliminary Guidance for MBTA Communities Regarding Compliance with Section 3A of Chapter 40A (By Right Multifamily Zoning) issued on January 29, 2021.

**How to Comply in 2022**

Simultaneously with the release of these 2022 compliance requirements, the Department has issued Draft Guidelines for public comment, which can be found here: [www.mass.gov/mbtacomunities](http://www.mass.gov/mbtacomunities). To remain in compliance with Section 3A while DHCD is collecting public comment on the Draft Guidelines, an MBTA community must take the following actions by no later than 5:00 p.m. on May 2, 2022:

1. Include a presentation of the Draft Guidelines in a meeting of the Select Board, City Council or Town Council, as applicable;
2. Complete and submit the MBTA Community Information Form, found here: [www.mass.gov/forms/mbta-community-information-form](http://www.mass.gov/forms/mbta-community-information-form); and
3. Submit updated GIS parcel maps to MassGIS if the most recent updated parcel maps were submitted prior to January 1, 2020. DHCD will contact each of the 14 MBTA communities that need to submit updated GIS parcel maps.

Up-to-date standardized parcel maps are important to assist your community in determining whether an existing or proposed new multi-family zoning district meets the criteria established in the Draft Guidelines. To submit updated parcel update, or if you have questions about it, please contact MassGIS staff Craig Austin [craig.austin@mass.gov](mailto:craig.austin@mass.gov).

These requirements are effective as of December 15, 2021 and will remain in effect until the issuance of final compliance guidelines, or until modified or revoked by DHCD.



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
 COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

**DRAFT Compliance Guidelines for Multi-family Districts**  
**Under Section 3A of the Zoning Act**

**1. Overview of Section 3A of the Zoning Act**

Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities (referred to herein as “Section 3A”). Subsection (a) of Section 3A provides:

*An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021. These guidelines provide further information on how MBTA communities may achieve compliance with Section 3A.

**2. Definitions**

“Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.

“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“Bus station” means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

“Chief executive officer” means the mayor in a city, and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

“Commuter rail community” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“Developable land” means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.” A list of MBTA communities is attached, including the designation of each MBTA community as a rapid transit community, a bus service community, a commuter rail community or an adjacent community for purposes of these compliance guidelines.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family district” means a zoning district, including an overlay district, in which multi-family uses are allowed by right.

“Rapid transit community” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 below.

“Residential dwelling unit” means a dwelling unit equipped with a full kitchen and bathroom.

“Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district, made in accordance with the requirements of section 5.b below.

### 3. General Principles of Compliance

a. These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to permit multi-family housing “as of right”;
- The metrics that determine if a multi-family district is “of reasonable size”;
- How to determine if a multi-family district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code;
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children”; and
- The extent to which MBTA communities have flexibility to choose the location of a multi-family district.

b. The following general principles have informed the more specific compliance criteria that follow:

- All MBTA communities should contribute to the production of new housing stock.
- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries nonetheless benefit from being close to transit stations in nearby communities.
- MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.

- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.
- To the maximum extent possible, multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists.

#### 4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval. Site plan review and approval may be required for multi-family uses allowed as of right. Site plan review is a process by which a local board reviews a project’s site layout to ensure public safety and convenience. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

#### 5. Determining “Reasonable Size”

In making determinations of “reasonable size,” DHCD will take into consideration both the area of the district and the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

##### a. *Minimum land area*

Section 3A’s requirement that a multi-family district be a “reasonable size” indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community. A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least 50 acres of land—or approximately one-tenth of the land area within 0.5 mile of a transit station.

An overlay district is an acceptable way to achieve compliance with Section 3A, provided that such an overlay district should not consist of a collection of small, non-contiguous parcels. At least one portion of the overlay district land areas must include at least 25 contiguous acres of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement.

##### b. *Minimum multi-family unit capacity*

A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. MBTA communities seeking a determination of compliance with Section 3A must provide to DHCD an accurate assessment of the number of multi-family housing units that can be developed as of right within the multi-family district, referred to as the district’s unit capacity.

A compliant district's multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows:

<b>Category</b>	<b>Minimum multi-family units as a percentage of total housing stock</b>
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

The minimum unit capacity applicable to each MBTA community is determined by multiplying the number of housing units in that community by 0.25, 0.20, 0.15 or 0.10, depending on the type of service in that community. For example, a rapid transit community with 7,500 housing units is required to have a multi-family district with a multi-family unit capacity of  $7,500 \times 0.25 = 1,875$  multi-family units. When calculating the minimum unit capacity, each MBTA community should use 2020 census data to determine the number of total housing units, unless another data source has been approved by DHCD.

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district. The estimate should take into account the amount of developable land in the district, as well as the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements applicable in that district under the zoning ordinance or bylaw. The estimate must also take into account the restrictions and limitations set forth in any other municipal bylaws or ordinances; limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations; known title restrictions on use of the land within the district; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

It is important to understand that a multi-family district's unit capacity is not a mandate to construct a specified number of housing units, nor is it a housing production target. Section 3A requires only that each MBTA community has a multi-family zoning district of reasonable size. The law does not require the production of new multi-family housing units within that district. There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.

In some communities, there may be a significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out. Conversely, there may be some communities with relatively little multi-family housing in its multi-family district; there generally will be more opportunity for new

housing production in those districts in which there is a large gap between unit capacity and the number of existing multi-family units.

## 6. Minimum Gross Density

Section 3A states that a compliant multi-family district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. DHCD will deem a zoning district to be compliant with Section 3A's minimum gross density requirement if the following criteria are met.

### a. *District-wide gross density*

Section 3A expressly requires that a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

To meet the district-wide gross density the municipality must demonstrate that the zoning for the district permits a gross density of 15 units per acre of land within the district, “include[ing] land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” By way of example, to meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

### b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and bylaws typically limit the unit density on individual parcels of land. To comply with the statute's density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

## 7. Determining Suitability for Families with Children

Section 3A states that a compliant multi-family district must be without age restrictions and must be suitable for families with children. DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants.

## 8. Location of Districts

Section 3A states that a compliant multi-family district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” DHCD will interpret that requirement consistent with the following guidelines.

### *a. General rule for measuring distance from a transit station.*

To maximize flexibility for all MBTA communities, the distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.

### *b. MBTA communities with some land area within 0.5 miles of a transit station*

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community, shall comply with the statutory location requirement if a substantial portion of the multi-family district is located within the prescribed distance. Absent compelling circumstances, at least [one half] of the land area of the multi-family district should be located within 0.5 mile of the transit station. The multi-family district may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

In unusual cases, the most appropriate location for a multi-family district may be in a land area that is further than 0.5 miles of a transit station. Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing—for example, because it comprises wetlands or land publicly owned for recreation or conservation purposes—the MBTA community may propose a multi-family use district that has less than one-half of its land area within 0.5 miles of a transit station. To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.

### *c. MBTA communities with no land area within 0.5 miles of a transit station*

When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

## 9. Determinations of Compliance

DHCD will make determinations of compliance with Section 3A upon request from an MBTA community, in accordance with the following criteria and schedule. An MBTA community may receive a determination of full compliance when it has a multi-family district that meets all of the requirements of Section 3A. An MBTA community may receive a determination of interim compliance for a limited duration to allow time to enact a new multi-family district or amend an existing zoning district in order to achieve full compliance with Section 3A.

*a. Requests for determination of compliance*

When an MBTA community believes it has a multi-family district that complies with the requirements for Section 3A, as set forth in these guidelines, it may request a determination of compliance from DHCD. Such a request may be made for a multi-family district that was in existence on the date that Section 3A became law, or for a multi-family district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on a form required by DHCD and shall include, at a minimum, the following information, which shall be provided in a format or on a template prescribed by DHCD:

General district information

- i. A map showing the municipal boundaries and the boundaries of the multi-family district;
- ii. A copy of those provisions in the municipal zoning code necessary to determine the uses permitted as of right in the multi-family district and the dimensional limitation and requirements applicable in the multi-family district;
- iii. A plan showing the boundaries of each parcel of land located within the district, and the area and ownership of each parcel as indicated on current assessor records;

Location of districts

- iv. A map showing the location of the nearest transit station and how much of the multi-family district is within 0.5 miles of that transit station;
- v. In cases where no portion of the multi-family district is located within 0.5 miles of a transit station, a statement describing how the development of new multi-family housing within the district would be consistent with the Commonwealth's sustainable development principles;

Reasonable size metrics

- vi. A calculation of the total land area within the multi-family district;
- vii. A calculation of the multi-family district's unit capacity, along with a statement describing the methodology by which unit capacity was determined, together with:
  - a. A description of the water and wastewater infrastructure serving the district, and whether that infrastructure is sufficient to serve any new multi-family units included in the unit capacity;
  - b. A description of any known physical conditions, legal restrictions or regulatory requirements that would restrict or limit the development of multi-family housing within the district;
  - c. The number and age of multi-family housing units already existing within the multi-family district, if any.

District gross density

- viii. The gross density for the multi-family district, calculated in accordance with section 6 of these guidelines.

### Housing suitable for families

- ix. An attestation that the zoning bylaw or ordinance does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants in multi-family housing units within the multi-family district.

### Attestation

- x. An attestation that the application is accurate and complete, signed by the MBTA community's chief executive officer.

As soon as practical after receipt of a request for determination of compliance, DHCD will either send the requesting MBTA community a notice that it has provided all of the required information, or identify the additional information that is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family use district complies with Section 3A, or identifying the reasons why the multi-family use district fails to comply with Section 3A and the steps that must be taken to achieve compliance.

An MBTA community shall be deemed to be in compliance with Section 3A for the period of time during which a request for determination of compliance, with all required information, is pending at DHCD.

### *b. Action plans and interim compliance—New or amended district*

Many MBTA communities do not currently have a multi-family district of reasonable size that complies with all of the requirements set out in Section 3A and these guidelines. These MBTA communities must take affirmative steps towards the creation of a compliant multi-family district within a reasonable time. To achieve interim compliance, the MBTA community must, by no later than the dates specified in section 9.c, send to DHCD written notice that a new multi-family district, or amendment of an existing multi-family district, must be adopted to come into compliance with Section 3A. The MBTA community must then take the following actions to maintain interim compliance:

- i. *Creation of an action plan.* Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A. DHCD may approve or require changes to the proposed action plan and timeline by sending the MBTA community written notice of such approval or changes. Rapid transit communities and bus service communities must obtain DHCD approval of an action plan by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.
- ii. *Implementation of the action plan.* The MBTA community must timely achieve each of the milestones set forth in the DHCD-approved action plan, including but not limited to the drafting of the proposed zoning amendment and the commencement of public hearings on the proposed zoning amendment.

- iii. *Adoption of zoning amendment.* An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD. For rapid transit communities and bus service communities, DHCD will not approve an action plan with an adoption date later than December 31, 2023. For commuter rail communities and adjacent communities, DHCD will not approve an action plan with an adoption date later than December 31, 2024.
- iv. *Determination of full compliance.* Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance. The application must include data and analysis demonstrating that a district complies with all of the compliance criteria set forth in these guidelines, including without limitation the district's land area, unit capacity, gross density and location.

During the period that an MBTA community is creating and implementing its action plan, DHCD will endeavor to respond to inquiries about whether a proposed zoning amendment will create a multi-family district that complies with Section 3A. However, DHCD will issue a determination of full compliance only after final adoption of the proposed zoning amendment and receipt of a complete application demonstrating the unit capacity.

*c. Timeframes for submissions by MBTA communities*

To remain in interim compliance with Section 3A, an MBTA community must take one of the following actions by no later than December 31, 2022:

- i. Submit a complete request for a determination of compliance as set forth in section 9.a above; or
- ii. Notify DHCD that there is no existing multi-family district that fully complies with these guidelines, and submit a proposed action plan as described in section 9.b above.

**10. Renewals and Rescission of a Determination of Compliance**

*a. Term and renewal of a determination of compliance*

A determination of compliance shall have a term of 10 years. Each MBTA community shall apply to renew its certificate of compliance at least 6 months prior to its expiration. DHCD may require, as a condition of renewal, that the MBTA community report on the production of new housing within MBTA community, and in the multi-family district that was the basis for compliance. Applications for renewal shall be made on a form proscribed by DHCD.

*b. Rescission of a determination of compliance*

DHCD reserves the right to rescind a determination of compliance if DHCD determines that (i) the MBTA community submitted inaccurate information in its application for a determination of compliance, (ii) the MBTA community amended its zoning or enacted a general bylaw or other rule or regulation that materially alters the Unit capacity in the applicable multi-family use district.

**11. Effect of Noncompliance**

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.

Iteration No. 2  
Updated March 1, 2022

**MBTA COMMUNITIES**  
**FREQUENTLY ASKED QUESTIONS**

**A. General**

**A1. *What role does DHCD play in determining compliance with the new section 3A of the Zoning Act (“Section 3A”)?***

Section 3A gives DHCD, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, discretion to promulgate guidelines to determine if an MBTA community complies with Section 3A. DHCD released draft guidelines on December 15, 2021. The draft guidelines clarify what is required to comply with the statute, for example by defining what it means for a district to be of “reasonable size,” and explaining how communities demonstrate that a district meets the law’s minimum gross density requirement. The draft guidelines do not impose mandates or create restrictions that are not in the law.

**A2. *Can you clarify how DHCD determined if a particular MBTA community is a rapid transit community, a bus service community, a commuter rail community, or an adjacent community?***

MBTA communities were categorized based on whether they have transit service located within the municipality or within 0.5 miles of the municipal boundary, and if so what type of transit service. A community with access to more than one transit type is classified in the category with the higher unit capacity requirement. More specifically:

- A rapid transit community has an MBTA subway station located within its borders, or within 0.5 miles of its border. Note, a rapid transit community may also have other types of transit stations.
- A bus service community has no subway station within its border or within 0.5 miles of its border, but does have an MBTA bus route with one or more bus stops located within the community. Note, a bus community that happens also to have a commuter rail station within its borders is placed within the bus community category due to the presence of the bus route.
- A commuter rail community has a commuter rail station within its borders or within 0.5 miles of its border, but has no bus route or subway station.
- An adjacent community abuts a rapid transit community, bus service community or commuter rail community, has no subway station or commuter rail station within its boundaries or within 0.5 miles of its border, and has no MBTA bus route running through it.

Iteration No. 2  
Updated March 1, 2022

**A2A.** *My community has a commuter rail station and a bus route. We appear to be misclassified based on the definition of “bus service community” in the draft guidelines. Can you clarify why we were classified as a bus service community?*

There is a typographical error in the definition of “bus service community” in the draft guidelines. For purposes of the draft guidelines, this definition was intended to read as follows: “*Bus service community*” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station ~~or commuter rail station~~ within its border, or within 0.5 mile of its border. That error will be corrected in the final guidelines. (Added March 10, 2022)

**B. Location of Districts**

**B1.** *How much discretion does each MBTA community have with respect to where a multi-family district is located?*

A multi-family zoning district must be located within 0.5 miles of a transit station, with at least half of the district’s land area within the 0.5-mile radius, when that is possible. Where it is not possible to locate a district within 0.5 miles of a transit station, cities and towns otherwise have considerable flexibility to decide where to locate these districts. These districts may be located where there are existing single-family, multi-family, commercial or other existing uses and structures, or in areas ready for redevelopment. DHCD strongly encourages cities and towns to consider multi-family districts where there is existing or planned pedestrian and bicycle access to a transit station, or that otherwise are in areas of concentrated development. Regardless of location, each community must demonstrate that the zoning allows for multi-family housing that meets or exceeds the required unit capacity and at a density that meets the statutory minimum.

**B2.** *What if my community has more than one transit station—for example, a subway station and a separate commuter rail station, or multiple commuter rail stations? Do I need a multi-family zoning district in proximity to each station? If not, can I choose which transit station the district?*

Section 3A requires each MBTA community to “have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right ....” An MBTA community may have more than 1 such multi-family zoning district, but a single district is all that Section 3A requires. If an MBTA community has more than one transit station, it may locate the multi-family zoning district within 0.5 miles of any of them.

**B3.** *Can my town establish a multi-family district in an area where there is already significant multi-family development?*

Yes, but you still must demonstrate the district meets the “reasonable size” criteria, including the minimum unit capacity, and at the required minimum gross density.

Iteration No. 2  
Updated March 1, 2022

***B4. Can my town establish a multi-family district in an area where there are many single family homes on small lots?***

Yes, but it may be difficult to demonstrate such a district meets the minimum multi-family unit capacity and gross density requirements, because the zoning is unlikely to allow for the construction of the required number and density of multi-family housing units on small parcels.

***B5. My community has been categorized as a “bus service community” because we have an MBTA bus route, with several bus stops in town. Are bus stops or park-and-ride locations the same as “bus stations,” and do we have to locate our multi-family zoning district within 0.5 miles of one of a bus stop or park-and-ride location if we have one?***

No. Neither a bus stop nor a park-and-ride location is considered to be a bus station. The draft guidelines attempted to make this point by including a definition of bus station.

***B6. What is required of “adjacent communities” with no land area within ½ mile of a transit station?***

Section 3A requires all MBTA communities, including adjacent communities, to have at least 1 zoning district in which multi-family uses are allowed by right. An adjacent community with no land area within ½ mile of a transit station should locate its district in an area that makes the most sense for that community, and should carefully consider establishing the district in an area of concentrated development, or an area with pedestrian access to a transit station that is more than one half mile away. (*Added March 10, 2022*)

**C. Size of Districts**

***C1. How do the draft compliance guidelines define reasonable size?***

The draft compliance guidelines consider two factors in determining if a zoning district is of reasonable size. First, they require the land area in the district be at least 50 acres. Second, the draft guidelines consider the number of multi-family units that the zoning allows in the district—what the guidelines refer to as the district’s “multi-family unit capacity.” The minimum multi-family unit capacity for each district depends on the type of transit service in a particular community, if any, and ranges from 10 to 25 percent of the community’s total housing stock. This may at first sound like a large number of units, but keep in mind that “unit capacity” is just a measure of the number of multi-family units allowed by right in the district—many of which may already exist. Unit capacity is not a requirement to construct a particular number of units, or any units at all. Section 3A requires multi-family by right zoning, not housing production.

Iteration No. 2  
Updated March 1, 2022

**C2. *A minimum land area of 50 acres seems like a lot—isn't that too big for most communities?***

The intent of Section 3A is to require the creation of multi-family zoning districts within 0.5 miles of a transit station, where applicable. For reference, a circle with a half-mile radius and a transit station at its center comprises about 500 acres. The minimum district size of 50 acres is approximately one-tenth of that land area. In most MBTA communities, 50 acres will be well under 1 percent of the community's total land area. A minimum land area of 50 acres will encourage long-term, neighborhood-scale planning, instead of using zoning as a way to permit proposed projects on specific sites. But 50 acres is still only a small fraction of the land area in a town and gives communities significant flexibility on where to locate a district in the half-mile radius around a transit station.

**C3. *Section 5.a of the draft guidelines states that portions of an overlay district can be a minimum of 5 acres as long as one portion of the overlay district is 25 acres. Does this apply to "base districts" as well?***

Yes, base districts and overlay districts have the same minimum land area requirements.

**C4. *My community has 2500 total housing units and is categorized as an "adjacent community." Is the required unit capacity 250 (10% of the total housing units) or 750 (50 acres x 15 units/acre)?***

Your town's minimum unit capacity is 250 as that term is defined in the draft guidelines. But, to comply with Section 3A, the multi-family zoning district also must meet the minimum gross density requirement of not less than 750 multi-family units (for a 50-acre district). Because the guidelines establish a minimum land area of 50 acres and the statute requires a minimum gross density of 15 units per acre, the result is that every MBTA community, regardless of its size, must provide a zoning district that allows at least 750 multi-family units as of right. This requirement is a floor on the number of units a zoning district must allow—many MBTA communities are required to have a district with a larger unit capacity. In other words, because of the minimum gross density requirement, a compliant district must allow at least 750 units regardless of the number of housing units in the community.

**C5. *My community is categorized as a "commuter rail community" because we have a commuter rail station. We have almost 10,000 housing units. Are you saying we need to construct new multi-family units equal to 15% of our total housing stock?***

No, your community does not have to produce 1,500 new housing units. Your community must adopt a multi-family zoning district that can accommodate that many units. Those units may be existing units, as long as they would be allowed to be built as of right under the district's zoning; or they may be new units that potentially could be constructed by right sometime in the future; or a combination of existing and potential new units.

Iteration No. 2  
Updated March 1, 2022

- C6. *According to the draft guidelines, my community must have a zoning district with a unit capacity of 970 units. We have an area in town with 800 multi-family units already. Some of these units were built by special permit, and others were built under chapter 40B. Can we create a new zoning district in this area and count the existing units?***

The zoning district must allow for 970 multi-family units by right. To determine the unit capacity of a new or existing multi-family zoning district, you do not “count” existing units—you instead determine how many multi-family units the zoning district would allow by right on that parcel if it were undeveloped. Depending on the density, height, open space, setbacks, parking and other requirements that apply in the district, and the amount of developable land on each parcel, it is possible that all of the existing 800 units could be constructed by right—or even more than the existing 800 units. The important thing to understand is that you are counting what the zoning allows by right, not the number of units that currently exist. Note that in addition to meeting the unit capacity requirement, the district must meet the minimum gross density requirement as well. In some cases, the zoning for a district will need to allow for more multi-family units to meet the minimum gross density requirement.

- C7. *By basing the minimum multi-family unit capacity on the number of existing housing units the draft guidelines require greater density in communities that already are densely developed. Shouldn't there be more expected of communities that haven't already allowed for multi-family housing?***

MBTA communities include dense, urban communities, suburban communities and rural communities. One of the guiding principles of the draft guidelines is that MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community's long-term planning goals, while also leveraging local and state investment in public transportation. The draft guidelines are intended to establish zoning requirements that will lead to more multi-family housing production in appropriate locations, while allowing towns to adhere to other municipal goals. (*Added March 10, 2022*)

**D. Minimum Gross Density**

- D1. *What does it mean to have a minimum gross density of 15 units per acre?***

Section 3A states that each multi-family zoning district of reasonable size “shall ... have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” The law defines gross density as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” The law clearly states that the gross density requirement applies to the district as a whole, rather than to individual parcels or projects within

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that district. The draft guidelines provide further instruction on how to calculate the gross density of an existing or proposed multi-family zoning district.

***D2. Can the multi-family district have subdistricts with varying degrees of density as long as the average gross density is 15 units/acre?***

Yes. The draft guidelines permit the multi-family district to contain sub-districts that may have varying densities (higher and lower than a gross density of 15 units/acre) as long as the gross density for the entire district is at least 15 units/acre.

***D3. Is a district that allows or requires mixed use and residential gross density of at least 15 units per acre acceptable to meet the guidelines?***

Yes, commercial and other uses can also be permitted by right or by special permit in a multi-family zoning district. A mixed-use district will be deemed to comply with Section 3A as long as it meets the unit capacity, density and other requirements in the guidelines.

***D4. A density of 15 units per acre is out of character with my rural community. Can the final guidelines reduce the minimum gross density requirement from 15 units per acre for more rural MBTA communities in which that density is out of character with existing development patterns?***

No. The minimum gross density of 15 units per acre is expressly set forth in Section 3A. The guidelines must be consistent with the statute. But, the dimensional requirements in the zoning district can encourage the construction of low-rise multi-family housing projects where that kind of development is desired. (*Added March 10, 2022*)

**E. Interim Compliance Requirements**

***E1. DHCD released draft guidelines on December 15. What is expected of us until these draft guidelines are issued as final guidelines?***

While DHCD is collecting public comment on the draft guidelines, and until final guidelines are issued, an MBTA community can remain in compliance with Section 3A by taking the following actions set forth in the “How to Comply for 2022 for MBTA Communities” which can be [found here](#). If you would like to submit comments on the draft guidelines, you may do so [online here](#).

***E2. Who signs the attestation required in section 9 of the guidelines? We are concerned our small town doesn't have the expertise to make this statement.***

The attestation must be signed by each municipality's chief executive officer—the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter. Technical assistance will

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**Updated March 1, 2022**

be available after the guidelines are finalized and you may also consult with your Regional Planning Agency for assistance.

***E3. What happens if my community does not comply with Section 3A?***

MBTA communities that do not timely comply with Section 3A will not be eligible to receive Massworks or Housing Choice funding through the 2022 Community One-Stop Application. Non-compliant MBTA communities will also be ineligible to receive funding from the Local Capital Projects Fund established in section 2EEEE of chapter 29. The compliance requirements in effect until the issuance of final guidelines can be [found here](#).

***E4. Does Section 3A require all MBTA communities to adopt a multi-family zoning district, or is compliance optional?***

Section 3A states that each “MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right ...” The word “shall” indicates that the legislature intended to require all MBTA communities to have a multi-family zoning district. (*Added March 10, 2022*)

***E5. Subsection (b) of Section 3A says that an MBTA community that does not have a compliant multi-family zoning district shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. What are these grant programs?***

The MassWorks infrastructure program provides the largest and most flexible source of capital funds to municipalities and other eligible public entities primarily for public infrastructure projects that support and accelerate housing production, spur private development, and create jobs throughout the Commonwealth. EOHEd grants approximately \$75 million in MassWorks funding every year. The Housing Choice Initiative is a flexible grant program open to communities that have been designated as “housing choice communities”. Approximately \$19 million in grant funding has been awarded since 2018. The Local Capital Projects Fund collects a portion of the state’s gaming revenue and has been used in recent years to fund the operations of local housing authorities. (*Added March 10, 2022*)

**F. Technical Assistance**

***F1. Where can I find help understanding the new law and how best to comply with it?***

Additional resources are available at [mass.gov/MBTACommunities](http://mass.gov/MBTACommunities). Funding opportunities for planning and other technical assistance will be available in next year’s One Stop application. Further information on the One Stop application is available at [mass.gov/onestop](http://mass.gov/onestop). Other technical assistance will be offered by the Massachusetts Housing

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Partnership (MHP) and regional planning agencies. Details about MHP's technical assistance are available at [www.mhp.net/mbtazoning](http://www.mhp.net/mbtazoning).

**G. Miscellaneous**

***G1. What if I already have a zoning district in which multi-family housing is allowed by special permit? Does that count?***

No, the law requires that multi-family uses be allowed by right in the district. Those uses may be subject to site plan review and design review, but multi-family uses cannot be subject to special permits or other discretionary permits that a local board can deny the use, or impose conditions unrelated to site layout, pedestrian safety, internal circulation of automobiles, and public safety considerations.

***G2. Can an MBTA community's zoning require that multi-family projects within a multi-family zoning district include a specified percentage of affordable units?***

Yes, reasonable affordability requirements are allowed, as long as they are financially feasible and do not unduly impede the construction of new multi-family housing in the district. At least 140 cities and towns in the Commonwealth have some form of "inclusionary" zoning requiring that a percentage of units in new housing developments be affordable. Any affordability requirements in a zoning ordinance or bylaw will be reviewed on a case-by-case basis to ensure that they are reasonable.

***G2A. Answer G.2 says that the multi-family zoning may require projects to include a percentage of affordable units, as long as the requirements are financially feasible and do not unduly impede the construction of new multi-family housing in the district. How will DHCD review affordability requirements to ensure that they are reasonable?***

The final guidelines may provide more specific rules about what is reasonable and what is not. DHCD encourages and invites public comment on this issue to inform the final guidelines. (Added March 10, 2022)

***G3. Can a project within the multi-family zoning district be required to have an adequate number of parking spaces?***

Requiring too many parking spaces for multi-family housing projects can practically impede the number of multi-family units that can be constructed within the district. A municipality should consider reducing or eliminating any minimum parking requirements in the multi-family zoning district—particularly for projects that are within walking or biking distance to a transit station—to allow for a greater density of multi-family units on each parcel. In all cases, a municipality must consider whether the unit capacity and minimum gross density

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requirements are met given the amount of parking required.

***G4. My community does not currently provide a public sewer system. Are we required to design and construct a public sewer system and offer sewer hook ups to support higher density housing? If so, how can we pay for that expensive infrastructure?***

No. Multi-family housing can be created at the required density using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, private developers may be able to support the cost of necessary water and sewer extensions. Communities are encouraged to consider the location of any municipal water sources and other nitrogen-sensitive areas when siting multi-family zoning districts to minimize barriers to installing septic and wastewater systems that can serve the needs of multi-family housing development in the district. Cities and towns seeking to affirmatively plan for growth may also be eligible for state grants to defray the cost of new or expanded public infrastructure.

***G5. My community is concerned that new multi-family housing will mean many more children in the school system. Our school system is already at capacity and we do not have the resources to accommodate more children. What can we do?***

The new law does not require immediate housing production—only the creation of compliant zoning districts where multi-family housing *may* be created as of right. It is unlikely that communities will see an immediate increase in school attendance, given the time needed to assemble land for development, design and build housing. Moreover, studies have shown that in most cases new multi-family housing development has no negative impact on a community's school system.



# City of Marlborough Legal Department

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

RECEIVED JASON D. GROSSFIELD  
CITY CLERK'S OFFICE CITY SOLICITOR  
CITY OF MARLBOROUGH  
JEREMY P. MCMANUS  
ASSISTANT CITY SOLICITOR  
2022 MAR 23 P 4:35  
SUSAN A. CORREIA  
PARALEGAL

March 23, 2022

Michael H. Ossing, President  
Marlborough City Council  
City Hall  
140 Main Street  
Marlborough, MA 01752

Re: City Council Order No. 22-1008516  
Sewer and Drainage Easements re: Various Parcels on Lacombe Street, Marlborough

Dear Honorable President Ossing and Councilors:

As requested by the Legislative & Legal Affairs Committee, enclosed is a proposed order to authorize the execution of release deeds, acceptance of sewer easements, and amendment of a drainage-related easement in connection with the above-referenced City Council order. Both the City Engineer and this office worked together to reach mutually acceptable deeds and easements while ensuring the City's rights with respect to the municipal sewer infrastructure in the easement area, as described in more detail in the City Engineer's communication to the Committee dated March 9, 2022, a copy of which is also enclosed.

These documents are in proper legal form, and are ready for vote by the City Council at its March 28, 2022 meeting if so desired.

Please contact me if you have any questions or concerns.

Respectfully,

Jason D. Grossfield  
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor  
Thomas DiPersio, Jr., PE, PLS, City Engineer

## ORDERED:

That the City Council for the City of Marlborough having received a request on behalf of Lacombe Business Center and Jeffery Furmanick and Jonathan White, Trustees of the 58 and 62 Lacombe Street Trust (collectively the "Requesters") to release any rights that the City of Marlborough may own in a certain thirty (30') foot strip of land (the "Sewer Land") which may have previously been taken or reserved for municipal sewer purposes, and to affirmatively grant a sewer easement over said Sewer Land in favor of the City of Marlborough, located within the properties known as 44, 51, 58, and 62 Lacombe Street, Marlborough, MA, and where the City Engineer has confirmed that to the extent the City may own any such rights in the Sewer Land they are no longer needed for a public purpose provided that the City maintains a sewer easement over the Sewer Land, and further,

Requester Lacombe Business Center and the City, upon the recommendation of the City Engineer, seek to amend certain drainage and flow easements previously granted to the City at the time of the Street Acceptance of the Lacombe Street Extension in order to clarify the location of the easement areas over the properties known as 51, 61, and 65 Lacombe Street, Marlborough, MA,

In furtherance of the above, the City Council hereby authorizes the following:

(1) The Mayor is authorized to execute release deeds in connection with any rights held by the City in the Sewer Land substantially in the form attached hereto;

(2) The City hereby accepts the sewer easements in the Sewer Land substantially in the form attached hereto, reflecting the area shown as "Proposed 30' Wide Sewer Easement" as shown on the plan prepared by Engineering Design Consultants, Inc. titled Proposed Lotting & Sewer Easement Exhibit, Sheet 2 of 2, Date: February 7, 2022;

(3) The Mayor is authorized to execute an Amendment to Easement in connection with the above-referenced drainage and flow easements held by the City substantially in the form attached hereto, reflecting the amended area as shown on the plan referenced therein; and

(4) The release deeds, sewer easements, and amendment to easement shall be recorded together contemporaneously by the requesters. All costs associating with recording all necessary documents and plans referenced herein with the Registry of Deeds shall be the responsibility of the requesters, and a copy of all recorded documents shall be contemporaneously filed by the requesters with the City Engineer and City Solicitor.

ADOPTED  
In City Council  
Order No. 22-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

## PARTIAL RELEASE DEED

CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County (hereinafter referred to as the "City"), for and in consideration of a new thirty (30) foot wide, plus or minus, permanent sewer easement recorded as of even date herewith (the "New Easement") granted by Lacombe Business Center, LLC, a Massachusetts Limited Liability Company with a principal place of business at 65 Lacombe Street, Marlboro, MA 01752 (the "Grantor") over land owned of record by Grantor known as: (A) 44 Lacombe Street Marlborough, Massachusetts; and more particularly described in three certain Deeds recorded with the Middlesex County South Registry of Deeds ("Registry") in Deed Book 51979 Page 579, Deed Book 63119 Page 14, and Deed Book 71868 Page 556; and more particularly shown as the Land of Lacombe Business Center, LLC on the certain Plan recorded as Plan 35 of 2020, (B) 51 Lacombe Street Marlborough, Massachusetts; and more particularly described in the certain Deed recorded with the Registry in Deed Book 39340 Page 1; and more particularly shown as Lot 4B on the certain Plan recorded as Plan 1027 of 2000. (collectively the "Grantor's Land"), hereby releases unto Grantor and unto all persons claiming by, through or under Grantor, all of its right, title and interest in and to a portion of that certain other sewer taking upon said Grantor's Land being more particularly described as follows:

Parcel 1: The northerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 422± S.F. and "Utility Easement" Area of 2,998± S.F. on the certain Plan recorded as Plan 493 of 1998.

Parcel 2: The southerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 189± S.F. on the certain Plan recorded as Plan 1027 of 2000.

Said Parcel 1 and Parcel 2 (collectively the "Released Taking Area") constituting a portion of a strip of land originally reserved by the City in the certain deed recorded in Deed Book 8498 Page 148; and more particularly shown as the City of Marlborough Sewer Taking, Area 17,000 sq. ft. more or less on the certain Plan recorded as Plan 1167 of 1955.

It is the intention of City that this instrument constitute a release of the Released Taking Area only, and that all of City's rights, title and interest in and to all other land and easements covered by the Deed or Order of Taking shall not be affected by this Partial Release Deed. City hereby reserves and reaffirms for itself and its successors and assigns all rights, title and interest in the lands and easements covered by the Deed or Order of Taking other than the Released Taking Area. To the extent that City may have acquired other rights and easements affecting the Grantor's Land by or under any other deeds or instruments of record, this Partial Release Deed shall in no way affect or impair any such other rights and easements.

Witness my hand and seal on \_\_\_\_\_, 2022

\_\_\_\_\_  
City of Marlborough, acting through its Mayor,  
Arthur G. Vigeant

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Arthur G. Vigeant, Mayor as aforesaid, showing sufficient identification, which was MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said City of Marlborough, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

## PARTIAL RELEASE DEED

CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County (hereinafter referred to as the "City"), for and in consideration of a new thirty (30) foot wide, plus or minus, permanent sewer easement recorded as of even date herewith (the "New Easement") granted by Jeffrey C. Furmanick and Johnathan H. White, Trustees of the 58 Lacombe Street Realty Trust, u/d/t dated December 11, 2017, a certificate for which is recorded with the Middlesex South District Registry of Deeds, Book 70470, Page 323, of 62 Lacombe Street, Marlboro, MA 01752 (the "Grantor") over land owned of record by Grantor known as 58 Lacombe Street Marlborough, Massachusetts, and more particularly described in the certain deed recorded with the Middlesex County South Registry of Deeds (the "Registry") in Deed Book 70470 Page 328; and more particularly shown as Lot 1A on the certain Plan recorded as Plan 1027 of 2000 (the "Grantor's Land"), hereby releases unto Grantor and unto all persons claiming by, through or under Grantor, all of its right, title and interest in and to a portion of that certain other sewer taking upon said Grantor's Land being more particularly described as follows:

Parcel 1: The southerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 4,378± S.F. on the certain Plan recorded as Plan 1027 of 2000; and

Parcel 2: The northerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 2,861± S.F. on the certain Plan recorded as Plan 1027 of 2000.

Said Parcel 1 and Parcel 2 (collectively the "Released Taking Area") constituting a portion of a strip of land originally reserved by the City in the certain deed recorded in Deed Book 8498 Page 148; and more particularly shown as the City of Marlborough Sewer Taking, Area 17,000 sq. ft. more or less on the certain Plan recorded as Plan 1167 of 1955.

It is the intention of City that this instrument constitute a release of the Released Taking Area only, and that all of City's rights, title and interest in and to all other land and easements covered by the Deed or Order of Taking shall not be affected by this Partial Release Deed. City hereby reserves and reaffirms for itself and its successors and assigns all rights, title and interest in the lands and easements covered by the Deed or Order of Taking other than the Released Taking Area. To the extent that City may have acquired other rights and easements affecting the Grantor's Land by or under any other deeds or instruments of record, this Partial Release Deed shall in no way affect or impair any such other rights and easements.

Witness my hand and seal on \_\_\_\_\_, 2022

\_\_\_\_\_  
 City of Marlborough, acting through its Mayor,  
 Arthur G. Vigeant

COMMONWEALTH OF MASSACHUSETTS

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Arthur G. Vigeant, Mayor as aforesaid, showing sufficient identification, which was MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said City of Marlborough, before me.

\_\_\_\_\_

Notary Public  
My commission expires:

## PARTIAL RELEASE DEED

CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County (hereinafter referred to as the "City"), for and in consideration of a new thirty (30) foot wide, plus or minus, permanent sewer easement recorded as of even date herewith (the "New Easement") granted by Jeffrey C. Furmanick and John H. White, Trustees of the 62 Lacombe Street Realty Trust, u/d/t dated February 29, 2012, a certificate for which is recorded with the Middlesex South District Registry of Deeds, Book 58602, Page 260 with a principal place of business at 62 Lacombe Street, Marlboro, MA 01752 (the "Grantor") over land owned of record by Grantor known as 62 Lacombe Street Marlborough, Massachusetts, and more particularly described in the certain deed recorded with the Middlesex County South Registry of Deeds (the "Registry") in Deed Book 58602 Page 262; and more particularly shown as Lot 2A on the certain Plan recorded as Plan 1027 of 2000 (the "Grantor's Land"), hereby releases unto Grantor and unto all persons claiming by, through or under Grantor, all of its right, title and interest in and to a portion of that certain other sewer taking upon said Grantor's Land being more particularly described as follows:

Parcel 1: The southerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 2,992± S.F. on the certain Plan recorded as Plan 1027 of 2000; and

Parcel 2: The northerly portion of the strip of land thirty (30) feet in width more particularly shown as "Existing Sewer Easement" Area of 2,925± S.F. on the certain Plan recorded as Plan 1027 of 2000.

Said Parcel 1 and Parcel 2 (collectively the "Released Taking Area") constituting a portion of a strip of land originally reserved by the City in the certain deed recorded in Deed Book 8498 Page 148; and more particularly shown as the City of Marlborough Sewer Taking, Area 17,000 sq. ft. more or less on the certain Plan recorded as Plan 1167 of 1955.

It is the intention of City that this instrument constitute a release of the Released Taking Area only, and that all of City's rights, title and interest in and to all other land and easements covered by the Deed or Order of Taking shall not be affected by this Partial Release Deed. City hereby reserves and reaffirms for itself and its successors and assigns all rights, title and interest in the lands and easements covered by the Deed or Order of Taking other than the Released Taking Area. To the extent that City may have acquired other rights and easements affecting the Grantor's Land by or under any other deeds or instruments of record, this Partial Release Deed shall in no way affect or impair any such other rights and easements.

Witness my hand and seal on \_\_\_\_\_, 2022

\_\_\_\_\_  
 City of Marlborough, acting through its Mayor,  
 Arthur G. Vigeant

COMMONWEALTH OF MASSACHUSETTS

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Arthur G. Vigeant, Mayor as aforesaid, showing sufficient identification, which was MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said City of Marlborough, before me.

\_\_\_\_\_

Notary Public  
My commission expires:

## GRANT OF SEWER EASEMENT

Lacombe Business Center, LLC, a Massachusetts Limited Liability Company with a principal place of business at 65 Lacombe Street, Marlborough, MA 01752, ("Grantor")

For consideration paid and in full consideration of One Dollar (\$1.00), and other good and valuable consideration,

hereby grants to the CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County ("Grantee"), its successors and assigns forever, with quitclaim covenants

a perpetual right and easement to operate, construct, install maintain, replace, repair, inspect, and improve a sanitary sewer, a system of sewerage, and other appurtenances thereto to consisting of but not limited to pipes, conduits, manholes, vaults and castings on, through, over and under a portion of land known as 44 and 51 Lacombe Street, Marlborough, MA, being shown as "Lots 3B and 4B" respectively on a Plan of Land recorded with the Middlesex South Registry of Deeds as Plan No. 1027 of 2000, and being more particularly described as follows:

### DESCRIPTION

Easement 8, a sewer easement in width of 30', more or less, of 190± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

Easement 22, a sewer easement in width of 30', more or less, of 3,420± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

The above granted rights being more particularly described as the right to lay, inspect, construct, reconstruct, relocate, operate, maintain, alter, renew, replace, abandon forever, add to and remove for a sanitary sewer and system of sewerage the necessary pipes, conduits, manholes, vaults, castings and/or other appurtenances that are or shall be required to install and operate a sewer line, on, over and under the easement area and to do all other acts incidental to the foregoing, including the right to pass and repass over the land of Grantor, its successors and assigns, with people, equipment, supplies for access thereto for all of the above purposes.

Also granted is the perpetual right and easement at any time and from time to time to clear and keep cleared that portion and areas of the premises wherein the utilities are located, of trees, roots, branches, shrubs, brush, bushes, structures, objects and surfaces as may, in the reasonable opinion of the Grantee, its successors and assigns, interfere with the safe and efficient operation and maintenance of said sanitary sewer and system of sewerage.

The Grantor shall have the right to use and enjoy the Easement Areas for the purposes stated herein in common with the Grantee and others legally entitled thereto, provided that the Grantor's use does not interfere with the perpetual rights and easements granted to Grantee herein.

The Grantee, for itself, its successors and assigns, further agrees that it will promptly restore the surface disturbed by it in the exercise of the rights herein granted, in a good and workmanlike manner, substantially to the same condition as existed prior to its being disturbed.

Grantor, its successors and assigns may not place any building, shed or other permanent object or encroachment within the easement area which would materially or unreasonably affect and/or interfere with the purpose of the easement.

It is intended that this easement be conveyed by the Grantor to the City of Marlborough.

The grant of easement is and shall be binding upon the Grantor, its successors and/or assigns, and inure to the benefit of the Grantee. Grantor warrants that the undersigned individual is the authorized signatory and is empowered to grant this easement on the terms and conditions stated herein.

For Grantor's title, see deed dated May 28, 2003, recorded with said registry of deeds in Book 39340, Page 1.

Witness our hands and seals on \_\_\_\_\_, 2022

\_\_\_\_\_  
Lacombe Business Center, LLC, by its Manager  
Paul A. DiTullio

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Paul A. DiTullio, Manager as aforesaid, showing sufficient identification, which was MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said LLC, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

## GRANT OF SEWER EASEMENT

Jeffrey C. Furmanick and Johnathan H. White, Trustees of the 58 Lacombe Street Realty Trust, u/d/t dated December 11, 2017, certificate for which is recorded with the Middlesex South District Registry of Deeds, Book 70470, Page 323, of 62 Lacombe Street, Marlborough, MA 01752 ("Grantor")

For consideration paid and in full consideration of One Dollar (\$1.00), and other good and valuable consideration,

hereby grants to the CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County ("Grantee"), its successors and assigns forever, with quitclaim covenants

a perpetual right and easement to operate, construct, install maintain, replace, repair, inspect, and improve a sanitary sewer, a system of sewerage, and other appurtenances thereto to consisting of but not limited to pipes, conduits, manholes, vaults and castings on, through, over and under a portion of land known as 58 Lacombe Street, Marlborough, MA, being shown as "Lot 1A" on a Plan of Land recorded with the Middlesex South Registry of Deeds as Plan No. 1027 of 2000, and being more particularly described as follows:

### DESCRIPTION

Easement 18, a sewer easement in width of 30' , more or less, of 4,380± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

Easement 20, a sewer easement in width of 30' , more or less, of 2,860± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

The above granted rights being more particularly described as the right to lay, inspect, construct, reconstruct, relocate, operate, maintain, alter, renew, replace, abandon forever, add to and remove for a sanitary sewer and system of sewerage the necessary pipes, conduits, manholes, vaults, castings and/or other appurtenances that are or shall be required to install and operate a sewer line, on, over and under the easement area and to do all other acts incidental to the foregoing, including the right to pass and repass over the land of Grantor, its successors and assigns, with people, equipment, supplies for access thereto for all of the above purposes.

Also granted is the perpetual right and easement at any time and from time to time to clear and keep cleared that portion and areas of the premises wherein the utilities are located, of trees, roots, branches, shrubs, brush, bushes, structures, objects and surfaces as may, in the reasonable opinion of the Grantee, its successors and assigns, interfere with the safe and efficient operation and maintenance of said sanitary sewer and system of sewerage.

The Grantor shall have the right to use and enjoy the Easement Areas for the purposes stated herein in common with the Grantee and others legally entitled thereto, provided that the

Grantor's use does not interfere with the perpetual rights and easements granted to Grantee herein

The Grantee, for itself, its successors and assigns, further agrees that it will promptly restore the surface disturbed by it in the exercise of the rights herein granted, in a good and workmanlike manner, substantially to the same condition as existed prior to its being disturbed.

Grantor, its successors and assigns may not place any building, shed or other permanent object or encroachment within the easement area which would materially or unreasonably affect and/or interfere with the purpose of the easement.

It is intended that this easement be conveyed by the Grantor to the City of Marlborough.

The grant of easement is and shall be binding upon the Grantor, its successors and/or assigns, and inure to the benefit of the Grantee. . Grantor warrants that the undersigned individual is the authorized signatory and is empowered to grant this easement on the terms and conditions stated herein.

For Grantor's title, see deed dated January 3, 2018, recorded with said registry of deeds in Book 70470, Page 328.

We hereby certify that we are all the currently serving Trustees of the aforescribed Trust; that we are duly authorized by the terms of this Trust and are in full compliance with said Trust to perform this conveyance, and to sign any and all documents necessary to effectuate this transfer; that the Trust has not been amended, altered, modified, revoked or terminated, but remains in full force and effect; and no beneficiary is a minor or a corporation.

Witness our hands and seals on \_\_\_\_\_, 2022

\_\_\_\_\_  
Jeffrey C. Furmanick Trustee

\_\_\_\_\_  
Johnathan H. White, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Jeffrey C. Furmanick and Johnathan H. White, Trustees, as aforesaid, showing sufficient identification, which were MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as their free acts and deeds and the free act and deed of said Trust, before me.

\_\_\_\_\_

Notary Public  
My commission expires:

## GRANT OF SEWER EASEMENT

Jeffrey C. Furmanick and John H. White, Trustees of the 62 Lacombe Street Realty Trust, u/d/t dated February 29, 2012, a certificate for which is recorded with the Middlesex South District Registry of Deeds, Book 58602, Page 260 with a principal place of business at 62 Lacombe Street, Marlborough, MA 01752 ("Grantor")

For consideration paid and in full consideration of One Dollar (\$1.00), and other good and valuable consideration,

hereby grants to the CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County ("Grantee"), its successors and assigns forever, with quitclaim covenants a perpetual right and easement to operate, construct, install maintain, replace, repair, inspect, and improve a sanitary sewer, a system of sewerage, and other appurtenances thereto to consisting of but not limited to pipes, conduits, manholes, vaults and castings on, through, over and under a portion of land known as 62 Lacombe Street, Marlborough, MA, being shown as "Lot 2A" on a Plan of Land recorded with the Middlesex South Registry of Deeds as Plan No. 1027 of 2000, and being more particularly described as follows:

### DESCRIPTION

Easement 10, a sewer easement in width of 30', more or less, of 2,990± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

Easement 14, a sewer easement in width of 30', more or less, of 2,925± S.F. as particularly shown on the certain Plan recorded as Plan            of 2022.

The above granted rights being more particularly described as the right to lay, inspect, construct, reconstruct, relocate, operate, maintain, alter, renew, replace, abandon forever, add to and remove for a sanitary sewer and system of sewerage the necessary pipes, conduits, manholes, vaults, castings and/or other appurtenances that are or shall be required to install and operate a sewer line, on, over and under the easement area and to do all other acts incidental to the foregoing, including the right to pass and repass over the land of Grantor, its successors and assigns, with people, equipment, supplies for access thereto for all of the above purposes.

Also granted is the perpetual right and easement at any time and from time to time to clear and keep cleared that portion and areas of the premises wherein the utilities are located, of trees, roots, branches, shrubs, brush, bushes, structures, objects and surfaces as may, in the reasonable opinion of the Grantee, its successors and assigns, interfere with the safe and efficient operation and maintenance of said sanitary sewer and system of sewerage.

The Grantor shall have the right to use and enjoy the Easement Areas for the purposes stated herein in common with the Grantee and others legally entitled thereto, provided that the

Grantor's use does not interfere with the perpetual rights and easements granted to Grantee herein.

The Grantee, for itself, its successors and assigns, further agrees that it will promptly restore the surface disturbed by it in the exercise of the rights herein granted, in a good and workmanlike manner, substantially to the same condition as existed prior to its being disturbed.

Grantor, its successors and assigns may not place any building, shed or other permanent object or encroachment within the easement area which would materially or unreasonably affect and/or interfere with the purpose of the easement.

It is intended that this easement be conveyed by the Grantor to the City of Marlborough.

The grant of easement is and shall be binding upon the Grantor, its successors and/or assigns, and inure to the benefit of the Grantee. Grantor warrants that the undersigned individuals are the authorized signatories and are empowered to grant this easement on the terms and conditions stated herein.

For Grantor's title, see deed dated March 2, 2012, recorded with said registry of deeds in Book 58602, Page 262.

We hereby certify that we are all the currently serving Trustees of the aforescribed Trust; that we are duly authorized by the terms of this Trust and are in full compliance with said Trust to perform this conveyance, and to sign any and all documents necessary to effectuate this transfer; that the Trust has not been amended, altered, modified, revoked or terminated, but remains in full force and effect; and no beneficiary is a minor or a corporation.

Witness our hands and seals on \_\_\_\_\_, 2022

\_\_\_\_\_  
Jeffrey C. Furmanick, Trustee

\_\_\_\_\_  
John H. White, Trustee

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Jeffrey C. Furmanick and John H. White, Trustees, as aforesaid,

showing sufficient identification, which were MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as their free acts and deeds and the free act and deed of said Trust, before me.

---

Notary Public  
My commission expires:

## AMENDMENT TO EASEMENT

This Amendment to Easement (this "Amendment") is made as of this \_\_\_ day of \_\_\_\_\_, 2022, by and between the Lacombe Business Center, LLC, a Massachusetts Limited Liability Company with a principal place of business at 65 Lacombe Street, Marlboro, MA 01752, ("Grantor") and CITY OF MARLBOROUGH, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address at 140 Main Street, Marlborough, MA 01752 in Middlesex County ("Grantee"), its successors and assigns.

WHEREAS, Grantor is the owner of that certain parcel of land known as 51 Lacombe Street Marlborough, Massachusetts; and more particularly described in the certain Deed recorded with the Middlesex County South Registry of Deeds in Deed Book 39340 Page 1; and more particularly shown as Lot 4B on the certain Plan recorded as Plan 1027 of 2000, and that certain parcel of land known as 61 and 65 Lacombe Street Marlborough, Massachusetts; and more particularly described in the certain Deed recorded with the Middlesex County South Registry of Deeds in Deed Book 39340 Page 1; and more particularly shown as Lot 3B on the certain Plan recorded as Plan 1027 of 2000 (collectively the "Property")

WHEREAS, Grantor granted the City of Marlborough the three following easements over the Property at the time of the Street Acceptance of the Lacombe Street Extension; as more particularly described in the certain Deed recorded in Deed Book 66525 Page 236 ("Deed"):

- |                         |                 |
|-------------------------|-----------------|
| 1) Drainage Easement A, | Area =1,808 SF  |
| 2) Flow Easement A,     | Area = 6,425 SF |
| 3) Flow Easement B      | Area=2,106 SF   |
- (collectively the "Easements").

All of which are shown on the certain Plan recorded as Plan 1010 of 2015.

WHEREAS, Grantor and Grantee now desire to amend the location of the Easements on the Property by substituting the plan entitled \_\_\_\_\_ dated \_\_\_\_\_ prepared by \_\_\_\_\_, which plan is recorded as Plan \_\_\_\_\_ of 2022, referenced herein and made a part hereof, for the description of the Easements in the Deed.

NOW THEREFORE, for consideration paid and in full consideration of One Dollar (\$1.00), and other good and valuable consideration, the parties hereto agree to amend the Easements as follows:

- Location of Easements.** The following description of the Easements in the Deed containing the words: "The above described premises are conveyed with the benefit of Drainage Easement A, Area = 1,808 SF, Flow Easement A, Area = 6,425 SF and Flow Easement B, Area = 2,106 SF, all as shown on said plan" are hereby deleted and the following words substituted therefor:

"The above described premises are conveyed with the benefit of

Easement 4, a drainage easement of 6,415± S.F. as particularly shown on the certain Plan

recorded as Plan \_\_\_\_\_ of 2022.

Easement 5, a drainage easement of 2,565± S.F. as particularly shown on the certain Plan recorded as Plan \_\_\_\_\_ of 2022.”

2. **Ratification.** Grantor and Grantee each hereby confirms and agrees that, except for the location as modified herein, the Easements and all the covenants, agreements, terms, provisions and conditions thereof, remain in full force and effect and are hereby ratified and affirmed.

3. The Amendment is and shall be binding upon the Grantor, its successors and/or assigns, and inure to the benefit of the Grantee. Grantor warrants that it has good title to transfer the same, and that it will defend the same against claims of all persons. Grantor warrants that the undersigned individual is the authorized signatory and is empowered to grant this easement on the terms and conditions stated herein.

Witness our hands and seals on \_\_\_\_\_, 2022

\_\_\_\_\_  
Lacombe Business Center, LLC, by its Manager  
Paul A. DiTullio

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex. \_\_\_\_\_, 2021

Then before me personally appeared Paul A. DiTullio, Manager as aforesaid, showing sufficient identification, which was MA driver’s license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said LLC, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_  
City of Marlborough, acting through its Mayor,

Arthur G. Vigeant

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex. \_\_\_\_\_, 2022

Then before me personally appeared Arthur G. Vigeant, Mayor as aforesaid, showing sufficient identification, which was MA driver's license, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged this as his free act and deed and the free act and deed of said City of Marlborough, before me.

\_\_\_\_\_

Notary Public

My commission expires:



*City of Marlborough*  
**Department of Public Works**  
 135 NEIL STREET  
 MARLBOROUGH, MASSACHUSETTS 01752  
 TEL. 508-624-6910  
 \*TDD 508-460-3610

SEAN M. DIVOLL, P.E.  
 COMMISSIONER

3/9/2022

Marlborough City Council  
 Legal and Legislative Affairs Committee  
 City Hall  
 140 Main Street  
 Marlborough, MA 01752

RE: Order No. 22-1008516

Dear Honorable Committee Members:

City Solicitor Grossfield and I have reviewed the request which is the subject of Order No. 22-1008516, and offer the following summary to assist in your consideration:

Our offices have worked with the proponents to reach mutually acceptable deeds and easements relating to the properties known as 44, 51, 58, and 62 Lacombe Street, Marlborough, MA.

Sewer Easements

- The owners of the relevant land are requesting that the City release any ownership rights the City may have (if any) in a 30 foot strip of land historically used for city sewer.
- The owners will grant the City sewer easement rights over the same strip of land, so the City will be able to continue to use the same land without disruption. The City does not need ownership of the strip of land.
- Over the last approximately 50 years, certain deeds relating to the affected properties, and subdivision plans, have shown or referred to this strip of land as a “sewer easement” rather than under the City’s ownership. Certain deeds refer to the City having taken the strip for sewer purposes but allowing the affected parcel owner to use the strip in any manner that does not conflict with the sewer. In the current city GIS system, the strip of land is not shown as a separate taxed parcel, but as an easement included as part of the respective privately owned parcels.
- To clarify the rights of the City and the owners, the requested release deeds and new sewer easements, will serve the City’s interest with any change being de minimis. Attached is an exhibit plan showing the existing properties and the proposed easement (as a 1995 subdivision shows them).
- The proposed council order, and release deed and easement documents are acceptable.

Amendment of Drainage Easements

- The requester seeks to clarify drainage and flow easements conveyed to the City as part of the City’s acceptance as a public way of Lacombe Street Extension in 2015. These changes are acceptable and beneficial to the City as they clarify the location of the actual land area used for drainage purposes.

THEODORE L. SCOTT, P.E.  
 ASST. COMMISSIONER, OPERATIONS

CHRISTOPHER S. LAFRENIERE  
 ASST. COMMISSIONER, UTILITIES

THOMAS DIPERSIO, JR., P.E., P.L.S.  
 CITY ENGINEER

Background Information:

As the City of Marlborough expanded its municipal sewer system in the late 1800's and early 1900's, sewer trunk lines had to be constructed across private properties, due to topographical conditions. The City generally either acquired the right to install and maintain the sewer over private property by ownership of the land area or by an easement to allow the right to use the land for sewer purposes.

One of the areas where the City had fee ownership of a sewer area is the land off the end of Brook Street and Lacombe Street. A sewer main was installed in the late 1800's from the end of Brook Street through private properties and out to Maple Street across from Framingham Road. The City owned the 30-foot strip of land containing the sewer main. The land around the sewer taking area was conveyed several times over the years. At some point around 1969 the City-owned sewer land began to be referred to in the various deeds as a sewer easement, even though there does not appear to be a legal document showing a transfer of the land from the City to another entity.

In 1995 a subdivision was approved, which created five building lots on an extension of Lacombe Street, in the land around the Brook Street sewer taking. The 1995 subdivision plans showed the sewer land as an easement based on its reference as such in the recent deeds. In the course of preparation for a conveyance of 44 Lacombe Street, the issue of the ownership of the sewer land has come to light.

I plan to be available at the committee meeting if there are any questions.

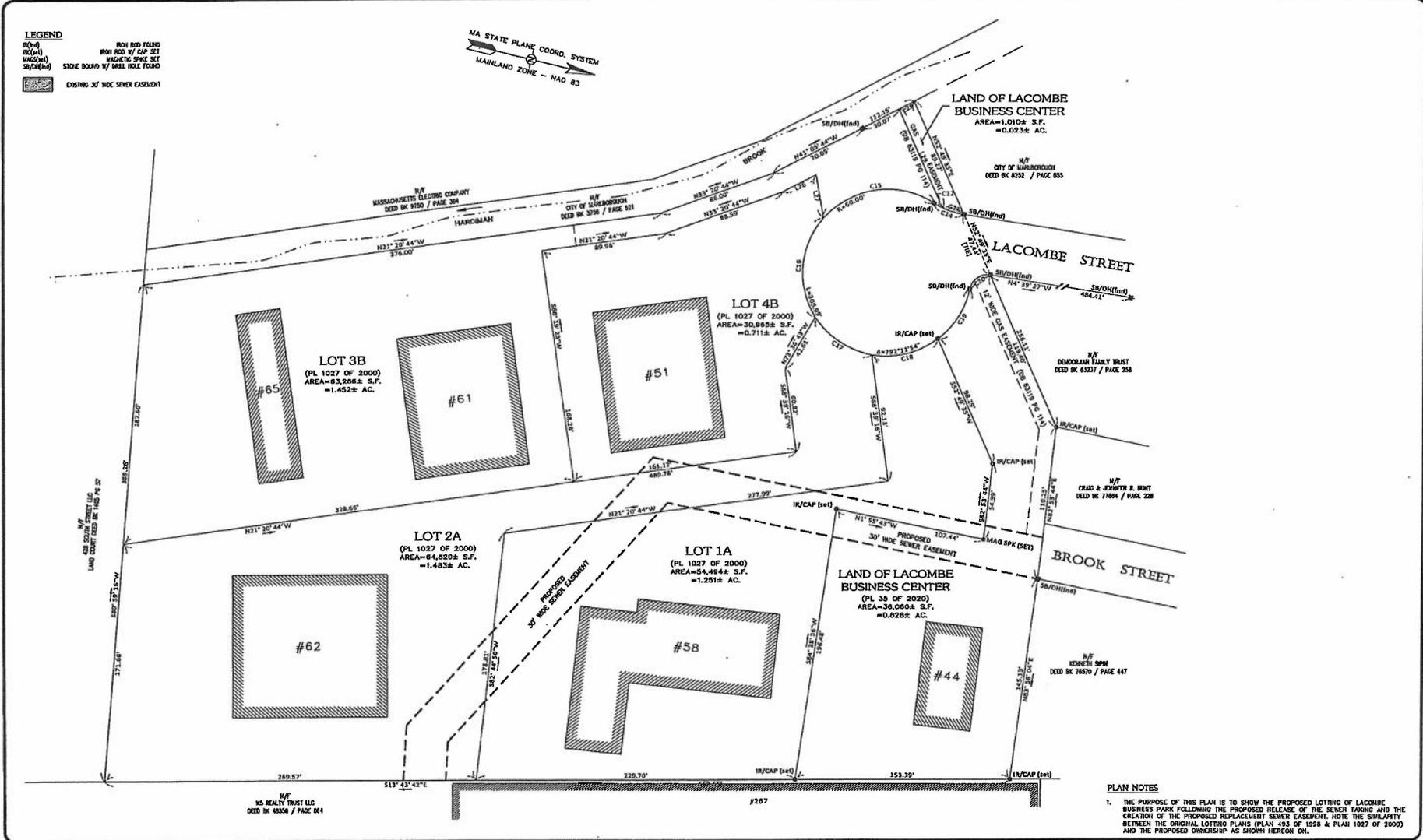
Sincerely,



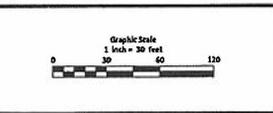
Thomas DiPersio, Jr., P.E., P.L.S.  
City Engineer

Copy: Sean M. Divoll, Commissioner of Public Works





REV	DATE	DESCRIPTION



PREPARED BY  
**EDC** Engineering Design Consultants, Inc.  
32 Turnpike Road  
Southborough, Massachusetts  
(508) 480-0225

PROJECT:  
**LACOMBE BUSINESS PARK**  
44-65 LACOMBE STREET  
(MIDDLESEX COUNTY - SOUTH DISTRICT)  
MARLBOROUGH, MASSACHUSETTS

TITLE:  
**PROPOSED LOTTING & SEWER EASEMENT EXHIBIT**

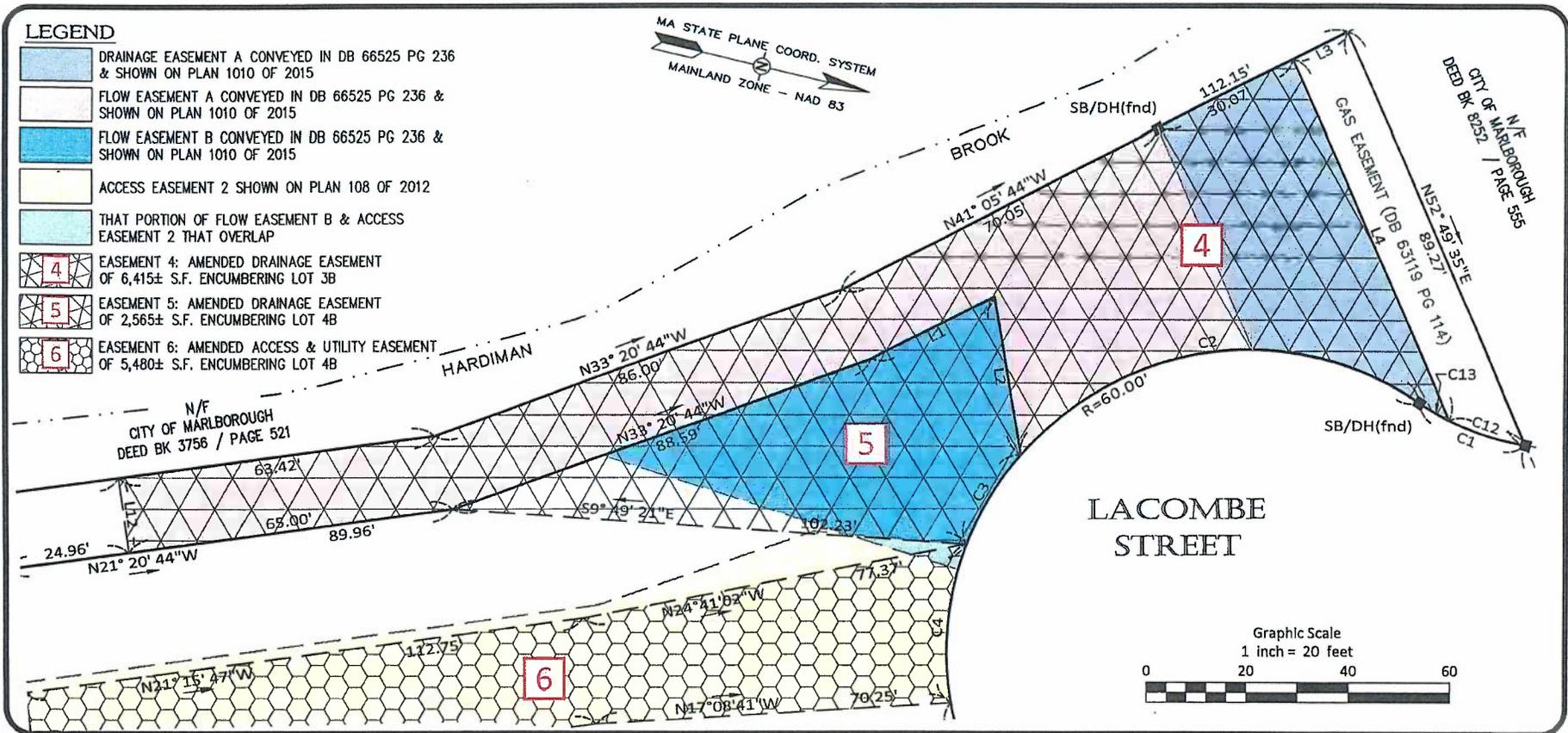
PREPARED FOR:  
Lacombe Business Center, LLC  
65 Lacombe Street  
Marlborough, Massachusetts 01752

DATE:  
FEBRUARY 7, 2022

2 of 2

EDC PROJECT NUMBER  
3630

3/30/2022 10:41 AM CITY COUNCIL 3/30/2022



PREPARED BY:



Engineering Design Consultants, Inc.  
32 Turnpike Road  
Southborough, Massachusetts  
(508) 480-0225

PROJECT:

LACOMBE BUSINESS PARK  
44-65 LACOMBE STREET  
(MIDDLESEX COUNTY - SOUTH DISTRICT)  
MARLBOROUGH, MASSACHUSETTS

TITLE:

AMENDMENT TO DRAINAGE  
EASEMENT EXHIBIT

PREPARED FOR:

Lacombe Business Center, LLC  
65 Lacombe Street  
Marlborough, Massachusetts 01752

DATE:

MARCH 7, 2022

1 OF 1

EDC PROJECT NUMBER

3630



*City of Marlborough*  
*Planning Board*

Administrative Offices  
135 Neil St.  
Marlborough, MA 01752

**PLANNING BOARD**

Barbara L. Fenby, Chair  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Christopher Russ  
Matthew Elder  
William Fowler  
Katlyn Miller, Administrator  
(508) 624-6910 x33200  
[kmiller@marlborough-ma.gov](mailto:kmiller@marlborough-ma.gov)

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2022 MAR 18 P 3:00

March 16, 2022

Mr. Michael Ossing  
City Council President  
140 Main Street  
Marlborough, MA 01752

RE: Howes Landing Subdivision  
Acceptance of Gikas Lane as a Public Way

Honorable President Ossing and Members:

At its regular meeting on March 14, 2022, the Planning Board took the following action:

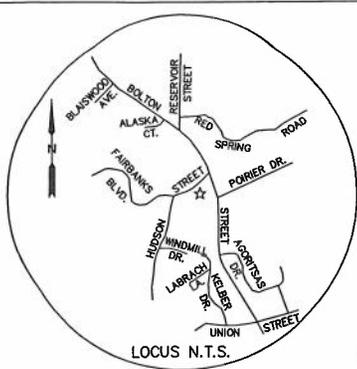
On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to recommend to the Marlborough City Council that Gikas Lane be accepted as a public way and the appurtenant easements be accepted as municipal easements in the City of Marlborough. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

Sincerely,

*Barbara L. Fenby* (KML)

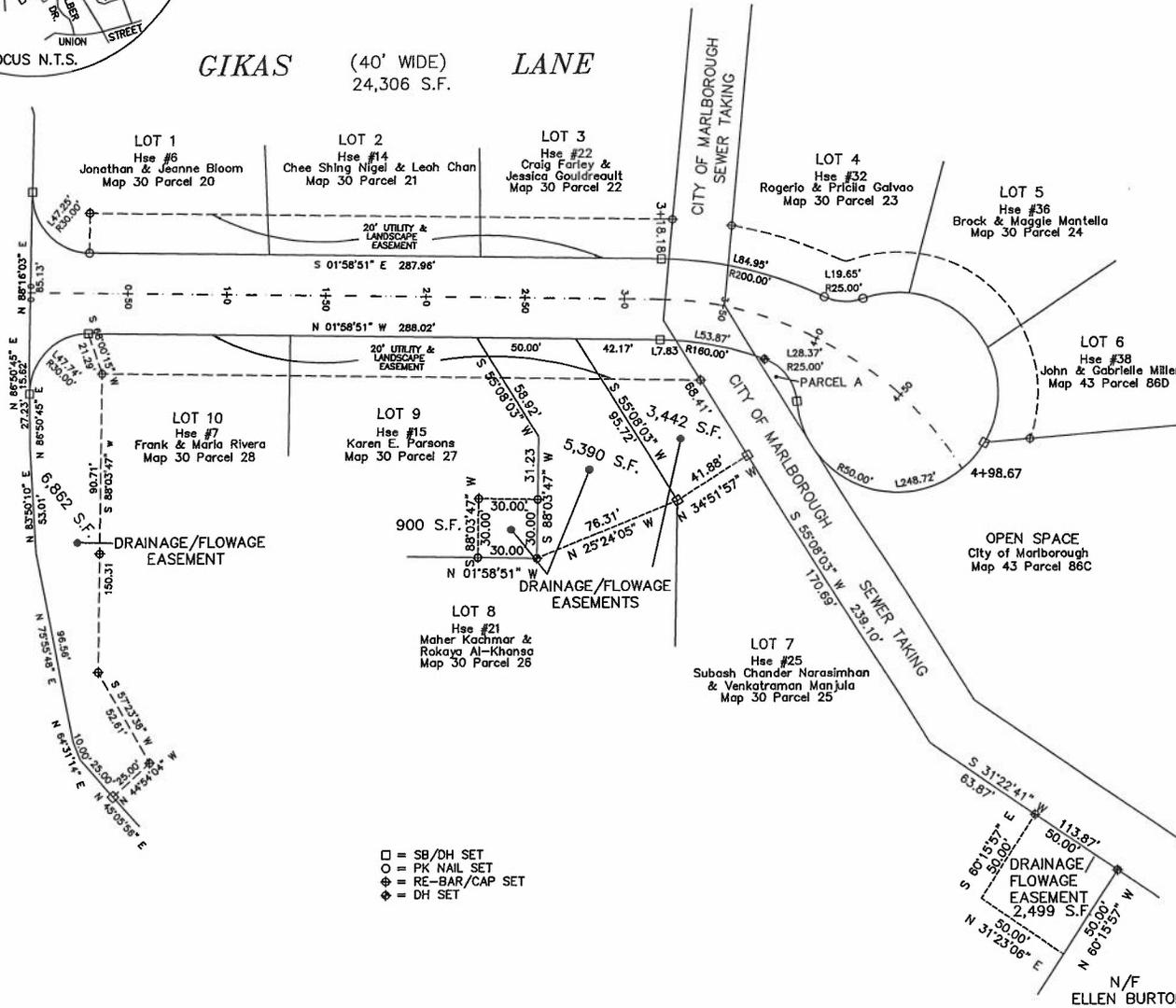
Barbara L. Fenby  
Chairperson

cc: City Clerk  
DPW Commissioner  
Howe's Landing Developers, LLC



**GIKAS** (40' WIDE) **LANE**  
24,306 S.F.

**HUDSON STREET**



- = SB/DH SET
- = PK NAIL SET
- ⊕ = RE-BAR/CAP SET
- ⊙ = DH SET

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

AND

I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREET AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR NEW WAYS ARE SHOWN. THE CERTIFICATION SHOWN HEREON IS INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO THE CURRENT TOWN ASSESSORS RECORDS.

Paul J. DeSimone P.L.S.  
DATE: MARCH 12, 2019

0+0 TO 4+98.67  
ACCEPTANCE  
PLAN OF LAND

IN  
**MARLBOROUGH, MA.**

SCALE: 1"=40' MARCH 12, 2019

OWNER: Howe's Landing Developers, LLC  
1818 Worcester Road, Suite 200  
Framingham, Ma. 01701

COLONIAL ENGINEERING INC.  
11 AWL STREET MEDWAY, MA.  
508-533-1644



N/F  
ELLEN BURTON

ORDERED:

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that GIKAS LANE be accepted as a public way

from Hudson Street at Station 0+00 to its terminus at Station 4+98.67

and that the appurtenant easements be accepted as municipal easements,

as shown on plans thereof and as hereinafter described:

#### DESCRIPTION

Plan entitled, "Acceptance Plan of Land in Marlborough, MA", Owner: Howe's Landing Developers, LLC, 1818 Worcester Road, Suite 200, Framingham, MA 01701, Dated March 12, 2019, Prepared by: Colonial Engineering, Inc., 11 Awl Street, Medway, MA, Scale: 1"=40', which plan is to be recorded herewith.

Title to the roadways shown as Gikas Lane on said plan, and title to all the municipal easements shown on said plan as:

Drainage/Flowage Easements:

- Drainage/Flowage Easement, over Lot 7, containing 3,442 square feet
- Drainage/Flowage Easement, over Lot 7, containing 2,499 square feet
- Drainage/Flowage Easement, over Lot 8, containing 5,390 square feet
- Drainage/Flowage Easement, over Lot 9, containing 900 square feet
- Drainage/Flowage Easement, over Lot 10, containing 6,862 square feet

Landscape Easements:

- 20 ft. wide Landscape Easement, over Lot #1\*,
- 20 ft. wide Landscape Easement, over Lot #2\*,
- 20 ft. wide Landscape Easement, over Lot #3\*,
- 20 ft. wide Landscape Easement, over Lot #4,
- 20 ft. wide Landscape Easement, over Lot #5,
- 20 ft. wide Landscape Easement, over Lot #6,
- 20 ft. wide Landscape Easement, over Lot #7\*,
- 20 ft. wide Landscape Easement, over Lot #8\*,
- 20 ft. wide Landscape Easement, over Lot #9\*,
- 20 ft. wide Landscape Easement, over Lot #10\*.

\*A 20 ft. wide private utility (forced sewer) easement also exists within the Landscape Easement

has been granted to the City of Marlborough in a quitclaim deed from Howe's Landing Developers, LLC, , a Massachusetts limited liability company with a principal place of business at 1818 Worcester Road, Suite 200, Framingham, MA 01701, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

GIKAS LANE be accepted as public ways, and their appurtenant easements be accepted as municipal easements, in the City of Marlborough.

ADOPTED

In City Council

Order No. 19-

Adopted

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
January 31, 2022  
2022 MAR 24 A 8:14

To the City Council  
of the City of Marlborough, Massachusetts

**MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

request permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary to be owned and used in common by your petitioners, in the following public way or ways:

**Amory Rd**

**National Grid proposes to relocate and install new pole to remove tree guy.**

Wherefore they pray that after due notice and hearing as provided by law, it be granted joint or identical locations for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked: **MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

Plan No. **30525576** Dated: **1/17/2022**

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree to reserve space for one cross arm at a suitable point on each of said poles for the fire, police, telephone and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

**MASSACHUSETTS ELECTRIC COMPANY**

By: *Robert Leonida*  
DBA Robert Leonida  
Manager of Distribution Design

**VERIZON NEW ENGLAND, INC.**

*Albert Bessette*  
By: \_\_\_\_\_  
Manager, R.O.W.

**ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS**

January 31, 2022

By the City Council  
of the City of Marlborough, Massachusetts

Notice having been given and public hearing held, as provided by law, IT IS HEREBY ORDERED: **that MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.** be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 31st day of January

All construction under this order shall be in accordance with the following conditions:-

Poles shall be of sound timber, and reasonably straight, and shall be set substantially at the points indicated upon the plan marked-- filed with this order  
Plan No. 30525576 Dated: 1/17/2022

There may attached to said **MASSACHUSETTS ELECTRIC COMPANY** not to exceed twenty wires and by said **VERIZON NEW ENGLAND, INC.** not to exceed forty wires and four aerial cables, and all of said wires and cables shall be placed at a height of not less than eighteen feet from the ground.

The following are the public ways or parts of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:--

**Amory Rd**  
**National Grid proposes to relocate and install new pole to remove tree guy.**

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the City Council of the City of Marlborough, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Clerk of Council

Received and entered in the records of location orders of the City of Marlborough, Massachusetts

Book: \_\_\_\_\_ Page: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

We hereby certify that on \_\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M. at \_\_\_\_\_ a public hearing was held on the petition of the **MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

for permission to erect the poles, wires, cables, fixtures and connections described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Companies are permitted to erect poles, wires, cables, fixtures and connections under said order. And that thereupon said order was duly adopted.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Council of the City of

Marlborough, Massachusetts

**CERTIFICATE**

I hereby certify that the foregoing is a true copy of a joint location order and certificate of hearing with notice adopted by the City Council of the City of Marlborough, Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ recorded with the records of location orders of said City, Book \_\_\_\_\_, Page \_\_\_\_\_.

This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest: \_\_\_\_\_  
City Clerk



LEGEND

- EXISTING J/O POLE
- PROPOSED J/O POLE
- ⊕ PROPOSED MOVED J/O POLE
- ⋈ GUY
- OVERHEAD CONDUCTOR

POLE 3-5  
PETITION

Date: 1/17/2022

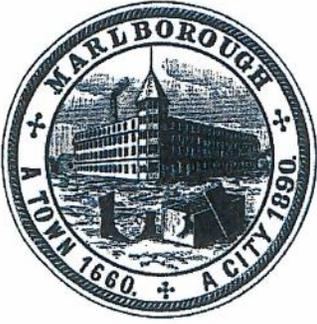
Designer: D.L.

61 AMORY ROAD

MARLBORO MA.

WR: 30525576

**nationalgrid**



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

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

**Steven W. Kerrigan  
City Clerk**

2022 MAR 11 A 9:22

MARLBOROUGH, MA

DATE: 3-8-22

**To the City Council:**

Owner Name: ANTOINE BITAR

Residential Address: 5 Rolling Ridge Lane, Paxton, MA 01612

Telephone Number: 508-981-5080

Business Name: Hannoush Jewels

Business Address: 601 Donald Lynch Blvd.

Business Telephone Number: 508-303-6595

Email Address: TBITAR@Hannoush.com

Cell Number: 508-981-5080

Owner Signature: [Signature]

The above-signed Antoine Bitar respectfully requests that he/she be granted a Junk Dealer/Second Hand Dealer License.

**In City Council**



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

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

**Steven W. Kerrigan  
City Clerk**

2022 MAR 14 P 3:05

MARLBOROUGH, MA

DATE: 3/10/22

**To the City Council:**

Owner Name: GERALD DUMAIS

Residential Address: 6 HIGH STREET MARLBOROUGH, MA 01752

Telephone Number: 508.400.4647

Business Name: DUMAIS + SONS SECOND HAND STORE

Business Address: 65 MECHANIC STREET

Business Telephone Number: 508-485-4864

Email Address: dumaissons@gmail.com

Cell Number: 508.400.4647

Owner Signature: Gerald Dumais

The above-signed \_\_\_\_\_ respectfully requests that he/she be granted a Junk Dealer/Second Hand Dealer License.

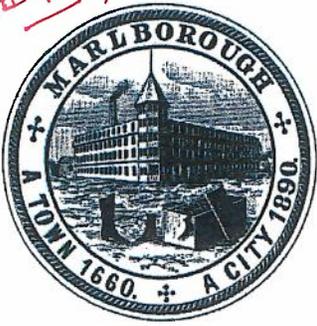
**In City Council**

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

**Steven W. Kerrigan  
City Clerk**

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2022 MAR 22 P 1:25



MARLBOROUGH, MA

DATE: 03/22/2022

To the City Council:

Owner Name: ROMAN KIMLYAGAROV

Residential Address: 76 APPLE D'OR ROAD  
FRAMINGHAM MA 01701

Telephone Number: 617-872-4299

Business Name: ARTHUR & SONS SHOE REPAIR

Business Address: 107 MAIN STREET MARLBOROUGH,

Business Telephone Number: 508 624 7066

Email Address: ROMIKA@VERIZON.NET

Cell Number: 617-872-4299

Owner Signature: Roman Kimlyagan

The above signed \_\_\_\_\_ respectfully requests that he/she be granted a Junk Dealer/Second Hand Dealer License.

**In City Council**

Pol  
25  
ck # 4262

Michael R. Dolan, Esq.  
direct dial: 401-276-2610  
mdolan@brownrudnick.com

February 23, 2022

City Council  
City of Marlborough  
c/o Karen A. Boule  
Council Secretary  
140 Main Street  
Marlborough, MA 01752

**RE: Petition of New Cingular Wireless PCS, LLC d/b/a AT&T ("AT&T") for a Grant of Location Approval for One (1) Small Cell Wireless Facility, Including Telecommunication Wires, Wireless Attachments and Antennas, and Appurtenances on an Existing Utility Pole in the Public Right-of-Way on Forest Street**

Dear Honorable Members of the Marlborough City Council:

We represent New Cingular Wireless PCS, LLC (d/b/a "AT&T") with respect to its deployment of small cell facilities in the City of Marlborough and the Commonwealth of Massachusetts. AT&T is licensed by the Federal Communications Commission (the "FCC") to provide wireless communications services in the City of Marlborough and throughout the Commonwealth of Massachusetts.

On behalf of AT&T and while reserving all rights, please accept this submission as a petition for approval (the "Application") for one (1) small cell wireless facility installed on an existing utility pole owned by National Grid and located near the above-referenced address in Marlborough, MA (the "Site") pursuant to the federal Telecommunications Act of 1996 (the "Act"), the Declaratory Ruling and Third Report and Order 18-133 (the "Order") issued by the FCC in September 2018 [https://docs.fcc.gov/public/attachments/FCC-18-133A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-18-133A1_Rcd.pdf), Massachusetts General Laws Chapter 166, Section 21,22, 25A, and the City of Marlborough Code of Ordinances Article III Section 473 (Small Cell Wireless Facilities Within Public Rights-of-Way) for telecommunication wires and wireless attachments and appurtenances installed within the public right-of-way. AT&T has entered into a Pole Attachment Agreement with National Grid, and we have included a copy of the license issued by National Grid which allows for the installation. AT&T's small cell wireless facility complies and is in accordance with the Act, the Order and Massachusetts law.

We have also provided a detailed set of drawings (the "Plans") and maps for the small cell facility. AT&T has previously installed several small cell wireless facilities in Marlborough as illustrated on the location map submitted herewith. Also, please find a small cell wireless facility radio frequency emissions report from Mr. Donald Haes, an emissions and radiation expert, demonstrating compliance with applicable exposure to emissions standards established by the FCC.



City Council  
 City of Marlborough  
 February 23, 2022  
 Page 2

AT&T proposes this low-power small cell facility in the City of Marlborough to deal with the rapidly increasing demands on AT&T's wireless network. This small cell wireless facility will work in conjunction with the existing macro cell sites installed on rooftops, towers, and other structures in and around the City of Marlborough and provide coverage to the area near the Site. AT&T's radio frequency engineers targeted the proposed location due to the high traffic and data demands on AT&T's network in the area near the Site. Please see the enclosed coverage maps submitted as part of the Application. AT&T's existing macro cell sites are not providing adequate data capacity in the area near the Sites due to population, network usage, vehicular and foot traffic, multiple wireless devices used by customers and other contributing factors. This small cell facility will also work to offload the demands on AT&T's macro cell sites and allow for increased data capacity and speed within the immediate vicinity of the Site and in the areas surrounding the macro cell sites.

AT&T proposes to install: fiber optic cable(s); remote radios in an equipment cabinet 70" long by 20" wide by 18" deep (14.58 cubic feet in volume) mounted to an existing 38'6" above ground level ("AGL") wood utility pole; one (1) top-mounted cylindrical antenna measuring 24.5" long with a 14.7" diameter (2.41 cubic feet in volume); conduits and cable protectors; and, an electrical meter 11' AGL with shutoff switch and grounding rod. For reference, the antenna will extend to a top height of 41' 6" AGL.

This small cell facility will be installed using standard, commercially accepted methods in accordance with all applicable federal, state, and local laws, regulations, and orders. The Plans also provide the proposed locations, pole heights, mounting heights and equipment specifications.

## **COMPLIANCE WITH SECTION 473 OF THE CODE OF THE CITY OF MARLBOROUGH (THE "CODE")**

### **§ 473-27 Purpose.**

- A. The purpose and intent of this Article III is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of small cell wireless telecommunications facilities in the City of Marlborough. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small cell wireless facilities. This Article III provides standards necessary to:**
- (1) Preserve and promote harmonious land uses and the public rights-of-way in the City;**



- (2) **Promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City;**
- (3) **Provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with federal and state laws, rules, and regulations; and**
- (4) **Encourage new and more efficient technology in the provision of small cell wireless telecommunications facilities.**

AT&T's proposed small cell facility will be in harmony with the purpose of this section of the Code because it will be installed on an existing utility pole in a manner which will minimize potential visual impacts and preserve the aesthetic qualities of the City of Marlborough. The facility will be unmanned and will not produce smoke, odor, waste, noise, vibrations or unreasonable amounts of traffic. The facility will comply with all applicable federal and state laws, rules and regulations.

**B. This article is not intended, nor shall it be interpreted or applied, to:**

- (1) **Prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;**
- (2) **Prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;**
- (3) **Unreasonably discriminate among providers of functionally equivalent services;**
- (4) **Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or**
- (5) **Otherwise authorize the City to preempt any applicable federal or state law.**

AT&T acknowledges this provision of the Code.

**§ 473-28 Application process.**

**Applications for permits to install small cell wireless facilities shall be processed as follows.**

- A. Fees. Applications shall be submitted to the City Council by filing with the City Clerk's office in accordance with Subsection D below, accompanied by the application filing fee of \$500 per application, payable to the City of**



**Marlborough. The fee of \$500 will cover up to five locations. Each application for more than five installations is subject to a separate fee of \$100 per installation.**

AT&T submits this Application in accordance with this provision of the Code and has submitted the required fee.

- B. Public hearing notices. The applicant must also pay for legal notices of the public hearing to be mailed to abutters directly abutting, and across the street from, the property where the pole for the proposed small cell wireless facility currently is, or is proposed to be, located. The applicant is responsible for obtaining the abutters list for each pole location contained within the application.**

AT&T acknowledges this provision of the Code.

- C. Presubmittal verification by DPW Engineering. No application will be filed as provided in Subsection D below unless and until the Engineering Division of the City's Department of Public Works (DPW Engineering) shall have first verified that the applicant has assembled, to DPW Engineering's satisfaction, all of the application contents listed in Subsection E below.**

AT&T acknowledges this provision of the Code.

- D. Payment of application filing fees and number of application copies. The applicant shall pay all application filing fees to the City Clerk's office and shall file the following number of sets of application materials at the offices set forth below:**

<b>Number of Sets</b>	<b>Office</b>
3	City Clerk's office
1	City Engineer
1	Building Commissioner
12	City Council office

AT&T has submitted the required fee and copies.

- E. Contents of application. Applications shall include the following information:**

- (1) Applicant's name, address, telephone number and e-mail address.**



City Council  
 City of Marlborough  
 February 23, 2022  
 Page 5

New Cingular Wireless PCS, LLC (“AT&T”)  
 550 Cochituate Road  
 Framingham, MA 017091  
 401-276-2610  
[mdolan@brownrudnick.com](mailto:mdolan@brownrudnick.com)

**(2) Names, addresses, telephone numbers, and e-mail addresses of anyone acting on behalf of the applicant with respect to the application.**

Brown Rudnick LLP  
 Michael R. Dolan, Esq.  
 10 Memorial Boulevard  
 Providence, RI 02903  
 401-276-2610  
[mdolan@brownrudnick.com](mailto:mdolan@brownrudnick.com)

Nexius Solutions, Inc.  
 Nicole Caplan-Mason  
 300 Apollo Drive, 2<sup>nd</sup> Floor  
 Chelmsford, MA 01824  
 972-581-9888  
[nicole.caplanmason@nexius.com](mailto:nicole.caplanmason@nexius.com)

Nexius Solutions, Inc.  
 Jack Phipps  
 2595 North Dallas Parkway, Suite 300  
 Frisco, TX 75034  
 972-581-9888  
[Jack.phipps@nexius.com](mailto:Jack.phipps@nexius.com)

**(3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s) in question, including:**

- (a) Type of equipment;**
- (b) Specifications of equipment (including but not limited to dimensions and weight);**
- (c) Equipment mount type and material;**
- (d) Power source or sources for equipment, including necessary wires, cables, and conduit;**
- (e) Expected life of equipment;**
- (f) Coverage area of equipment, including:**



- [1] **Number of antennas.**
- [2] **Antenna model.**
- [3] **Antenna length.**
- [4] **Antenna height.**
- [5] **Typical coverage area radius.**

**(g) Hardening, including:**

- [1] **If there is a battery backup;**
- [2] **If there is a generator backup; and**

**(h) Renderings/photo simulations and elevation of equipment.**

Please refer to the Plans submitted herewith. AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Council to render an informed decision. AT&T's proposed small cell facility will not include a generator or battery backup. To the extent that the Plans and materials do not strictly comply with this provision of the Code, AT&T requests any waivers.

- (4) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.**

Please refer to the Plans submitted herewith.

- (5) Detailed map showing existing and proposed small cell installations within 500 feet of the application site.**

Please refer to the Plans submitted herewith. AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Council to render an informed decision. To the extent that the Plans do not strictly adhere to this provision of the Code, AT&T requests any waivers.

- (6) Certification by a registered professional engineer that the pole will safely support the proposed equipment.**

Please refer to the Structural Report submitted herewith.

- (7) Written consent by the pole owner to the proposed installation.**

Please refer to the owner's authorization submitted herewith.



- (8) **Affidavit from a radio frequency engineer outlining the network/network service requirements in Marlborough and how each installation addresses that need in Marlborough. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and the breakdown of "excellent," "good," and "poor" reception areas.**

Please refer to the Report of a Radio Frequency Engineer submitted herewith.

- (9) **Liability insurance certificate, naming the City of Marlborough as an additional insured.**

AT&T agrees to submit same to the City after it receives its approval for its proposed installation.

- (10) **Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:**
- (a) **Visual aspects; and**
  - (b) **Proximity to single-family residences.**

The proposed location is located adjacent to a large parking lot with another large parking lot across the street to the south. The nearest residence is approximately 200' to the west of the proposed location.

- (11) **Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good faith effort to locate on such poles is required and evidence of such efforts must be included within the application.**

AT&T is proposing to attach its equipment to an existing pole.

- (12) **An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within 60 days of being no longer in good repair or no longer in use.**

AT&T agrees to submit same to the City after it receives its approval for its proposed installation.



- F. Placement of application on agenda. Once the application has been submitted and all filing fees have been paid, the City Clerk's office will place the application on the City Council agenda for the scheduling of a public hearing.**

AT&T acknowledges this provision of the Code.

- G. Shot clocks. The City Council shall have 60 days from the application's filing date for processing an application for collocation of a small cell wireless facility using a preexisting pole, and 90 days for processing an application for attachment of small cell wireless facility proposing a new pole. These shot clocks may be extended by mutual written agreement of the City Council and the applicant, such agreement to be timely filed with the City Clerk's office and a copy of that filing to be submitted for informational purposes on the agenda for the next regular Council meeting; provided, however, that by vote of the standing Council committee to which any given application has been referred by the full Council, that committee may, by simple majority vote at a duly noticed public meeting, authorize the following committee members to sign the written extension agreement on behalf of the full Council: a) the Chairman of the committee; or b) in his or her absence or incapacity, its Vice Chairman; or c) when a quorum of the committee is otherwise not present, the Council President or Vice President sitting for that meeting as an ex officio member of that committee.**

AT&T acknowledges this provision of the Code and reserves all rights.

- H. Council decision. The City Council may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable aesthetic requirements as hereinbelow set forth.**

AT&T acknowledges this provision of the Code.

**§ 473-29 Annual recertification and affidavit.**

- A. Annual recertification and affidavit. Each year on July 1, the small cell wireless equipment owner shall submit an affidavit which shall list, by location, all small cell wireless installations it owns within the City of Marlborough, and shall certify:**

- (1) Each such installation that remains in use;**



- (2) That such in-use installations remain covered by liability insurance naming the City as an additional insured; and
- (3) Each such installation which is no longer in use.

AT&T will comply with this provision of the Code.

- B. **Annual recertification fee.** The equipment owner shall pay to the City of Marlborough an annual recertification fee of \$250 per installation which remains in use.

AT&T will comply with this provision of the Code.

- C. **Facility no longer in use.** Any small cell wireless facility which is no longer in use shall be removed by the owner, at the owner's expense, within 60 days of the City Council's receipt of the annual recertification affidavit.

AT&T acknowledges this provision of the Code and reserves all rights.

- D. **Nonremoval of facility no longer in use.** Any small cell wireless installation which is not removed by the owner, at the owner's expense, within 60 days after being listed in the annual recertification affidavit as no longer in use shall be subject to a fine of \$100 per day until such installation is removed by the owner.

AT&T acknowledges this provision of the Code and reserves all rights.

- E. **Failure to timely submit recertification/remove facility no longer in use.** Where such annual recertification has not been timely submitted, or equipment no longer in use has not been removed within the sixty-day period, no further applications for small cell wireless installations will be accepted by the City Clerk's office until such time as the annual recertification has been submitted and all fees and fines have been paid.

AT&T acknowledges this provision of the Code and reserves all rights.

**§ 473-30 Aesthetics and additional City requirements.**

- A. **Poles.**

- (1) No small cell wireless equipment shall be installed on double poles.

AT&T's small cell facility will not be mounted on a double pole.



- (2) **Within the public right-of-way, only pole-mounted antennas shall be permitted, and all telecommunications towers within the meaning of City Code § 650-25A are prohibited.**

AT&T's small cell facility will be pole-mounted.

- (3) **Absent City Council permission, no new poles are permitted within the public right-of-way that are not replacing an existing pole. If an applicant proposes to replace a pole in order to accommodate the small cell wireless facility, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.**

AT&T respectfully submits this request for a collocation on an existing pole within the public right-of-way.

- (4) **If a new pole is permitted by the City Council to be placed within the public right-of-way, the new pole shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.**

AT&T will locate its small cell facility on an existing pole within the public right-of-way.

- (5) **Small cell wireless installation equipment (meters, boxes, etc.) shall be mounted on the pole a minimum of 11 feet above ground level.**

The meter box will be mounted on the pole at a height of 11' AGL.

- (6) **No small cell wireless installation equipment shall be replaced or altered on a pole without a reapplication, hearing and approval from the City Council, unless the equipment is no longer functioning and it is being replaced with the same or substantially similar equipment.**

AT&T acknowledges this provision of the Code.



**(7) The maximum height of any antenna mounted to an existing pole shall not exceed 24 inches above the height of the then-existing pole, provided that in any event:**

- (a) No small cell wireless facility shall be located on a pole that is less than 26 feet in height; and**
- (b) No facility shall exceed 35 feet in height, including but not limited to the pole and any antenna that protrudes above the pole.**

AT&T's proposed small cell antenna will be mounted to the existing 38' 6" AGL pole, with the antenna extending to a total height of 41' 6".

**(8) Pole-mounted equipment shall not exceed six cubic feet in dimension.**

AT&T's proposed equipment will be approximately 20 cubic feet in dimension.

**(9) Not more than one small cell wireless facility shall be mounted per pole.**

AT&T's proposed small cell facility will comply with this provision of the Code.

**B. Location.**

**(1) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.**

AT&T's proposed small cell facility will comply with this provision of the Code. The pole is set back from the road in line with existing trees along the right-of-way.

**(2) A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.**

AT&T's proposed small cell facility will comply with this provision of the Code.



- (3) **Each pole-mounted small cell wireless telecommunications facility must be separated by at least 1,500 feet.**

The nearest AT&T small cell facility is approximately .5 miles to the north of the proposed location.

- (4) **All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing pole so as to not exceed the diameter and height of the existing pole.**

The pole will be a solid wooden pole and wires will of necessity be attached to the exterior of the pole.

- C. **Americans with Disabilities Act compliance. All facilities shall be built and maintained in compliance with the Americans with Disabilities Act (ADA)/Architectural Access Board (AAB).**

AT&T acknowledges this provision of the Code.

- D. **Residential neighborhoods. If an applicant seeks to place a small cell wireless facility in a residentially zoned neighborhood, the applicant:**

- (1) **Should seek to avoid attaching to poles that are within 25 feet of an existing driveway so that the property owner can plant trees that could shield the wireless equipment from view; and**

AT&T's proposed small cell facility will be on an existing utility pole that will be located more than 25' from any existing residential driveway.

- (2) **Should seek to avoid poles where the installation and/or ongoing maintenance will require significant tree trimming due to the wireless equipment.**

The proposed pole will require some minor tree trimming as part of routine maintenance.

- E. **Satisfactory material, construction and work. The small cell wireless facility shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the City Council and DPW Engineering. If the DPW Engineering shall determine that such material, construction and/or work is a) placing or tending to place at risk the public health, safety, and welfare, b) interfering**



or tending to interfere with pedestrian and/or vehicular traffic, and/or c) causing or tending to cause damage to the public right-of-way or any property adjacent to the location of the pole in question, the DPW Engineering shall forthwith notify the City Council, which shall review that determination for possible further action as to the applicant.

AT&T acknowledges this provision of the Code.

- F. Indemnification.** The applicant shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its small cell wireless facility. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the City as an additional insured.

AT&T acknowledges this provision of the Code and reserves all rights.

- G. City streets and/or sidewalks.** All cutting of and/or digging into City streets and/or sidewalks by or on behalf of an applicant in conjunction with its small cell wireless facility is prohibited, as is all underground installation associated with the small cell wireless facility; provided, however, that the grounding rod proposed to be installed as part of the small cell wireless facility is permitted as long as:
- (1) The applicant installs the rod immediately adjacent to the pole so as to cause minimal disturbance to the surface of the street or sidewalk; and
  - (2) The applicant restores the street or sidewalk surface to its predisturbance condition to the satisfaction of the DPW Engineering.

AT&T's proposed small cell facility will comply with this provision of the Code.

- H. Repair of damage.** The applicant shall repair, at its sole cost and expense, any damage, including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, streetlights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The applicant shall restore such areas, structures and systems to the



**condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice from the City Engineering Division, the Division shall cause such repair to be completed at the applicant's sole cost and expense.**

AT&T acknowledges this provision of the Code and reserves all rights.

- I. Visual impact minimization. The small cell wireless facility shall be color coordinated so as to best minimize the visual impact of the facility.**

AT&T's small cell antenna will be a neutral non-reflective color in order to minimize potential visual impacts.

- J. Side of pole on which to mount equipment. The small cell wireless facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of the pole facing away from the roadway.**

AT&T's small cell facility will comply with this provision of the Code.

- K. Future road reconstruction repair. Any future road reconstruction or repair project by the City and/or the commonwealth requiring the relocation of the pole shall result in the applicant's moving its small cell wireless facility to another pole in a timely fashion after having been notified by the DPW Engineering about the road project; provided, however, that any such relocation shall require further City Council approval.**

AT&T acknowledges this provision of the Code and reserves all rights.

- L. Construction and/or installation schedule. Prior to the commencement of construction and/or installation of the small cell wireless facility, the applicant shall provide the DPW Engineering with a written construction and/or installation schedule satisfactory to DPW Engineering.**

AT&T will comply with this provision of the Code.

- M. Removal bond. Prior to the commencement of construction and/or installation of its small cell wireless facility, an applicant shall provide the City's Chief Procurement Officer (the City CPO) with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the small cell wireless facility from the pole in question and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way**



was in as of the date when the relevant application was submitted to the City Clerk's office, said amount to be determined by DPW Engineering. The amount of the bond shall be the total of the estimate by DPW Engineering plus an annual increase of 3% for the operating life of the small cell wireless facility. The applicant shall notify the City CPO and DPW Engineering of any cancellation of, or change in the terms or conditions in, the bond.

AT&T will cooperate with the CPO and DPW Engineering and provide a bond in a mutually agreeable amount.

- N. Each requirement a permit condition. Each and every requirement set forth in §§ 473-29 and 473-30 of this Chapter 473 shall be deemed to be continuing conditions on the applicant's pole location permit granted by the City Council.**

AT&T acknowledges this provision of the Code and reserves all rights.

- O. Failure to comply with conditions. An applicant's failure to comply with any of the City Council's conditions to the Council's satisfaction or, as applicable, DPW Engineering or the City CPO, shall result in the City Council's review of the applicant's pole location permit(s).**

AT&T acknowledges this provision of the Code and reserves all rights.

## **THE TELECOMMUNICATIONS ACT OF 1996**

Without the installation of this small cell facility, AT&T would be unable to provide specifically established coverage and capacity objectives. The existing utility pole is located within the limited geographic area whereby AT&T's radio frequency engineers determined that a wireless facility is required. The Act imposes substantial restrictions affecting the standard for granting the requested relief. The Act provides that: no laws or actions by any local government or planning or zoning board may prohibit, or have the effect of prohibiting, the placement, construction, or modification of communications towers, antennas, or other wireless facilities in any particular geographic area, see 47 U.S.C. §332(c)(7)(B)(i); local government or planning or zoning boards may not unreasonably discriminate among providers of functionally equivalent services, see 47 U.S.C. §332(c)(7)(B)(i); health concerns may not be considered so long as the emissions comply with the applicable standards of the FCC, see 47 U.S.C. §332(c)(7)(B)(iv); and, decisions must be rendered within a reasonable period of time, see 47 U.S.C. §332(c)(7)(B)(ii) and the Order commonly referenced as the applicable "shot clocks". The FCC shot clock in this instance is ninety (90) days. We also note that the Order redefined "effective prohibition" to mean that state and local governments cannot impose requirements that materially limits or inhibits a provider's ability to engage in activities related to the provision of service. This standard applies to efforts to introduce new or enhance coverage, capacity or



City Council  
City of Marlborough  
February 23, 2022  
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service capabilities and notes that regulations that cause a financial burden or competitive disparity can be an effective prohibition.

### CONCLUSION

We respectfully assert that AT&T's proposed small cell wireless facility reasonably complies with the requirements of the City of Marlborough in light of the Act, the Order and Massachusetts law. AT&T is ready and willing to work cooperatively with the City of Marlborough with respect to the deployment of its small cell wireless facility. For the foregoing reasons, as well as to satisfy the mandate of the federal government to facilitate competition in the telecommunications industry as set forth in the Act and the Order, AT&T respectfully requests that the Board grant its approval of the Application.

If you have any questions, please don't hesitate to contact us. We look forward to presenting the Application at an upcoming meeting. For the Board's convenience, we have provided a proposed order.

Sincerely,

BROWN RUDNICK LLP

A handwritten signature in blue ink, appearing to read 'Michael R. Dolan', written over a horizontal line.

Michael R. Dolan, Esq.

Enclosures:

1. Letter of Authorization/National Grid License
2. Locations of Small Cell Facilities in Marlborough
3. Radio Frequency Coverage Maps
4. Certified Abutters List
5. Structural Report
6. Emissions Report
7. Plans

**ORDER FOR LOCATION FOR TELECOMMUNICATIONS WIRES AND WIRELESS ATTACHMENTS AND APPURTENANCES**

By the Council

Of the City of Marlborough, Massachusetts, \_\_\_\_\_, 2022

ORDERED:

That pursuant to the federal Telecommunication Act of 1996 and Massachusetts General Laws, Chapter 166, NEW CINGULAR WIRELESS PCS, LLC (“AT&T”) is hereby granted a location for and permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and side-mounted antennas, to be attached to a National Grid utility pole, located upon, along and under the public way within the City of Marlborough, as substantially shown on the plans filed with said petition.

The forgoing permission is subject to the following condition: the telecommunications wires and wireless attachments and appurtenances shall be installed and operated in compliance with all applicable federal, state and local laws, codes and regulations.

I hereby certify that the foregoing was adopted at a meeting of the Council of the City of Marlborough, Massachusetts, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
City Clerk

Form Version 05/22/12

Agreement Number: 1702

State: MA

Attachment Type: Wireless

**APPLICATION FOR POLE ATTACHMENT LICENSE**

Date: 2/2/2021

Application Number: 15426095 Marl1

Licensee: AT&T - Nexius Solutions Inc

Street Address: 300 Apollo Dr

City, State, Zip Code: Chelmsford MA 01824

In accordance with the terms and conditions of the License Agreement between us, application is hereby made for a license to make attachments to the specific poles indicated on the attached Form C-1.

Poles: 0 JO and 1 SO UG: \_\_\_\_\_ MHs & \_\_\_\_\_ ft of Conduit

Licensee: AT&T - Nexius Solutions Inc

By: Kelly Sanders

Title: Site Acquisition Specialist

Tel. No.: 203-246-0606

Email: kelly\_sanders@nexius.com

---

**POLE ATTACHMENT LICENSE**

Pole Attachment License is hereby granted to make the attachments described in this application which are located as indicated on the attached Form C-1.

Poles: 0 JO and 1 SO UG: 0 MHs & 0 ft of Conduit

Date: 17-Dec-2021

License Number: 30347879

Licensor: National Grid

By: Pamela Leavens

Signature: Pamela Leavens

Title: Telecom Attachment Coordinator

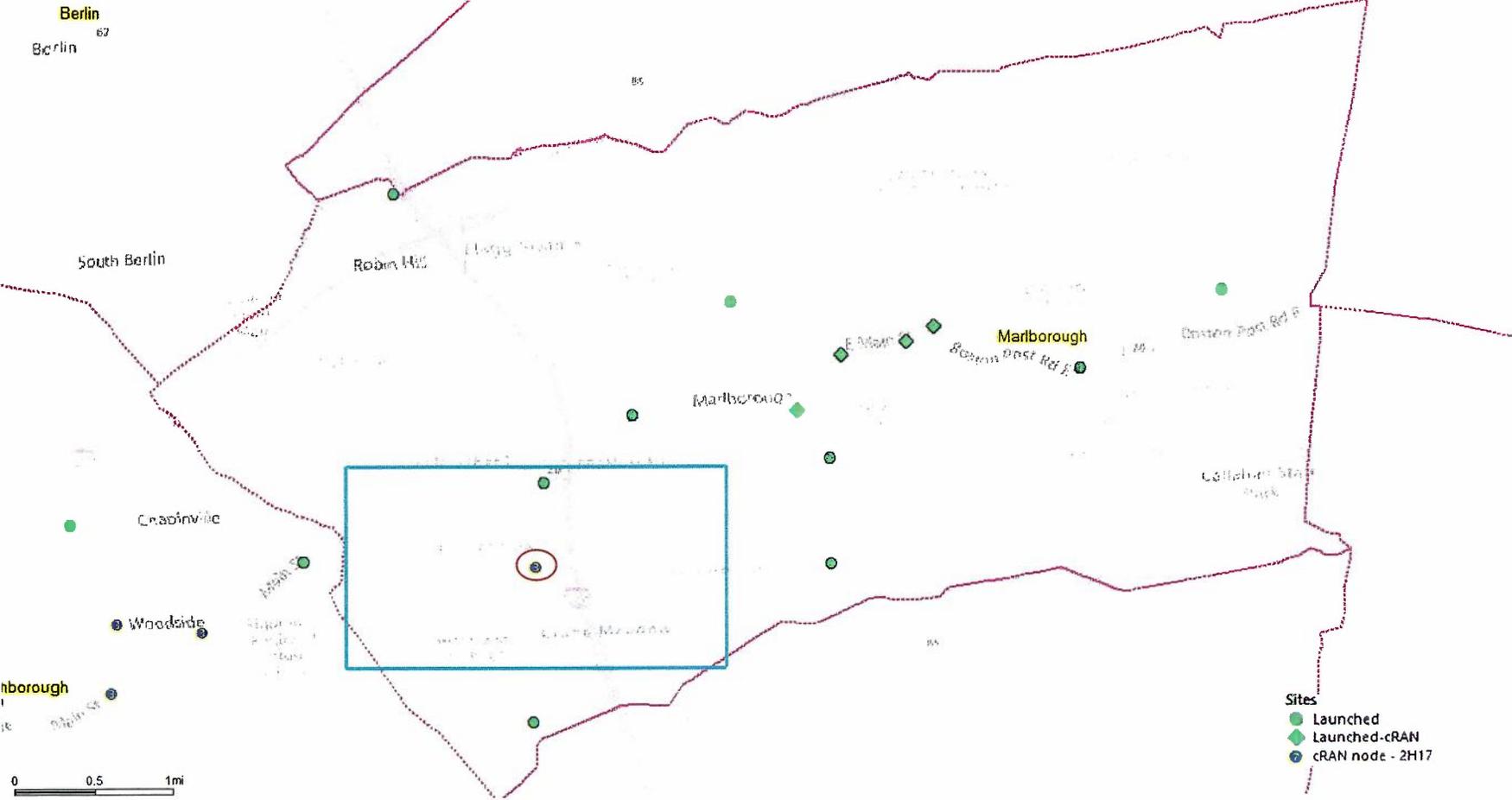
Tel. No.: 781-907-3455

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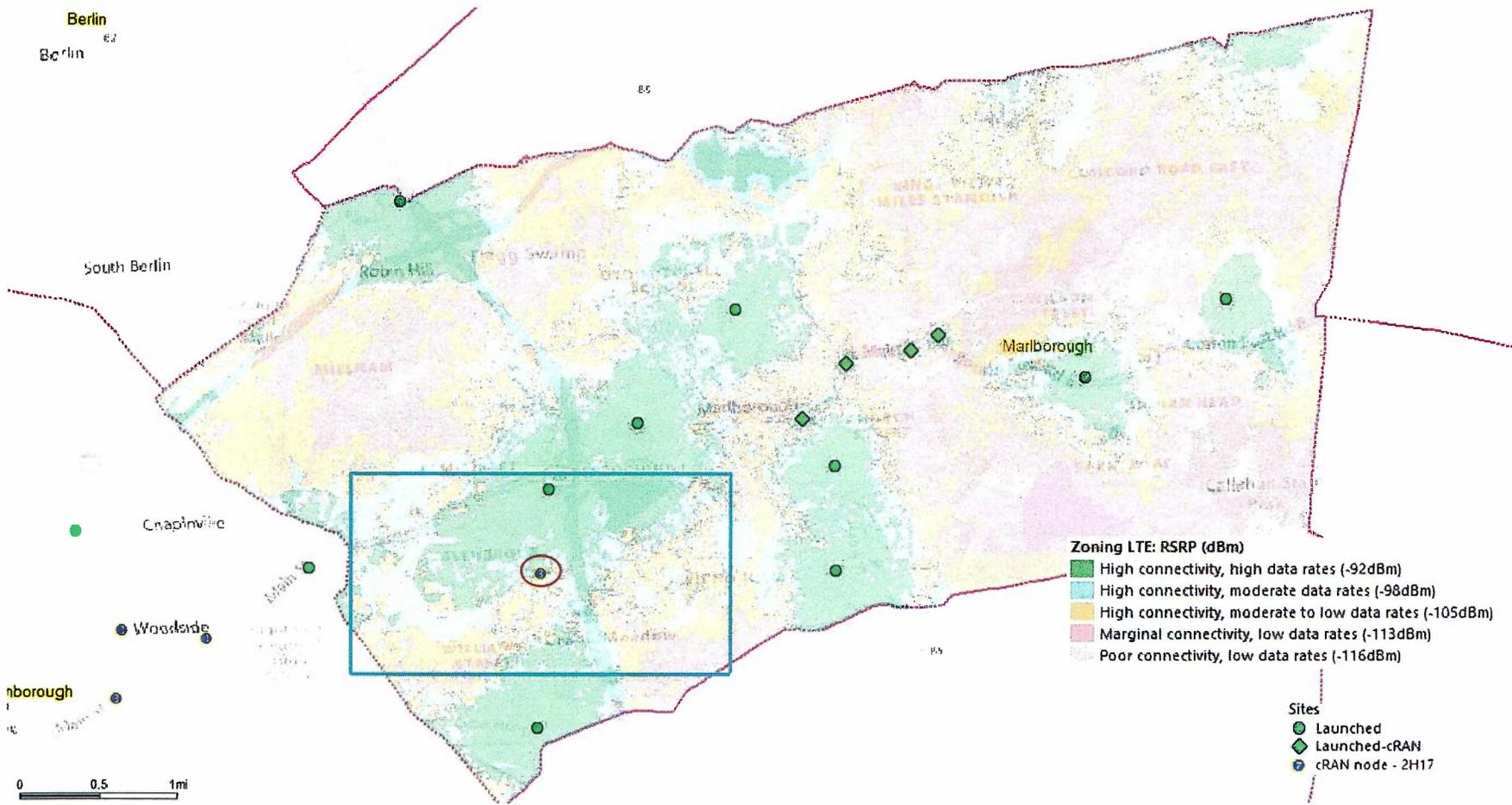
**NOTES:**

1. Applications shall be submitted to Licensor.
2. Applications to be numbered in ascending order by municipality.
3. Licensor will process in order of application numbers assigned by Licensee.
4. Licensee shall have thirty (30) days to begin the placement of attachments on National Grid's poles covered by the license.
5. The Licensee shall provide written notice to National Grid within five (5) days of work completion, that Licensee has completed new attachment or overfashing work.

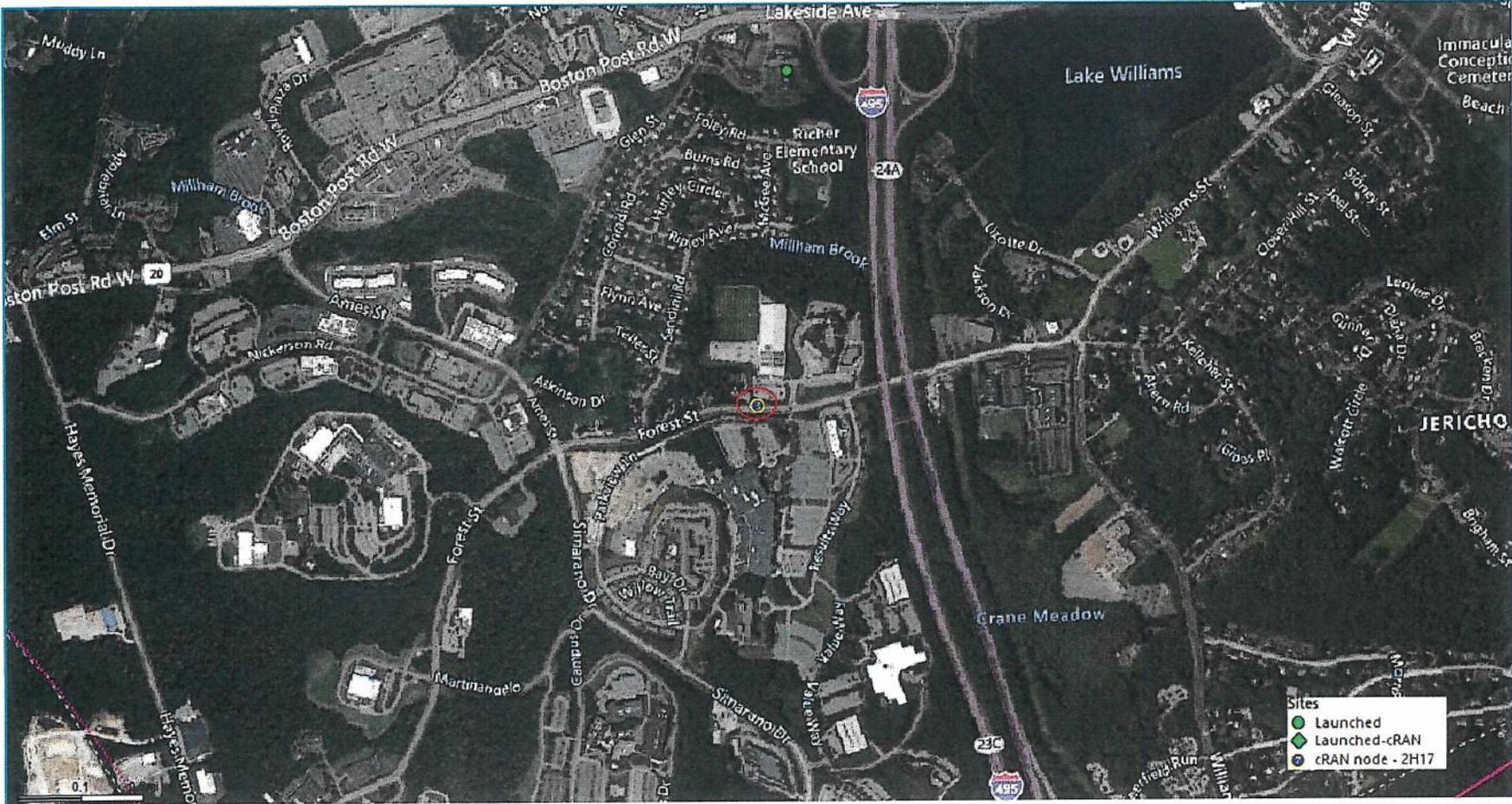
# AT&T locations (green dots) and proposed locations (blue dots) in and around Marlborough, MA



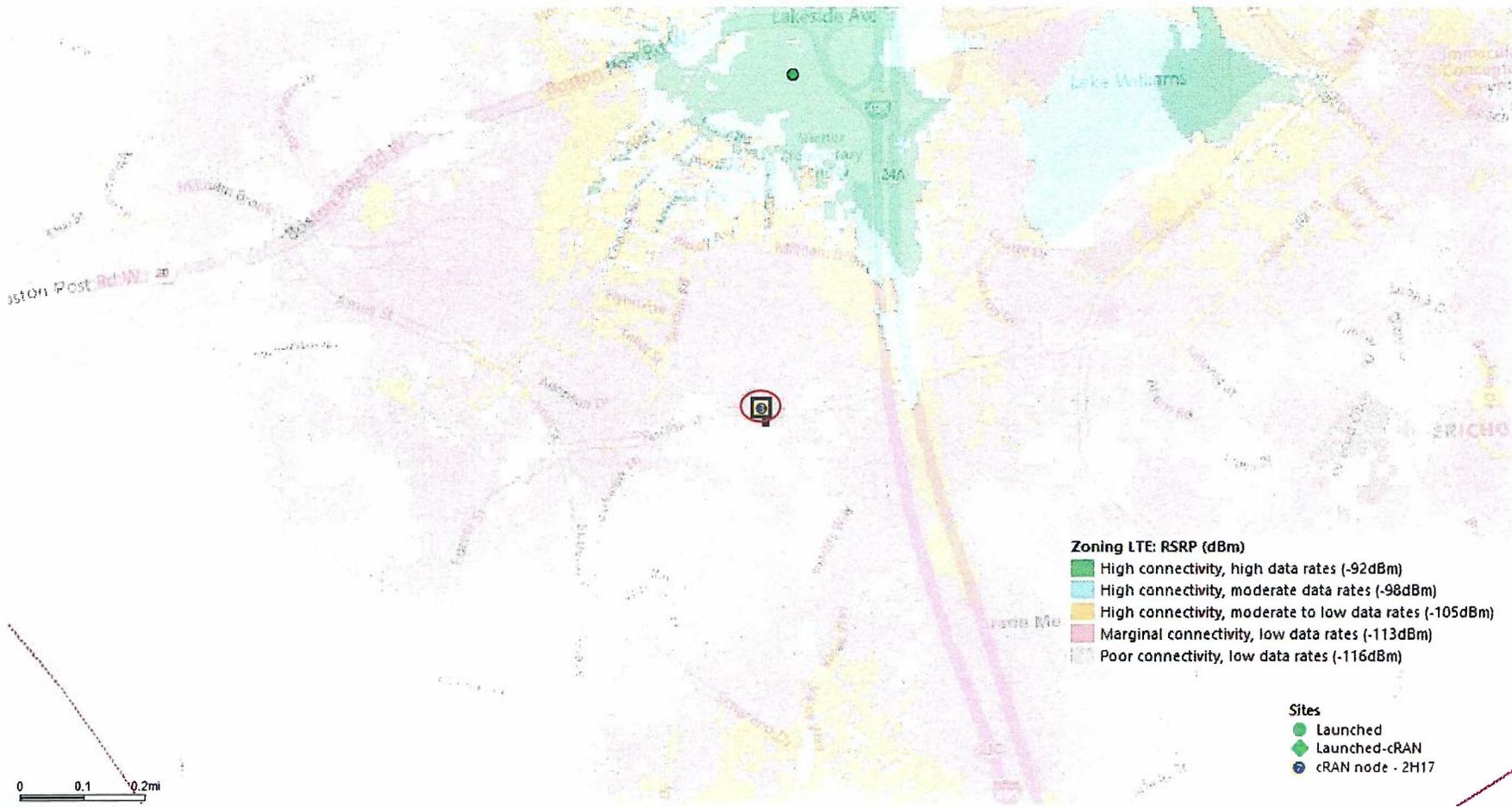
# Current AT&T PCS Coverage in Marlborough, MA



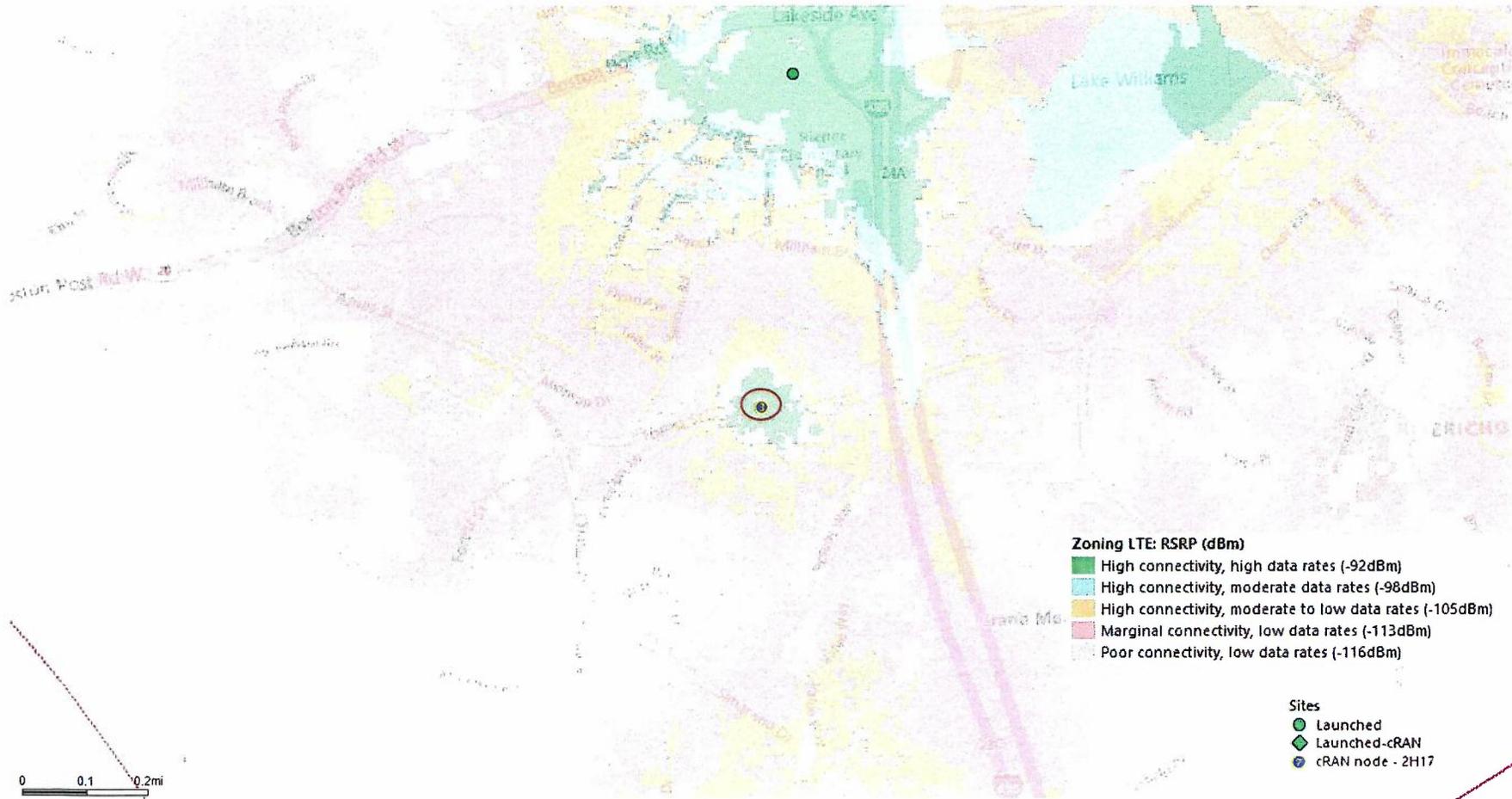
# AT&T locations (green dots) and proposed locations (blue dots) in and around Forest St



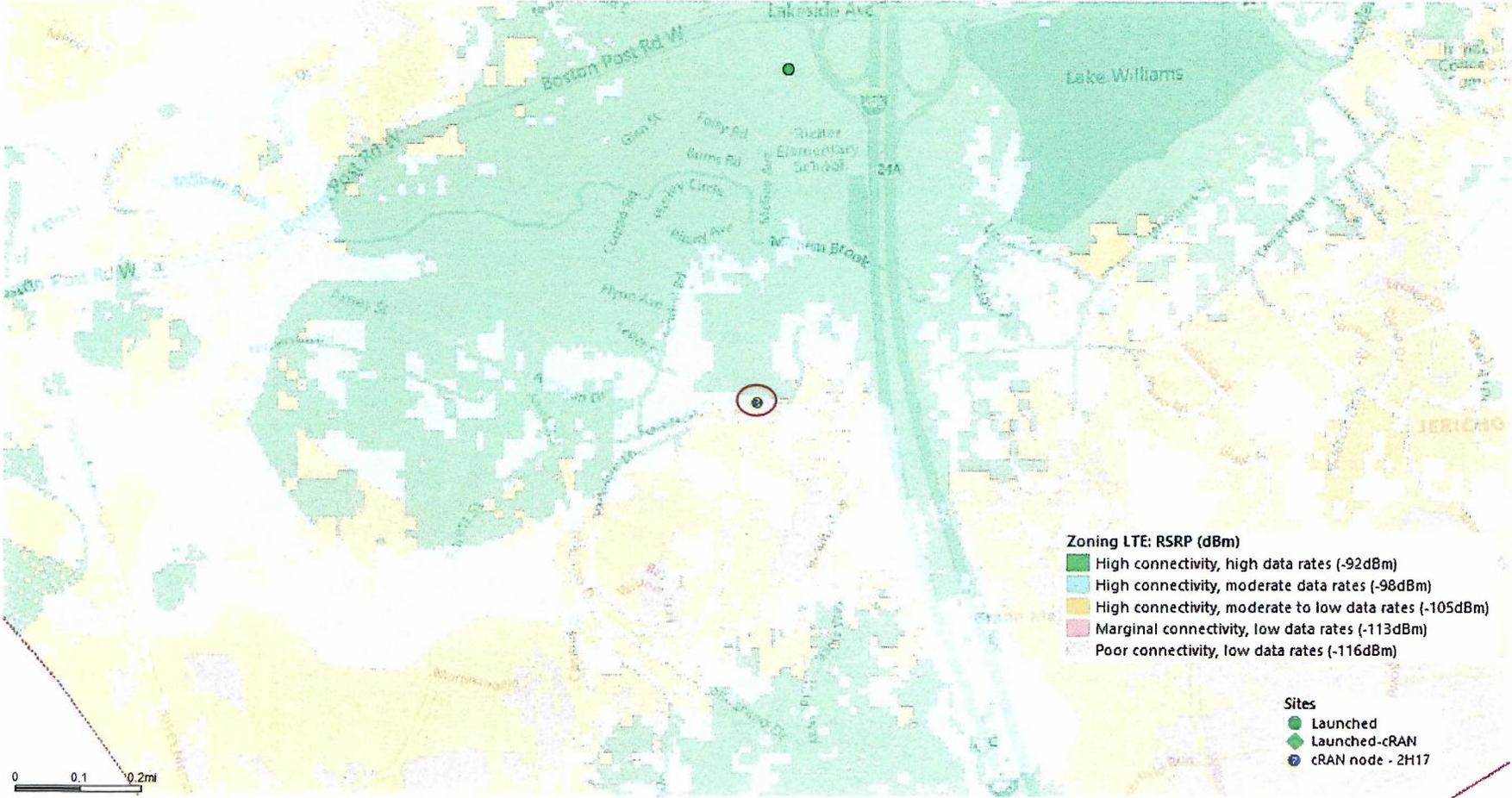
# Current AT&T PCS Coverage in and around Forest St



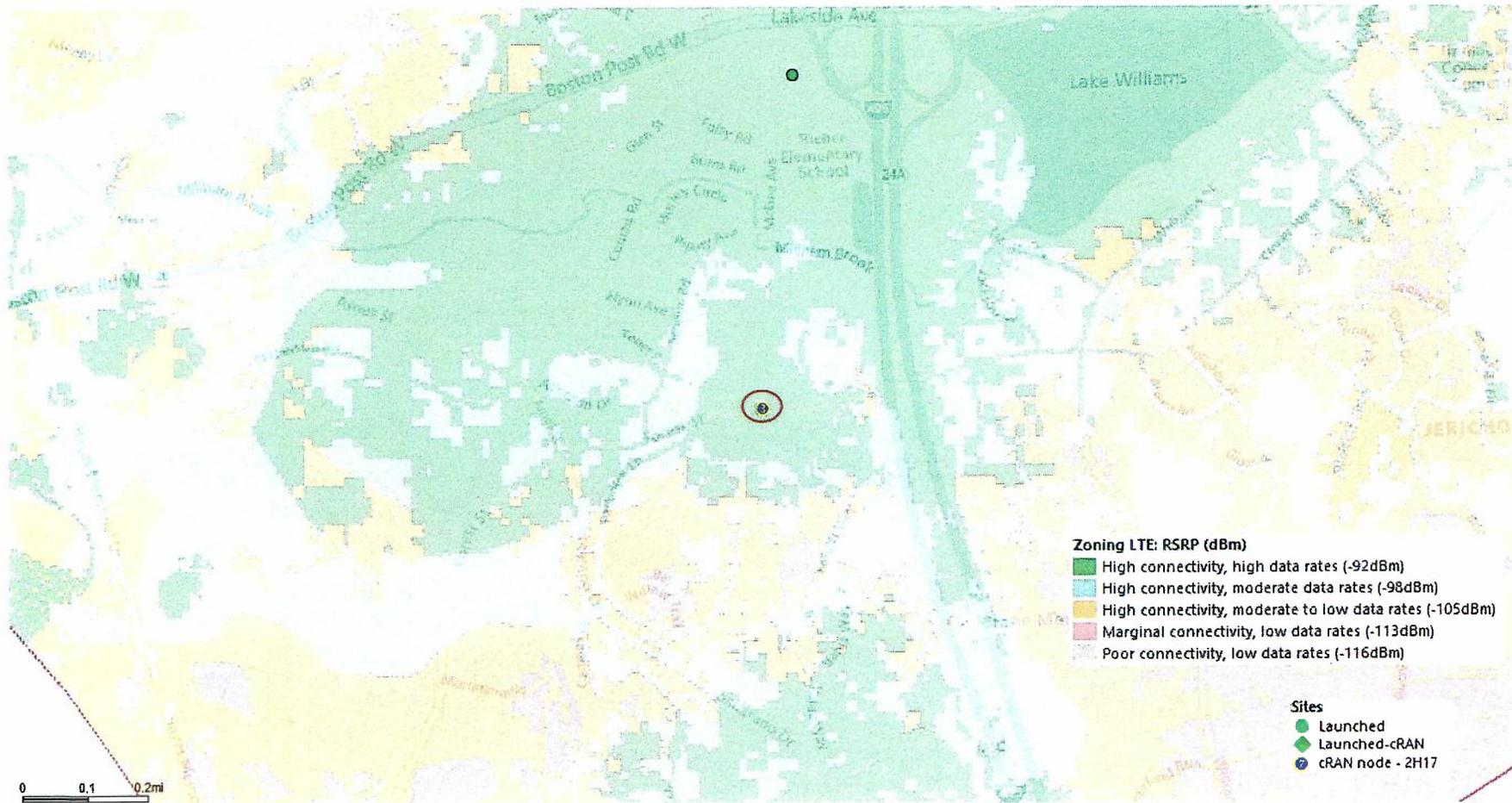
# Proposed AT&T PCS Coverage in and around Forest St



# Current AT&T Coverage in and around Forest St (all bands)



# Proposed AT&T Coverage in and around Forest St (all bands)



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PROJECT: NEW ENGLAND\_NEXIUS\_CRAN  
 SITE NAME: CRAN\_RCTB\_MARL\_01  
 USID: 299796  
 PACE NUMBER: MRCTB049467  
 FA NUMBER: 15426095  
 PTN NUMBER: 2101AOX0E2  
 COORDINATES: 42.332400°, -71.579630°  
 SITE ADDRESS: 241 FOREST STREET  
 MARLBOROUGH, MASSACHUSETTS 01752

PREPARED BY:  
**nexius**  
ENABLING SMARTER CONNECTIONS  
 A&E OFFICE  
 2595 NORTH DALLAS PARKWAY, SUITE 300  
 FRISCO, TX 75034  
 (972) 581-9888

CLIENT:  
  
**AT&T**  
 550 COCHITUATE ROAD,  
 FRAMINGHAM, MA 01701

FOR CONSTRUCTION

DATE SIGNED: 02/02/22

NEXIUS SOLUTIONS, INC.  
 MASSACHUSETTS PE NO. P223430  
 PE LICENSE RENEWAL 6/30/22

PROJECT INFORMATION	
PROJECT:	NEW ENGLAND_NEXIUS_CRAN
SITE NAME:	CRAN_RCTB_MARL_01
USID:	299796
PACE NUMBER:	MRCTB049467
LATITUDE:	42.332400°
LONGITUDE:	-71.579630°
SITE ADDRESS:	241 FOREST STREET
CITY, STATE ZIP:	MARLBOROUGH, MASSACHUSETTS 01752
COUNTY:	MIDDLESEX
JURISDICTION:	CITY OF MARLBOROUGH
STRUCTURE TYPE:	PROPOSED UTILITY POLE
STRUCTURE OWNER:	NATIONAL GRID & VERIZON
GROUND ELEVATION:	450'± AMSL
APPLICANT:	NEXIUS SOLUTIONS, INC. 300 APOLLO DRIVE, 2ND FLOOR CHELMSFORD, MA 01824 SITE ACQUISITION: NICOLE CAPLANMASON EMAIL: nicole.caplanmason@nexius.com
SITE ACQUISITION:	NEXIUS SOLUTIONS, INC. 300 APOLLO DRIVE, 2ND FLOOR CHELMSFORD, MA 01824
ENGINEERING SERVICES:	NEXIUS SOLUTIONS, INC. 2595 NORTH DALLAS PARKWAY, SUITE 300 FRISCO, TX 75034 EMAIL: JACK.PHIPPS@nexius.com



SHEET INDEX	
SHEET #	SHEET TITLE
T-1	TITLE SHEET
GN-1	GENERAL NOTES
C-1	AERIAL MAP TO SCALE
C-2	POLE ELEVATION
EQ-1	EQUIPMENT DETAILS
EQ-2	EQUIPMENT DETAILS
EQ-3	EQUIPMENT DETAILS
E-1	ELECTRICAL AND GROUNDING DETAILS

**CODE COMPLIANCE**

ALL WORK SHALL BE PERFORMED AND MATERIALS INSTALLED IN ACCORDANCE WITH CURRENT EDITIONS OF THE FOLLOWING APPLICABLE CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES.

- 2018 INTERNATIONAL BUILDING CODE
- 2020 NATIONAL ELECTRICAL CODE

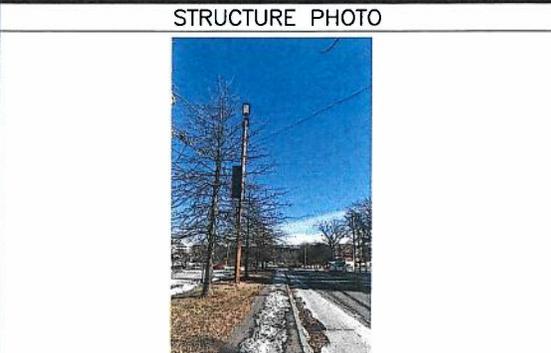
THESE DRAWINGS ARE DESIGNED TO THE LATEST CODES. THEY ALSO MEET THE ADOPTED CODE REQUIREMENTS OF THE JURISDICTION LISTED ABOVE.

**SCOPE OF WORK**

- EXISTING (38'-6" A.G.L.) CLASS 2 WOOD POLE.
- INSTALL (1) PROPOSED ANTENNA ON TOP OF EXISTING POLE PER MANUFACTURER'S SPECIFICATIONS.
- INSTALL (1) EQUIPMENT ENCLOSURE CONTAINING (1) RRUB843, (1) RRU4449, (1) SDX19260-43 AND (3) PSU AC 08 ON EXISTING POLE PER MANUFACTURER'S SPECIFICATIONS.
- INSTALL (1) METER AND (1) AC DISTRIBUTION BOX/SERVICE DISCONNECT ON EXISTING POLE PER MANUFACTURER'S SPECIFICATIONS AND PER UTILITY AND NEC REQUIREMENTS.

ANY DEVIATION THAT DIFFERS SUBSTANTIALLY FROM WHAT IS SHOWN ON THE CONSTRUCTION DRAWINGS MUST BE APPROVED BY THE ENGINEER OF RECORD. NO CHANGES THAT ALTER THE CHARACTER OF THE WORK CAN BE MADE DURING CONSTRUCTION WITHOUT ISSUING A CHANGE ORDER.

DRAWING SCALES ARE INTENDED FOR 11" X 17" SIZE PRINTED MEDIA ONLY. ALL OTHER SIZES ARE DEEMED "NOT TO SCALE".



**ONE CALL**

TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN MASSACHUSETTS, CALL DIG SAFE SYSTEM, INC.  
 TOLL FREE: 1-888-344-7233 OR www.digsafe.com  
 MASSACHUSETTS STATUTE REQUIRES MIN OF 2 WORKING DAYS NOTICE BEFORE YOU EXCAVATE

Know what's below.  
 Call before you dig.

SUBMITTALS			
REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	PM
0.	11/18/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2.	01/26/22	REVISED FINAL CD	GS

CHECKED BY: GS      CHECKED DATE: 02/02/22

SITE INFORMATION: SITE NAME: CRAN\_RCTB\_MARL\_01  
 USID: 299796  
 SITE ADDRESS: 241 FOREST STREET  
 MARLBOROUGH, MASSACHUSETTS 01752

SHEET TITLE: TITLE SHEET  
 SHEET NUMBER: T-1

DocuSign Envelope ID: 949507CB-BC8D-4D28-9A0D-9A3E53737F0A

**GENERAL CONSTRUCTION**

1. ALL SITE WORK SHALL BE COMPLETED AS INDICATED ON THE DRAWINGS AND PROJECT SPECIFICATIONS.
2. GENERAL CONTRACTOR SHALL VISIT THE SITE AND FAMILIARIZE HIMSELF WITH ALL CONDITIONS AFFECTING THE PROPOSED WORK. GENERAL CONTRACTOR IS RESPONSIBLE FOR FAMILIARIZING HIMSELF WITH ALL CONTRACT DOCUMENTS, FIELD CONDITIONS, DIMENSIONS, AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF WORK.
3. ALL MATERIALS FURNISHED AND INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, ORDINANCES, AND ISSUE ALL APPROPRIATE NOTICES.
4. ALL WORK CARRIED OUT SHALL COMPLY WITH ALL APPLICABLE MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS AND LOCAL JURISDICTIONAL CODES, ORDINANCES, AND APPLICABLE REGULATIONS.
5. PLANS ARE NOT TO BE SCALED. SPACING BETWEEN EQUIPMENT IS THE MINIMUM REQUIRED CLEARANCE. THEREFORE, IT IS CRITICAL TO FIELD VERIFY DIMENSIONS. SHOULD THERE BE ANY QUESTIONS REGARDING THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING A CLARIFICATION FROM THE ENGINEER PRIOR TO PROCEEDING WITH THE WORK. DETAILS ARE INTENDED TO SHOW DESIGN INTENT. MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF WORK AND PREPARED BY THE ENGINEER PRIOR TO PROCEEDING WITH WORK.
6. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY STATED OTHERWISE.
7. IF THE SPECIFIED EQUIPMENT CANNOT BE INSTALLED AS SHOWN ON THESE DRAWINGS, THE CONTRACTOR SHALL PROPOSE AN ALTERNATIVE INSTALLATION SPACE FOR APPROVAL BY THE ENGINEER PRIOR TO PROCEEDING.
8. CONTRACTOR SHALL NOTIFY THE GENERAL CONTRACTOR OF ANY EXISTING CONDITIONS THAT DEVIATE FROM THE DRAWINGS PRIOR TO BEGINNING CONSTRUCTION.
9. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE SAFETY OF WORK AREA, ADJACENT AREAS AND BUILDING OCCUPANTS THAT ARE LIKELY TO BE AFFECTED BY THE WORK UNDER THIS CONTRACT. WORK SHALL CONFIRM TO ALL OSHA REQUIREMENTS AND THE LOCAL JURISDICTION.
10. GENERAL CONTRACTOR SHALL COORDINATE WORK AND SCHEDULE WORK ACTIVITIES WITH OTHER DISCIPLINES.
11. WORK SHALL BE DONE IN A PROFESSIONAL MANNER BY COMPETENT EXPERIENCED PERSONNEL IN ACCORDANCE WITH APPLICABLE CODES AND THE BEST ACCEPTED PRACTICE.
12. SEAL PENETRATIONS THROUGH FIRE RATED AREAS WITH UL LISTED MATERIALS APPROVED BY LOCAL JURISDICTION. CONTRACTOR SHALL KEEP AREA CLEAN, HAZARD FREE, AND DISPOSE OF ALL DEBRIS.
13. CONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE CONSTRUCTION MANAGER 48 HOURS PRIOR TO COMMENCEMENT OF WORK.
14. THE CONTRACTOR SHALL PROTECT EXISTING IMPROVEMENTS, PAVEMENTS, CURBS, LANDSCAPING AND STRUCTURES. ANY DAMAGED PART SHALL BE REPAIRED AT CONTRACTOR'S EXPENSE TO THE SATISFACTION OF THE OWNER.
15. THE CONTRACTOR SHALL CONTACT UTILITY LOCATING SERVICES PRIOR TO THE START OF CONSTRUCTION.
16. GENERAL CONTRACTOR SHALL COORDINATE AND MAINTAIN ACCESS FOR ALL TRADES AND CONTRACTORS TO THE SITE AND/OR BUILDING.
17. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR SECURITY OF THE SITE FOR THE DURATION OF CONSTRUCTION UNTIL JOB COMPLETION.
18. CONTRACTORS SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS AND INSPECTIONS REQUIRED FOR CONSTRUCTION. IF CONTRACTOR CANNOT OBTAIN A PERMIT, THEY MUST NOTIFY THE GENERAL CONTRACTOR IMMEDIATELY.
19. THE GENERAL CONTRACTOR SHALL MAINTAIN IN GOOD CONDITION ONE COMPLETE SET OF PLANS WITH ALL REVISIONS, ADDENDA, AND CHANGE ORDERS ON THE PREMISES AT ALL TIMES.
20. THE GENERAL CONTRACTOR SHALL PROVIDE PORTABLE FIRE EXTINGUISHERS WITH A RATING OF NOT LESS THAN 2-A TO 2-A-10-B-C AND SHALL BE WITHIN 25 FEET OF TRAVEL DISTANCE TO ALL PORTIONS OF WHERE THE WORK IS BEING COMPLETED DURING CONSTRUCTION.
21. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, COMMUNICATIONS, AND OTHER UTILITIES SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER EXECUTION OF THE WORK, SHALL BE RELOCATED AS DIRECTED BY THE ENGINEER. EXTREME CAUTION SHOULD BE USED BY THE CONTRACTOR WHEN EXCAVATING OR DRILLING PIERS AROUND OR NEAR UTILITIES. CONTRACTOR SHALL PROVIDE SAFETY TRAINING FOR THE WORKING CREW. THIS SHALL INCLUDE BUT NOT BE LIMITED TO: FALL PROTECTION, CONFINED SPACE, ELECTRICAL SAFETY, AND TRENCHING / EXCAVATION.
22. ALL EXISTING INACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES WHICH INTERFERE WITH THE EXECUTION OF THE WORK, SHALL BE REMOVED, CAPPED, PLUGGED OR OTHERWISE DISCONNECTED AT POINTS WHICH WILL NOT INTERFERE WITH THE EXECUTION OF THE WORK AS DIRECTED BY THE RESPONSIBLE ENGINEER, AND SUBJECT TO THE APPROVAL OF THE OWNER AND/OR LOCAL UTILITIES.

23. CONTRACTOR SHALL MINIMIZE DISTURBANCE TO THE EXISTING SITE DURING CONSTRUCTION. EROSION CONTROL MEASURES, IF REQUIRED DURING CONSTRUCTION, SHALL BE IN CONFORMANCE WITH THE FEDERAL AND LOCAL JURISDICTION FOR EROSION AND SEDIMENT CONTROL.
24. THE AREAS OF THE OWNER'S PROPERTY DISTURBED BY THE WORK SHALL BE GRADED TO A UNIFORM SLOPE AND STABILIZED TO PREVENT EROSION.
25. NO FILL OR EMBANKMENT MATERIAL SHALL BE PLACED ON FROZEN GROUNDING. FROZEN MATERIALS, SNOW OR ICE SHALL NOT BE PLACED IN ANY FILL OR EMBANKMENT.
26. THE SUBGRADE SHALL BE BROUGHT TO A SMOOTH UNIFORM GRADE AND COMPACTED TO 95 PERCENT STANDARD PROCTOR DENSITY UNDER PAVEMENT AND STRUCTURES AND 80 PERCENT STANDARD PROCTOR DENSITY IN OPEN SPACE.
27. ALL TRENCHES IN PUBLIC RIGHT OF WAY SHALL BE BACKFILLED WITH FLOWABLE FILL OR OTHER MATERIAL PRE-APPROVED BY THE LOCAL JURISDICTION.
28. ALL NECESSARY RUBBISH, STUMPS, DEBRIS, STICKS, STONES, AND OTHER REFUSE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN A LAWFUL MANNER.
29. ALL BROCHURES, OPERATING AND MAINTENANCE MANUALS, CATALOGS, SHOP DRAWINGS, AND OTHER DOCUMENTS SHALL BE TURNED OVER TO THE GENERAL CONTRACTOR AT COMPLETION OF CONSTRUCTION AND PRIOR TO PAYMENT.
30. CONTRACTOR SHALL SUBMIT A COMPLETE SET OF AS-BUILT REDLINES TO THE GENERAL CONTRACTOR UPON COMPLETION OF PROJECT AND PRIOR TO FINAL PAYMENT.
31. NO OUTDOOR STORAGE OR SOLID WASTE CONTAINERS ARE PROPOSED.
32. ALL MATERIAL SHALL BE FURNISHED AND WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE LATEST GROUNDING STANDARD.
33. CONTRACTOR SHALL REMOVE ALL TRASH AND DEBRIS FROM THE SITE ON A DAILY BASIS.
34. INFORMATION SHOWN ON THESE DRAWINGS WAS OBTAINED FROM SITE VISITS AND/OR DRAWINGS PROVIDED BY THE SITE OWNER.
35. CONTRACTORS SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES PRIOR TO ORDERING MATERIAL OR PROCEEDING WITH CONSTRUCTION.
36. ALL CABLE INSTALLATIONS TO FOLLOW MANUFACTURER'S INSTRUCTIONS AND RECOMMENDATIONS.

**ANTENNA MOUNTING**

1. DESIGN AND CONSTRUCTION OF ANTENNA SUPPORTS SHALL CONFORM TO CURRENT ANSI/TIA-222 OR APPLICABLE LOCAL CODES.
2. ALL STEEL MATERIALS SHALL BE GALVANIZED AFTER FABRICATION IN ACCORDANCE WITH ASTM A123 "ZINC (HOT-DIP GALVANIZED) COATINGS ON IRON AND STEEL PRODUCTS", UNLESS NOTED OTHERWISE.
3. ALL BOLTS, ANCHORS AND MISCELLANEOUS HARDWARE SHALL BE GALVANIZED IN ACCORDANCE WITH ASTM A153 "ZINC-COATING (HOT-DIP) ON IRON AND STEEL HARDWARE", UNLESS NOTED OTHERWISE.
4. DAMAGED GALVANIZED SURFACES SHALL BE REPAIRED BY COLD GALVANIZING IN ACCORDANCE WITH ASTM A780.
5. ALL ANTENNA MOUNTS SHALL BE INSTALLED WITH LOCK NUTS, DOUBLE NUTS AND SHALL BE TORQUED TO MANUFACTURER'S RECOMMENDATIONS.
6. CONTRACTOR SHALL INSTALL ANTENNA PER MANUFACTURER'S RECOMMENDATION FOR INSTALLATION AND GROUNDING.
7. PRIOR TO SETTING ANTENNA AZIMUTHS AND DOWNTILTS, ANTENNA CONTRACTOR SHALL CHECK THE ANTENNA MOUNT FOR TIGHTNESS AND ENSURE THAT THEY ARE PLUMB. ANTENNA AZIMUTHS SHALL BE SET FROM TRUE NORTH AND BE ORIENTED WITHIN +/- 5% AS DEFINED BY THE RFDS. ANTENNA DOWNTILTS SHALL BE WITHIN +/- 0.5% AS DEFINED BY THE RFDS. REFER TO ND-00246.

**TORQUE REQUIREMENTS**

1. ALL RF CONNECTIONS SHALL BE TIGHTENED WITH A TORQUE WRENCH AND A TORQUE MARK INDICATED ON BOTH SIDES OF THE CONNECTION.
2. ALL GROUNDING AND ANTENNA HARDWARE SHALL ALL BE TIGHTENED WITH A TORQUE WRENCH AND A TORQUE MARK INDICATED ON THE NUT SIDE STARTING FROM THE THREADS TO THE SOLID SURFACE. TORQUE TO THE FOLLOWING VALUES:
  - 2.1. ALL 5/16" ANTENNA HARDWARE TIGHTENED TO 9 FT-LBS.
  - 2.2. ALL 1/2" ANTENNA HARDWARE TIGHTENED TO 43 FT-LBS.
  - 2.3. ALL DIN-TYPE CONNECTIONS TIGHTENED TO 18-22 FT-LBS.
  - 2.4. ALL N-TYPE CONNECTIONS TIGHTENED TO 15-20 IN-LBS.

**COAXIAL CABLE NOTES**

1. TYPES AND SIZES OF THE ANTENNA CABLE ARE BASED ON ESTIMATED LENGTHS. PRIOR TO ORDERING CABLE, CONTRACTOR SHALL VERIFY ACTUAL LENGTH BASED ON CONSTRUCTION LAYOUT AND NOTIFY THE PROJECT MANAGER IF ACTUAL LENGTHS EXCEED ESTIMATED LENGTHS.

2. CONTRACTOR SHALL VERIFY THE DOWNTILT OF EACH ANTENNA WITH A DIGITAL LEVEL.
3. CONTRACTOR SHALL CONFIRM COAX COLOR CODING PRIOR TO CONSTRUCTION. REFER TO "ANTENNA SYSTEM LABELING STANDARD" ND-00027 LATEST VERSION.
4. USE 1/2" COAX ON ANTENNAS UNLESS OTHERWISE SPECIFIED.
5. FILL VOID AROUND CABLES AT CONDUIT OPENING WITH FOAM SEALANT TO PREVENT WATER INTRUSION.
6. ALL COAXIAL CABLE SHALL BE SECURED TO THE DESIGNED SUPPORT STRUCTURE, IN AN APPROVED MANNER, AT DISTANCES NOT TO EXCEED 4'-0".
7. CONTRACTOR SHALL FOLLOW ALL MANUFACTURER'S RECOMMENDATIONS REGARDING BOTH THE INSTALLATION AND GROUNDING OF ALL COAXIAL CABLES, CONNECTORS, ANTENNAS, AND ALL OTHER EQUIPMENT.
8. ALL OUTDOOR RF CONNECTIONS SHALL BE WEATHERPROOFED USING COLD SHRINK OR HEAT SHRINK ON ALL ANTENNA AND RADIO CONNECTIONS.

**GENERAL CABLE AND EQUIPMENT NOTES**

1. PRIOR TO INSTALLATION CONTRACTOR SHALL VERIFY MAKE AND MODEL OF ANTENNA, DIPLEXERS, AND COAX CONFIGURATION.
2. ALL CONNECTIONS FOR HANGERS, SUPPORTS, BRACING, ETC. SHALL BE INSTALLED PER MANUFACTURER'S RECOMMENDATIONS.
3. CONTRACTOR SHALL REFERENCE THE STRUCTURAL ANALYSIS/DESIGN DRAWINGS FOR DIRECTIONS ON CABLE DISTRIBUTION/ROUTING.
4. IF REQUIRED TO PAINT ANTENNAS AND/OR COAX:
  - 4.1. TEMPERATURE SHALL BE ABOVE 50° F.
  - 4.2. PAINT COLOR MUST BE APPROVED BY BUILDING OWNER/LANDLORD.
  - 4.3. FOR REGULATED TOWERS, FAA/FCC APPROVED PAINT IS REQUIRED.
  - 4.4. DO NOT PAINT OVER COLOR CODING OR ON EQUIPMENT MODEL NUMBERS.
5. ALL PROPOSED GROUND BAR DOWNLEADS ARE TO BE TERMINATED TO THE EXISTING ADJACENT GROUND BAR DOWNLEADS A MINIMUM DISTANCE OF 4'-0" BELOW GROUND BAR. TERMINATIONS MAY BE EXOTHERMIC OR COMPRESSION.
6. NO BOLT THREADS TO PROTRUDE MORE THAN 1-1/2".

NOTE: REVISION 02/02/22

PREPARED BY:

**nexius**  
ENABLING SMARTER CONNECTIONS

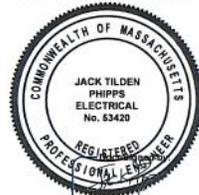
A/E OFFICE  
 2595 NORTH DALLAS PARKWAY, SUITE 300  
 FRISCO, TX 75034  
 (972) 581-9888

CLIENT:



AT&T  
 550 COCHITUATE ROAD,  
 FRAMINGHAM, MA 01701

**FOR CONSTRUCTION**



DATE SIGNED: 02/02/22

REVISION: 02/02/22

NEXIUS SOLUTIONS, INC.  
 MASSACHUSETTS PE NO. P53420  
 PE LICENSE RENEWAL 6/30/22

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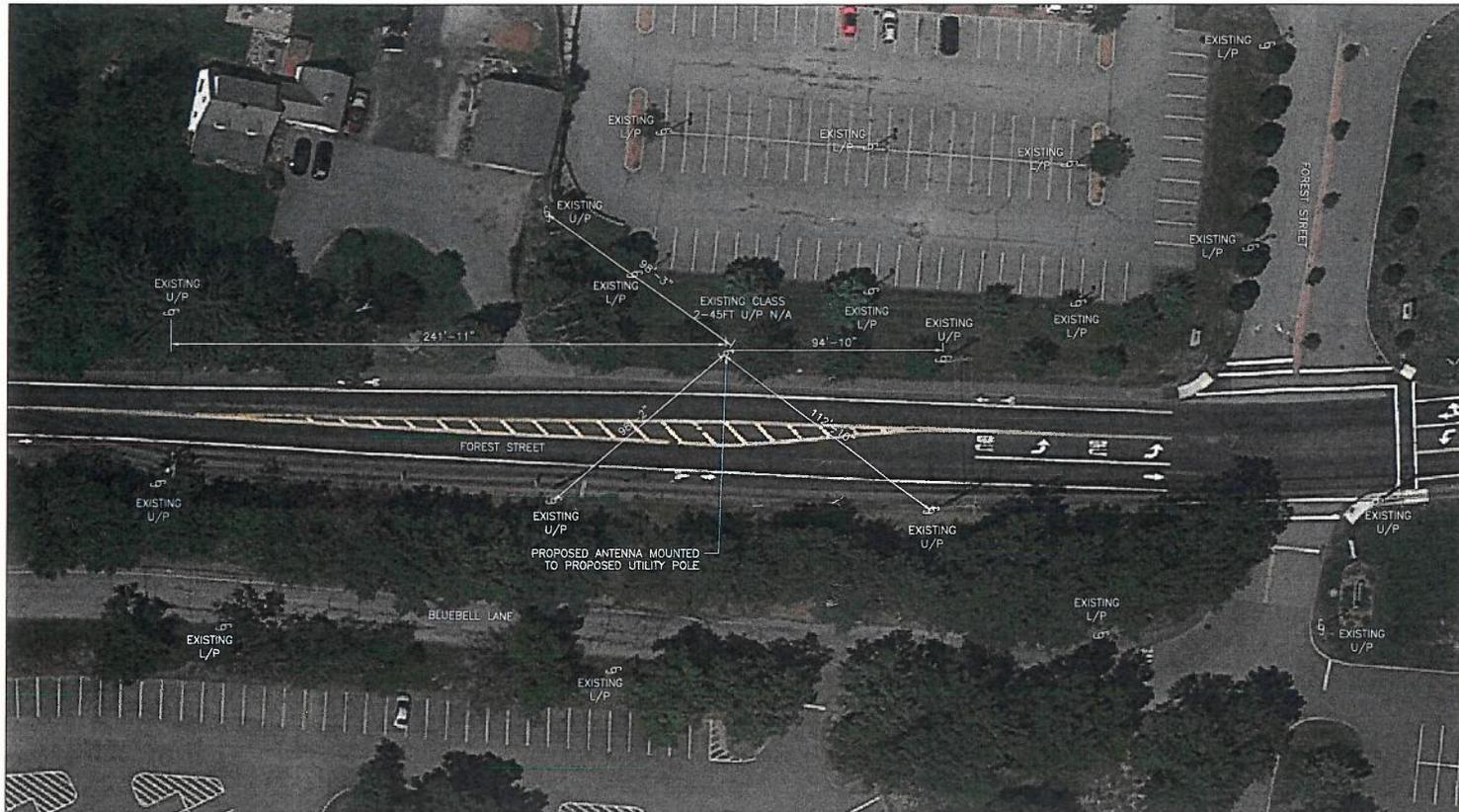
SUBMITTALS			
REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	PM
G	11/19/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2	01/28/22	REVISED FINAL CD	GS

CHECKED BY: GS      CHECKED DATE: 02/02/22

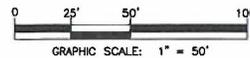
SITE INFORMATION:      SITE NAME:  
 CRAN\_RCTB\_MJRL\_01  
 USID:  
 299796  
 SITE ADDRESS:  
 241 FOREST STREET  
 MARLBOROUGH, MASSACHUSETTS 01752

SHEET TITLE: **GENERAL NOTES**

SHEET NUMBER: **GN-1**



1 KEY PLAN  
SCALE: 1" = 50.0001032'

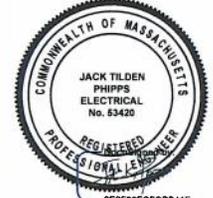


POLE COORDINATES	LATITUDE (NAD83)	LONGITUDE (NAD83)
	42.332400	-71.579630
GROUND ELEVATION	450' AMSL (NAVD88)	

PREPARED BY:  
**nexius**  
ENABLING SMARTER CONNECTIONS  
A/E OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581-9888

CLIENT:  
  
AT&T  
550 COCHITUATE ROAD,  
FRAMMINGHAM, MA 01701

FOR CONSTRUCTION



DATE SIGNED: 02/02/22

NEXIUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. PE23420  
PE LICENSE RENEWAL 8/30/22

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SUBMITTALS			
REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	PM
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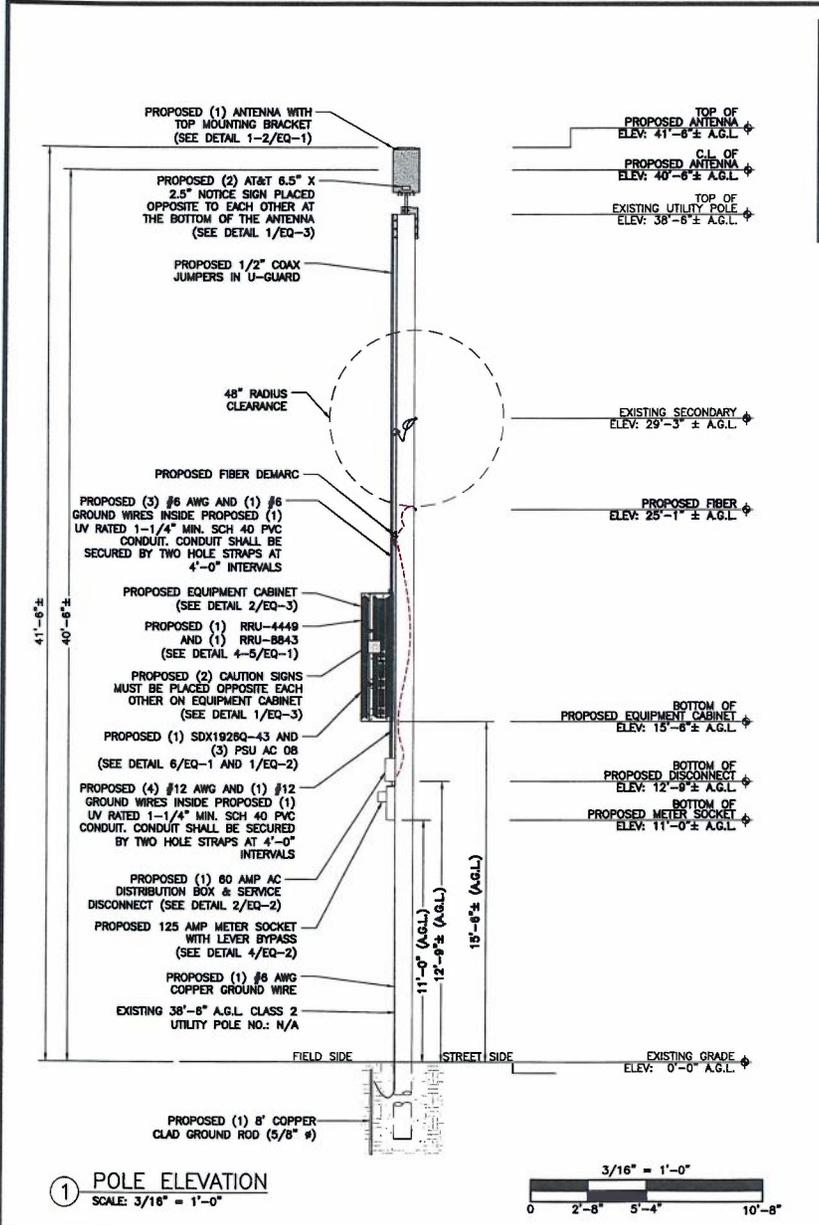
CHECKED BY: GS      CHECKED DATE: 02/02/22

SITE INFORMATION:  
SITE NAME:  
CRAN\_RCTB\_MARL\_01  
USID:  
269796  
SITE ADDRESS:  
241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752

SHEET TITLE:  
AERIAL MAP TO SCALE

SHEET NUMBER:  
**C-1**

DocuSign Envelope ID: 949507CB-BC8D-4D28-9A0D-9A3E53737F0A



**NOTES:**

1. AN ANALYSIS OF THE CAPACITY OF THE EXISTING STRUCTURE TO SUPPORT THE PROPOSED LOADING HAS NOT BEEN COMPLETED BY NEXIUS. DRAWINGS ARE SUBJECT TO CHANGE PENDING OUTCOME OF A STRUCTURAL ANALYSIS.
2. AT&T SHALL MAKE ARRANGEMENTS WITH THE LOCAL ELECTRICAL UTILITY, TO ADJUST THE POSITION OF THE EXISTING OVERHEAD COMMUNICATION LINES AT SUBJECT UTILITY POLE TO PROVIDE THE REQUIRED CLEARANCE FOR THE INSTALLATION OF THE PROPOSED AT&T ANTENNA. THE PROPOSED INSTALLATION OF THE ANTENNA AND ALL APPURTENANCES SHALL MEET THE REQUIREMENTS OF THE POWER COMPANY AND THE 2020 NATIONAL ELECTRICAL SAFETY CODE.
3. VERIFY EQUIPMENT B.O.M. AGAINST RFDs TO ENSURE YOU HAVE THE RIGHT ANTENNA. NOTIFY YOUR PROJECT PM IF THERE IS A DISCREPANCY IN THE ANTENNA OR MOUNTING BRACKET.
4. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY, PRIOR TO THE ONSET OF CONSTRUCTION, THAT THE SUPPORTING STRUCTURE(S) AND MOUNTING SYSTEM(S) HAVE BEEN DEEMED STRUCTURALLY ADEQUATE BY A LICENSED PROFESSIONAL ENGINEER TO SUPPORT THE EXISTING AND PROPOSED EQUIPMENT AND ASSOCIATED CONSTRUCTION LOADS, INCLUDING BUT NOT LIMITED TO THOSE DEPICTED, HEREIN. THE CONTRACTOR SHALL ASSUME THE FULL-LIABILITY AND RISK ASSOCIATED WITH THE INSTALLATION OF THE PROPOSED EQUIPMENT AND/OR APPURTENANCES IF PERFORMED WITHOUT SAID PASSING STRUCTURAL ANALYSIS OR EVALUATION. IF THE RESULT OF THE ANALYSIS REQUIRES THE STRUCTURE BE STRENGTHENED OR MODIFIED; SUCH MODIFICATIONS SHALL BE PROPERLY INSTALLED AND COMPLETED PRIOR TO THE ONSET OF CONSTRUCTION.



**3 PHOTO DETAIL**  
N.T.S.

PREPARED BY:

**nexius**  
ENABLING SMARTER CONNECTIONS

A&E OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581-9888

CLIENT:

**AT&T**  
550 COCHITUATE ROAD,  
FRAMINGHAM, MA 01701

FOR CONSTRUCTION

COMMONWEALTH OF MASSACHUSETTS  
JACK TILDEN  
PHIPPS  
ELECTRICAL  
NO. 63420  
REGISTERED PROFESSIONAL ENGINEER  
6E2F33FCFQB41F  
DATE SIGNED: 02/02/22

NEXIUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. P033430  
PE LICENSE RENEWAL 6/30/22

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SUBMITTALS

REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	PM
0	11/16/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2	01/26/22	REVISED FINAL CD	GS

CHECKED BY: GS  
CHECKED DATE: 02/02/22

SITE INFORMATION: SITE NAME: CRAN\_RCTB\_MARL\_01  
USID: 290796  
SITE ADDRESS: 241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752

SHEET TITLE: POLE ELEVATIONS  
SHEET NUMBER: C-2

DocuSign Envelope ID: 949507CB-BC8D-4D28-9A0D-9A3E53737F0A

ANTENNA SPECIFICATIONS	
MANUFACTURER	GALTRONICS
MODEL NUMBER	G22412-06613
HEIGHT	24.5"
DIAMETER	14.7"
WEIGHT	30.8 LBS.
VOLUME	2.40 CU.FT

**1** ANTENNA DETAIL  
SCALE: N.T.S.

ANTENNA BRACKET SPECIFICATIONS	
MANUFACTURER	GALTRONICS
MODEL NUMBER	MK-08679
WIDTH	3.74"
DEPTH	9.06"
HEIGHT	18.39"
WEIGHT	5.14 LBS.
ITEM NUMBER	ANT.10623

**2** ANTENNA BRACKET DETAIL  
SCALE: N.T.S.

DIPLEXERS SPECIFICATIONS	
MANUFACTURER	COMMSCOPE
MODEL NUMBER	SDX1928Q-43
HEIGHT	4.17"
WIDTH	6.92"
DEPTH	2.91"
WEIGHT	6.17 LBS.

**3** ANTENNA MOUNTING DETAIL  
SCALE: N.T.S.

RADIO SPECIFICATIONS	
MANUFACTURER	ERSSON
MODEL NUMBER	RWJ 4449
HEIGHT	14.98"
WIDTH	13.19"
DEPTH	10.43"
WEIGHT	73 LBS.

**4** RRU 4449 DETAIL  
SCALE: N.T.S.

RADIO SPECIFICATIONS	
MANUFACTURER	ERSSON
MODEL NUMBER	RWJ 8843
HEIGHT	14.9"
WIDTH	13.2"
DEPTH	10.9"
WEIGHT	72 LBS.

**5** RRU 8843 DETAIL  
SCALE: N.T.S.

**6** DIPLEXERS DETAIL  
SCALE: N.T.S.

PREPARED BY:

**nexius**  
FRAMINGHAM QUARTER CONNECTIONS

ABLE OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581 9888

CLIENT:

**AT&T**  
AT&T  
550 COCHITUATE ROAD,  
FRAMINGHAM, MA 01701

FOR CONSTRUCTION

COMMONWEALTH OF MASSACHUSETTS  
JACK TILDEN  
PHIPPS  
ELECTRICAL  
No. 53420  
REGISTERED  
PROFESSIONAL ENGINEER  
6E2F33FCFCBB41F

DATE SIGNED: 02/02/22

NEXIUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. PE034920  
PE LICENSE RENEWAL 6/30/22

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REV	DATE	DESCRIPTION	BY
A	05/05/21	FOR REVIEW	PM
0	11/16/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2	01/26/22	REVISED FINAL CD	GS

CHECKED BY: GS      CHECKED DATE: 02/02/22

SITE INFORMATION: SITE NAME: CRAN\_RCTB\_MARL\_01  
USID: 2207795  
SITE ADDRESS: 241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752

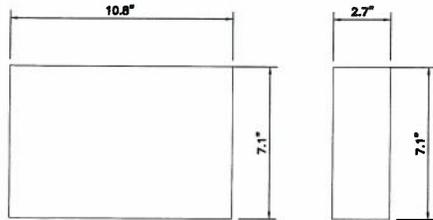
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SHEET NUMBER: EQ-1

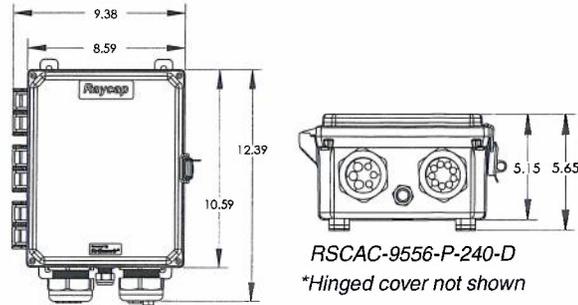
DocuSign Envelope ID: 949507CB-BC8D-4D28-9A0D-9A3E53737F0A

PSU SPECIFICATIONS	
MANUFACTURER	ERICSSON
MODEL NUMBER	PSU AC 08
HEIGHT	7.1"
WIDTH	10.8"
DEPTH	2.7"
WEIGHT	11.5 LBS.

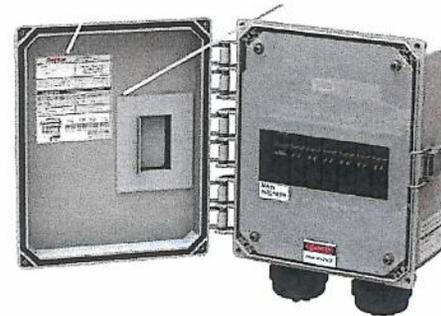
AC DISTRIBUTION BOX SPECIFICATIONS	
MANUFACTURER	RATCAP
MODEL NUMBER	RSCAC-9556-P-240-D
HEIGHT	12.38"
WIDTH	8.59"
DEPTH	5.65"
WEIGHT	8.0 LBS.
ITEM NUMBER	CDL21817



① PSU AC 08 DETAIL  
SCALE: N.T.S.



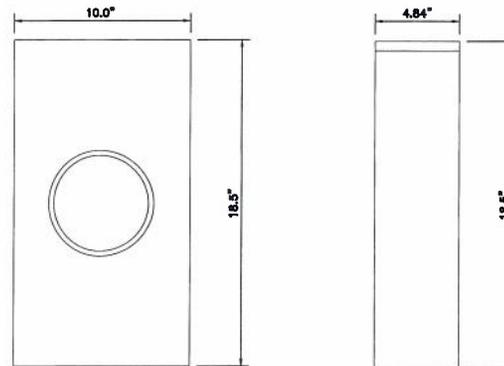
② AC DISTRIBUTION BOX DETAIL  
SCALE: N.T.S.



RSCAC-9556-P-240-D

INSIDE

METER SPECIFICATIONS	
MANUFACTURER	MILBANK
MODEL NUMBER	U2272-RL-519-BL
HEIGHT	18.5"
WIDTH	10.0"
DEPTH	4.84"



④ METER MAIN WITH BYPASS DETAIL  
SCALE: N.T.S.

③ NOT USED  
SCALE: N.T.S.

PREPARED BY:

**nexus**  
ENABLING SMARTER CONNECTION

A&E OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581-9888

CLIENT:

**AT&T**

AT&T  
550 COCHITUATE ROAD,  
FRAMINGHAM, MA 01701

FOR CONSTRUCTION

COMMONWEALTH OF MASSACHUSETTS  
JACK TILDEN  
PHIPPS  
ELECTRICAL  
No. 53420  
REGISTERED  
PROFESSIONAL LICENSEE  
02F33FCFC8B41F

DATE SIGNED: 02/02/22

NEXUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. PE34340  
PE LICENSE RENEWAL 6/30/22

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SUBMITTALS

REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	PM
D	11/16/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2	01/26/22	REVISED FINAL CD	GS

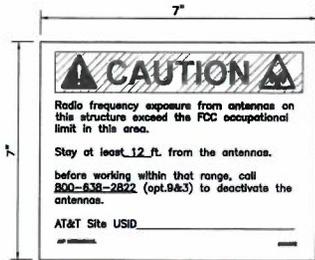
CHECKED BY: GS      CHECKED DATE: 02/02/22

SITE INFORMATION:

SITE NAME:  
CRAN\_RCTB\_MARL\_01  
USD:  
299796  
SITE ADDRESS:  
241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752

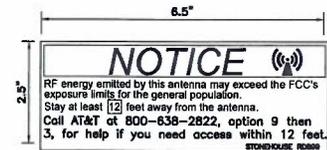
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SHEET NUMBER: EQ-2

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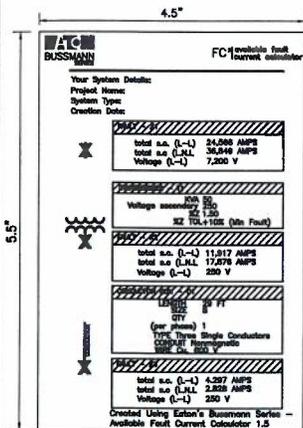


AT&T YELLOW CAUTION SIGN MOUNTED ON THE EQUIPMENT SHROUD

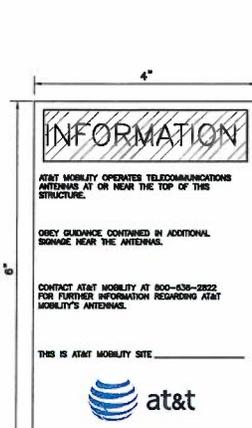
**NOTE:**  
SIGNAGE MUST BE ORDERED FROM ACP INTL. SIGNS, INC., ACCORDING TO THE GUIDANCE IN SECTION 8.2 "ACP INTL. SIGNS ORDERING PROCESS (CP94)" IN ATT-790-202-062 DAS (DISTRIBUTED ANTENNA SYSTEM) AND CRAN (CENTRALIZED RADIO ACCESS NETWORK) SIGNAGE STANDARD.  
<http://opax.web.att.com/bookView/bookView.jsp?bookname=att-790-202-062&fulltext>  
1. ORDERING PART NUMBER FOR THIS SIGN IS: ABOVE R801RPE  
2. SIGN DIMENSIONS ARE: HEIGHT= 7", WIDTH=7"  
3. USE THE SUPPLIED NUMBER PAD TO ENTER THE NUMBER 12, INTO THE BLANK SPACE AS SHOWN IN THE SIGN DIAGRAM.



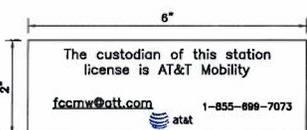
AT&T NOTICE SIGN (TOTAL OF 2) TO BE PLACED (2) NOTICE STICKER OPPOSITE TO EACH OTHER AT THE BOTTOM OF THE ANTENNA



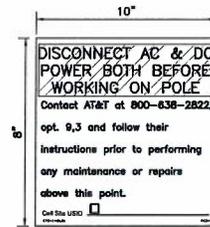
AT&T FAULT CURRENT SIGN MOUNTED ON THE DISCONNECT



AT&T INFORMATION SIGN TO BE MOUNTED TO FRONT OF AC DISTRIBUTION BOX



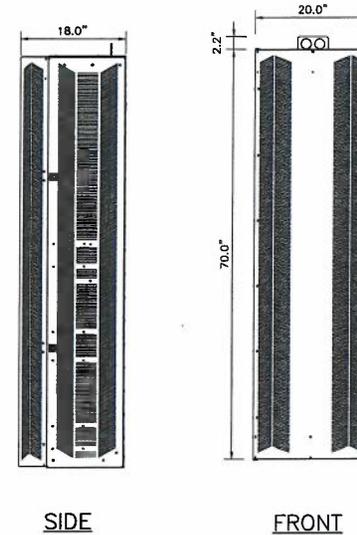
AT&T CUSTODIAN SIGN TO BE MOUNTED TO FRONT OF AC DISTRIBUTION BOX



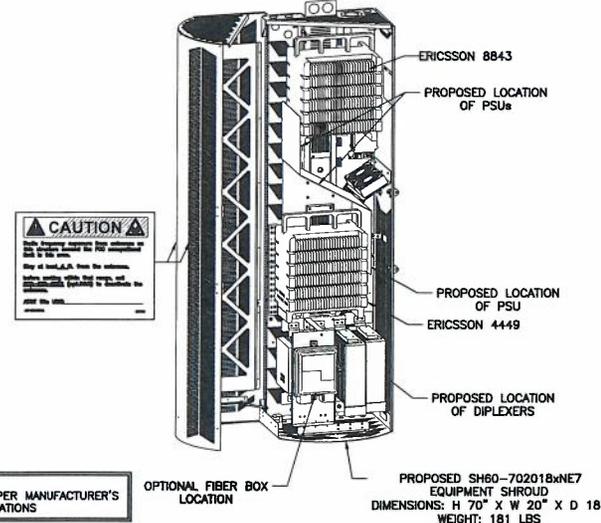
POLE OWNER DISCONNECT SIGN TO BE PLACED AT THE DISCONNECT

① SIGNAGE DETAILS  
SCALE: N.T.S.

EQUIPMENT ENCLOSURE SPECIFICATIONS	
MANUFACTURER	CHWILES
MODEL NUMBER	SH80-70201BxNE7
HEIGHT	70.0"
WIDTH	20.0"
DEPTH	18.0"
WEIGHT	181.0 LBS.
VOLUME	14.58 CUFT
ITEM NUMBER	CEX.43818



② EQUIPMENT CABINET DETAIL  
SCALE: N.T.S.



NOTE: MOUNT PER MANUFACTURER'S SPECIFICATIONS

③ EQUIPMENT CABINET DETAIL  
SCALE: N.T.S.

PREPARED BY:  
**nexius**  
ENABLING SMARTER CONNECTIONS  
A&E OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581-9888

CLIENT:  
**AT&T**  
550 COCHITUATE ROAD,  
FRAMINGHAM, MA 01701

FOR CONSTRUCTION  
COMMONWEALTH OF MASSACHUSETTS  
REGISTERED PROFESSIONAL ENGINEER  
JACK TILDEN  
PHIPPS ELECTRICAL  
No. 53420  
6E2F33FCF0B841F

DATE SIGNED: 02/02/22

NEXIUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. PE33420  
PE LICENSE RENEWAL 8/30/22

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SUBMITTALS		
REV	DATE	DESCRIPTION
A	05/06/21	FOR REVIEW
0	11/18/21	FINAL CD
1	01/19/22	REVISED FINAL CD
2	01/26/22	REVISED FINAL CD

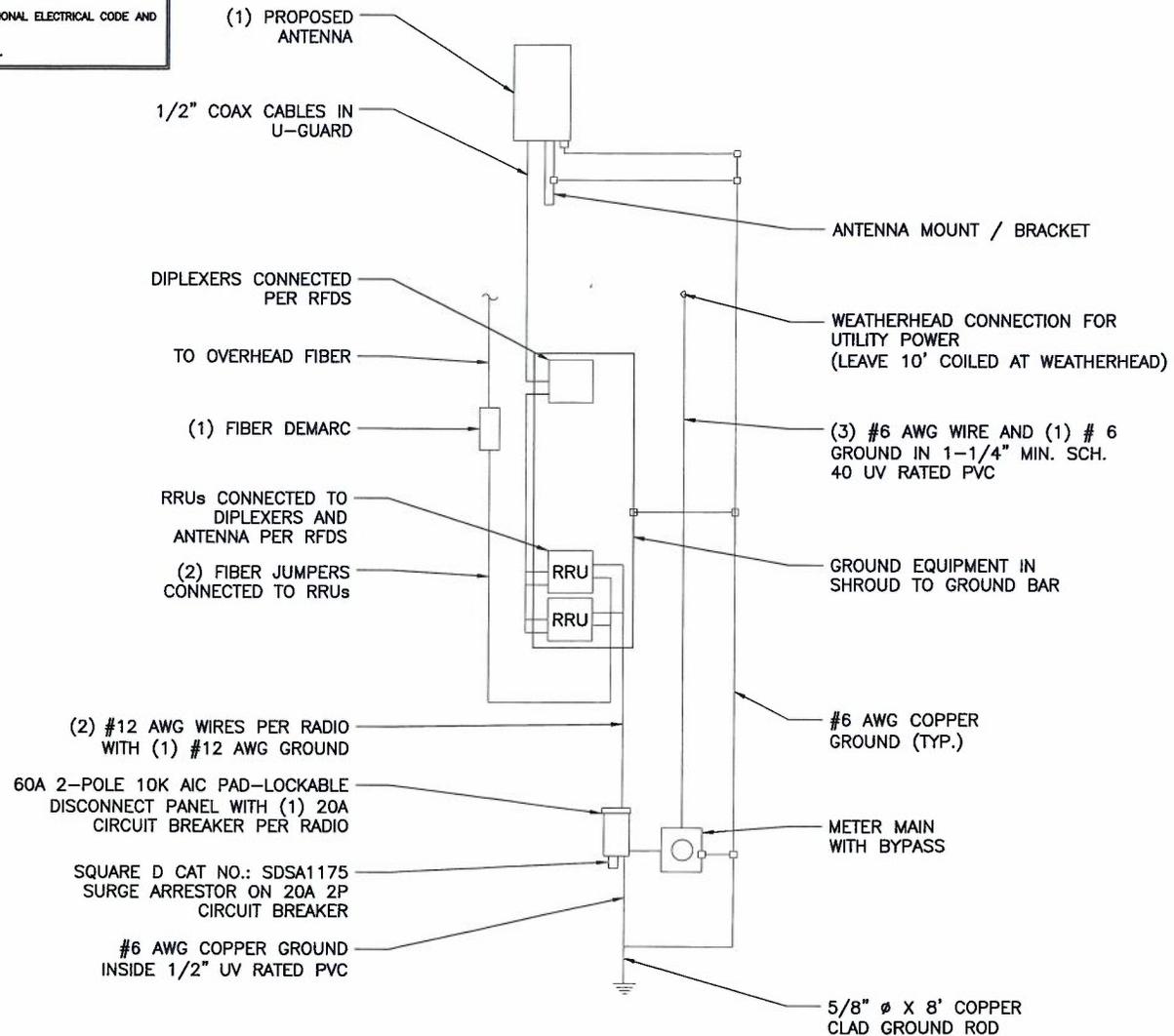
CHECKED BY: GS CHECKED DATE: 02/02/22

SITE INFORMATION:  
SITE NAME: CRAN\_RCTB\_MARL\_01  
USID: 298796  
SITE ADDRESS: 241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752

SHEET TITLE: EQUIPMENT DETAILS  
SHEET NUMBER: EQ-3

DocuSign Envelope ID: 949507CB-BC8D-4D28-9A0D-9A3E53737F0A

- NOTES:**
- EQUIPMENT AND LAYOUT SHOWN IS FOR DIAGRAMMATIC PURPOSES ONLY. REFER TO PROPOSED SITE PLAN AND POLE ELEVATION FOR ACTUAL EQUIPMENT LOCATIONS AND CONDITIONS.
  - ALL ELECTRICAL WORK MUST MEET THE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE AND THE NATIONAL ELECTRICAL SAFETY CODE.
  - BONDING AND GROUNDING TO MEET APPLICABLE NEC REQUIREMENTS.



① **GENERAL WIRING DIAGRAM**  
SCALE: N.T.S.

PREPARED BY:  
**nexius**  
A&E OFFICE  
2595 NORTH DALLAS PARKWAY, SUITE 300  
FRISCO, TX 75034  
(972) 581-9888

CLIENT:  
 **AT&T**  
550 COCHITUATE ROAD,  
FRAMINGHAM, MA 01701

FOR CONSTRUCTION  


DATE SIGNED: 02/02/22  
NEXIUS SOLUTIONS, INC.  
MASSACHUSETTS PE NO. 2253420  
PE LICENSE RENEWAL: 6/30/22

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REVISIONS

REV	DATE	DESCRIPTION	BY
A	05/06/21	FOR REVIEW	FM
D	11/18/21	FINAL CD	GS
1	01/19/22	REVISED FINAL CD	GS
2	01/26/22	REVISED FINAL CD	GS

CHECKED BY: GS      CHECKED DATE: 02/02/22

SITE INFORMATION  
SITE NAME:  
**CRAN\_LCTB\_MARL\_01**  
LSD:  
**299798**  
SITE ADDRESS:  
**241 FOREST STREET  
MARLBOROUGH, MASSACHUSETTS 01752**

SHEET TITLE:  
**ELECTRICAL AND GROUNDING DETAILS**  
SHEET NUMBER:  
**E-1**

**CONSERVATION COMMISSION****Minutes****February 17, 2022 (Thursday)****Marlborough City Hall – 3<sup>rd</sup> Floor, Memorial Hall 7:00 PM**RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2022 MAR 21 A 7:58

**Present:** Edward Clancy-Chairman, Allan White, Dennis Demers, John Skarin, David Williams, Karin Paquin and William Dunbar. Priscilla Ryder - Conservation Officer was also present.

**Absent:** none

**Acceptance of Minutes:** February 3, 2022 were reviewed and on a motion by Mr. White second by Mr. Clancy, to approve. The Commission voted unanimously approved 7-0.

**Public hearings:** None

**Discussion/Project Updates:**

- Ghiloni Park Native Pollinator Garden Proposal (Feb. 2022) – Paul Goldman and Karin Paquin

Paul Goldman introduced himself as a retired research scientist who has agreed to work with Commission member Karin Paquin to install a native pollinator garden. Ms. Paquin explained that the Native Pollinator task force group which she is a part, are looking to add pollinator gardens in all 32 communities in the SuAsCo watershed. The goal is to return native plants to the area (not cultivars or genetically altered seeds) to feed and support the native bees, wasps, butterflies, and other insect pollinators which are in steep decline. The concern is that with the urbanization of our landscape native plants have been pushed aside and the native pollinators have declined in large numbers. An experiment was done in Southborough to naturalize a field with native plants and the results were that the native pollinators that were not present are back and thriving. This spurred the idea of creating these gardens in each community to educate and encourage the public to add these native plants to their gardens and thereby ushering in the return of these endangered pollinators. There are already volunteers lining up to help from the garden clubs, AMSA, Girl Scouts etc. Signage, educational programs, and information on the web site will be part of this project. A site at Ghiloni Park has been identified and approved by the Recreation Department and DPW inside the track near one of the ponds. Mr. Goldman presented a power point with slides showing the gardens location, layout, design, and budget. A grant for \$250 was received for this work. Mr. Goldman asked if the Commission would be willing to allocate any funds towards this habitat improvement project. The Commission discussed the seedlings, stone dust vs. gravel path (Mr. Demers will donate stone), signage and invasive plant removal in the area including oriental bittersweet, and the ongoing survey that will be done to determine what and when pollinators return. The Commission then discussed funding and agreed to allocate \$750 towards the purchase of seedlings in the garden. On a

Conservation Commission  
Minutes – February 17, 2022

motion by Mr. Demers second by Mr. Clancy to provide \$750 from the Conservation Fund towards this project, the Commission voted unanimously 7-0 to approve.

- **Annual Review of Policies (continued from Feb. 3, 2022)**
  - Wetland Setback Policy – Draft - The Commission reviewed the revised policy to include a 30' wetland setback to replace the 20' wetland setback policy. After a few minor edits, on a motion by Mr. White second by Mr. Clancy to approve the new wetland setback policy as drafted and amended on this date 2/17/22. The Commission voted unanimously in favor 7-0. It was agreed that Ms. Ryder will distribute this new policy to all contractors and city council and city departments that deal with construction.
  - Tree Removal Policy – Draft - the Commission reviewed the revised tree removal policy for trees within the wetland buffer zone. After some discussion and a few amendments, on a motion by Mr. White, second by Mr. Clancy to approve the Tree Removal Policy as drafted and amended on this date 2/17/22. The Commission voted unanimously in favor 7-0.
- **Snow dump and salt** – continue discussion – This discussion was continued to a future meeting.

**Correspondence/Other Business**

- Letter from Beaver Solutions dated 1/28/2022 RE: 2020 routine maintenance on Flexible Pond Leveler pipe system(s) - The Commission reviewed the annual maintenance agreement and agreed it was worth continuing. On a motion by Mr. Demers, second by Mr. Clancy, to spend \$335 on this annual maintenance agreement, the Commission voted unanimously 7-0 to approve.
- **Next Conservation Commission meetings:** March 3<sup>rd</sup> and 17<sup>th</sup>, 2022
- **Adjournment-** There being no further business, the meeting was adjourned at 8:08 PM.

Respectfully submitted,

  
Priscilla Ryder

Conservation/Sustainability Officer

## CONSERVATION COMMISSION

### Minutes

March 3, 2022 (Thursday)

Marlborough City Hall – 3<sup>rd</sup> Floor, Memorial Hall

7:00 PM

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2022 MAR 21 A 7:58

**Present:** Edward Clancy-Chairman, Allan White, Dennis Demers, John Skarin, David Williams, and William Dunbar. Priscilla Ryder - Conservation Officer was also present.

**Absent:** Karin Paquin

#### **Public hearings:**

##### **Abbreviated Notice of Intent**

74 & 82 Paquin Dr. - Scott Ferrecchia

Mr. Ferrecchia was present and explained that his land and his next-door neighbors' land – Dave Domke- is being undermined by the waves and he'd like to reinforce a section of the bank of the lake to keep it from eroding any further. The work is under the 50' bank disturbance threshold. There are two trees on the bank as well that they'd like to save. He'd like to install a footing with crushed stone for the wall and then build it up a few feet. They will use blocks that are 2'x2'x4' and will stretch 48' along the bank. One layer in ground and one above if they find suitable base soil. The Commission discussed the tree roots and the location of the 262' lake elevation, which is where the private property ends and city land under the lake begins. After some discussion, it was determined that a survey plan showing these elevations would be required to verify that the wall will be built above the high-water mark and on private property. The type of excavator and access locations were discussed. Mr. Domke has a boat access on his property that could be used to bring some of the materials in. They will return to the March 17<sup>th</sup> meeting with a revised surveyed plan. It was noted that if the wall is more than 4' high from the ground a building permit will be required.

#### **Request for Determination of Applicability**

35 Red Spring Rd. – Mr. & Mrs. Hause

Propose to construct an addition to the existing house near Ft. Meadow Reservoir.

At the applicants request prior to the meeting, this item was continued to April 7, 2022.

#### **Certificate of Compliance:**

- DEP 212-1214 615 Williams St.- This item was continued until the erosion controls are removed and the drainage system inspected.

#### **Violation Updates:**

- 896 Boston Post Rd. – continued from 2/3/2022 - The owner of this is still away, he will attend one of the next few meetings.

- 630 Forest St. - Ms. Ryder explained that she has issued an Enforcement Order for work on this property done without any permits. She noted that the 3 items needing to be addressed this evening are: 1.) Ratify the Enforcement Order; 2.) Confirm next steps for site stabilization and ongoing monitoring until it is stable - currently lots of silt downstream and need for wetland consultant; 3.) File plan to be approved to proceed with final solution.

Steve Turner and Pete Venuto were present. Mr. Turner explained that he owns 630 Forest St. He noted that there was a sinkhole on the property which had gotten quite big between the driveway and upstream pipe inlet. Met with Ms. Ryder and IPG (downstream neighbor) in December to discuss the need to repair the pipe in some way. He was concerned about road stability and wanted to know how bad the drainpipe condition was to determine next steps. They did investigate with camera then started digging to see if they could reveal the pipe. At which point they were asked to stop by Ms. Ryder and several Commission Members who had observed the work and a 16' deep hole with huge stockpiles and lots of large stones.

Fred Keylor of H.W. Moore P.E., who was recently hired by Mr. Turner, explained that going forward they would like to get approval of the revised plans which had been previously prepared by Mr. Bruce Saluk P.E. Ms. Ryder noted that she had not seen this plan before yesterday only a hand sketch in December. Mr. Keylor explained that he has made some modifications to Mr. Saluk' plan and will be working out the details with Mr. Saluk, who was in the audience. Ms. Ryder showed pictures of the project, down stream siltation and upstream sandbags that were installed after being requested by her and City Engineer. The Commission expressed dismay and concern that so much work would be done without a plan to start, nothing on site to control erosion, and inadequate pumping and water diversion AND no permit. Once instructed to do so erosion controls and sandbags were gathered and installed. No engineer was directing the show, and no plan had been approved by the city- all these failures have resulted in the problem noted by Commission Members as a "huge embarrassment to the developer. This should not have happened."

Mr. Bruce Saluk explained that he had originally drawn up the plan with specific requirements for bypass, utility protection, rain contingencies etc. but he had been hired by IPG to do this design and works for them. Unless his client is agreeable, he is not working for Mr. Turner. Mr. Turner and Mr. Venuto explained that they would reach out to IPG and get this resolved.

There was discussion about the pipe elevation, the headwalls and lead time for ordering materials. After much discussion about the problems, contractor and future actions, the Commission took the following actions and made the following requirements:

1. Ratify Enforcement Order - The Commission on a motion by Mr. White second by Chair to ratify the Enforcement Order as written, voted unanimously 6-0 to ratify.
2. A stamped engineered plan shall be provided to the Conservation Officer and City Engineer. If approved, then the applicant can start ordering the supplies needed.

Conservation Commission  
Minutes – March 3, 2022

3. At the next meeting on March 17, 2022, the applicant shall return with their contractor, engineer, and property owners to discuss next steps and sequence of construction. If necessary, an Emergency Order will be considered at this time.
4. A notice of intent shall be filed with the Commission to cover all this work. This shall be submitted for the March 17<sup>th</sup> or April 7<sup>th</sup> meeting agenda.

The applicants agreed to return to the next meeting with items as noted above.

- 92 Crowley Dr. - Last week additional mud was leaving the site and entering the downstream wetland at the end of Crowley Dr. Ms. Ryder and Mr. Dunbar investigated the site and found several areas with raw dirt draining towards unprotected catch basins. The applicant was responsive and corrected the problem that day and are providing e-mail updates after every rain event. A violation notice will be sent for this violation.

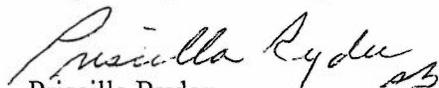
**Discussion/Project Updates:**

- 78 Roosevelt St. – Cole Motz - tree removal request - Ms. Ryder and Mr. Dunbar visited this site to check out a leaning tree reported by the new owner Mr. Motz. Photos of the tree were shared with the Commission. The tree is in fact leaning towards the house and is entwined with a huge bittersweet vine. Not clear who's land the tree is on so homeowner would need to figure that out. Commission agreed this was a dangerous tree and authorized Ms. Ryder to provide permission for it's removal as long as a snag 10-15' tall was left in for wildlife habitat. On a motion by Mr. Dunbar second by Mr. Clancy, the Commission voted 6-0 to authorize this tree removal. Ms. Ryder will convey to the homeowner.

**Next Conservation Commission meetings:** March 17<sup>th</sup> and April 7<sup>th</sup>, 2022

**Adjournment** - There being no further business the meeting was adjourned at 8:13 PM

Respectfully submitted,

  
Priscilla Ryder

Conservation/Sustainability Officer

**Marlborough Historical Commission Meeting Minutes****January 20, 2022**RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

City Hall 140 Main Street Council Committee Meeting Room

2022 MAR 21 A 9:40

Attendees: Andrea Bell Bergeron, Robert Fagone, Melanie Whapham, Brendan Downey, Pamela Wilderman

Meeting called to order 7:06 PM

1. On the Motion to approve December 2021 minutes, the Commission voted as follows: Downey AYE Fagone AYE Wilderman AYE Whapham AYE. Bergeron AYE. The motion passed.
2. Communications and Correspondence
  - a. Sarah Hough-new candidate pending before the City Council
  - b. Hoping to introduce Chandra Lothian as our Associate Member at her earliest convenience.
3. Historic Home Signage
  - a. Our sign producer, Bob Leonard of Oulde Colony Artisans, passed away from COVID in December and we have no back up for him yet. His resume includes many towns in eastern Mass, NH and Maine. We will go through the inquiries that we have accumulated to date. Part 2 will then be find a new sign maker. Chair will contact the other HC's in the area and see if there are others that can make signs. Andrea will check with the Superintendent of Schools. All hands on deck since this is a new and responsive initiative.
  - b. Item: 180 Farm Rd.
    1. Owner has requested to have the wife's name on the sign in addition to builder/family name. Where possible, and this can and should be done. This house is known as the famous Bette Davis house. She purchased the house for her Aunt and Uncle.
      1. Motion to approve "inclusion" on Historic Home Signage: Pam, Brendan (second)
      2. Unanimous vote to approve
  - c. Item: 12 Paris Street- Bob is still researching and working with Chandra. Will continue to work on that property.
  - d. Item: 787 Concord Rd
    1. Lee Wright's property (former member). Would like to have "1745" and "Grasslands" (which was the name of the farm) included on his marker. The records are somewhat discrepant on the building date. Marlborough City information says 1803 and MACRIS has 1780. Motion for Sign to read "C. 1780" and also include "Grasslands" per owner's request.
      1. Moved- Andrea, Brendan (second)
      2. Unanimous vote to approve
  - e. Item: 580 Farm Rd.
    1. Current house a sign, so it would be an updated version
      1. Move- Andrea, Pam (second)
      2. Unanimous vote to approve
  - f. Item: 9 Broad Street
    1. Reverend Horatio Alger Sr. House. The "Sr." indication is important. Also 4<sup>th</sup> line to read "Abolitionist Preacher".
      1. Moved- Brendan, Pam (second)
      2. Unanimous vote to approve
  - g. Item: 99 Lakeside (House #77 according to MACRIS)
    1. "Captain William Gates House"
      1. Moved- Pam, Bob (second)

## 2. Unanimous vote to approve

## h. Item: 11 Maddox

1. When the house was built, it wasn't Maddox Road. It was a path connecting Warren and Essex. House is entirely vinyl sided. But there is no structural change to it. They replaced the garage, but it is an unattached property. Historicity or historical integrity of the house intact. We have to make sure that we understand that we are not penalizing people for maintaining their houses economically. Commission can evaluate on a case by case basis.

1. Move to Table- Andrea, Brendon (second)

2. Unanimous vote to approve

## i. Item: 46 Pleasant

1. "E. Irving Morse House"

1. Moved Pam, Brendon (second)

2. Unanimous vote to approve.

## j. Item: 100 Berlin Rd.; 1126 Concord Rd.—will take these up next month.

## 4. Alternative manufacturer and distributor- important for each member to pursue this information.

## 5. Web page additions and deletions

- a. Ongoing affair for the Commission. It will be a priority to have the website to be more useful to the public. We want the website to be more than just palaver. Will break down where we are with the website content
- b. Melanie- we should write down what we just went through. Describe the homestead and when it's up, a photo of the handoff or the sign. Also, should link to the MHS and the archives. Need to be mindful of the external linking. Chandra's history of the Carpenter paintings- need to include her link. Mass Historical Commission link as well.

## 6. Mass Historical events- Bob gets some of the notices and will send them out to all members FYI.

## 7. Motion to adjourn- Brendan, Pam (second)

- a. Unanimous vote to approve

Respectfully Submitted,

Andrea Bell Bergeron

**Ad-Hoc Municipal Aggregation Committee**

**Meeting Minutes – March 22, 2022**

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF HOUSTON

The Ad-Hoc Municipal Aggregation Committee met on March 22, 2022, from 1:06 PM to 2:18 PM in the Mayor's Conference room. The following individuals were in attendance:

Ad-Hoc Municipal Committee members:

- Chairman M. Ossing, Councilor L. Wagner and DPW Commissioner S. Divoll.
- Members Absent: Mayor Vigeant and K. Holmi

Representing Colonial Power:

- M. Cappadona, D. Allard and S. Ormsbee

The following items were discussed:

- 1. Welcome Councilor Laura Wagner to the Committee:**
  - The Chair recognized Councilor Laura Wagner to the committee. Councilor Wagner fills one of the appointed city councilor positions on the committee. The City Council was informed of this appointment on January 24, 2022, agenda item #5.
- 2. Minutes of the March 30, 2021, Ad-Hoc Municipal Aggregation Committee meeting:**
  - The Committee approved the March 30, 2021, minutes with a 3 – 0 vote.
- 3. Council Update – in accordance with Council Order 19-1007578 item 4:**
  - a. April 5, 2021, Council agenda #4 – March 2021 update to City Council
  - b. April 26, 2021, Council agenda item #19e – March 30, 2021, Municipal Aggregation minutes
  - c. June 14, 2021, Council agenda item #2 – June 2021 update to the City Council
  - d. September 13, 2021, Council agenda item #6 – September 2021 update to the City Council
  - e. December 6, 2021, Council agenda item #11 – December 2021 update to the City Council
- 4. Review savings with Inspire through December 2021 and projected savings in 2022:**
  - The Chair reviewed the information in Attachment 1 that provided the savings from the Inspire contract since inception in 2019, the projected 2022 savings and the total program savings since 2007.
  - The 2021 residential savings from the Inspire contract was over \$1,700,000.
  - The 2022 residential projected savings are anticipated to be more than \$3,000,000. This information is based on a projected NGrid summer 2022 rate of 0.11233 \$/kW-hr and a winter 2022 rate of 0.17000 \$/kW-hr. It was noted that the NGrid summer rate may be in the order of 0.11491 \$/kW-hr which will result in even greater savings to the residents.
  - The total residential savings from the Inspire contract (November 2019 to December 2021) is over \$3,876,000.
  - The total program savings (Residential/Commercial/Industrial) since program inception in 2007 is over \$8,552,000.
- 5. Submit letter to the City Council regarding fourth quarter 2021 residential savings:**

- The Chair informed the Committee that City Councilors Wagner/Ossing will submit a letter to the City Council informing the City Council of the money that was saved by the residential customers in the aggregation program in the fourth quarter 2021. The Committee agreed that this is beneficial news for the residents as the residents saved over \$829,000.00 on their electric bills in the fourth quarter 2021.
  - **ACTION: Councilors Wagner/Ossing to submit letter to the City Council regarding the fourth quarter 2022 savings.**
6. **Discuss latest forecast of NGrid rates:**
- Colonial Power provided Attachment 2 that illustrates the projected NGrid basic service rates through October 2025. The graph illustrates that the current Inspire contract (that runs through January 2024) rates will be less than the NGrid projected rates. This will result in savings to the residential electricity users in the program.
  - Items worth noting on the graph include the winter 2022 rate will see a significant increase (~0.19375 \$/kW-hr) which will correspond to greater savings to the residential customers in the winter 2022. The city rate during this period will be 0.09390 \$/kW-hr – almost 10 cents lower than the projected NGrid winter 2022 rate.
7. **Discuss NGrid 2022 Summer Rates:**
- Colonial Power discussed the recent NGrid basic service filing with the Department of Public Utilities (DPU) on March 15, 2022. Attachment 3 contains the one-page summary that identifies the basic service rate (effective May 1, 2022 through October 31, 2022) for residential customers to be 0.11233 \$/kW-hr and may be as high as 0.11491 \$/kW-hr. The DPU will finalize the rates in April 2022. In either case, the Inspire rate of 0.09390 \$/kW-hr is lower than the NGrid summer rate so Marlboro residents will continue to see savings in their electric bills over the summer 2022 compared to the NGrid basic service rate.
8. **Indicative Pricing for potential contract extension**
- Colonial Power provided the supplier indicative pricing below:

<b>MA Requirement + 44% National Wind RECs</b>			
<b>START TERM</b>	<b>END TERM</b>	<b>TERM LENGTH</b>	<b>COMBINED</b>
1/1/2024	6/30/2024	6	0.12590
1/1/2024	6/30/2024	6	No Bid
7/1/2024	12/31/2024	6	No Bid
1/1/2024	12/31/2024	12	0.11690
1/1/2024	6/30/2025	18	0.12490
1/1/2024	12/31/2025	24	0.11890
1/1/2024	6/30/2026	30	0.11990
1/1/2024	12/31/2026	36	0.11790

- The Committee recognized that the current rate of 0.09390 \$/kW-hr expires in January 2024 and residents are becoming accustomed to the low rate. The above indicative pricing indicates rates will be going up at least 2 cents per kW-hr. Additionally, when the above rates are compared to the NGrid forecast rates, the indicative pricing will be lower than the winter rates but higher than the summer rates.

- The Committee discussed the current energy market and concluded the timing is not beneficial to go out for bids on extending the contract. Colonial Power will continue to monitor market conditions and informed the Committee should the market conditions change to benefit the residents of Marlboro.

**9. Other Items:**

- Colonial Power mentioned that there are ~5000 electric users in Marlboro that are not on the municipal aggregation program. Reasons include they want to stay with NGrid or have third party suppliers.
- The Committee discussed methods to notify these individuals of the municipal aggregation rate so they can compare to their rates and then determine if they want to switch to the municipal aggregation program. Colonial Power mentioned that some individuals may not want to switch. The committee felt that this would be beneficial to notify these individuals of the low rate in the municipal aggregation program. It was recognized that some individuals may be aggravated by attempts to notify them of the opportunity to take advantage of the municipal aggregation program.
- The committee agreed to have Colonial Power draft a post card to these residents not on the municipal aggregation program informing them of the municipal aggregation rate. The post card will be reviewed by the committee (including the Mayor's office in case phone calls are received) before mailing.
- **ACTION: Colonial Power to prepare post card for committee review that will be mailed to residents not on the municipal aggregation program.**

**10. Next meeting:**

- The next meeting will be in October 2022 after National Grid releases their winter 2022 basic service rates.

**Attachment 1: Actual Savings with Inspire (November 2019 – December 2021), Projected 2022 Savings and Total Program Savings since Inception (3 pages)**

**Attachment 2: March 15, 2022 graph illustrating the projected NGrid residential basic service rates through October 2025 (one page)**

**Attachment 3: NGrid Basic Service rate filing to the DPU on March 15, 2022 (one page)**

## Attachment 1 (page 1 of 3)

Table Showing Residential Savings with Inspire

Date	NGrid Basic Service Rate (\$/kW-hr)	City Rate (\$/kW-hr)	City Residential User Savings	City Residential Commercial Industrial Savings
<b>Fourth Quarter 2019</b>	Nov - .13957 Dec - .13957	Nov - .09690 Dec - .09690	\$550,815	\$693,006
<b>First Quarter 2020</b>	Jan – Mar .13957	Jan – Mar .09690	\$812,433	\$1,034,746
<b>Second Quarter 2020</b>	Apr - .13957 May - .09898 Jun - .09898	Apr – Jun .09690	\$250,320	\$196,841
<b>Third Quarter 2020</b>	Jul – Sept .09898	Jul - .09690 Aug - .09390 Sept - .09390	\$78,989	(-\$148,635)*
<b>Fourth Quarter 2020</b>	Oct - .09898 Nov - .12388 Dec - .12388	Oct – Dec .09390	\$482,513	\$564,251
<b>First Quarter 2021</b>	Jan – Mar .12388	Jan – Mar .09390	\$624,296	\$762,273
<b>Second Quarter 2021</b>	Apr - .12388 May – .09707 Jun - .09707	Apr – Jun .09390	\$187,485	\$129,686
<b>Third Quarter 2021</b>	Jul – Sept .09707	Jul – Sept .09390	\$64,736	(-\$60,790)*
<b>Fourth Quarter 2021</b>	Oct - .09707 Nov - .14821 Dec - .14821	Oct – Dec .09390	\$829,020	\$1,414,109
<b>First Quarter 2022</b>	Jan – Mar .14821	Jan – Mar .09390	TBD	TBD

- \*National Grid sets different rate for commercial/industrial users that are not associated with the National Grid residential fixed Basic Service rate.
- Total residential savings from Inspire (November 2019 to December 2021) – over **\$3,876,000**.
- Total program savings (all rate classes) since inception in 2007 is **\$8,552,000**.

## Attachment 1 (page 2 of 3)

**Projected Savings from the Inspire Contract for 2022**  
**This is based on the NGrid projected summer rate of 0.11233**  
**This is for illustration purposes only.**

<b>Date</b>	<b>NGrid Basic Service Rate (\$/kW-hr)</b>	<b>City Rate (\$/kW-hr)</b>	<b>City Residential Electricity Usage NOTE 1 (kW)</b>	<b>City Residential User Savings NOTE 1</b>
<b>First Quarter 2022</b>	Jan - Mar 0.14821	Jan – Mar 0.09390	Jan – 8,824,616 Feb – 6,604,171 Mar – 5,394,955	\$1,130,938
<b>Second Quarter 2022</b>	Apr – 0.14821 May – 0.11233 Jun – 0.11233	Apr – Jun 0.09390	Apr – 4,684,442 May – 7,213,373 Jun – 7,627,588	\$527,931
<b>Third Quarter 2022</b>	Jul – Sept 0.11233	Jul – Sept 0.09390	Jul – 8,007,876 Aug – 7,316,621 Sept – 5,096,892	\$376,367
<b>Fourth Quarter 2022</b>	Oct – 0.11233 Nov – 0.1700 Dec – 0.1700	Oct – Dec 0.09390	Oct – 5,285,951 Nov – 6,222,442 Dec – 8,733,611	\$1,235,576
<b>Total Savings</b>				\$3,270,812

**NOTE 1: Electricity Usage based on 2021 residential usage values. Actual savings will vary.**

**Insights:**

- The first 3 quarters in 2022 are projected to save \$2,035,236.
- The fourth quarter in 2022 is projected to save \$1,235,576 (NOTE: the 0.1700 rate is an estimate)
- The 2022 projected savings are over \$3.2 million (the 2021 actual residential savings were \$1.7 million)
- The Inspire contract continues to save residents money over NGrid basic service rates.
- Continue to meet Council Order for savings over NGrid

## Attachment 1 (page 3 of 3)

## Total Program Savings Since Inception – All Rate Classes

<b>Year</b>	<b>Savings (Losses)</b>
2022	TBD
2021	\$2,245,278
2020	\$1,639,421
2019	\$951,986
2018	\$621,280
2017	\$272,419
2016	\$916,539
2015	(\$684,889)
2014	\$1,790,918
2013	Program Suspended
2012	(\$927,288)
2011	\$128,208
2010	\$294,185
2009	\$499,287
2007 – 2008	\$805,263
<b>TOTAL Savings</b>	<b>\$8,552,607</b>

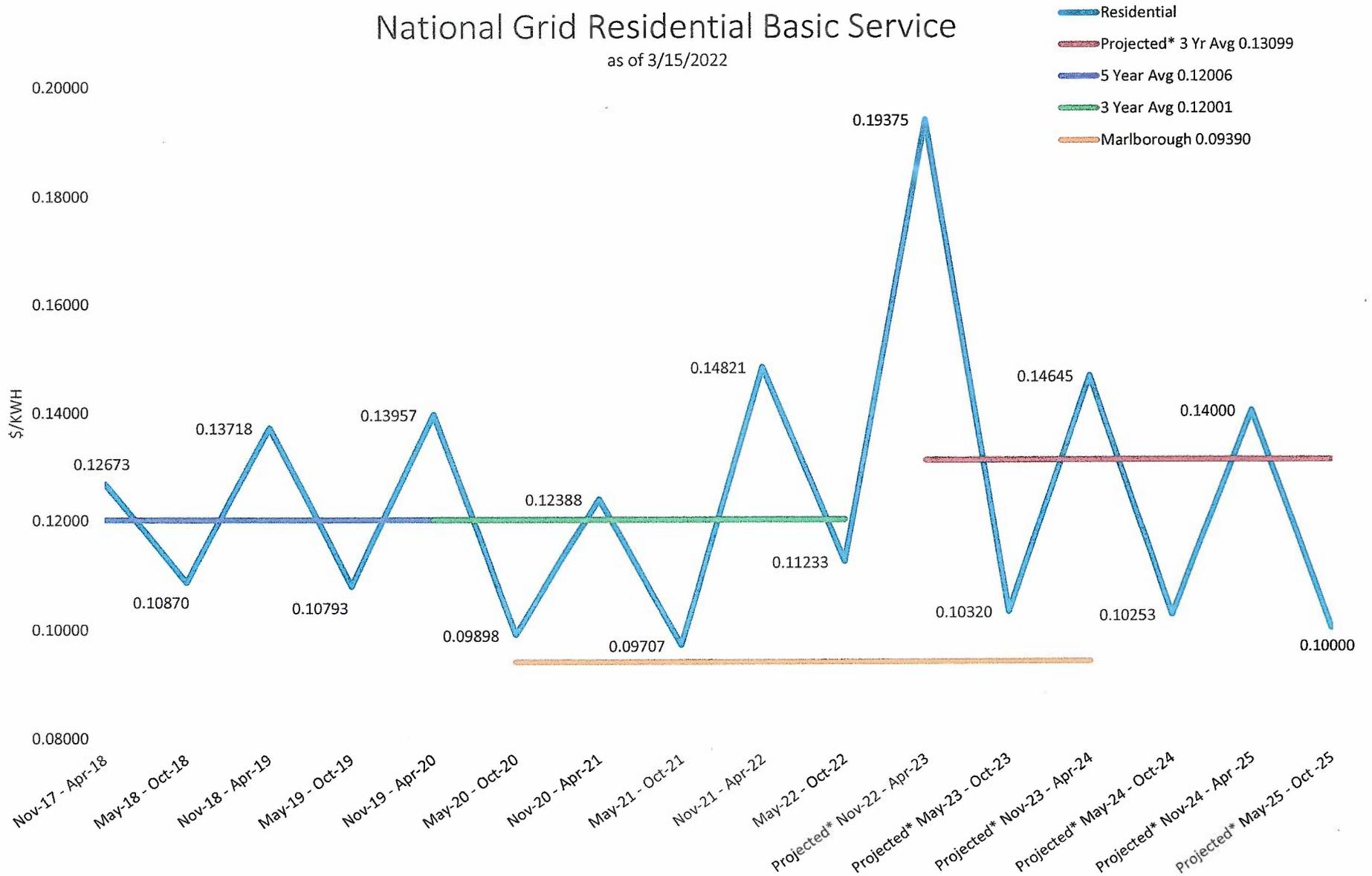
**Attachment 2**

**Graph illustrating the projected NGrid residential basic service rates (one page)**

Att #2

# National Grid Residential Basic Service

as of 3/15/2022



**Attachment 3**

**NGrid Basic Service rate filing to the DPU on March 15, 2022 (one page)**

3/15/2022

MASSACHUSETTS ELECTRIC COMPANY  
SUMMARY OF BASIC SERVICE RATES

BASIC SERVICE RATES									
Rate	Components	Variable Price Option						Fixed Price Option	Effective Date
		May	June	July	August	September	October		
R-1/R-2	Base Basic Service	\$0.11536	\$0.10803	\$0.11573	\$0.11347	\$0.10951	\$0.11384	\$0.11265	5/1/2022
	Basic Service Admin Cost Adjmt	(\$0.00036)	(\$0.00036)	(\$0.00036)	(\$0.00036)	(\$0.00036)	(\$0.00036)	(\$0.00036)	5/1/2021
	Smart Grid Customer Cost Adjmt	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	5/1/2021
	Total Basic Service	\$0.11504	\$0.10771	\$0.11541	\$0.11315	\$0.10919	\$0.11352	\$0.11233	5/1/2022
G-1, S-1, S-2, S-3, S-5, S-6	Base Basic Service	\$0.10054	\$0.09840	\$0.11017	\$0.10516	\$0.09993	\$0.10064	\$0.10266	5/1/2022
	Basic Service Admin Cost Adjmt	\$0.00017	\$0.00017	\$0.00017	\$0.00017	\$0.00017	\$0.00017	\$0.00017	5/1/2021
	Smart Grid Customer Cost Adjmt	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	\$0.00004	5/1/2021
	Total Basic Service	\$0.10075	\$0.09861	\$0.11038	\$0.10537	\$0.10014	\$0.10085	\$0.10287	5/1/2022
G-2/G-3 NEMA	Base Basic Service	\$0.10748	\$0.10299	\$0.12293	n/a	n/a	n/a	\$0.11162	5/1/2022
	Basic Service Admin Cost Adjmt	\$0.00012	\$0.00012	\$0.00012	n/a	n/a	n/a	\$0.00012	5/1/2021
	Smart Grid Customer Cost Adjmt	\$0.00006	\$0.00006	\$0.00006	n/a	n/a	n/a	\$0.00006	5/1/2021
	Total Basic Service	\$0.10766	\$0.10317	\$0.12311	n/a	n/a	n/a	\$0.11180	5/1/2022
G-2/G-3 SEMA	Base Basic Service	\$0.10680	\$0.10267	\$0.12380	n/a	n/a	n/a	\$0.11162	5/1/2022
	Basic Service Admin Cost Adjmt	\$0.00012	\$0.00012	\$0.00012	n/a	n/a	n/a	\$0.00012	5/1/2021
	Smart Grid Customer Cost Adjmt	\$0.00006	\$0.00006	\$0.00006	n/a	n/a	n/a	\$0.00006	5/1/2021
	Total Basic Service	\$0.10698	\$0.10285	\$0.12398	n/a	n/a	n/a	\$0.11180	5/1/2022
G-2/G-3 WCMA	Base Basic Service	\$0.09892	\$0.10407	\$0.11749	n/a	n/a	n/a	\$0.10735	5/1/2022
	Basic Service Admin Cost Adjmt	\$0.00012	\$0.00012	\$0.00012	n/a	n/a	n/a	\$0.00012	5/1/2021
	Smart Grid Customer Cost Adjmt	\$0.00006	\$0.00006	\$0.00006	n/a	n/a	n/a	\$0.00006	5/1/2021
	Total Basic Service	\$0.09910	\$0.10425	\$0.11767	n/a	n/a	n/a	\$0.10753	5/1/2022

NGRID PROPOSED SUMMER RATE MAY - NOV 2022 \$0.11233  
SUBJECT TO CHANGE BASED ON DPU REVIEW

**MINUTES**  
**MARLBOROUGH PLANNING BOARD**  
**MARLBOROUGH, MA 01752**

1A

RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH

2022 MAR 15 4:10:23  
 February 14, 2022

**Call to Order**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, Phil Hodge, George LaVenture, Chris Russ, Matthew Elder and William Fowler. Meeting support provided by City Engineer, Thomas DiPersio.

**1. Draft Meeting Minutes****A. January 24, 2022**

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the January 24, 2022, meeting minutes with minor edits. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

**2. Chair's Business (None)****3. Approval Not Required (None)****4. Public Hearings (None)****5. Subdivision Progress Reports****A. Commonwealth Heights Subdivision – ongoing discussion**

The Board reviewed the language within paragraph 13 from the covenant. – See attached.

The Board determined they felt comfortable letting the 2-year approval clock run out on the Commonwealth Heights Subdivision based on the automatic rescission language and the advice from City Solicitor Jason Grossfield.

**6. Preliminary/Open Space/Limited Development Subdivision****A. 689 Pleasant Street, Marlborough, MA 01752 – Preliminary Open Space Concept Plan**

Owner of Land: Joyce Beauchemin Realty Trust, Timothy L. Beauchemin, Trustee

Name of Engineer: Daniel Korvos, P.E.

Deed Reference: Book: 45210 Page: 560

Daniel Korvos went over the conventional and concept plans for 689 Pleasant Street and explained David Crossman delineated the wetland shown on the plan, which was approved by the Conservation Commission as ANRAD (Abbreviated Notice of Resource Area Delineation).

Mr. Korvos summarized each plan.

**Conventional Plan:**

- 7 lots including a lot for the already existing house on the property
- 6 new proposed house lots
- 800-foot roadway length
- One wetland crossing

**Open Space Concept Plan:**

- 7 lots including a lot for the already existing house on the property
- 6 new proposed house lots with reduced lot sizes
- Lots are confined to one side of the roadway, opposite to the wetlands
- Detention basin (just a reserved area shown)
- Open space large enough to meet requirements
  - o Which includes a natural feature conducive to a trail

**MINUTES  
MARLBOROUGH PLANNING BOARD  
MARLBOROUGH, MA 01752**

The Board discussed several questions/concerns including the following:

- What would the City benefit from this open space development?
- Whether the road length of 800 feet would require a waiver.
- Missing drainage information on the conventional plan and questioning if there is adequate space for it.
- The radius of the cul-de-sac being different from the conventional plan to the concept plan.
- The plans not displaying large trees – 12 inches in diameter.
- Building over wetlands, which has a 5,000 square foot filling limit per The Wetland Protection Act.
- What the waivers on this open space development would be.

The Board determined the plan submission was incomplete and Mr. Korvos explained he would provide the missing information.

The Board asked the Planning Board Administrator to forward the plans to the Conservation Commission for comment and to provide checklists for the next meeting.

**7. Definitive Subdivision Submissions**

- A. 342 Sudbury Street, Marlborough, MA 01752 – Definitive Subdivision Plan – ongoing discussion
- Owner of Land:           The 342 Sudbury Street Trust
- Name of Engineer:       Robert Parente, P.E., P.L.S. (328 Desimone Drive, Marlborough, MA 01752)
- Deeds Reference:        Book: 77825    Page: 110

Mr. LaVenture read the December 16, 2021, correspondence from City Engineer, Thomas DiPersio, Engineering Division into the record.

On a motion by Mr. Elder, second by Mr. Russ, the Board voted to accept and file and to set the bond amount. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to authorize the performance bond. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to approve and endorse the covenant. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to endorse and sign the certificate of vote. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to approve and sign the release of lots. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

The Planning Board signed:

- Definitive Subdivision Plan in Marlborough, MA for 342 Sudbury Street
- Performance Bond
- Covenant
- Certificate of vote
- Release of Lots

**MINUTES  
MARLBOROUGH PLANNING BOARD  
MARLBOROUGH, MA 01752**

- 8. Signs (None)
- 9. Correspondence (None)
- 10. Unfinished Business (None)
- 11. Calendar Updates
  - A. Vote on 342 Sudbury Street Definitive Subdivision Application – February 27, 2022
- 12. Public Notices of other Cities & Towns (None)

On a motion by Mr. Fowler, seconded by Mr. Elder, the Board voted to adjourn the meeting. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

Respectfully submitted



George LaVenture/Clerk

/kmm

**City of Marlborough  
Zoning Board of Appeals  
Minutes  
March 8, 2022**

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2022 MAR 23 P 4:05

**Variance Request**

Zoning Board of Appeals Case # 1485-2022

**Applicant:** John Kuettner

**Date of Appeal:** January 24, 2022

**Location of Subject Property:** 633 Pleasant St. Map 29 Parcel 2

**Petition:** This is a variance request. To demolish an existing deck and construct a new three season room at 633 Pleasant St. located in Zoning District A2 being Map 29, Parcel 2. The proposal does not conform to Chapter 650 § 41, Table of Lot Area, Yards and Height of Structures of the City's Code. The required minimum rear yard setback is 40 ft. vs. the proposed 31.0 ft.

**Meeting date:** March 8, 2022

Roll call of members present: Ralph Loftin-Chairman, Robert Levine, Thomas Pope, Thomas Golden and Paul Giunta. Also present were:

- Susan Brown- Secretary
- Tin Htway – Building Commissioner
- William Paynton – Building Inspector
- Applicants: John Kuettner and his wife
- Contractor – Genilson Moura of Moura Construction, 120 Newton St. Marlborough, MA

**Documents in Board's file:**

- ZBA applicant form with filing fee of \$130.00
- Denial letter from building department dated December 29, 2021
- Drawings entitled: Proposed Three Season Porch, prepared by Design Renata Barbosa.
- Certified Plot Plan showing proposed three season porch, dated 12/21/2021 Prepared by Horgan Surveying, Scale 1" =40'.

It was noted to the audience that the Board is hearing a variance request. The audience was made aware that the public meeting was being recorded.

Applicants John Kuettner and his wife represented themselves. Their contractor, Genilson Moura of Moura Construction, 120 Newton St. Marlborough, MA arrived late and spoke briefly.

This is an oddly shaped lot. The lot adjoins wetlands, a non-certified vernal pool and is within the 200 ft. River Front Area.

The applicants stated they would like to demolish their existing deck and construct a three-season room in its place. This proposal is located at the rear of the house. The proposed three season room will reduce the rear setback to 31.0 ft. vs. the minimum required rear setback of 40

ft. for Zoning District A-2. The applicants are aware that their existing fence is encroaching into the rear parcel. They will remove the existing fence.

The Chairman stated to the applicant that on their application, they did not fill in #1 and #2 of their application concerning “hardship.” Before the Chairman asked the applicant to state their “hardship” he cited the criteria for a “hardship”, namely that the hardship must arise from the shape, topography, or soil conditions of the property. Further, if the variance was not granted, they would not be prevented from using their lot as it is zoned, a single-family dwelling.

The applicant stated hardships were:

- The empty lot behind their lot has been empty for 12 years and there are indications that it may be built upon in the future.
- Currently they have an open deck at the rear. To construct a three-season room would offer them more privacy at the rear when and if a house was built on the empty lot.
- They stated that they have wetlands and a vernal pool (which is not certified) located on their lot.

Tin Htway, Building Commissioner, was present and stated the following:

1. This is an oddly, shaped lot with an open area to the right side of the house which is wet and is within the 200 ft. Riverfront Area.
2. He is aware of the existing fence encroaching onto the empty lot at the rear, which will need to be removed if a variance was granted.

There were no questions from the audience. Speaking in favor of the petition - Michael Ossing, 43 Varley Rd., Marlborough, MA – had no objections to the petition. Speaking in opposition – None.

A motion was made by Robert Levine, seconded by Thomas Pope to close the public portion of the hearing. By a vote of 5-0 the public portion of the hearing was closed.

The Chairman stated to the applicant that they do have the option to “Withdraw Without Prejudice.”

The Board felt that the applicant’s stated hardship was not sufficient to grant a variance. Further, that the applicants do have options. The applicants stated they will look into other options.

A motion was made by Robert Levine to deny the petition because the lack of a hardship, motion seconded by Thomas Pope. No vote was taken.

The applicants stated they would like to “Withdraw Without Prejudice.” A motion was made by Paul Giunta, seconded by Thomas Golden to allow the applicants to “Withdraw Without Prejudice”. By a vote of 5 – 0 the applicant’s request to “Withdraw Without Prejudice” was granted.

A motion was made by Robert Levine, seconded by Thomas Golden to close the public meeting. By a vote of 5-0 the public hearing was closed.

**DECISION**

The applicants requested to “Withdraw Without Prejudice.” A motion was made by Paul Giunta, seconded by Thomas Golden to allow the applicants to “Withdraw Without Prejudice”. By a vote of 5 – 0 the applicant’s request to “Withdraw Without Prejudice” was granted.

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**Special Permit Request**

Zoning Board of Appeals Case # 1487-2022 SP

Date submitted: March 21, 2022

**Applicant:** Shaun McAndrews

**Date of Appeal:** February 14, 2022

**Location of Subject Property:** 57 Preston St. (Map 55 Parcel 164)  
Zoning District Residence B (RB)

**Petition:** The proposed addition would extend the non-conforming front yard setback on the Mountain Ave. side from the existing 15.3 ft. to the proposed 15.2 ft. (Minimum front yard setback is 20 ft. for this Zoning District) The Building Dept. considers this an extension of the non-conformity of an additional 0.1 ft. and not an aggravation of the non-conformity. **Note:** According to the revised denial letter dated Feb. 23, 2022, variance relief is not needed because this is one whole lot vs. three separate lots as shown on their plan. Only a Special Permit is needed.

**Meeting date:** March 8, 2022

Roll call of members present: Ralph Loftin-Chairman, Robert Levine, Thomas Pope, Thomas Golden and Paul Giunta. Also present were:

- Susan Brown – secretary
- Shawn McAndrews – applicant
- Tin Htway – Building Commissioner
- William Paynton – Building Inspector

**Documents**

- The application and filing fee
- Denial letter dated Jan. 20, 2022 and a revised denial letter dated Feb. 23, 2022
- Plan entitled: Building Permit Plan of Land located in the Town of Marlborough, MA, dated July 23, 2020 Prepared by: Dunn – McKenzie, Inc. Signed by: James W. Nieva Sheet 1 of 1.
- Photos were provided by the applicant. (In Board’s file)

It was noted to the audience that the Board is hearing a Special Permit request. The audience was made aware that the public meeting was being recorded.

Shaun McAndrews (applicant) was present.

This is a corner lot with 2 frontages and 2 side yard setbacks.

Ralph Loftin (chairman) stated that the original denial letter, dated Jan. 20, 2022 from the Building Department no longer applies to this petition. In the original denial letter, it stated the applicant needed variance relief and a special permit. The Building Dept. has issued a revised the denial letter, dated Feb. 23, 2022 stating in part, “based on the Assessor’s records, in fiscal year 2019, lots 164, 165, and 166 were merged.” Under the “merger theory” substandard building lots must be combined to form one lot that will meet or more closely approximate the minimum lot area and frontage requirements of a local zoning bylaw. In this case the interior lot lines are eliminated; thus, the applicant requires only a Special Permit.

During the applicant’s presentation, color photos were handed out. (Photos in Boards file)

The applicant’s stated hardship:

3. He has owned the property for some 5 yrs.
4. Would like to remove an existing portion of a dangerous heavily deteriorated rear deck egress structure and rebuild to code.
5. According to the revised denial letter, the deviation from the existing front yard setback of 15.3 ft. vs. the proposed 15.2 ft. is a difference of 0.1 ft.

There were no questions from the audience. There was no one speaking in favor or in opposition of the petition.

There was some discussion between the Building Commissioner’s “merger theory” and Board Member, Paul Giunta concerning the proper way to eliminate the interior lot lines. Mr. Giunta felt the interior lot lines should be eliminated by going before the Planning Board with an ANR plan (approval not required plan) so it will be clear that there are no interior lot lines and that the property is just one whole parcel. The Board felt the revised letter from Tin Htway was sufficient that the three existing lots as shown on their plan were combined into one lot because of the “merger theory.”

A motion was made by Thomas Golden and seconded by Robert Levine to close the public hearing. By a vote of 5-0, the public hearing was closed.

#### **Finding of Facts:**

1. The lot in question is a corner lot, with Mountain Ave. and Preston St. as frontages.
2. This corner lot has two frontages and two side yards. There is no rear yard.
3. The lot is compatible in size with other lots in the neighborhood.
4. Due to the “merger” theory as presented by Tin Htway; this is considered as one whole lot vs. three separate lots as shown on their plan; thus, variance relief is not needed; only a special permit is needed.
5. The increase in non-conformity will not be any more detrimental than the existing non-conforming structure to the neighborhood.
6. The proposal will not have an impact on neighboring properties.
7. The proposal will keep with the existing character of the neighborhood and will continue to be used as a two-family structure.
8. The topography of the lot is flat.

**DECISION**

Based on the above findings, a motion was made by Thomas Golden and seconded by Robert Levine to grant a special permit. Ralph Loftin, Thomas Pope, Thomas Golden and Robert Levine voted in the affirmative. Paul Giunta voted in the negative. By a vote of 4-1 the Board granted a special permit.

**CONDITIONS**

1. The applicant will construct the addition according to plans presented. Plan entitled: Building Permit Plan of Land located in the Town of Marlborough, MA, dated July 23, 2020 Prepared by: Dunn – McKenzie, Inc. Signed by: James W Nieva Sheet 1 of 1. It should be noted that this is one whole lot, not three separate lots as shown on their plan, thus Variance relief is not needed, only a Special Permit is needed.
2. No Building Permit can be issued until such time as the applicant presents to the Building Commissioner evidence that said Special Permit with its conditions has been filed with the Registry of Deeds or Land Court as applicable.

A motion was made to close the public meeting. By a vote of 5-0, the public meeting was closed.

Respectfully submitted,

  
Susan Brown  
Secretary-Zoning Board of Appeals