

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: Wednesday, June 17, 2020

Time: 7:30 PM

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2020 JUN -9 P 5:20

This meeting will be held virtually with Councilors attending in person and/or remotely. **NO PUBLIC ATTENDANCE WILL BE 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.marlbrough-ma.gov).

02-24-2020 – **Order No. 20-1007947:** Proposed Zoning Amendment to Chapter 650, section 5, section 17, & section 18 – Contractor Yards and a Proposed Zoning Map Amendment

Zoning Map, Section 650-8 is amended by making the following changes:

Change a portion of Assessors Parcel 85-12, consisting of less than 6.53 +- Acres, being the portion of the property currently zoned Business (B) , to the adjacent Light Industrial (LI) District.

-Refer to Urban Affairs Committee and Planning Board

-Public Hearing: March 23, 2020

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

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

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

Order No.20-1007947: Proposed Zoning Amendment and Map Change

Contractor Yards

- 1) Recommendation of the Planning Board, generally in support with concerns regarding enforcement, protection to abutters, habitual non-compliance, including signage;
- 2) Communication from Solicitor with Letters in support of petition: Trombetta and DeMatteo;
- 3) Communication from Zoning Board of Appeals in support of petition;
- 4) Zoning Petition and Map Change in proper form from Solicitor as submitted by Councilor Robey on behalf of the Mayor, including maps and community abutters' list



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

Krista Holmi, Administrator
(508) 624-6910 x33200
kholmi@marlborough-ma.gov

05-22-20

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

RE: Council Order #20-1007947, Proposed Zoning Amendment Chapter 650, §5, §17, §18 – Contractor Storage Yards and the Proposed Rezoning of Land Located on Farm Rd. Map 85, Parcel 12.

Honorable President Ossing and Members:

At its regularly scheduled meeting on 5/18/2020, the Planning Board took the following action regarding the above referenced zoning amendment:

On a motion by Mr. Fay, seconded by Mr. Hodge the Board voted to make a generally favorable recommendation to the Marlborough City Council on the proposed zoning amendment. Yea: Fay, Hodge, LaVenture, Russ, Fenby; Nay: Elder. Motion carried 5-1.

In its decision, the Board made the following comments:

The Board was instructed that the zoning amendment was to be evaluated “as is”; nonetheless, the Board applied its typical standard: Does the proposed zoning proposal benefit the City, is it otherwise consistent with the intent of zoning regulation, does the proposal fit into the neighborhood(s), and what is the potential impact on neighbors?

After consideration, the Board voted to provide a generally favorable recommendation on the proposed zoning amendment but expressed reservations that the existing proposal did not address practical areas of control including storage setbacks, limitations on stacked material storage, storage of refuse, storage of unregistered vehicles and the absence of the five-foot screening requirement for existing yards. The Board expressed concern that not enough was being done to protect the residential abutters to existing yards. In his opposition, Mr. Elder expressed concern with both the pre-negotiated amendment process and portions of the amendment content. Particularly concerning is the two-year timeframe for site plan review, which he deemed as far too long, feeling this could be accomplished in months, not years.

Regarding the proposal to rezone the specific parcel, the Board expressed concern about the habitual non-compliance on that parcel including multiple sign violations (banners affixed to a fence, etc.), the parking of trucks on grass adjacent to the street with screen printed advertising, and automotive uses on the property that may not be consistent with current or proposed zoning. The Board expressed a preference that the rezoning of the parcel be delayed until the property was brought into compliance. The Board agreed to refer the matter to Code Enforcement and encourage enforcement of the violations of applicable regulations.

With reservations as noted, the majority felt that the zoning amendment proposed was preferable to none.

Sincerely,

Barbara L. Fenby
Chairperson

cc: City Clerk



City of Marlborough

Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
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JASON D. GROSSFIELD
CITY SOLICITOR

JASON M. PIQUES
ASSISTANT CITY SOLICITOR

HEATHER H. GUTIERREZ
PARALEGAL

February 19, 2020

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

Re: *Trombetta Family Limited Partnership v. City of Marlborough Zoning Bd. of Appeals*
(19MISC000509); *DiMatteo v. Giunta et al. as Members of the City of Marlborough Zoning*
Bd. of Appeals (1981CV03045)
Proposed Zoning Ordinance Amendment

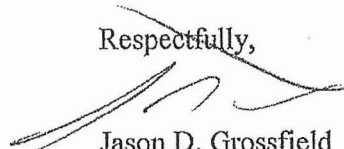
Dear Honorable President Ossing and Councilors:

Enclosed for submittal please find letters of support for the proposed zoning ordinance amendment relative to contractor's yards and a map amendment for parcel 85-12, as received from counsel for Gina A. DeMatteo, Individually and as Trustee of the 729 Farm Trust and Trombetta Family Limited Partnership. I recommend these letters be referred to committee with the proposed zoning amendments.

This office represents the Zoning Board of Appeals ("ZBA") in the above-referenced appeals filed by each party from the ZBA's decision upholding certain determinations of the Building Commissioner's office, and has worked collaboratively to engage in discussions with the above parties on a proposed approach to address this type of land use as part of the city's zoning ordinance. As the enclosed letters both reference, each party supports adoption of the amendments and has agreed to dismiss their respective pending litigation if the zoning amendments are adopted.

Please contact me if you have any questions or concerns.

Respectfully,



Jason D. Grossfield
City Solicitor

Enclosures

cc: Arthur G. Vigeant, Mayor
Zoning Board of Appeals
Planning Board
Jeffrey Cooke, Building Commissioner
Christopher J. Alphen, Esq.
Donald J. O'Neil, Esq.

DONALD J. O'NEIL

COUNSELOR AT LAW

688 PLEASANT STREET
WORCESTER, MASSACHUSETTS 01602
TELEPHONE: 508-755-5655
FAX 508-755-9655

DONALD J. O'NEIL, ESQ.

DJO@ONEILBARRISTER.COM

February 18, 2020

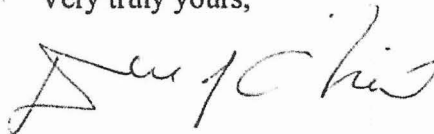
Marlborough City Council
City Hall
140 Main Street
Marlborough, MA 01752

Re: DiMatteo v. Giunta et al as Members of the City of
Marlborough Zoning Board of Appeals
Case No. 1981CV03045

Dear Councilors,

I am writing on behalf of my client, Gina A. DiMatteo, Individually and as Trustee of the 729 Farm Trust, to confirm for the record that she supports the proposed zoning ordinance amendments negotiated with the City, including the proposed map change and will file a Stipulation of Dismissal With Prejudice with the Middlesex Superior Court for the pending Zoning Board of Appeals case regarding her property within 14 days of the passage of the proposed zoning amendments.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Don J O'Neil", written in a cursive style.

Donald J. O'Neil

cc. Gina A. DiMatteo

BLATMAN, BOBROWSKI & HAVERTY, LLC
ATTORNEYS AT LAW

9 DAMONMILL SQUARE, SUITE 4A4
CONCORD, MA 01742
PHONE 978.371.2226
FAX 978.371.2296

CHRISTOPHER J. ALPHEN, Esq.
Chris@bbhlaw.net

February 18, 2020

Jason D. Grossfield
City Solicitor
City of Marlborough
City Hall, 4th Floor
140 Main Street
Marlborough, MA 01752

RE: 19 MISC 000509 Trombetta Family Limited Partnership v. City of Marlborough
Zoning Board of Appeals , et al. VHAY

Attorney Grossfield:

As we have discussed, please accept this letter that my client, Trombetta Family Limited Partnership owner of the property known as 655 Farm Road, Marlborough, Massachusetts ("Trombetta") fully supports the proposed zoning ordinance amendment as recommended and attached hereto as Exhibit A.

If the zoning ordinance amendment is passed, Trombetta will file a stipulation of dismissal with prejudice in regard to the above referenced matter within fourteen (14) days.

Please do not hesitate to contact me with any questions.

Very truly yours,



Christopher J. Alphen, Esq.

Enclosures

Cc:



City of Marlborough

Zoning Board of Appeals

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768

Paul Giunta-Chairman
Ralph Loftin
Thomas Golden
Thomas Pope
Robert Levine

March 10, 2020

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

RE: Support for Proposed Zoning Ordinance Amendment
Contractor's yards and landscape contractor's yards

Dear Honorable President Ossing and Councilors:

The Zoning Board of Appeals (ZBA) met on February 25, 2020 and voted to express the ZBA's support for adoption of the proposed zoning ordinance amendment relative to contractor's yards and landscape contractor's yards and a zoning map amendment for parcel 85-12, now under consideration by the City Council. Please accept this letter of support for the record as part of the City Council's consideration of these zoning amendments.

Please do not hesitate to contact me with any questions.

Respectfully submitted,

Paul Giunta
Chairman
Zoning Board of Appeals



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 24, 2020

ORDERED:

PAGE 1

That the Proposed Zoning Amendment to Chapter 650, §5, §17, & §18 – Contractor Yards and the Proposed Rezoning of land located on Farm Road, identified as Map 85 Parcel 12, be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, MARCH 23, 2020.**

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended, as follows:
 - a. By amending the definition in subsection B of “OUTDOOR STORAGE,” by inserting at the end thereof the following sentence: “Outdoor storage shall not include either a contractor’s yard or a landscape contractor’s yard.”
 - b. By inserting the following new definitions:

CONTRACTOR’S YARD - Premises used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation.

LANDSCAPE CONTRACTOR’S YARD – Premises used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the grounds being otherwise landscaped.



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 24, 2020

ORDERED:

PAGE 2

- II. Section 650-17, entitled "Table of Uses," is hereby amended by adding the following new uses:

RR A1 A2 A3 RB RC RCR B CA LI I MV NB WAYS.

Contractor's

Yard (48) N N N N N N N N SP SP N N N N

Landscape Contractor's

Yard (48) N N N N N N N N SP SP N N N N

- III. Section 650-18, entitled "Conditions for uses," is hereby amended as follows:

- a. By inserting in subsection A thereof a new paragraph (48) as follows:

(48) Contractor's yard and landscape contractor's yard.

- (a) **Exemptions; Design Standards for Certain Existing Yards.** All existing contractor's yards and landscape contractor's yards in the CA or LI zoning district as of the date of this amendment that existed prior to December 31, 2014 shall not be required to obtain a special permit, but shall file for site plan review with an as-built plot plan by the City of Marlborough Site Plan Review Committee within nine (9) months of the effective date of this paragraph, and complete site plan review within twenty-four (24) months of the effective date of this paragraph. Said site plan review shall be limited to the following design standards:

(1) *Screening.* To the maximum extent practicable, the yard shall be adequately screened from the street and adjacent properties to obscure the vehicles parked thereon, and the equipment and/or materials stored therein, to create an effective visual barrier.

(2) *Vehicles, Equipment and/or Materials.* To the maximum extent practicable, all vehicles, equipment and/or materials associated with the yard must be stored on and accessed from impervious or otherwise dust-free surfaces.

(3) *Flammable, Combustible or Dangerous Substances.* A yard shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 24, 2020

ORDERED:

PAGE 3

(4) *Maximum size of yard.* The maximum size of the yard (including all structures, parking and driveways on the lot) shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the lot is located. If the yard exceeds said lot coverage percentage, the yard shall not increase its lot coverage and shall be made compliant within twenty-four (24) months of the effective date of this paragraph.

For yards that are in compliance with a prior special permit or site plan approval, no special permit or site plan review is required.

(b) **Design Standards for All Other Permissible Yards.** Yards shall require a special permit, and site plan approval by the City of Marlborough Site Plan Review Committee, whose review shall include, but not be limited to, the following design standards.

(1) *Screening.* Yard shall be adequately screened from the street and adjacent properties to obscure the vehicles parked thereon, and the equipment and/or materials stored therein, to create an effective visual barrier from ground level to a height of at least five (5) feet.

(2) *Vehicles, Equipment and/or Materials.* All vehicles, equipment and/or materials associated with the yard must be stored on and accessed from impervious or otherwise dust-free surfaces.

(3) *Flammable, Combustible or Dangerous Substances.* A yard shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.

(4) *Maximum size of yard.* The maximum size of the yard, when combined with all structures, parking and driveways on the lot being proposed for the lot on which the yard is proposed to be located, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the lot is located.

(5) *Proximity to existing residential zoning districts/uses.* (i) Yard shall not be located on a lot less than two hundred (200) feet from a residential zoning district, and on any lot if a residential use is being made of any abutting lot(s); and (ii) *Minimum lot area.* Minimum area of the lot shall be 22,500 square feet.



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 24, 2020

PAGE 4

ORDERED:

IV. Zoning Map Amendment

The Zoning Map, Section 650-8, is amended by making the following changes:

Change a portion of Assessor's Parcel 85-12, consisting of less than 6.53 +/- acres, being the portion of the property currently zoned Business (B), to the adjacent Light Industrial (LI) District. The proposed Zoning Map change is shown on the attached map.

ADOPTED

ORDER NO. 20-1007947



City of Marlborough

Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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JASON D. GROSSFIELD
CITY SOLICITOR

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ASSISTANT CITY SOLICITOR

HEATHER H. GUTIERREZ
PARALEGAL

February 19, 2020

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

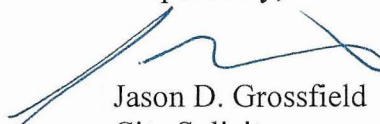
Re: Proposed Zoning Ordinance Amendment

Dear Honorable President Ossing and Councilors:

At the request of Councilor Kathleen D. Robey, enclosed please find a proposed zoning ordinance amendment relative to contractor's yards and landscape contractor's yards, and a zoning map amendment for parcel 85-12.

I have reviewed the proposed amendment and it is in proper legal form. Please contact me if you have any questions or concerns.

Respectfully,



Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Zoning Board of Appeals
Planning Board
Jeffrey Cooke, Building Commissioner
Christopher J. Alphen, Esq.
Donald J. O'Neil, Esq.

- URBAN AFFAIRS
- PLANNING BOARD
- P/H 3/23/2020
- ADVENTURE
RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
FEB 19 P 4:20

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- II. Section 650-17, entitled “Table of Uses,” is hereby amended by adding the following new uses:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV	NB	WAYS.
Contractor’s Yard (48)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N
Landscape Contractor’s Yard (48)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N

- III. Section 650-18, entitled “Conditions for uses,” is hereby amended as follows:

- a. By inserting in subsection A thereof a new paragraph (48) as follows:

(48) Contractor’s yard and landscape contractor’s yard.

- (a) **Exemptions; Design Standards for Certain Existing Yards.** All existing contractor’s yards and landscape contractor’s yards in the CA or

LI zoning district as of the date of this amendment that existed prior to December 31, 2014 shall not be required to obtain a special permit, but shall file for site plan review with an as-built plot plan by the City of Marlborough Site Plan Review Committee within nine (9) months of the effective date of this paragraph, and complete site plan review within twenty-four (24) months of the effective date of this paragraph. Said site plan review shall be limited to the following design standards:

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(2) *Vehicles, Equipment and/or Materials.* To the maximum extent practicable, all vehicles, equipment and/or materials associated with the yard must be stored on and accessed from impervious or otherwise dust-free surfaces.

(3) *Flammable, Combustible or Dangerous Substances.* A yard shall not store excessive quantities of flammable, combustible or dangerous substances, and may be required to comply with the notification, reporting and permitting requirements set forth in SARA Title III (the Emergency Planning and Community Right-To-Know Act, or EPCRA) and/or MGL c. 148.

(4) *Maximum size of yard.* The maximum size of the yard (including all structures, parking and driveways on the lot) shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the lot is located. If the yard exceeds said lot coverage percentage, the yard shall not increase its lot coverage and shall be made compliant within twenty-four (24) months of the effective date of this paragraph.

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- (b) **Design Standards for All Other Permissible Yards.** Yards shall require a special permit, and site plan approval by the City of Marlborough Site Plan Review Committee, whose review shall include, but not be limited to, the following design standards.

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(5) *Proximity to existing residential zoning districts/uses.* (i) Yard shall not be located on a lot less than two hundred (200) feet from a residential zoning district, and on any lot if a residential use is being made of any abutting lot(s); and (ii) *Minimum lot area.* Minimum area of the lot shall be 22,500 square feet.

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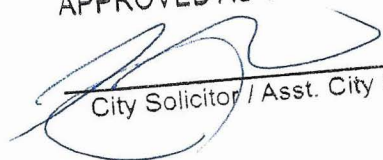
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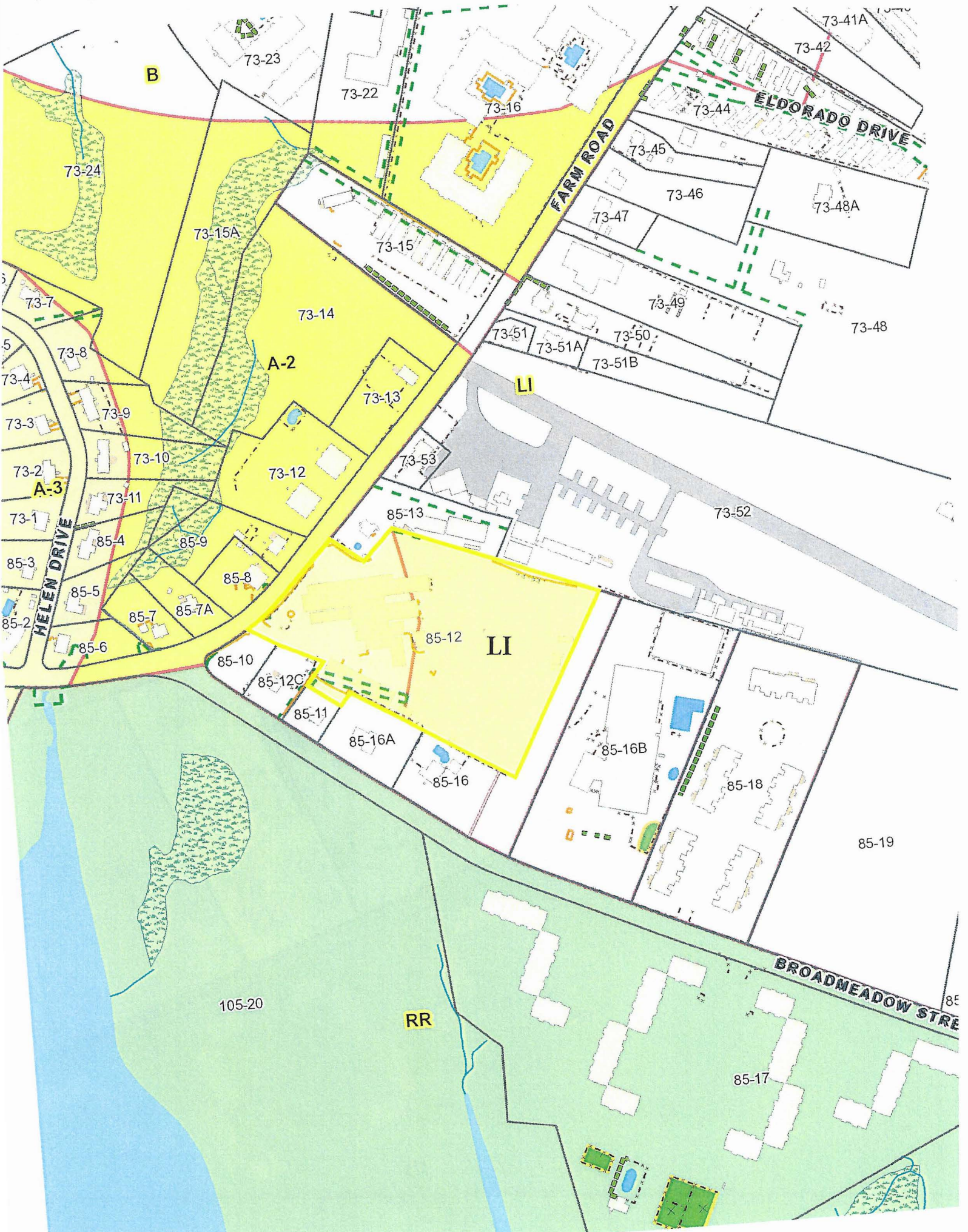
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In City Council
Order No. 20-
Adopted

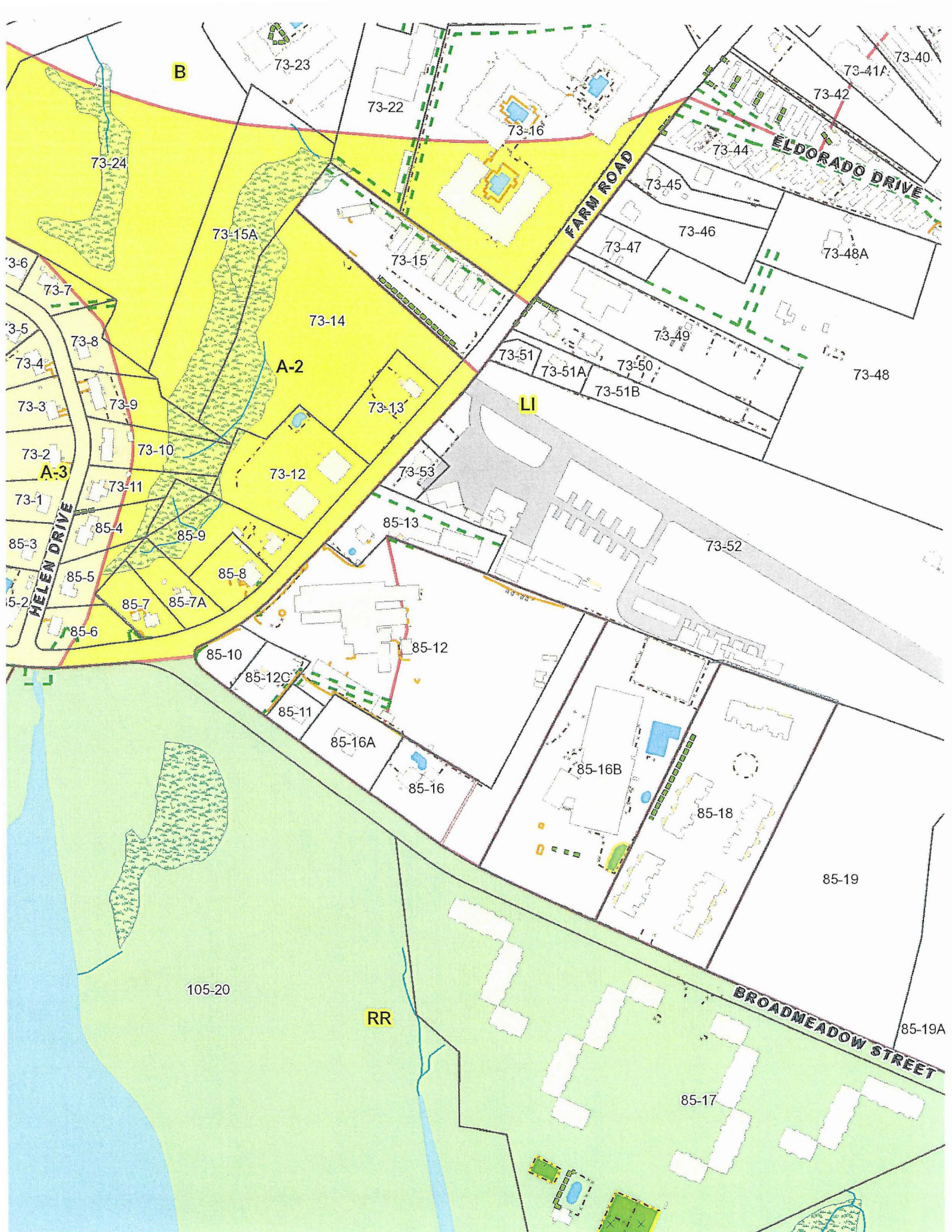
Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

APPROVED AS TO LEGAL FORM:


City Solicitor / Asst. City Solicitor





PLANNING BOARD
BERLIN TOWN HALL
23 LINDEN STREET
BERLIN, MA 01503

PLANNING BOARD
FRAMINGHAM CITY HALL
150 CONCORD STREET
FRAMINGHAM, MA 01702

PLANNING BOARD
HUDSON TOWN HALL
78 MAIN STREET
HUDSON, MA 01749

PLANNING BOARD
SUDBURY TOWN HALL
278 OLD SUDBURY ROAD
SUDBURY, MA 01776

PLANNING BOARD
SOUTHBOROUGH TOWN HALL
17 COMMON STREET
SOUTHBOROUGH, MA 01772

PLANNING BOARD
NORTHBOROUGH TOWN HALL
63 MAIN STREET
NORTHBOROUGH, MA 01532

PLANNING BOARD
WESTBOROUGH TOWN HALL
45 WEST MAIN ST.
WESTBOROUGH, MA 01581

MAPC
MUNICIPAL LEGAL NOTICES
60 TEMPLE PLACE
BOSTON, MA 02111

PLANNING BOARD
DEPARTMENT OF PUBLIC WORKS
135 NEIL STREET
MARLBOROUGH, MA 01752

BUILDING COMMISSIONER
CITY HALL
140 MAIN STREET
MARLBOROUGH, MA 01752

CITY ENGINEER
DEPARTMENT OF PUBLIC WORKS
135 NEIL STREET
MARLBOROUGH, MA 01752

GIS ADMINISTRATOR
DEPARTMENT OF PUBLIC WORKS
135 NEIL STREET
MARLBOROUGH, MA 01752

*Notarized
Marlene
02-27-2020*
