

CITY OF MARLBOROUGH MEETING POSTING

Meeting: **Planning Board**
Date: May 10, 2021
Time: **7:00 PM**
Location: REMOTE MEETING NOTICE

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CITY OF MARLBOROUGH

2021 MAY -6 P 2:12

In accordance with the March 12, 2020 Executive Order issued by Governor Baker modifying certain requirements of the Open Meeting Law, the City of Marlborough Planning Board will hold a remote meeting on Monday, May 10, 2021 at 7:00 pm. The public may access the meeting by clicking on the link provided in the Planning Board calendar on the Planning Board Website <https://www.marlbrough-ma.gov/planning-board> or by dialing in (audio only) using the following phone number and conference ID : +1 617-433-9462 United States, Boston (Toll) Conference ID: 765 252 300#

Agenda Items to be Addressed:

1. **Draft Meeting Minutes**
 - A. April 5, 2021
 - B. April 26, 2021
2. **Chair's Business**
 - A. Referred from City Council: Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, Map 43, Parcel 38 – **SET PUBLIC HEARING DATE**
 - B. Referred from City Council: Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects – **SET PUBLIC HEARING DATE**
3. **Approval Not Required**
 - A. Map 111 Parcel 1 – Applicant: BH GRP TCAM Owner, LLC Deed Reference: Book 70600, Page 451
Map 112 Parcel 10A – Applicant: IPG Photonics Corporation Deed Reference: Book 74877, Page 455
Surveyor: Bruce Saluk & Associates, Inc
Recommendation letter from Engineering – **VOTE ON ENDORSEMENT**
4. **Public Hearings (None)**
5. **Subdivision Progress Reports (None)**
6. **Preliminary/Open Space /Limited Development Subdivision (None)**
7. **Definitive Subdivision Submissions (None)**
8. **Signs**
 - A. Sign Variance Application 191-237 Boston Post Road West, Marlborough, MA 01752
Representative: Michael Brangqynne, Fletcher Titlton PC – Continued from April 5, 2021
Correspondence from Mr. Brangqynne – Request to continue to May 25th, 2021
9. **Correspondence**
 - A. Request for Lot Release: 70 Robert Road, Marlborough, MA 01752
Release of Lot(s) Form – for Signature
10. **Unfinished Business (None)**
 - A. Working Group Discussion – Planning Board Rules and Regulations Continued
11. **Calendar Updates (None)**
12. **Public Notices of other Cities & Towns (None)**

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.

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

April 5, 2021

The **Remote Meeting** of the Marlborough Planning Board was called to order at 7:00 pm. Members present: Matt Elder, Barbara Fenby, Sean Fay, Phil Hodge, George LaVenture and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. March 8, 2021

On a motion by Mr. LaVenture, the Board voted to accept and file the March 8, 2021 meeting minutes.

Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried.

2. Chair's Business (None)

3. Approval Not Required (None)

4. Public Hearings

A. **Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed Use Overlay District (RMUOD). – Chapter 650-33 – Results Way Mixed Use Overlay District**

Greatland Realty Partners – The Campus at Marlborough

Chairperson Fenby opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

Presentation:

Ms. Teri Ford, representing Greatland Realty Partners (One Federal Street, Suite 1810, Boston, MA 02110) presented the amendment. Ms. Ford indicated that Greatland acquired the Campus in Marlborough in June 2020. The site is 121 acres, composed of 2 parcels, zoned under Industrial (I). Currently it consists of 4 buildings totaling 530,000 sqft and 1,500 parking spaces, accessible by Campus Drive. It was originally divided into two phases. The existing buildings were completed under Phase 1, Phase 2 was never completed. The existing approved Phase 2 would allow for an additional 650,00 sqft of office space and 2,500 parking spaces. The applicant is proposing to change the zoning for development of Phase 2.

The proposed zoning change to expand the use on site would result in the following:

- Corporate HQ
- Town Square/Central Square: Amenity area/center, restaurants.
- Residential: 100 (MAX) residential townhomes David Goleski, Avalon Bay
- "Bio-ring" – Bio manufacturing, RND life science lab
- Parking

Mr. Peter Tamm, Attorney at Goulston & Storrs Law Firm. (400 Atlantic Ave, Boston, MA 02110) summarized the proposed zoning change is to expand the adjoining results way mixed used overlay district.

- Part 1: Expand across Simarano Drive to encompass these two parcels. Extend the overlay, the existing industrial zoning, resulting in no change.
- Part 2: Subtle text changes to the overlay district, allowing for two master plans and two development agreements.

Notes: No impact on existing investments/development.

Ms. Fenby declared that portion of the public hearing closed.

Speaking in Favor of the Amendment:

- Mr. LaVenture read the April 5, 2021 Letter from Mayor Vigeant to Planning Board into the record. In his letter, Mayor Vigeant expressed his support to the proposed amendment.
- City Councilor Mr. Michael Ossing (43 Varley Road, Marlborough, MA 01752) presenting four key points supporting the proposed amendment. 1) Zoning change takes advantage of a successful results way mixed use overlay districted zoning change which was adopted by Marlborough in 2012. 2) Creative Expansion 3) The 2012 MEDC (Marlborough Economic Development Corporation) Master Plan states to create mixed use zone in the Simarano Drive Corridor. 4) Bio-Ring development is an exciting opportunity for Marlborough to be a life science leader in the Commonwealth.
- Ms. Meredith Harris, Executive Director of MEDC (70 Bigelow Street Marlborough, MA 01752) stated her support for the proposed amendment.

Ms. Fenby declared that portion of the public hearing closed.

Speaking in Opposition to the Amendment:

- City Councilor Ms. Kathleen Robey (97 Hudson Street, Marlborough, MA 01752) notified the board she wants them to be aware that this is an unnecessary expansion because they can do almost everything under the current zoning, except for the housing. Ms. Robey mentioned wanting to update a master plan for the City of Marlborough, and to not rely on MEDC for zoning changes.

Ms. Fenby declared that portion of the public hearing closed.

Questions and Comments from the Planning Board:

- Mr. Elder discussed how the market changes over time. He stated that he is in favor of much of the project, but agrees with Councilor Robey, stating that his concern is the housing.
- Mr. Fay reminded the board of the standards for their review of proposed zoning changes, four factors: 1) Are the proposed changes keeping with the character of the neighborhood? 2) What would the impact be on the neighbors? 3) Will the proposed change benefit the city? 4) Is it consistent with the city zoning ordinances? He stated that he supports this change for parcel 1 but wanted more information on why this change is essential for parcel 2 (the proposed residential parcel).
 - o Mr. Kevin Sheehan of Greatland expressed the essential need of the residential area for the Town Square/Central Square to work with the marketing plan. He continued to express how all three, the Bio-ring, the Town Square and the Residential area will work with each other. Key point, this proposed plan would generate less traffic. He explained that there are two separate parcels, one is commercial, and one is the proposed residential housing parcel. He continued to explain that the proposed residential housing parcel is not optimal for commercial use/development, due to its topography.

- Mr. Russ asked, Is the Town Square concept a use that will survive with only a small number of residents on site?
 - o Mr. Sheehan explained the steps they have and will be taking to ensure the viability of the use from the community.
- Mr. Russ asked, Does the zoning changes affect the developer's abilities of the existing Results Way parcels in any way?
 - o Mr. Tamm explained that the extension in overlay would have no impact on the existing site uses.
- Ms. Fenby asked about information on bike/walking paths and connections to other areas within the city.
 - o Ms. Ford stated they have ideas and plans for this to be accomplished but nothing solid enough to be shared now. The proposed trails would be accessible to the public.
- Mr. LaVenture asked if the cap on Housing units and public bike/walking paths would be included in the development agreement.
 - o Mr. Tamm responded by saying yes.
- Mr. LaVenture asked what is the current demand for the Bio-ring portion of this proposal? He asked who plans on doing the build out?
 - o Ms. Ford stated that these buildings with these capabilities, specifically the square footage, are in high demand and it is growing. She stated that Greatland would be creating the core and shell. The companies would be creating a commercial product regulated by the FDA.
- Mr. LaVenture stated his concern for limitations on types of hazardous materials and facilities allowed.
 - o Ms. Ford explained that their expectation is that their facilities would be a bio safety level 2 or below, and level 3's are rare. (Presumably will be included in the development agreement.)
 - o Mr. Tamm stated the existing overlay currently allows level 3 facilities, and as far as the bio safety level 4 prohibition there is no proposal to change that.

Ms. Fenby closed the public hearing with the intention of further internal discussion prior to recommendation to the City Council.

5. Subdivision Progress Reports

a. City Engineer's Report

City Engineer Mr. DiPersio provided brief project updates. Shaughnesy Estates is working with legal to make sure they're comfortable with the developer's status regarding his rights and the remaining easements that they need to work out. Goodale Estates applied for their last building permit putting them on track to finish by their deadline. No update on Commonwealth Heights or on the Broad Street Subdivision.

6. Preliminary/Open Space/Limited Development Subdivisions (None)

7. Definitive Subdivision Submission (None)

8. Signs

A. 191-237 Boston Bost Road West, Marlborough, MA 01752 Fletcher Tilton PC – Application for Sign Variance

Mr. LaVenture read the March 26, 2021 Letter from Fletcher Tilton PC to Planning Board into the record. The letter included: Sign Variance Application; Memorandum in Support; Denial letter; Building Permit Applications; Sign Permit Applications; Site Plan; Easement Plan; Proposed Pylon Plans; Check payable to the City of Marlborough.

Ms. Fenby displayed the letter from the Building Dept. explaining why they need a sign variance.

Attorney Mr. Michael Brangwynne, on behalf of RK Associates-Marlboro, Inc. stated that the application is related to two parcels, A & B. He explained there are three existing signs at the entrances, and the proposal is to remove the smallest middle sign, and to replace the two large signs with more modern and appropriately sized signs. He stated that specifically they are seeking relief for the maximum height of the signs (526.9 (C)) and (526.9 (D)) the sign's total square footage. He explained that due to the set back of buildings on the parcel, they need larger signs for adequate advertising. He explained the relief requested is for the safety of drivers/consumers, to give them enough time to read the signs and safely enter the center.

Mr. LaVenture read the March 16, 2021 from the Pamela A. Wilderman, Code Enforcement Officer into the record. This letter is regarding the sign permit application, and states "This is to advise that the sign applications for the new freestanding signs at the above location (Boston Post Road West, Marlborough, MA 01752) is denied for the following reasons: Chapter 526.9 (C) Height, and Chapter 526.9 (D) Sign Area for Commercial Centers, and Chapter 526.9 (D) Secondary Signs.

Mr. Fay stated that he is content and that the current proposal content meets the board's standards for variance approval.

Mr. Russ asked what would a compliant sign look like? He expressed his concerns that unlevel ground will result in one side of the sign to be higher than 39 feet.

Mr. Hodge wanted to consider lowering the height while keeping all the benefits of the new sign.

Mr. Kevin explained that the first sign should be off the ground for safety to drivers and pedestrians.

Mr. Fay also mentioned the higher the sign starts the less likely it is to be vandalized.

Mr. Elder stated he is content with current proposal.

Mr. LaVenture asked how do the size of these signs compare to the existing signs? What could be done to design something closer to our regulations? He questioned any competitive disadvantage to their tenants.

Ms. Fenby asked are two signs necessary?

Mr. Jeff Tuttle, The Sign Gallery Manchester, NH: Explained the existing three signs are 20-30 feet in height, totaling 1090sqft. The new signs will be 39 feet at the highest point, totaling 1000sqft of signage space only, or 1200sqft with poles.

Mr. Kevin explained that each sign will have different display of tenants, only lease requirement tenants will be on both signs.

Mr. Kenneth Fries, Executive V.P. for RK Associates discussed the economic impact due to Covid-19 and the competitive culture due to new developments in the surrounding areas. He expressed his concerns regarding the adequate advertisement for RK's tenants.

The board took an informal poll, and Mr. Fay, Mr. Russ, Mr. Elder are in favor. Ms. Fenby, Mr. LaVenture, Mr. Hodge are not in favor.

Ms. Fenby asked to continue this discussion to the next meeting, so that the members can view the site and give it more consideration.

Mr. Fay asked for a comparison to the APEX signs.

Mr. Fay made a motion to accept and place on file all correspondence, Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried.

Ms. Fenby closed the public hearing with the intention of further internal discussion.

9. Correspondence (None)

10. Unfinished Business

B. Working Group Discussion – Planning Board Rules and Regulations

1. Rules and Regulations – Continued Recommendations

Mr. LaVenture provided an update to the Board on the Working Group's most recent meeting on March 31, 2021. He thanked the Engineering Division and Legal Dept. for their work and participation. He also thanked Ms. Holmi for her continued support even though she has transitioned to a new position.

Mr. LaVenture walked through each of the recommendations as shown in the summaries below:

Current regulation: ORANGE IS NEW (In the video Mr. LaVenture states green is new)

§ A676-2 Definitions.

As used in ~~(REMOVE) this chapter~~ (ADD) these Rules and Regulations, the following terms shall have the meanings indicated (ADD), the word "shall" is intended to be mandatory, the word "may" is merely permissive, the singular includes the plural, the plural shall include the singular, and the present tense includes the future and other words and phrases have the following meanings:

(ADD) **AGENT**

A person other than the owner who has permission to speak on behalf of the owner.

(REVISED) **AGENT**

A person other than the owner who (ADD)is authorized to speak and act on behalf of the owner.

(ADD) **DEVELOPER**

The person who oversees the installation of utilities and the construction of the roadway.

(REVISED) **DEVELOPER**

The person who oversees the installation of utilities and the construction of the roadway (ADD) and the person who is ultimately responsible for all obligations under the subdivision rules and regulations for completing the proposed subdivision and proposed utilities and roadway.

(ADD) NEW

HISTORIC CULTURAL ASSET – to be determined by Historic Commission

(ADD) NEW

HISTORIC STRUCTURE – to be determined by Historic Commission

Mr. LaVenture noted, for clarity since we were not defining these items, we should also add:

HISTORIC SITE – to be determined by Historic Commission

Mr. DiPersio noted, the current regulations states the applicant must provide their proposals to list of departments/officials and in addition to the current list want to add the historical commission.

Current regulation:

§ A676-7 Adequate access.

B. Standards of adequacy

Proposed change:

(ADD)

- (3) Easement and fee interest. All land required for access to a subdivision must be held in fee by the Owner.

(REVISED)

- (3) Easement and fee interest. All land required for access to a subdivision (ADD) "and all proposed lots depicted on the Definitive Subdivision Plan" must be held in fee by the Owner.

Current Regulation:

§ A676-10 Definitive plan.

D. Review by other City officials.

(2) One copy each to the City Solicitor for review of easement and agreements, the Commissioner of Public Works, the City Engineer, the City Planner, the Fire Chief and the Conservation Officer.

(3) Before the definitive plan is approved, the Planning Board will obtain written statements from the above officials that the proposed improvements are laid out to their satisfaction in the following respects (or, if 35 days have elapsed since transmittal of the definitive plan by the Clerk of the Planning Board to the officials without such written approval, approval will be assumed):

(a) The City Engineer as to street names and the City Solicitor as to the form of easements, covenants and performance guarantees.

(b) The Commissioner of Public Works as to the design of the street system, location of easements, monuments and drainage system.

(c) The Commissioner of Public Works as to the design of the water system and, if applicable, the sewage system.

(d) (Reserved)

Proposed change:

§ A676-10 Definitive plan.

D. Review by other City officials.

(2) One copy each to the City Solicitor for review of easement and agreements, the Commissioner of Public Works, the City Engineer, ~~(REMOVE) The City Planner, the Fire Chief and the Conservation Officer.~~ (ADD) the Fire Chief, Conservation Officer, the Postmaster, (REVISED) Historical Commission and other city departments or agencies that the Planning Board deems necessary.

(3) Before the definitive plan is approved, the Planning Board will obtain written statements from the above officials that the proposed improvements are laid out to their satisfaction in the following respects (or, if 35 days have elapsed since transmittal of the definitive plan by the Clerk of the Planning Board to the officials without such written approval, approval will be assumed):

- (a) The City Engineer as to street names and the City Solicitor as to the form of easements, covenants and performance guarantees.
- (b) The Commissioner of Public Works as to the design of the street system, location of easements, monuments and drainage system.
- (c) The Commissioner of Public Works as to the design of the water system and, if applicable, the sewage system.
- (d) (Reserved) [\(ADD\) The Postmaster as to the locations of the mailboxes.](#)
- [\(e\) \(ADD\) The Historical Commission as to Historic Cultural Assets.](#)

For consistency, Mr. LaVenture recommended changing this last item to:

[\(e\) \(ADD\) The Historical Commission as to Historic Cultural Assets, Structures, and Sites.](#)

Current regulation:

§ A676-10 Definitive plan.

- I. Release of performance guarantee.
- (4) Prior to releasing the City's interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements of **approval or 15 days shall elapse after the request for said approval without action:**

Proposed change:

- (4) Prior to releasing the City's interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements of approval ~~(ADD): (REMOVE) or (ADD)15 if days shall elapse (REMOVE) after the request (ADD) without having received the required letters for said approval (ADD) the Planning Board will take no action on the request: (REMOVE) without action:-~~
- (4) Prior to releasing the City's interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements of approval ~~(REMOVE) or days shall elapse after the request for said approval without action: (REVISED) and will not act upon any such requests without having received a favorable response on the required letters.-~~

Mr. LaVenture explained that after further consideration by Mr. Russ and himself, the Working Group decided to recommend additional changes to **§A676-10 I-4**. He noted that the required letters were actually letters affirming compliance with requirements rather than letters of approval. As he read it, Mr. LaVenture said, paragraph 1 contains the procedure for an applicant to, after completion of all required improvements, request release of bond or deposit and gain Planning Board approval. It also requires the withholding of 10% of the total completion costs for one year to until street acceptance, whichever is first. Paragraph 2, he continued, concerns pre-maintenance period expiration street inspection and whether acceptance should be recommended to the City Council. Paragraph 3 regards the post maintenance expiration period and when, if the developer has complied with all requirements and the Planning Board has recommended the City Council accept the street as a public way, maintenance monies should be returned. In addition to these, he concluded, the Engineering Department conducts annual construction cost calculations to verify the appropriateness of any existing bond.

As such, paragraph 4 could apply to any and all situations from bond reduction to complete release. The following wording was suggested for forwarding to legal without dissent:

Prior to releasing, in whole or in part, the City's interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements of compliance indicating that City Department's recommendation for approval or denial by the Board of the applicant's request. Any recommendation of denial shall be accompanied by remedial actions the applicant must take to come into compliance. The Board will not act upon any such request without having received recommendations for approval from the:

- (a) *Commissioner of Public Works as to construction of all ways and sidewalks, installation of monuments, street signs, lights, gutters, and curbs, required grading and drainage, and planting and seeding.*
- (b) *Board of Health as to the installation of sewage disposal facilities, if applicable, and adequate lot drainage.*
- (c) *Commissioner of Public Works as to construction and installation of water and sewer facilities.*

Current regulation:

§ A676-12 Streets.

B. Alignment.

- (5) Property lines at street intersections shall have a radius **equal to 30 feet at intersections involving a major street and 25 feet at other intersections.**

Proposed change:

- (5) Property lines at street intersections shall have a radius (ADD) (rounding) equal to (ADD) that noted on the Typical Roadway Cross-Sections – See Appendix F. (REMOVE) 30 feet at intersections involving a major street and 25 feet at other intersections.

(REVISED)

- (5) Property lines at street intersections shall have a radius (ADD) (rounding) (REMOVE) equal to (ADD) that noted on the Typical Roadway Cross-Sections – See Appendix F. (REMOVE) 30 feet at intersections involving a major street and 25 feet at other intersections. (REVISED) adequate to accommodate a commercial vehicle with a 40-foot wheelbase (defined by AASHTO as WB-40) without being in conflict with the granite curbing or the centerline of the adjoining street.

Current Regulation:

§676-22 (Reserved) formerly Alternative Design Standards

Proposed change:

§676-22 (NEW/REVISED) Tree Preservation and Protection Plan.

- A. The intent of the Tree Preservation and Protection Plan is to encourage the preservation and protection of trees during land clearing and subdivision layout. Locations of mature trees as noted in the required report submitted by a Certified Arborist shall be taken into consideration when designing the subdivision roadway layout. Trees are recognized for their abilities to mitigate heat island effects; provide shade cover; reduce energy consumption; improve air quality; reduce noise pollution; reduce topsoil erosion and storm water runoff; provide wildlife habitat; sequester carbon; enhance the quality of life and the environment of the city; increase property values; and enhance the overall appearance of the community. The Planning Board strongly encourages the preservation of existing significant vegetation and as such will not allow the total “clear cutting” of subdivision property (REVISED) (REMOVE) ~~as a convenience to the developer.~~ No part of this tree preservation requirement shall discourage the removal of Hazardous Trees, an act which may be important to public health and safety. (REVISED) **Significant mature trees over 24” in diameter @ DBH, should be strongly considered when laying out the proposed subdivision roadway and lot layouts, these trees should be retained if the location is deemed feasible.**
- B. The Tree Preservation and Protection Plan shall show the existing conditions of the subdivision property, noting the size and type of all trees 12 inches in diameter or greater @ DBH along with the roadway

right-of-way layout, all easement layout lines and zoning setbacks (rear, sides and front) and the limits of proposed grading within the lots that could adversely affect the health and viability of existing trees.

- C. After reviewing and taking into account the Certified Arborist's report the Tree Preservation and Protection plan shall be prepared to show the extent of tree removal and tree preservation for the proposed subdivision design. If feasible, shade trees 12 inches in diameter or greater @ DBH, located in the side and rear yard building setbacks for each individual lot depicted on the Definitive Plan, shall be retained. All trees that would be removed as part of the subdivision design would be noted as (REM.) for to be removed or as (RET.) for to be retained.

Mr. LaVenture noted that after discussions with Mr. Russ, the Working Group recommends that the fourth sentence of paragraph A be changed to:

The Planning Board strongly encourages the preservation of existing significant vegetation and as such (REMOVE) ~~will not allow the total~~ (ADD) strongly discourages "clear cutting" of subdivision property (REVISED) (REMOVE) ~~as a convenience to the developer.~~

Current regulation:

§ A676-37 Mailboxes. Mailboxes shall be installed in accordance with Appendix J.

Proposed change:

(ADD) On subdivision roads oriented east-west or close, mail boxes should be positioned on the sunny (Northerly) side of the street, adjacent to driveways or across the street from driveways for individual lots. Clustering of up to four mailboxes should be allowed whenever the driveways for four lots are close to contiguous corners of the four lots, two lots being on each side of the street.

Mr. LaVenture added this language was suggested by Mr. Hodge.

APPENDIX K – SUBDIVISION REGULATION FEE SCHEDULE

Current regulation:

The Planning Board shall require fees for all submissions, reviews, approvals, changes and requests as listed below. ~~submission, review and approval of Approval Not Required Plans, Preliminary Subdivision Plans, and Inspections.~~ Said fees shall be as adopted by the Board and according to the Schedule of Fees posted in (REMOVE) ~~City Hall~~ (ADD) DPW – Engineering Division and available from the City Clerk's Office. Said fees shall be tendered at the times specified in the Schedule of Fees.

The Planning Board fees are established to cover all administrative costs borne by the City (REMOVE) ~~whether by City employees or by consultants.~~

(REMOVE) ~~The fees cover application filing, public notices, and advertising for hearings, data collection, analysis, Department of Public Works review, Planning Department review, zoning and subdivision regulation compliance, legal review of covenants, establishing bonding amounts, review and filing of bonding instruments, issuing lot releases, field testing, and inspections of roadways and utilities under construction, administration of acceptance of streets, issuance of street names and numbers.~~

(ADD) Filing fee shall consist of a fixed application fee plus any ~~variable proposed roadway fee~~ supplemental fee listed below.

(ADD) ~~Costs of public notices and advertising for hearings, including any processing and mailing costs, will be paid directly by applicant.~~ Public Hearing Deposit Fees and Mailing Deposits Fees shall be collected and a copy of the paid invoices for advertising and mailing shall be delivered to the applicant along with a check from the City of Marlborough for the unused portion of the Deposit Fees.

Proposed change:

(ADD) ~~Costs of public notices and advertising for hearings, including any processing and mailing costs, will be paid directly by applicant.~~ (REMOVE) ~~Public Hearing Deposit Fees and Mailing Deposits Fees shall be collected~~

~~and a copy of the paid invoices for advertising and mailing shall be delivered to the applicant along with a check from the City of Marlborough for the unused portion of the Deposit Fees.~~

Current regulation:

DEFINITIVE SUBDIVISION SUBMISSION

(REMOVE) \$500.00 (ADD) \$1,000.00 filing fee plus (REMOVE) \$2.00 (ADD) \$3.00 per linear foot of proposed roadway less 80 percent (80%) of (REMOVE) all (ADD) the application and proposed roadway fees paid for preliminary subdivision plan if filed within seven (7) months of filing of preliminary plan.

(REMOVE) Plus \$100.00 for advertising for public hearing.

(REMOVE) Plus mailing costs.

To be paid at the time of (REMOVE) plan (ADD) complete application submission.

Application Fee: \$1,000.00

Supplemental Fee: \$3.00 per linear foot of proposed roadway

Public Hearing Deposit Fee: \$200.00

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for each property owner, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

Proposed change:

Application Fee: \$1,000.00

Supplemental Fee: \$3.00 per linear foot of proposed roadway

(MISSING)

Preliminary Plan Credit: less 80% of Application Fee and Supplemental Fee

Public Hearing Deposit Fee: (REMOVE) \$200.00 (ADD) The cost of advertising will be billed directly to the applicant.

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for each property owner, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

Current regulation:

CHANGES TO SUBDIVISION PLAN SUBSEQUENT TO APPROVAL

(REMOVE) \$200.00 (ADD) \$400.00 filing fee

(REMOVE) Plus \$100.00 for advertising for public hearing, if held.

(REMOVE) Plus mailing costs.

To be paid at the time of (REMOVE) plan (ADD) complete application submission.

Application Fee: \$400.00

Public Hearing Deposit Fee: \$200.00

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

Proposed change:

Application Fee: \$400.00

Public Hearing Deposit Fee: (REMOVE) \$200.00 (ADD) The cost of advertising will be billed directly to the applicant.

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

Current regulation:

LIMITED DEVELOPMENT SUBDIVISION

Application Fee: \$400.00

Supplemental Fee: \$50.00 for each lot proposed

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 100 feet of the lots shown on the proposed Preliminary Plan.

Proposed change:

Application Fee: (REMOVE) \$400.00 (ADD) \$500.00

Supplemental Fee: \$50.00 for each lot proposed

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 100 feet of the lots shown on the proposed Preliminary Plan.

Current regulation:

OPEN SPACE DEVELOPMENT

Application Fee: \$1,400.00****

Supplemental Fee: \$3.00 per linear foot of proposed roadway in final plan submission

Public Hearing Deposit Fee: \$200.00

Mailing Deposit Fee: \$1.00 for each property owner, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

Proposed change:

OPEN SPACE DEVELOPMENT

(ADD) Step 1 - Concept Plan

Application Fee: (REMOVE) \$1,400.00 (ADD) \$400.00

Public Hearing Deposit Fee: (REMOVE) \$200.00 (ADD) The cost of advertising will be billed directly to the applicant.

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 100 feet of the lots shown on the proposed Open Space Development.

(ADD) Step 2 – Open Space Development Plan

Application Fee: (REMOVE) \$1,400.00 (ADD) \$1,000.00

Supplemental Fee: \$3.00 per linear foot of proposed roadway in final plan submission

Public Hearing Deposit Fee: (REMOVE) \$200.00 (ADD) The cost of advertising will be billed directly to the applicant.

Mailing Deposit Fee: Equal to ~~twice the current rate~~ the then in force mailing rate for first class mail*, for properties in whole or in part, within 500 feet of the lots shown on the proposed Open Space Development.

Mr. LaVenture noted that, where they appear, the asterisks would be removed as the note they addressed was no longer needed.

REQUEST FOR MODIFICATION OF ACTION BY THE PLANNING BOARD

*File one completed form with the Planning Board and one copy
with the City Clerk in accordance with the requirements of §A676-10.*

Marlborough, Massachusetts

(Date)

To the Marlborough Planning Board:

I the undersigned, herewith submits a request for the modification to the Approval of a Definitive Subdivision Plan, as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

The modification request(s) is for the following:

- ☐ Modification of time to complete subdivision
- ☐ Modification of the Performance Guarantee
 - ☐ Covenant to Surety amount to complete subdivision
 - ☐ Surety amount to complete subdivision
- ☐ Start of One-year Maintenance Period

Subdivision: _____

Approval Date: _____

Expiration of Approval Date: _____

Performance Guarantee: ☐ Covenant
☐ Surety

☐ Expiration Date: _____
Amount: _____

List any previous modifications to approval, time extensions and Performance Guarantee:

_____ modification to:	_____ description of action taken
_____ modification to:	_____ description of action taken
_____ modification to:	_____ description of action taken
_____ modification to:	_____ description of action taken

Attach the following items to the Request for Modification:

- Letter from Code Enforcement – property is free from blight.
- Letter from Tax Collector – property **(REMOVE) is free from tax liens (ADD) taxes are paid to date.**
- Letter from Auditor – owner/developer/contractors are free of outstanding warrants.
- Construction Schedule, showing a completed item timeline and a proposed timeline.

Name of Developer/Owner: _____
Signature

Mr. LaVenture then invited the City Engineer, Mr. Dipersio, to demonstrate the Planning Board Fee Schedule Calculator developed by Assistant City Engineer Collins.

All items presented were referred to Legal for review.

Mr. DiPersio displayed and went over the new the Planning Board Fee Schedule Calculator excel document.

Mr. LaVenture thanked Assistant City Engineer Mr. Collins for his help on the new calculator document. He summarized the plan to roll the proposed changes into one document which will be provided to MAPC and legal for review. He explained what is outstanding, are the street acceptance process and several documents from Assistant City Solicitor Mr. Piques.

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to adjourn the meeting. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns (None)

DRAFT

**MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752**

Call to Order

April 26, 2021

The **Remote Meeting** of the Marlborough Planning Board was called to order at 7:00 pm. Members present- Barbara Fenby, Matthew Elder, Phil Hodge, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio and Assistant City Solicitor, Jason Piques. Members absent- Sean Fay.

1. Meeting Minutes

- A. April 5, 2021 – Meeting minutes will be available at next meeting May 10, 2021.

2. Chair's Business (None)

On a motion by Mr. Russ, seconded by Mr. elder, the Board voted to move up 10.A: Unfinished Business: Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed-Use Overlay District (RWMUOD). Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried.

10. Unfinished Business

- A. Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed-Use Overlay District (RWMUOD). Correspondence from Peter Tamm, Glouston & Storrs (400 Atlantic Avenue, Boston, MA 02110)

Mr. LaVenture read the April 5, 2021 email from Peter Tamm of Glouston & Storrs to the Planning Board into the record. The email summarized Greatland Realty Partners willingness to accept the following stipulations in support of any recommendation to extend the RWMUOD, as proposed, to the Campus property:

1. No more than 100 townhomes.
 - a. Exhibit A to the zoning text establishes that no more than 100 units are permitted.
 - b. Greatland is further willing to "belt and suspender" this limit, by ensuring this limitation is also reflected in the development agreement and shown on the master plan to be approved by City Council.
 - c. Greatland can further commit in the development agreement and master plan that no residential use shall be permitted on the principal parcel (PID 111-1).
2. Recreational opportunities and walking trails.
 - a. Greatland is prepared to commit in the development agreement and master plan to be approved by City Council to implementing recreational opportunities and pedestrian amenities throughout the site.
 - b. These pedestrian facilities shall include walking trails in locations around the site and Greatland shall explore providing pedestrian connections to adjoining facilities in the course of approval of the master plan and in site plan review.
3. Bio safety level 3 labs.
 - a. The existing RWMUOD zoning allows for facilities that may provide biosafety level 3 labs as-of-right.
 - b. To the extent the Board is interested in limiting any such use within the Campus, Greatland is prepared to consider an adjustment in Exhibit A to the RWMUOD text to

apply only to Subdistrict 2 (applicable to The Campus), that provides that “biosafety level 3 labs shall only be allowed special permit of the City Council”.

Mr. LaVenture read the April 26, 2021 email from the Board Member Mr. Sean Fay to the Planning Board into the record. The email summarized Mr. Fay’s comments and his favorable recommendation to the City Council with additional guidance on the proposed zoning amendment.

The email states, “Although I am not able to attend tonight's meeting, I did want to offer my comments on the proposed zoning amendment to Chapter 650 to amend Section 33 the Results Way Mixed-Use Overlay District (RWMUOD).

As is the case with any other proposal to amend the city's Zoning Ordinance, we review the proposal in four steps. First, is the proposal in keeping with the surrounding neighborhood? Second, what is the impact on the surrounding neighborhood? Third, does the proposed zoning amendment benefit the City? And fourth, is the proposed amendment otherwise in keeping with the intent and purposes of the City's Zoning Ordinance?

Historically, the Board has been less concerned about the appearance of the finished project, but more about the long-term implications of a proposed zoning amendment. Keeping this in mind, in my opinion, the applicant has submitted materials and presented a proposal that satisfies all of our requirements. Extending the RWMUOD is very much in keeping with the character of the surrounding neighborhood, and properly designed, any development under the proposal would have a minimum impact on the surrounding neighborhood. If the developer is successful in their project the benefit to the city would be similar to those expressed in our letter to the City Council from November 26, 2012, concerning the original RUMUOD. Creating the regulatory climate in which the proposed type of development could succeed is very much in keeping with the City's recent focus and the intent and purposes of the City's Zoning Ordinance.

After reviewing the site, I agree with the applicant's representative that the parcel that is earmarked for residential is not ideal for industrial use. I am concerned about the location of Bio safety level 3 labs, and this warrants further discussion. I am always reluctant to leave such decisions open ended and subject to a special permit from the City Council. Although we may have trust and faith in the current Council, we do not know what the makeup of the Council will be in future years.

That being said, I support providing a favorable recommendation to the City Council with additional guidance.”

Mrs. Fenby asked the board if anyone had any additional questions or comments.

On a motion by Mr. LaVenture, move to provide a favorable recommendation to the City Council with the following caveats:

- that any biosafety hazard level 3 lab shall only be allowed by special permit from the City Council, and

- than adequate oversight is provided by the required City and State Departments to ensure the safe installation, operation, and when required, decommissioning of the proposed Level 3 Bio Hazard facility, and
- that facility's inspection and certification reports be made available to the City, and
- that adequate oversight is provided by the required City and State Departments to ensure safe manufacture, storage, production, use, and disposal of toxins with an Acute Toxicity Category 1 or are carcinogens or neurotoxins, and
- spills or leakage of Acute Toxicity Category 1 substances including carcinogens and neurotoxins that could result in groundwater contamination or exposure of the public be immediately reported to the appropriate City and State Departments, and
- that the development agreement and master plan require, and Greatland create, recreational opportunities and pedestrian amenities throughout the site and adjoining facilities as indicated in their email

Seconded by Mr. Russ, Yea: Hodge, LaVenture, Russ and Fenby. Nay: Elder. Motion carried.

Ms. Fenby thanked Mr. Tamm.

3. Approval Not Required

- A. Map 111 Parcel 1 - Applicant: BH GRP TCAM Owner, LLC, Deed Reference: Book 70600, Page 451
 Map 112 Parcel 10A - Applicant: IPG Photonics Corporation, Deed Reference: Book 74877, Page 455
 Surveyor: Bruce Saluk & Associates, Inc. (576 Boston Post Rd E STE 5, Marlborough, MA 01752)
 Rick Senecal IPG Photonics (337 Simarano Drive, Marlborough, MA 01752)

Mr. Saluk explained that there are two parcels A & B as shown on the plans, owned by two abutting property owners. He explained, they would like to do a land swap.

- IPG Photonics Corporation (Owner of parcel B)
- Greatland Realty Partners (Owner of parcel A)

Mr. Saluk explained the agreement has been reviewed by the lawyers and everyone is happy. Included are two Appendix A: Application for endorsement of Plan Believed not to Require Approval, which have been signed by both parties.

On a motion by Mr. Russ to refer to engineering, seconded by Mr. Elder. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried.

4. Public Hearings (None)

5. Subdivision Progress Reports (None)

6. Preliminary/Open Space/Limited Development Subdivision (None)

7. Definitive Subdivision Submissions (None)

8. Signs (None)

- A. Sign Variance Application, 191-2370 Boston Post Road West, Marlborough, MA 01752
 Representative: Michael Brangwynne, Fletcher Tilton PC (12 Post Office Square, 6th Floor, Boston, MA 02109) – **continued from April 5, 2021**

Mr. LaVenture read the April 26, 2021 email from Mr. Brangwynne into the record. The emails

states: "On behalf of RK Associates-Marlboro, Inc. I respectfully request a continuance of the above referenced sign variance application to the Planning Board's May 10, 2021 hearing. On a motion by Mr. Elder to accept and file the correspondence and to defer the discussion to the May 10, 2021 planning board meeting, seconded by Mr. Russ. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried.

9. Correspondence (None)

10. Unfinished Business

- B. Working group discussion – Planning Board Rules and Regulations
 - I. Rules and Regulations – Continued Recommendations

Mr. LaVenture provided an update to the Board on the Working Group's most recent meeting on April 22, 2021.

He started by acknowledging the support of the Engineering and Legal Departments. Specifically Engineer Tim Collins and Jay Piques, Esquire. Both have contributed and continue to contribute tremendously to our efforts. Likewise, he thanked Mr. Russ for his dedication to our efforts and generously giving of his time. The working group has met a dozen time this calendar year with an average meeting length of 2 hours. A lot of debate and discussion has occurred regarding process, intent, and practicality. Mr. LaVenture said the group looked to clarify where needed and update where required. The result is the document he presented tonight. In earlier presentations to the Board, he said, we showed small sections of the document with any proposed changes made to that section. Tonight's presentation will show all those proposals, and a few more from the Working Group meeting last week, in the full document so that the board can see how they work as a whole.

Mr. LaVenture noted this isn't the complete final draft of proposed changes. That won't exist until closer to the presentation for review and approval by the Board at a public hearing. Besides any additional input from the Board, the key outstanding items will come from the three other parties that have been asked for their thoughts.

- Legal sent the entire package of Rules, Forms, and Cross Sections to the Mayor, City Council, City Department Heads, and other interested parties for review and comment on 13 April. They were told the Working Group would be available for questions and discussion on 4 or 5 May and were asked to either schedule time or provide their feedback by 5 May. City Engineer DiPersio agreed to be the point person for that effort.
- Also on 13 April Meredith Harris of MEDC was provided the full package. She in turn provided it to MAPC for review. Dr. Fenby and Mr. LaVenture met virtually with Ms. Harris to discuss the scope of their review effort. They requested:
 - *existing experience and expertise regarding Massachusetts General Laws Part I Title VII Chapter 41 as it applies to Planning Boards and other Massachusetts municipal subdivision rules and regulations to share best practice procedures in the following areas:*

- *Street acceptance process/ROW land transference/performance guarantee release - linkage and timing*
- *Tree preservation/minimizing cutting of mature trees – creating “mature” looking subdivisions*
- *Historical site / structure / asset preservation – maintaining historically / commercially valuable heritage and documenting what can’t be kept/scenic road impact*

Mr. LaVenture said feedback was requested by 7 May to allow for review and public hearing prior to summer.

Mark Racicot of MAPC indicated staffing and scheduling may not support meeting a 7 May report but would keep us posted.

Lastly, Legal will, of course, review the proposals and any other input and make suggestions as required.

Pending any additional comments by the Board these would be worked into the Rules by the Working Group and shown to the Board as previous proposals were. This would wrap up review of those pieces requiring presentation and consideration by the Board at a public hearing.

The exact date for the public hearing is still not set as the Working Group awaits feedback from MAPC.

Mr. LaVenture requested that, should anyone have any plans to, or think they might, miss a scheduled Planning Board meeting between now and completion of the public hearing, that they please let Dr. Fenby know as soon as possible.

Concurrently, the Working Group is working with Engineering and Legal on other document templates, such as Certificates of Vote, Covenants, and others. These will be presented after the public hearing on the Rules, likely in the Fall. They would not require a public hearing.

With no questions from the Board Mr. LaVenture started the document review.

Mr. LaVenture walked through each of the recommendations as shown in the summaries below:

Chapter A676

SUBDIVISION REGULATIONS

[HISTORY: Adopted by the Planning Board of the City of Marlborough 6-25-1970; as amended through **June 1, 2015 (Ch. A203 of the 1986 Code). Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

Department of Public Works — See Ch. 7, Art. IV.

Planning Board — See Ch. 19, Art. I.

Building and site development — See Ch. 270.

Stormwater Management – See Ch. 2 Fire hydrants — See Ch. 333.

Poles, wires, and conduits — See Ch. 473.

Sewers — See Ch. 510.

Sewers; Storm – See Ch. 511.

Soil removal — See Ch. 534.

Solid waste — See Ch. 540.

Streets and sidewalks — See Ch. 551.

Water — See Ch. 608.

Wetlands — See Ch. 627.

Zoning — See Ch. 650.

- Limited Development Subdivisions – See Ch. 650-30.
- Open Space Development – See Ch. 650-28.

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Appendixes

APPENDIX A

Form A	Application for Endorsement of a Plan Believed not to Require Approval (ANR Plan.).
Form A-1	Application for a Special Permit for a Limited Development Subdivision.
Form A-2	Application for Endorsement of a Plan Believed not to Require Approval with a Special Permit having been granted by the Planning Board for a Limited Development Subdivision.

APPENDIX B

Form B	Application for Approval of a Preliminary Subdivision Plan.
Form B-1	Application for Approval of a Preliminary Open Space Concept Plan.

APPENDIX C

Form C	Application for Approval of a Definitive Subdivision Plan.
Form C-1	Application for Approval of an Open Space Development Plan.

APPENDIX D

Form D	Petition for Approval of a Final Plan.
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APPENDIX E

Form E	Certification of Delineation of Plan.
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APPENDIX F

Typical Cross Section 1 – Secondary Residential Street, 50' Layout – 28' Pavement Width
Typical Cross Section 2 – Major Residential Street, 50' Layout – 38' Pavement Width

Typical Cross Section 3 – Secondary Residential Street, 40’ Layout – 28’ Pavement Width

Typical Cross Section 4 – Industrial/Commercial Street, 60’ Layout – 44’ Pavement Width

Typical Cross Section 5 – “Lane Status” Street, 50’ Layout – 26’ Pavement Width

APPENDIX G

Form G Conveyance of Easements and Utilities

APPENDIX H

Form H Street Bond/Lot Release Request Form

APPENDIX I

Typical Section for Wheelchair Ramps at Sidewalks – 3 Details

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Typical Section for Mailbox Installation

APPENDIX K

Fee Schedule

APPENDIX L

Form L Presentation Permission Form

Article I

General Provisions

§ A676-1 Authority.

Under the authority vested in the Planning Board of the City of Marlborough by MGL c. 41, § 81O, said Board hereby adopts these rules and regulations governing the subdivision of land in the City of Marlborough. These regulations shall be effective after approved and certified by the Register of Deeds and Recorder of Land Court.

The current version of the Planning Board Rules and Regulations were adopted by the Marlborough Planning Board on _____ and have been recorded at the South Middlesex Registry of Deeds, Book _____. Pages _____. A copy of the current version of the Planning Board Rules and Regulations are available at the Marlborough City Clerk’s Office and the City Engineer’s Office or may be obtained on the City of Marlborough’s website: www.marlbrough-ma.gov

Article II

Definitions; Applicability

§ A676-2 Definitions.

As used in these Rules and Regulations, the following terms shall have the meanings indicated, the word “shall” is intended to be mandatory, the word “may” is merely permissive, the singular includes the plural, the plural includes the singular, and the present tense includes the future and other words and phrases have the following meanings:

AGENT

A person other than the owner who is authorized to speak and act on behalf of the owner.

APPLICANT

A person (as hereinafter defined) who applies for the approval of a plan of a subdivision or a plan believed not to require approval or a person who applies under Article V. "Applicant" shall only include an owner, or their agent or representative, or their assigns.

BOARD

The Planning Board of the City of Marlborough.

CALIPER

The diameter of a tree purchased at a nursery measured 12 inches above the root ball.

DIAMETER BREAST HEIGHT (DBH)

The diameter of an existing tree measured 4 ½ feet above the highest existing grade at the base of the tree.

DEVELOPER

The person who oversees the installation of utilities and the construction of the roadway and the person who is ultimately responsible for all obligations under the subdivision rules and regulations for completing the proposed subdivision and proposed utilities and roadway.

GENERAL LAWS

(Abbreviated MGL.) The General Laws of Massachusetts. In case of rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections of the new codification.

LANE

A secondary street which serves as access to no more than eight potential dwelling units, has lot frontages averaging 150 feet or more, and is incapable of extension.

LOT

An area of land in one ownership, with definite boundaries ascertainable or to be ascertainable of record and used or set aside and available for use as the site of one or more buildings and buildings accessory.

MUNICIPAL SERVICES

Sewers, surface water drains, water pipes, and their respective appurtenances.

OWNER

As applied to real estate, the person or persons holding the ultimate fee-simple title to a parcel, tract, or lot of land, as shown by the record in the appropriate Land Registration Office. Registry of Deeds or Registry of Probate. All legal actions and dealing must be made with the owner(s).

PLAN or DEFINITIVE PLAN

The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds and/or Land Court when approved by the Board, and such plan when approved and recorded, all as distinguished from a preliminary plan.

PRELIMINARY PLAN

A plan of a proposed subdivision or a resubdivision of land prepared in accord with Article III to facilitate proper preparation of a definitive plan.

PRESENTER

The person who formally appears before the Planning Board with an item for consideration.

ROADWAY

That portion of a way which is designed and prepared for vehicular travel.

STREET, SECONDARY

A street which in the opinion of the Board is being used or will be used primarily to provide access to abutting lots.

STREET, MAJOR

A street which in the opinion of the Board is being used or will be used as a thoroughfare between different portions of the City of Marlborough or which will otherwise carry a heavy volume of traffic.

SUBDIVISION

- A. Subdivision shall mean the division of a tract of land into two or more lots and shall include resubdivision and, when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if at the time when it is made every lot within the tract so divided has frontage on: a) a public way or a way which the Clerk of the City certifies is maintained and used as a public way; or b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or c) a way in existence when the Subdivision Control Law became effective in the city in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance, if any, of said city for erection of a building on such lot.

- B. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the city in which the land lies into separate lots on each of which one of such building remains standing, shall not constitute a subdivision.

TREE, SHADE

Any tree which casts a shadow large enough for an individual to enjoy passive recreation while being protected from the effects of the sun or, in the opinion of the Tree Warden, will cast such a shadow when mature.

TREE, STREET

Any existing tree located within 15 feet from the edge of the roadway layout that casts a shadow upon the sidewalk area or a tree planted in the required landscape easement that will, in the opinion of the Tree Warden, casts a shadow on the sidewalk area when mature.

WAY

The entire width of the layout.

Plan to VOTE here.

Article III

Submission and Approval of Plans

§ A676-3 Plan believed not to require approval (ANR Plan).

- A. Submission of plan.
- (1) Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan and who believes that their plan does not require approval under the Subdivision Control Law may submit two single matte three mil mylar copies of the plan and nine copies thereof, dark line on white background, with application Form A (see Appendix A) and all applicable fees (see Appendix K), to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. An electronic copy of their plan shall also be submitted to the City Engineer's Office, in a format acceptable to the City Engineer. For the purpose of establishing the official submission date, said submission date shall be the date the plan was presented to the Planning Board at a regularly scheduled meeting of the Planning Board. The Planning Board suggests the applicant meet with the Engineering Department to review the plans and forms for format and completeness prior to said submission to the Planning Board as outlined above. Said person shall also file, by delivery or registered mail, a notice with the City Clerk stating the date of submission for such determination accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the City Clerk shall, if required, give a written receipt therefor.
- (2) Said plan shall contain the following information:
- (a) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan.

- (b) In the case of the creation of a new lot, remaining frontage shall be shown.
 - (c) Plan shall contain statement "Approval under the Subdivision Control Law Not Required" and provide space for date and signature by the Board.
 - (d) Notice of any decisions by the Zoning Board of Appeals.
 - (e) Location of all buildings.
- B. Endorsement of plan not requiring approval. If the Planning Board determines that the plan does not require approval, it shall, without a public hearing and without unnecessary delay, endorse the plan under the words "Approval under the Subdivision Control Law Not Required." One endorsed copy of the plan or plan set will be returned to the applicant. The other mylar copy of the plan or plan set will be retained by the Department of Public Works – Engineering Division, and the Planning Board shall notify the City Clerk in writing of its action.
- C. Determination that plan requires approval. If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform, in writing, the applicant and return the plan. The Planning Board will also notify the City Clerk, in writing, of its action.
- D. Failure of Board to act. If the Planning Board fails to act upon a plan submitted under this section or fails to notify the Clerk of the City and the person submitting the plan of its action within 21 days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the City Clerk shall issue a certificate to the same effect.

Plan to VOTE here.

§ A676-4 Definitive plan required.

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the City, or proceed with the improvement for sale of lots in a subdivision or the construction of ways or preparation therefor or the installation of utilities and municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided.

§ A676-5 Reserved.

§ A676-6 Reserved.

§ A676-7 Adequate access.

A. General.

- (1) No plan shall be endorsed as not requiring approval under the Subdivision Control Law and no subdivision plan shall be approved unless each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL c. 41, §§ 81K through 81GG.
- (2) In circumstances where adequate access does not exist, in the opinion of the Planning Board, to a proposed building lot(s) said not to require approval, the Board shall require the filing of a

subdivision plan and may impose obligations on the developer to ensure that said access is made sufficient to serve the potential needs of said lot.

- (3) Easement vs fee interest. All land required for access to a subdivision and all proposed lots depicted on the Definitive Subdivision Plan, must be held in fee by the Owner(s) !

B. Standards of adequacy.

- (1) Streets within a subdivision. Streets within a subdivision shall be considered to provide adequate access if and only if complying with the standards established in this section.
- (2) Ways abutting, serving, or leading to a subdivision. Ways outside a subdivision and providing access to the streets within a subdivision, or providing access to lots said not to be within a subdivision, shall normally be considered adequate only if there is assurance that, prior to construction on any lots, access will be in substantial compliance with the following for a length along the existing roadway to be determined by the Planning Board:

<u>Existing Roadway Conditions</u>	Development Potentially Served		
	Units		Industry
		N/A	N/A
Minimum Right-of Way width	N/A	3 inches bituminous concrete	3 inches bituminous concrete
Surface Type	3 inches bituminous concrete	26 feet	32 feet
Minimum travelled width	22 feet	200 feet	400 feet
Minimum <u>sight</u> distance	200 feet	11%	9%
Maximum grade	12%		
8 or Fewer Dwelling	9 to 49 Dwelling Units	50 or More Dwelling Units or Business	

C. Obligations.

- (1) The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening accessways to a width as required in Subsection B above, and that the applicant either make physical improvements within such way or compensate the City for the cost of such improvements in order to meet the standards specified in Subsection B above.
- (2) In circumstances where a way is not considered sufficient to serve the potential needs of a lot shown on a plan said not to require approval, the Planning Board shall not endorse said plan and shall instead require the filing of a subdivision plan and shall impose appropriate obligations as noted above.

- D. Waivers. The Board may waive strict compliance with these requirements only upon its determination following consultation with the City Engineer, City Planner, Police Chief, Fire Chief and Mayor that the way in fact will be

sufficient to serve the needs for access and utilities to serve potential needs of land abutting on or served by the way in question.

§ A676-8 Fees and expenses. To reimburse the City for the cost of plan processing, review, and other costs, fees as specified in Appendix K shall be tendered to the City by the applicant. Said fees shall be tendered at the time of application together with the application (Form A, B or C) and shall constitute a part thereof, and at other times as specified in Appendix K.

Possible VOTE here.

§ A676-9 Preliminary plan.

A. General.

- (1) A preliminary plan of a subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and approval, modification, or disapproval, by each board. The submission of such a preliminary plan, which is not a binding commitment, will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. [An electronic copy of the plan shall also be submitted to the City Engineer's Office in a format acceptable to the City Engineer.](#) For the purpose of establishing the official submission date, said submission [date shall be the date the plan was presented](#) to the Planning Board at a regularly scheduled meeting of the Planning Board.
 - (2) A properly executed application Form B (see Appendix B) shall be filed with the preliminary plan submitted to the Planning Board [along with all applicable fees \(see Appendix K\).](#) The applicant shall also file by delivery or registered mail a notice with the City Clerk stating the date of submission for such approval of a preliminary plan and accompanied by a copy of the completed application Form B.
- B. Contents.** The preliminary plan shall be drawn at a suitable scale, preferably 40 feet to the inch, and five full size prints of it shall be filed with the Planning Board [along with eight half scale prints for Planning Board members](#) and one print shall be filed with the Board of Health. The plan shall be designated as a "preliminary plan," and to form a clear basis for discussion of the problems of the subdivision and for preparation of the definitive plan, the plan should contain the following:
- (1) Major features of the land such as existing walls, fences, buildings, large trees [12 inches in diameter or greater @DBH](#), wooded areas, outcroppings, ditches, the subdivision name, boundaries, North point, date, scale, legend, and title "preliminary plan."
 - (2) The names of the record owner of the land and the applicant or subdivider and the name of the designer, engineer or surveyor who made the plan.
 - (3) The names of all [property owners within 100 feet of the subject property](#), as determined from the most recent local tax list.
 - (4) The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision, in a general manner.
 - (5) The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
 - (6) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
 - (7) The names, approximate location, and widths of adjacent streets.

- (8) The topography of the land with a [maximum contour interval of two feet](#) based on the U.S. Coast and Geodetic [NAVD88](#) Datum. The origin of said topography shall be noted on the plan.
- (9) The profiles of existing grades and approximate proposed finished grades of the roadway drain and sewer utilities.
- (10) The water distribution system.
- (11) Comparative impact analysis. A comparative impact analysis shall be submitted for any subdivision creating frontage potentially allowing 10 or more dwelling units and in other cases where the Board determines it appropriate in light of special circumstances. If a preliminary plan is filed, the analysis shall be submitted during the preliminary plan process. If a preliminary plan is not filed, the analysis shall be filed during the definitive plan process.
 - (a) Alternatives. The analysis shall include a minimum of two layouts, which shall be considered as alternatives. The alternative layouts shall be substantially different, practical and conform to the requirements for a preliminary plan or a definitive plan, if applicable. If the Zoning Ordinance allows flexibility in lot area or dimensions, then one of the development alternatives shall attempt to optimize the intent of said flexibility as stated in the Zoning Ordinance.
 - (b) Scope. The scope of such analysis, including development alternatives to be compared and consequences to be studied, shall be proposed by the applicant for review and approval by the Planning Board. The applicant shall consult with the City Engineer, Conservation Officer, [and other city departments or agencies that the Planning Board deems necessary](#) regarding the scope, and said officials shall submit their recommendations regarding the scope to the Planning Board. After due consideration of said recommendations, the Planning Board may waive any or all the requirements for an analysis only when it is found that no useful purpose would be served thereby, as when the characteristics of the site preclude substantially different layouts, or when the applicant has provided assurance that the Planning Board's stated concerns will be met. The Planning Board may issue guidelines for the preparation of an analysis, including types of technical data that will be accepted.
 - (c) Mitigation. Possible measures for mitigation shall be outlined with the preliminary plan if the analysis is submitted during the preliminary plan. However, specific measures for mitigation do not have to be proposed until the definitive plan.
 - (d) Differences. The analysis shall indicate differences between the alternatives regarding the following, unless requested otherwise by the Planning Board:
 - [1] Groundwater and surface water. Impact upon groundwater and surface water quality and level, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer and other activities within the development;
 - [2] Wildlife and botanical features. Material effects upon important wildlife habitats, and outstanding botanical features, including wildlife corridors, and relationships to and through adjacent properties;
 - [3] Soil and vegetation. Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, silting or other instability;
 - [4] Public water supply and sewerage. Impact upon City water supply and sewerage systems as existing or proposed to be improved by the developer;
 - [5] Streets and traffic. Ability of streets providing access to the subdivision to safely provide such access, including measurement of sight distance at each intersection with proposed streets, impact of development traffic on the traffic level of service, gap acceptance analysis, and analysis of hazards owing to the limited sight distances, alignment or other characteristics of access roads; and

- [6] Recreation, open space and scenic values. Difference in potential recreation for residents of the site and general public. Impact upon open space preservation and values, including trail connections and scenic views from outside and inside the site and across the site.
- (e) Decision. The Planning Board shall determine and indicate to the applicant which layout is preferred during the preliminary plan process or, alternatively, the Board may defer its determination until the definitive plan process when further information may be submitted or required.
- C. Approval. The Planning Board, preferably with the advice of the Board of Health, may give such preliminary plan approval, with or without modification or suggestion. Such approval does not constitute approval of the subdivision but facilitates the procedures for preparing and securing final approval of the definitive plan. One copy of the preliminary plan will be returned to the subdivider.

Plan to VOTE here.

§ A676-10 Definitive plan.

A. General. Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:

- (1) An original drawing of the definitive plan, and twelve copies thereof, dark line on white background. The original drawing will be returned after approval or disapproval.
- (2) A properly executed application Form C (see Appendix C) and Petition for Approval of Final Plan, Form D (see Appendix D), along with all applicable fees (see Appendix K), including the name of the record owner of the land and the time within which the subdivider or applicant agrees to complete the ways and install the public utilities in the subdivision, and approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two years of the date of approval of his definitive plan. If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Board, no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until an extension request of the approval of the Definitive Subdivision Plan is filed with and approved by the Board. Any surety securing the completion of the subdivision must be extended to run concurrently with the extension of the Definitive Subdivision Plan approval. Ways not completed or portions thereof when the approval of the Definitive Subdivision Plan has expired shall thereafter be completed in accordance with the then-in-force construction standards of the Planning Board and the Department of Public Works of the City of Marlborough.
- (3) For the purpose of establishing the official submission date, said submission date shall be the date the plan was presented to the Planning Board at a regularly scheduled meeting of the Planning Board.
- (4) Comparative impact analysis. Submit all information required under §A676-10B(11) if a preliminary plan has not been filed. The applicant is encouraged to prepare and submit a preliminary plan including the comparative impact analysis during the preliminary plan process instead of the definitive plan process. If the analysis was submitted at the preliminary plan stage, the Planning Board may require the applicant, or the applicant may submit on his own initiative, further information on said analysis which is necessary for purposes of reaching a determination as to the impact of the proposal and the selection of the preferred alternative layout by the Planning Board.

B. Contents.

- (1) The definitive plan shall be prepared by a professional engineer and a professional land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black ink on single matte three mil mylar. The plan shall

be at a scale of one inch equals 40 feet, or such other scale as the Planning Board may accept to show details clearly and adequately, and shall include plans and profiles of each individual street at a scale of one inch equals 40 feet horizontal and one inch equals four feet vertical. All elevations shall refer to the U.S. Coast and Geodetic [NAVD88](#) Datum. Sheet sizes shall be 24 inches by 36 inches including a one-inch border. There shall be an index sheet at a scale of one-inch equals 100 feet, showing the entire subdivision and adjacent streets and dimensions of the lots and streets and lot numbers.

- (2) The definitive plan shall contain the following information:
 - (a) A title stating the date, scale, bench mark, North point, name and address of the record owner of the land, name and address of petitioner and of surveyor, name of proposed subdivision of land, if any, names of proposed streets and zoning classification and zoning district lines, if any, within the locus of the plan.
 - (b) Location and ownership of abutting property as it appears in the most recent tax list.
 - (c) Land abutting any limited access or controlled access highways shall show the words, "No Access," wherever applicable.
 - (d) Major features of the land, such as existing waterways, natural drainage courses, walls, fences, buildings, large trees— [12 inches in diameter or greater @DBH](#), wooded areas, outcroppings and ditches, that exist on or near the site at the time of survey, and the limits of any resource areas as defined under MGL c. 131, §§ 40 and 40A, as determined by a [professional wetland consultant](#).
 - (e) Lines of existing and proposed streets, ways, lots, easements and public or common areas within the subdivision. The proposed names of proposed streets shall be shown in pencil until they have been approved by the City Engineer.
 - (f) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of plan and boundary lines of all subdivision lot lines, including lot frontage on the streets, or the boundary lines of all streets and easements, and the length, radii, agents and control angles of all curves in lot lines and street lines. All angle points or intersections of tangents along the street lines shall be shown. Areas of lots with lot numbers and areas of adjoining land of applicant not included in the subdivision will be shown.
 - (g) Location of all permanent monuments properly identified as to whether existing or proposed.
 - (h) Location, names and present widths of streets or private ways bounding, approaching or within reasonable proximity of the subdivision, showing both roadway widths and rights-of-way widths.
 - (i) Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision.
 - (j) If the property that comprises the subdivision or any part or boundary thereof has been examined, approved and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references to Land Court Procedure, and the same requirement shall apply to any adjoining parcels of land.
 - (k) Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person).
 - (l) Existing profiles on the exterior lines drawn in fine black line, dotted for left and dashed for right side, and proposed profile of the center line drawn in fine black solid line of proposed streets at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet or such scale acceptable to the Planning Board. At least two benchmarks are to be shown on plans and profiles, and grade elevations at every fifty-foot station, except in vertical curves, which shall be at every twenty-five-foot station. All existing and proposed intersections

shall be shown with all proposed grade elevations calculated. Elevations shall refer to U.S. Coast and Geodetic NAVD 88 Datum only. Gradient shall be shown by figures expressed in percent.

- (m) Size and location of existing and proposed water supply (mains and their appurtenances); size and location of all underground conduit and appurtenances; hydrants, sewer pipes and their appurtenances and/or sewage disposal systems; streetlight locations; storm drains and their appurtenances, and easements pertinent thereto and dimensions of gutters, including data on springs and percolation tests made, and method of carrying water to nearest watercourse or easements for drainage as needed, whether or not within the subdivision. If surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the petitioner or subdivider, the latter shall clearly indicate what course the discharge will take and shall present to the Board evidence from the Commissioner of Public Works or the owner of adjacent property that such discharge is permitted by public or private ownership of adjacent street or property.
- (n) Hydraulic and hydrologic calculations shall be prepared by a registered professional engineer in accordance with the requirements of the City Engineer. [A Stormwater Management Design Report showing that measures to mitigate stormwater impacts of the proposed subdivision have been designed, and that such measures meet the requirements set forth in the Stormwater Management Standards promulgated by the DEP under the Clean Water Act, M.G.L. c. 21, Sections 26-53 and its accompanying regulations 314 CMR 9.0 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters within the Commonwealth; and 310 CMR 10.0 Wetlands Protection Act Regulations.](#)
- (o) All trees over 12 inches DBH within the subdivision shall be evaluated for health and structural integrity by a Certified Arborist hired by the Applicant and approved by the Planning Board. A report, prepared by the Certified Arborist, shall be utilized by the design engineer to minimize the number of such trees that would be removed in order to facilitate the design of the subdivision. The report shall be presented to the Planning Board when the Definitive Subdivision Plan is presented to the Planning Board.
- (p) Cross sections typical of each street or roadway to be constructed.
- (q) Location of proposed sidewalks.
- (r) In tabular form, as follows, for each sheet of the subdivision plans, as submitted:
 - [1] The area which is being subdivided on each sheet.
 - [2] The total area of lots included on each sheet.
 - [3] The area dedicated for street purposes, drainage, sewer or utility easements on each sheet.
 - [4] The areas reserved for parks, schools, etc. on each sheet.

SUBDIVISION NAME: _____

SHEET NO. _____

- (1) Total area of original tract shown on this plan equals _____.
 - (a) Area in lots Nos. 1, 2, 3, etc. equals _____.
 - (b) Area in streets A-B-C equals _____.
 - (c) Area in easements equals _____.
 - (d) Area reserved for parks, schools, etc. equals _____.
- Total area of subdivision equals _____.

[Should equal (1) above.]

(2) Streets:

A Street Station ____ to station ____ equals ____.

B Street Station ____ to station ____ equals ____.

C Street Station ____ to station ____ equals ____.

Total area of streets equals ____.

[Should equal (1)(b) above.]

(3) Easements:

Sewer Station ____ to station ____ equals ____.

Drainage Station ____ to station ____ equals ____.

Utility Station ____ to station ____ equals ____.

Total area of easements equals ____.

[Should equal (1)(c) above.]

(4) Other Areas:

Park area (locate) ____ equals ____.

School area (locate) ____ equals ____.

Other (define and locate) ____ equals ____.

Total remaining area equals ____.

[Should equal (1)(d) above.]

- (s) An Erosion Control Plan showing that construction erosion and sediment controls have been designed to ensure that no off-site impacts to abutting properties or wetland resource areas will result during construction of the project, and that such controls have been designed to the satisfaction of the City Engineer and, if applicable, the NPDES General Permit for Storm Water Discharges from Construction Activities and/or the Wetlands Protection Act.
- (3) A grading plan with a maximum contour interval of two-feet depicting existing and proposed topographic conditions for the entire subdivision, including on- and off-site easements. Elevations on this plan shall refer to U.S. Coast and Geodetic NAVD 88 Datum. The City shall not accept any design or layouts unless based on an actual on-the-ground survey.
- C. Review by Board of Health as to suitability of the land. At the time of filing of the definitive plan, the subdivider shall also file with the Board of Health two copies of the definitive plan, dark line on white background. The Board of Health shall, within 45 days after filing of the plan, report to the Planning Board in writing approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and where possible shall make recommendations for the adjustment thereof. Every lot shall be provided with a sewerage system or sewer connection satisfactory to the Board of Health and/or the Commissioner of Public Works.
- D. Review by other City officials.

- (1) The Clerk of the Planning Board will transmit copies of the definitive plan to City officials other than the Board of Health as follows:
- (2) One copy each to the City Solicitor for review of easement and agreements, the Commissioner of Public Works, the City Engineer, the Fire-Chief, Conservation Officer, the Postmaster, Historical Commission, and other city departments or agencies that the Planning Board deems necessary.
- (3) Before the definitive plan is approved, the Planning Board will obtain written statements from the above officials that the proposed improvements are laid out to their satisfaction in the following respects (or, if 35 days have elapsed since transmittal of the definitive plan by the Clerk of the Planning Board to the officials without such written approval, approval will be assumed):
 - (a) The City Engineer as to street names and the City Solicitor as to the form of easements, covenants and performance guarantees.
 - (b) The Commissioner of Public Works as to the design of the street system, location of easements, monuments and drainage system.
 - (c) The Commissioner of Public Works as to the design of the water system and, if applicable, the sewage system.
 - (d) The Postmaster as to the location of the mailboxes.
 - (e) The Historical Commission as to Historic Cultural Assets, Sites, and Structures.
- E. Soil survey. Where appropriate, the Planning Board may require soil surveys to establish the suitability of the land for the proposed storm and sanitary drainage installations.
- F. Public hearing.
 - (1) Before taking any action to approve, modify and approve, or disapprove a definitive plan, the Planning Board shall hold a hearing at which parties in interest shall have an opportunity to be heard, in person or by agent or attorney. Notice of the time and place of such hearing and the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the City once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, or if there is no such newspaper in such City, then by posting such notice in a conspicuous place in the City Hall for a period of not less than 14 days before the day of such hearing. Notice shall also be provided to property owners within 500 feet of the subdivision.
 - (2) The procedure that the Planning Board will follow with regards to approval, disapproval or modification of the final plan submitted by the petitioner will be that as set forth in MGL c. 41, § 81U, as amended. In summary, the Board, after receiving the final plan and profiles, will review the same to determine whether they are in compliance with its adopted rules and regulations, zoning ordinances, general ordinances, departmental regulations of the Commissioner of Public Works and the Board of Health, and other laws pertaining thereto.
 - (3) Before final approval of the plan, the subdivider or petitioner shall comply with all reasonable regulations and rules of the Commissioner of Public Works and the Board of Health. Specific reference is made to the specifications for septic tanks which shall conform with the rules and regulations of the Board of Health.
 - (4) Before final approval of the plan, the subdivider or petitioner shall see to it that lots in a definitive or final plan be in conformity with the existing zoning ordinances, and failure of the lots to so comply will be adequate grounds for disapproval of the final or definitive plan. See MGL c. 41, §81Q, and amendments thereto. The Board may, as a condition of granting a permit under §81Y, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the City. In such event, the Board shall endorse such conditions on the plan to which they relate, or set forth a separate instrument attached thereto to which reference is made on such plan and which shall, for the purpose of the Subdivision Control Law, be deemed to be a part of the plan.

- G. Performance guarantee. Before endorsement of the Board's approval of a definitive plan of subdivision, the subdivider shall agree to complete the required improvements specified in Article V for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant with the written consent of the Planning Board.
- (1) Approval with bonds or surety. The subdivider shall either file a proper bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Article V not covered by a covenant under Subsection G(2) hereof. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the City Solicitor and as to sureties by the City Treasurer and shall be contingent on the completion of such improvements within two years of the date of the bond. [Once the bond or surety is in place, the lots for which legal frontage has been provided for may be released from the Covenant by the Planning Board upon request of the subdivider and building permits may be issued by Inspectional Services.](#)
- (2) Approval with covenant.
- (a) The subdivider shall file a covenant, executed and duly recorded in the Registry of Deeds by the owner of record, running with the land, whereby such ways and services as specified in Article V, not covered by bond or deposit under Subsection G(1) hereof, shall be provided to serve any lot before such lot may be built upon or conveyed other than by mortgage deed.
- (b) The developer shall also note on his definitive plan that any and all lots within the subdivision are subject to the restrictions of the covenant.

- H. Adjustment of bond or surety. [If the value of the work having been completed for construction of the subdivision is equal to or greater than 10% of the surety being held to complete the subdivision, the Developer may request that the](#) penal sum of any such bond or the amount of any deposit held under Subsection G(1) above may from time to time be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part to a minimum of 10% of the total costs to complete the required improvements specified in Article V. [See Appendix K and Form H for fee structure and application form.](#)

Similarly, the penal sum of any such bond or the amount of any deposit held under Subsection G(I) above may be increased by the Planning Board.

Any reduction or increase hereunder shall be authorized pursuant to a recalculation to be done by the DPW's Engineering Division, of the amount then remaining in the applicable bond or deposit, said recalculation to be done on an annual basis for the costs of the work within a subdivision remaining to be completed. Said costs shall be the costs necessary to complete the required improvements as determined by the DPW - Engineering Division at the time of each such recalculation. [Should the Planning Board determine that the surety amount being held to complete the subdivision should change, the Planning Board shall notify the City Treasurer and the Developer of their decision. The Planning Board shall notify the surety of the Planning Board's actions and request an acknowledgement of the change in the amount of surety, if applicable.](#)

- H^{1/4} Deeding of developer's legal interests to City. Immediately upon providing a bond or other security to construct an approved definitive subdivision plan, the developer shall deed to the City the subdivision road(s) as well as all municipal utility easements, if any. If any modifications to the approved definitive subdivision plan result in a re-location of any municipal utility, the developer shall, immediately upon installation of the re-located municipal utility, deed to the City the easement corresponding to the re-located municipal utility. The developer is also required to provide the City with a certificate of liability insurance, naming the City as an additional insured relative to the subdivision road(s) as well as all municipal utility easements, if any, to be deeded to the City.

H½. Required remedial action after lapse of time. If more than two years has elapsed from the time that the developer has installed the base course of the subdivision road pavement to the time that the developer has [scheduled to pave](#) the top course., the planning Board may require that the developer take such remedial action as may be recommended to the Board by the DPW's Engineering Division, including but not limited to patching and crack sealing the pavement, or in more acute situations, reclaiming [and](#) reconstructing the subdivision road. The cost of any such remedial action would be added to the annual recalculation, to be done by the DPW's Engineering Division pursuant to §A676- 10.0. If a developer fails to take remedial action required by the Board, the Board is authorized to rescind or modify the definitive subdivision approval.

I. Release of performance guarantee [upon completion of construction](#).

- (1) Upon the completion of all improvements required under Article V, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant may send by registered mail to the City Clerk a written statement in duplicate that the said construction or installation in connection with which such bond, deposit or covenant has been given has been completed in accordance with the requirements contained under Article V, such statement to contain the address of the applicant, and the City Clerk shall forthwith furnish a copy of said statement to the Planning Board.

If the Planning Board determines that said construction or installation has been completed, it shall notify the City Treasurer in writing that it releases the interest of the City in such bond or deposit and that such bond or deposit shall be returned to the person or persons who furnished the same, or in the case of covenant, it shall issue a written release of the covenant suitable for recording.

However, 10% of the total costs to complete the required improvements specified in Article V shall be held by the City until:

a) one year after completion of construction (may be waived by the Planning Board in whole or in part), and

[b\) the Developer has formally petitioned the City, in writing, for Street Acceptance, and](#)

[c\) the deeds for all land and easements required have been given to the City, and](#)

d) the Planning Board receives from the applicant the following written statements of compliance providing that City Department's recommendation for approval by the Planning Board of the applicant's request:

- (1) Commissioner of Public Works as to construction of all ways, the installation of water, sewer, and drainage utilities, and sidewalks, installation of monuments, street signs, lights, gutters, and curbs, required grading and lot drainage, and planting and seeding,
- (2) Board of Health as to the installation of sewage disposal facilities, if applicable.
- (3) [City Engineer as to a Stormwater Management Plan.](#)

The total costs shall be those costs necessary to complete the required improvements at the time release is applied for.

- (2) Release of performance guarantee. The Planning Board shall request the Commissioner of Public Works, approximately 60 days before the expiration of the year, to make an inspection of said street or way or portion thereof to determine whether or not defects have developed therein, and to make his recommendation to the Board as to whether or not it should recommend same to the City Council for the laying out of said street or way or portion thereof as a public way. Such recommendation may be in the affirmative if the Commissioner has determined that:
- a) the subdivision road(s) and subdivision infrastructure were built in full compliance with the Board's Subdivision Rules and Regulations in place at the time the Board approved the definitive subdivision plan; and

- b) the condition of the subdivision road(s) and subdivision infrastructure was acceptable at the end of the one-year maintenance period.

If the recommendation is in the affirmative, the Board shall so recommend to the City Council forthwith, including in such recommendation, notification that the year for which the developer is responsible for the maintenance of said way or portion thereof will expire on a certain date and said way should be laid out as a public way and the maintenance of same to become the responsibility of the City.

- (3) Upon the expiration of the year for which the developer is responsible for maintenance of said way, and said developer has complied with all the requirements of the Planning Board Rules and Regulations and, in accordance with an inspection report of said way from the Commissioner of Public Works, and the Board has recommended to the City Council that said way should be laid out as a public way, any monies held by said Board for the maintenance of said way shall be returned forthwith to the developer.
- (4) If the Planning Board determines that said construction or installation has not been completed, or does not receive the above written statements of compliance recommending approval, or [the deeds for all land and easements required have not been given to the City](#), it shall specify to the applicant, in writing, by registered mail, the details wherein said construction and installation fail to comply with requirements contained within these Rules and Regulations.

Upon failure of the Planning Board to act on such application within 45 days after the receipt of the application by the City Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said forty-five-day period expires without such specification or without the release and return of the deposit or release of the covenant as aforesaid, the City Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

- J. Certificate of approval. The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the City Clerk and sent by delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action and shall rescind such disapproval when the plan has been amended to conform to the rules, regulations and recommendations of the Planning Board. Final approval, if granted, shall be subject to the construction specifications contained herein and shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board) but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the City Clerk and said Clerk has notified the Planning Board that no appeal has been filed. After the definitive plan has been approved and endorsed, the Planning Board shall return the original to the applicant.

- (1) The Planning Board may agree to an extension of the minimum time normally required for action following submission of a definitive plan and action thereon, upon the written request of the applicant.
- (2) Approval of the definitive plan does not constitute the laying out or acceptance by the City of street(s) within a subdivision.

- K. Decision. After the public hearing, the Board in due course will approve, modify and approve, or disapprove the definitive subdivision plan submitted. Criteria for action by the Board shall be the following:

- (1) Completeness and technical adequacy of all submissions;
- (2) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard, or other environmental degradation;
- (3) Conformity with the requirements of Article IV;

- (4) Determination and selection of preferred plan, based upon alternatives presented in the comprehensive impact analysis (where submitted), that the subdivision will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan; that all adverse impacts upon water, sewer and street systems will be adequately mitigated; and that recreation, open space and scenic values are adequately provided for;
- (5) Determination that access to the subdivision is adequate, as provided in §A676-8;
- (6) Conformity with all applicable zoning requirements; and
- (7) Consistency with the purposes of the Subdivision Control Law.

Plan to VOTE here.

Article IV

Design Standards

§ A676-11 Design guidelines.

- A. All subdivisions shall be designed, and improvements made by the developer consistent with the requirements of Article IV.
- B. In addition, design and construction shall accomplish the following:
 - (1) Reduce, to the extent reasonably possible:
 - (a) Volume of cut and fill;
 - (b) Area over which existing vegetation will be disturbed, especially if within 200 feet of a river, pond or stream or having a slope of more than 15%;
 - (c) Number of mature trees 12 inches in diameter or greater @ DBH removed. The retention of mature trees shall be considered in the design of the subdivision and lot layout.
 - (d) Extent of waterways altered or relocated;
 - (e) Erosion and siltation on the subdivision site shall be minimized and compliant with the City of Marlborough's Stormwater Management Ordinance (§271) and Storm Sewer Ordinance (§511). Illicit discharges onto the neighboring properties and streets is prohibited;
 - (f) Flood damage on the subdivision site shall be minimized and compliant with the City of Marlborough's Stormwater Management Ordinance (§271) and Storm Sewer Ordinance (§511). Illicit discharges onto the neighboring properties and streets is prohibited;
 - (g) Number of driveways exiting onto existing streets or ways rather than onto newly built or proposed subdivision roadways;
 - (h) Disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs; and
 - (i) Impact on water and sewer facility's ability to service other development in the City.
 - (2) Increase, to the extent reasonably possible:
 - (a) Vehicular use of collector streets to void traffic on streets providing house frontages;
 - (b) Legal and physical protection of views from public ways;

- (c) Street layout facilitating south orientation of houses; and
- (d) Use of curvilinear street patterns.

§ A676-12 Streets.

A. Location.

- (1) All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel and an attractive street layout in order to obtain the maximum safety and amenity for future residents of the subdivision, and they shall be in accord with the Rules and Regulations of the Commissioner of Public Works.
- (2) The proposed streets shall conform, so far as practicable, to any existing plans of the Planning Board and, when adopted by the Planning Board, to the Master or Study Plan or parts thereof adopted.
- (3) Provision satisfactory to the Planning Board shall be made for the proper projection of streets or for access to adjoining property which is not yet subdivided.
- (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.

B. Alignment.

- (1) Street jogs with center-line offsets of less than 150 feet shall be avoided whenever practicable.
- (2) The minimum center-line radii of curved streets shall be as follows:
 - (a) Other secondary streets and Lanes: 150 feet.
 - (b) Major Streets and Commercial/Industrial streets: 350 feet.
- (3) A center-line tangent section at least 150 feet in length shall separate all reverse curves on major streets and any reverse curves on secondary streets where the sum of their center-line radii is less than 500 feet.
- (4) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.
- (5) Property lines at street intersections shall have a radius adequate to accommodate a commercial vehicle with a 40-foot wheelbase (defined by AASHTO as WB-40) without being in conflict with the granite curbing or the centerline of the subdivision street and the adjoining street.
- (6) Streets shall be laid out so as to intersect at intervals which will permit block size to be in a range of 600 feet to 1,200 feet in length, unless otherwise specified by the Planning Board. In lieu of actual construction of a cross street, in special instances the Planning Board may approve an easement for a future street.

C. Width.

- (1) The minimum width of rights-of-way shall be as follows:
 - (a) Residential streets: 50 feet.
 - (b) Streets in an Industrial/Commercial subdivision development: 60 feet.

D. Grade.

- (1) The center-line gradient for any street shall not be less than 1%.
- (2) The maximum center-line grade for streets shall be as follows:

- (a) Lane: 10%.
- (b) Other secondary street: 8%.
- (c) Major street: 5%.
- (3) Where changes in grade exceed 1%, reasonable vertical curves, as required by the Commissioner of Public Works, will be provided, and where a grade is 5% or greater within 150 feet of the intersection of street right-of-way lines, there shall be provided a levelling area of at least 75 feet with a maximum grade of 3%. The horizontal tangent distance between any two reverse vertical curves shall be a minimum of 100 feet.
- (4) Vertical curves shall be a minimum of 100 feet in horizontal length and provide for a minimum sight distance of 200 feet.
- E. Dead-end streets.
 - (1) Dead-end streets shall not be longer than 500 feet unless, in the opinion of the Planning Board, such a greater length is necessitated by topography or other local conditions.
 - (2) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of 120 feet for a major street and 100 feet for a secondary street, unless otherwise specified by the Planning Board.
 - (3) The slope of the road shall not exceed 3% beyond a point 75 feet before the radius point of the turnaround area.

§ A676-13 Curb cuts.

- A. Driveways shall be minimum of 10 feet and a maximum of 24 feet in width for the required front yard setback and may have an additional three feet of width on each side at the edge of travel way for a turning radius.
- B. Driveways to service the individual building lots shall comply with the applicable provisions of the City Code.
- C. Wheelchair ramps shall be provided as shown in Appendix I of this chapter.

§ A676-14 Easements.

- A. Easements for utilities carrying underground wires, where required, or for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 30 feet wide.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Planning Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width and proper side slope.
- C. Access to park and conservation land owned by the City shall be provided, if required by the Planning Board, and shall be at least 40 feet wide.
- D. Any and all easements to be accepted by the City shall be bounded at all Points of Curvature, Points of Tangency and angle points prior to acceptance by the City of Marlborough.
- E. Whenever an easement line intersects a lot line or street layout line, distances shall be shown relative to lot corners or Points of Curvature and Points of Tangency.

§ A676-15 Open space.

- A. Before approval of a plan, the Planning Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the

purposes of a park and/or playground. Each such area shall be so located as to serve adequately all parts of the subdivision as approved by the Planning Board. The Planning Board may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable subdivisions. All areas to be reserved for park and/or playground purposes shall contain not less than one acre or shall be part of a similar area in an adjoining subdivision so that the total area is not less than one acre. Unless otherwise specifically approved by the Planning Board, the total amount of area to be reserved for park and/or playground purposes shall be no less than 10% of the gross area of this subdivision. Any land so reserved shall be graded to dispose properly of surface water and shall be left in condition for the purpose intended, as required by the Planning Board.

- B. The Planning Board may, unless the applicant has not previously agreed to dedicate the park or parks to the City or other entity such as a homeowners' association, require by appropriate endorsement on the plan that no building shall be erected upon such park or parks without its approval until the expiration of a period of two years following the completion of the subdivision roadways and utilities, or until the occupancy of the subdivision shall have occurred in dwellings on at least 2/3 of the lots in the subdivision, whichever date occurs last. The applicant shall then promptly notify by mail the Planning Board, Conservation Commission, Recreation Commission, Mayor and the occupants of all homes in the subdivision as follows: "You are hereby notified that the site required to be set aside by the Planning Board as a park or recreation area in this subdivision is available for purchase by the City or others and, if not purchased within six months, must be released by the Planning Board for the developer's use for a new building on the site. You may contact the Planning Board on this matter for more information."
- C. A plan of the entire subdivision showing the proposed location of the park shall be sent by the applicant with each notification.

§ A676-16 Protection of natural features.

Due regard shall be shown for all-natural features, such as large trees, wooded areas, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. Whenever feasible, shade trees 12 inches in diameter or larger shall not be removed. [The Applicant may be required to hire a certified consulting arborist to identify those trees which can be saved and thrive upon the completion of the subdivision, show those trees on the Definitive Subdivision Plans and certify as to such.](#)

["I hereby certify that the trees shown on this plan as to be retained \(RET.\), if preserved, will add attractiveness and value to the subdivision. Those trees not designated as to be retained \(RET.\) have no significant value where they would need to be retained."](#)

§ A676-17 Lot drainage.

Lots shall be prepared and graded in such a manner that development of one shall not cause detrimental drainage on another; if provision is necessary to carry drainage to or across a lot, an easement or drainage right-of-way of adequate width and proper side slope shall be provided. Storm drainage shall be designed in accord with specifications of the Commissioner of Public Works.

§ A676-18 Fire alarms. (Reserved)

§ A676-19 Fire hydrants.

Hydrants shall be provided every 500 running feet on one side of each street unless a greater distance is approved by the Commissioner of Public Works in writing. They shall be a style approved both by the Fire Chief, the Commissioner of Public Works and the American Insurance Association.

§ A676-20 Sidewalks, grass plots, trees.

See cross sections in Appendix F.

§ A676-21 Streetlights.

Streetlighting shall be provided for each subdivision street and shall be such as to give the equivalent of not less than 4,000 lumens of light installed at intervals of 350 feet unless otherwise specified by the Planning Board.

§676-22 Tree Preservation and Protection Plan.

- A. The intent of the Tree Preservation and Protection Plan is to encourage the preservation and protection of trees during land clearing and subdivision layout. Locations of mature trees as noted in the required report submitted by a Certified Arborist shall be taken into consideration when designing the subdivision layout. Trees are recognized for their abilities to mitigate heat island effects; provide shade cover; reduce energy consumption; improve air quality; reduce noise pollution; reduce topsoil erosion and storm water runoff; provide wildlife habitat; sequester carbon; enhance the quality of life and the environment of the city; increase property values; and enhance the overall appearance of the community. The Planning Board strongly encourages the preservation of existing significant vegetation and as such strongly discourages the total “clear cutting” of subdivision property. No part of this tree preservation requirement shall discourage the removal of Hazardous Trees, an act which may be important to public health and safety. Significant mature trees over 24” in diameter @ DBH, should be strongly considered when laying out the proposed subdivision roadway and lot layouts, these trees should be retained if the location is deemed feasible.
- B. The Tree Preservation and Protection Plan shall show the existing conditions of the subdivision property, noting the size and type of all trees 12 inches in diameter or greater @ DBH along with the roadway right-of-way layout, all easement layout lines and zoning setbacks (rear, sides and front) and the limits of proposed grading within the lots that could adversely affect the health and viability of existing trees.
- C. After reviewing and taking into account the Certified Arborist’s report the Tree Preservation and Protection plan shall be prepared to show the extent of tree removal and tree preservation for the proposed subdivision design. If feasible, shade trees 12 inches in diameter or greater @ DBH, located in the side and rear yard building setbacks for each individual lot depicted on the Definitive Plan, shall be retained. All trees that would be removed as part of the subdivision design would be noted as (REM.) for to be removed or as (RET.) for to be retained.

Plan to VOTE here.

Article V

Required Improvements for an Approved Subdivision

§ A676-23 General.

- A. No street or way through private property shall be accepted by the City unless the same be previously constructed and completed in accordance with the standard cross section (see Appendix F), street layout plan, profile and the following: (amended 5-1-15)
- B. Unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the most recent editions of the following: Commonwealth of Massachusetts Department of Public Works' Standard Specifications for Highways and Bridges, hereinafter referred to as the "Standard Specifications," as amended; the Commonwealth of Massachusetts Construction Manual, Construction Standards and the special provisions included hereinafter.

- C. Supplementing the aforesaid Standard Specifications, certain specifications or special provisions shall apply particularly to the work to be done hereunder. References in the following specifications, unless otherwise stated, are to the aforesaid Standard Specifications. In case of conflict between these specifications or special provisions and the aforesaid Standard Specifications, amendments or addenda, these specifications and special provisions shall take precedence and shall govern.
- D. To facilitate reference, each paragraph in these specifications is noted with the paragraph number of the particular section as contained in the Standard Specifications.
- E. Wherever in the Standard Specifications or other contractual documents the following terms, or pronouns in place of them, are used, the intent and meaning shall be interpreted by substitution as follows:

COMMONWEALTH

City of Marlborough.

DEPARTMENT

Department of Public Works, City of Marlborough.

ENGINEER

The Commissioner of Public Works of the City of Marlborough, acting directly or through an authorized representative acting within the scope of the particular duties entrusted to him.

- F. The extent of work required is as shown approximately upon approved plans and, in compliance with the standard cross section plans, stakes shall be set which will indicate the exact amount of cut or fill.
- G. As each construction operation is completed; it shall be approved by the Engineer previous to starting work in the succeeding operation.
- H. At the time the street or way or portion thereof is ready for acceptance and to facilitate acceptance by the City of Marlborough, The developer shall have prepared and certified by a registered land surveyor a "plan of acceptance" drawn with black ink on single matte, three-mil Mylar (size: 18 inches by 24 inches or 24 inches by 36 inches), showing widths, areas, lengths, bearings of all boundary lines of streets and easements and radii, tangents and central angles of all curves in street lines. It shall show that all stone bounds have been set.
- (1) A blank space four inches by eight inches shall be provided on the lower right-hand corner on the plan for a title block to be filled in by the City Engineer. The surveyor shall place a certification on the plan stating: "The street (or way or portion thereof) is laid out and the bounds have been set as shown on this plan," and it shall be dated, signed and the surveyor's stamp affixed thereon. The plan shall be submitted to the City Engineer.
- I. The developer will have the original plans and profiles that were submitted to the Planning Board and that are on file in the City Engineer's office corrected and certified by his Engineer to show the actual as-built locations and grades of all utilities and roadway profile and any changes authorized by the Planning Board. This will be done in a manner approved by the City Engineer.

§ A676-24 Street and roadway.

- A. The roadway shall be graded and prepared for pavement as follows:
 - (1) Clearing and grubbing shall be performed to remove stumps, brush, roots, boulders and like from the area of the travelled way, shoulders, sidewalks and utility trenches, but elsewhere existing vegetation shall be preserved wherever feasible.
 - (2) Roadway earth excavation shall remove all unsuitable materials encountered down to the true surface of the subgrade in preparation for foundation of roadway, sidewalks, driveways and berms. Approved materials such as gravel and loam obtained in the excavation may be used in fills, as required, if in the opinion of the Engineer they are suitable.

- (3) When, in the opinion of the Engineer, suitable material is not available within the limits of the highway location to form the subgrade or subbase, the contractor shall obtain such additional material from other sources in accordance with this section and as may be approved by the Engineer.
- (4) The subgrade surface (16 inches below the finished surface grade) shall be prepared true to the lines, grades and cross sections given and properly rolled. All [unsuitable material and organic materials](#) below the subgrade surface shall be removed to a depth determined by the Engineer, and the space thus made shall be filled with special gravel borrow, containing no stones over six inches in their largest diameter.
- (4-1/2) A layer of geotextile fabric shall be installed beneath the gravel base specified in §A676- 24.A(5).) [The required fabric shall be TenCate Mirafi® 500X woven polypropylene geotextile material or approved equal.](#)
- (5) Gravel base course shall consist of approved gravel placed upon the subgrade or subbase as directed and in accordance with these specifications and in reasonably close conformity with the lines and grades shown on the plans or established by the Engineer.
- (6) The gravel shall be spread in layers upon the prepared subgrade from self-spreading vehicles or with power graders of approved types or by hand methods. Gravel shall be spread in layers not more than four inches thick, compacted measure.
- (a) The gravel shall be compacted and placed to the tolerance as stipulated in [MassDOT Standard Specifications for Highways and Bridges \(Current Edition\)](#) – Section 401, [Gravel Sub-base and Section 402 Dense Grade Crushed Stone for Sub-base](#).
- (b) At the conclusion of this step, the roadway shall be staked in all locations where permanent monuments are to be installed as provided in [§A676-29](#).
- B. Roadways shall be constructed for the full length of all streets within the subdivision and shall have the same curb radius required in §A676-13B above.
- (1) The center line of all roadways shall coincide with the center line of the street right-of-way unless a deviation is approved by the Planning Board. Provided however, that the minimum center line radius for a paved width less than 32 feet shall be 150 feet.
- (2) The minimum width of roadways shall be as follows:
 - (a) Lanes: 26 feet.
 - (b) Other secondary streets: 28 feet.
 - (c) Major streets, residential: 38 feet; industrial and commercial: 44 feet.
- C. The wearing surface of roadways shall be of Class 1 bituminous concrete pavement, Type I-1. This type of pavement shall be composed of mineral aggregate, mineral filler and bituminous material, plant mixed and laid hot. The pavement shall be constructed in two courses [for residential streets: 1 ½ inch top course laid upon a 2 ½ inch binder course, with a final pavement depth after rolling of 4 inches and for Industrial/Commercial streets: 1 ½ inch top course laid upon a 2 ½ inch binder course, and a 3 inch base course on which the binder course is laid, with a final pavement depth after rolling of 7 inches. Pavement shall be placed](#) upon the prepared surface and in conformity with lines, grades and typical cross section shown on plans. Material and construction methods shall conform to all other requirements of Section 460 of the Standard Specifications, except that no such construction shall be undertaken before March 30 of any year nor after November 1 of any year without written permission of the City Engineer.
- D. Embankments outside the right-of-way shall be evenly graded and pitched at a slope of not greater than two horizontal to one vertical in fill. Where cuts are made in ledge, other slopes may be determined with the approval

of the City Engineer. Where terrain necessitates greater slopes, retaining wall, terracing, fencing or riprap may be used either alone or in combination to provide safety and freedom from maintenance, but must be done in accordance with plans filed with the Planning Board and approved by the City Engineer. The subdivider must furnish to the City duly recorded access easements for maintenance of the slopes, terraces or retaining walls. All such slopes shall be grassed in accordance with the specifications for the area between the roadway and sidewalk or roadway and boundary of the right-of-way.

- E. Dust control shall be provided throughout the entire project. Sprinklers, watering trucks, calcium chloride, fencing, etc. shall be employed as directed by the [DPW – Engineering Division or the Code Enforcement Office](#).

§ A676-25 Utilities.

- A. Excavation for structures including foundations for drains, sewers and water pipes, walls and other structures shall be made to the depth as indicated on plans or established by the Engineer. Rock excavation designated as Class B encountered in trench excavation shall be removed as directed by the City Engineer.
- B. All drain, sewer, gas and water pipes and other structures shall be installed upon the completion of roadway subgrade and before the placing of the subbase, gravel base course, sidewalks or pavement.
- (1) Sewer and water mains shall be installed in accordance with the ordinances of the City of Marlborough. Gravity sewer and drain lines shall be designed with a minimum slope of 1% and a maximum slope of 9%.
- (2) Gas mains shall be installed if gas connection is available unless said installation is specifically waived by the Planning Board.
- C. Adequate disposal of surface and subsurface water shall be provided and pipes, manholes and catch basins shall be provided according to the sizes and depths as indicated on the plans and in conformity with the requirements of the Massachusetts Department of Public Works Standard Specifications for Highway and Bridges (current Edition) and shall be built on both sides of the roadway at intervals not to exceed 300 feet, unless otherwise provided by the Planning Board, and at such other places as deemed necessary by the Commissioner of Public Works and the Planning Board to assure the unimpeded flow of all natural watercourses, to assure adequate drainage of all low points and to provide proper runoff of stormwater. In no instances shall catch basins be located along a driveway cut.
- (1) The standard depth of catch basins shall be four feet below invert of lowest drain. Manholes shall be constructed to the required depth at each junction point and as shown on the plan. Pipe culvert and pipe drains shall be in conformity with the requirements of the Massachusetts Department of Public Works Standard Specifications for Highway and Bridges (current Edition) for installation of pipes. The outlet pipe for all catch basins shall be equipped with the “Eliminator” hood by Ground Water Rescue or approved equal.
- (2) Class IV reinforced concrete pipe shall be used for all drain lines and installed according to the size and grade shown on the approved definitive plan.
- D. On-site sewage disposal facilities shall be installed and constructed in conformity with the rules, regulations and requirements of the Board of Health.
- E. Where adjacent property is not subdivided or where all the property of the applicant is not being subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision, at such grade and size which will, in the opinion of the Planning Board, permit their proper extension.

§ A676-26 Sidewalks, curbs and gutters.

- A. Unless otherwise specified by the Planning Board, the sidewalks shall extend the full length of each side of the street and shall be of the following minimum widths:
 - (1) Along secondary streets: where placed adjacent to curbing: six feet including curb. Where a grass strip has been placed between the sidewalk and curbing; five feet six inches
 - (2) Along major streets: where placed adjacent to curbing: six feet including curb. Where a grass strip has been placed between the sidewalk and curbing; five feet six inches
- B. Bituminous concrete sidewalks having a minimum thickness of [three](#) inches after compression shall be constructed on a six-inch gravel foundation to the required lines and grades in accordance with these specifications. The sidewalk shall be constructed with a vertical granite curbing as approved by the Commissioner of Public Works.
- C. If desired, granolithic sidewalks shall be constructed as directed by the Engineer in conformity with this section of the Standard Specifications.

§ A676-27 Grass plots.

- A. Grass plots on secondary road layouts may be permitted.
- B. Grass plots on major roads or secondary roads (based on sixty-foot layout) may be permitted if desired by the Planning Board.

§ A676-28 Trees.

- A. Street trees of a species approved by the [Tree Warden](#) shall be planted on each side of each street in a subdivision, except where the definitive plan showed trees to be retained which are healthy and adequate. Such trees shall be located outside of the right-of-way as shown in the profile and standard cross section plans, Appendix F, approximately at forty-foot intervals, and shall be at least 12 feet in height and a minimum of three-inch caliper. [Existing trees designated to remain shall be protected in a manner deemed acceptable to the Tree Warden.](#)
- B. The subdivider shall plant [shade](#) trees as needed to provide at least two areas of shade to each lot.
- C. [If allowed by the Tree Warden, Shade Trees located within 15 feet of the roadway layout may also be designated as Street Trees and be designated as both a Shade Tree and a Street Tree.](#)
- D. [Street Tree compensation. For those street trees required, that cannot be planted within the required landscape strip adjacent to the roadway right-of-way and there are not any trees adjacent to the roadway that can be considered as street trees, compensation for those street trees may be given in one of the following ways: \(1\) monetary value given to the City of Marlborough for the purpose of planting trees, \(2\) as trees planted elsewhere in the subdivision, or \(3\) trees planted within the City of Marlborough. Option chosen is at the discretion of the Planning Board with approval from the Tree Warden. All tree locations will be selected by the Tree Warden.](#)

§ A676-29 Monuments.

- A. Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets along all easements as described in § A676-14D, and at all other points where, in the opinion of the Planning Board, permanent monuments are necessary.
- B. Monuments shall be standard permanent granite, six inches by six inches by four feet, with a polished top and drill hole in the center. Monuments shall be installed at the time of final grading with the top of the monument set

flush with the final grade surface. The City engineer shall have the discretion to modify the type of monumentation and method of setting monumentation based on actual field conditions

§ A676-30 Street signs and names.

- A. Street signs shall be installed at each intersection to conform to the standard established by the Commissioner of Public Works.
- B. Street names shall be approved by the City Engineer to prevent duplication and to provide names in keeping with the character of the City.
- C. All streets, not Accepted as Public Ways shall have a designation sign - PRIVATE WAY placed on top of the Street sign.

§ A676-31 Streetlights.

- A. Streetlights shall be installed in all subdivisions by the utility for the developer in each section as developed prior to the reduction or moving or release of bond or release from covenant thereon. §

A676-32 Fire alarm system.

(Reserved)

§ A676-33 Underground lines.

Telephone and electric lines and service connections shall be installed underground in accord with the procedure required by the Commissioner of Public Works.

§ A676-34 Cable television.

Cable television shall be installed in accordance with the requirements of the Commissioner of Public Works to serve all lots within the proposed subdivision.

§ A676-35 Signage.

Regulatory and warning signs shall be approved by the Marlborough Traffic Commission and installed in accordance with the requirements of the City Engineer.

§ A676-36 Guardrails.

Guardrails shall be provided at the locations designated by the City Engineer. §

A676-37 Mailboxes.

- A. Mailboxes shall be installed in accordance with Appendix J.
- B. On subdivision roads oriented east-west or close, mail boxes should be positioned on the sunny (Northerly) side of the street, adjacent to driveways or across the street from driveways for individual lots. Clustering of up to four mailboxes should be allowed whenever the driveways for four lots are close to contiguous corners of the four lots, two lots being on each side of the street.

Possible VOTE here (might vote after reviewing Article V & VI).

Article VI

Administration

§ A676-38 Variation.

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgement of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

§ A676-39 Reference.

For matters not covered by these rules and regulations, reference is made to MGL c. 41, §§ 81K to 81GG, inclusive.

§ A676-40 Building permit.

- A. No building shall be erected within a subdivision without written release from the Planning Board.
- B. The Building Inspector shall not issue any permit for the erection of a building until he is first satisfied that the lot on which the building is to be erected is not within a subdivision or that a way furnishing the access to such lot as required by the Subdivision Control Law is shown on a plan recorded or entitled to be recorded under MGL c. 41, § 81X, as amended, and that any condition endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied or waived by the Board, and in the event that the Board has by rule or regulation required that not more than one building for dwelling purposes be erected or placed or converted to use as such on any lot without its consent, that the Building Inspector is satisfied that such consent has been obtained; MGL c. 41, § 81Y, and amendments thereto.

§ A676-41 Inspections.

- A. Inspections shall be arranged for by the subdivider with the proper City [Department](#) for the purpose prior to the construction of streets and the installation of utilities and during construction as specified herein at each significant construction stage.
- B. Inspection shall be requested in writing at least 48 hours in advance of each inspection to the proper City [Department](#).
- C. Inspection shall be for the following:
 - (1) Satisfactory excavating [of unsuitable material and excess material](#);
 - (2) Satisfactory filling [of sub-base material and base material](#);
 - (3) Satisfactory compacting [of sub-base and base material](#);
 - (4) Satisfactory completion of the pavement [courses](#);
 - (5) Satisfactory finish grading of grass plots [and structural soils](#);
 - (6) Satisfactory placing of curbs and gutters;
 - (7) Satisfactory construction of sidewalks;
 - (8) Satisfactory installation of sanitary sewers and related equipment or on-site disposal systems;
 - (9) Satisfactory installation of water mains and appurtenances;
 - (10) Satisfactory installation of surface and subsurface drainage system and related equipment; and

(11) Satisfactory installation of monuments.

D. The Planning Board may establish the order of the required inspection and may require satisfactory completion of one step before the subdivider proceeds to the next. It may require tests to be done by the subdivider as a condition for approval when in the opinion of the Planning Board it is advisable.

E. The proper City official shall indicate on Form G, (Appendix G) provided by the Planning Board the date of inspection and the approval and shall file such form with the Planning Board.

§ A676-42 Validity.

The invalidity of any section or provision of this regulation shall not invalidate any other section or provision thereof.

Plan to VOTE here.

Mr. LaVenture summarized and reviewed the following appendices/forms:

- Appendix K – Subdivision Regulations Fee Schedule
- Form A – Application for Endorsement of Plan Believed not to Require Approval (ANR Plan)
- Form A1 – Application for Special Permit for a Limited Development Subdivision Plan
- Form A-2 – Application for Endorsement of Plan Believed not to Require Approval with Special Permit Having been Granted by the Planning Board for a Limited Development Subdivision
- Form B – Application for Approval of a Preliminary Subdivision Plan

Ms. Fenby and Mr. LaVenture discussed the best options for the forms/appendices section for the public hearing, and the voting process. Mr. LaVenture suggested they should present and vote on Appendix K first, which includes the fee changes. He suggested grouping all the other forms together and then doing a vote.

- Form B-1 – Application for Approval of a Preliminary Open Space Concept Plan
- Form C – Application for Approval of Definitive Subdivision Plan
- Form C-1 – Application for Approval of Open Space Development Plan
- Form D – Petition for Approval of Final Plan
- Form E – Certificate of Delineation of Plan
- Form G – Conveyance of Easements and Utilities
- Form H – Street Bond/Lot Release Request Form
- Form L – Planning Board Application – Presentation Permission Form

The Appendix and forms above are displayed in the same order below:

APPENDIX K
SUBDIVISION REGULATIONS FEE SCHEDULE

The Planning Board shall require fees for all submissions, reviews, approvals, changes, and requests as listed below. Said fees shall be as adopted by the Board and according to the Schedule of Fees posted in [DPW – Engineering Division](#) and available from the City Clerk’s Office. Said fees shall be tendered at the times specified in the Schedule of Fees.

The Planning Board fees are established to cover all administrative costs borne by the City.

[Filing fee shall consist of a fixed application fee plus any supplemental fee listed below.](#)

INFORMAL DISCUSSIONS

No fee required.

APPROVAL NOT REQUIRED (ANR PLAN)

Application Fee:	\$100.00
Supplemental Fee:	\$ 50.00 for each lot altered \$ 50.00 for each lot created
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for each property owner, for properties in whole or in part, within 100 feet of the lots shown on the proposed ANR Plan.

To be paid at the time of plan submission.

PRELIMINARY SUBDIVISION PLAN

Application Fee:	\$400.00
Supplemental Fee:	\$ 2.00 per linear foot of proposed roadway
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for each property owner, for properties in whole or in part, within 100 feet of the lots shown on the proposed Preliminary Plan.

To be paid at the time of plan submission.

DEFINITIVE SUBDIVISION PLAN

Application Fee:	\$1,000.00
Supplemental Fee:	\$ 3.00 per linear foot of proposed roadway
Preliminary Plan Credit:	less 80% of Application Fee and Supplemental Fee
Public Hearing Deposit Fee:	The cost of advertising will be billed directly to the applicant.
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for each property owner, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

To be paid at the time of plan submission.

CHANGES TO A SUBDIVISION PLAN SUBSEQUENT TO APPROVAL

Application Fee:	\$400.00
Public Hearing Deposit Fee:	The cost of advertising will be billed directly to the applicant.
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for properties in whole or in part, within 500 feet of the lots shown on the proposed Definitive Plan.

To be paid at the time of plan submission.

LIMITED DEVELOPMENT SUBDIVISION

Application Fee:	\$500.00
Supplemental Fee:	\$ 50.00 for each lot proposed
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for properties in whole or in part, within 100 feet of the lots shown on the proposed Preliminary Plan.

To be paid at the time of plan submission.

OPEN SPACE DEVELOPMENT

Step 1 - Concept Plan

Application Fee:	\$400.00
Public Hearing Deposit Fee:	The cost of advertising will be billed directly to the applicant.
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for properties in whole or in part, within 100 feet of the lots shown on the proposed Open Space Development.

To be paid at the time of plan submission.

Step 2 – Open Space Development Plan

Application Fee:	\$1,000.00
Supplemental Fee:	\$3.00 per linear foot of proposed roadway
Public Hearing Deposit Fee:	The cost of advertising will be billed directly to the applicant.
Mailing Deposit Fee:	Equal to the then in force rate for first class mail, for properties in whole or in part, within 500 feet of the lots shown on the proposed Open Space Development.

To be paid at the time of plan submission.

COMPLETION DATE EXTENSION

Application Fee:	\$200.00
------------------	----------

To be paid at the time of plan submission.

SCENIC ROAD REQUEST

Application Fee: \$ 50.00
Public Hearing Deposit Fee: The cost of advertising will be billed directly to the applicant.
Mailing Deposit Fee: Equal to the then in force rate for first class mail, for properties in whole or in part, within 100 feet of the proposed work.

To be paid at the time of plan submission.

SIGN VARIANCE REQUEST

Application Fee: \$50.00

To be paid at the time of plan submission.

SPECIAL STUDIES BY CONSULTANTS

All expenses in connection with any special consultant's studies, (such as a traffic, impact, ground water or sub-surface study) considered necessary by the Planning Board shall be borne by the applicant in full and shall be in addition to the filing fee or paid directly to the consultant.

All fees to be paid in the form of a check payable to the City of Marlborough.

Signed: _____

Barbara L. Fenby, Chairperson

MARLBOROUGH CITY PLANNING BOARD

FORM A
APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

*File one completed form with the Planning Board and then file a copy
with the City Clerk in accordance with the requirements of §A676-3.*

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission.*

(Date)

To the Marlborough Planning Board:

The undersigned, believing that the accompanying plan of their property in the City of Marlborough does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submit said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant: _____

Address: _____

Email: _____ Telephone: _____

2. Name of Surveyor: _____

Address: _____

Email: _____ Telephone: _____

3. Deed of Property in the South Middlesex Registry of Deeds: _____

4. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

5. Number of lots altered: _____ Number of lots created: _____

Signature of Owner

Print

Address: _____

↑ RESERVED FOR OFFICIAL USE ↑
A copy must be delivered to the City Clerk's Office

FORM A-1

APPLICATION FOR SPECIAL PERMIT FOR A LIMITED DEVELOPMENT SUBDIVISION PLAN

***File one completed form with the Planning Board and a copy
with the City Clerk in accordance with the requirements of §A676-9.***

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission*

(Date)

To the Marlborough Planning Board:

The undersigned, herewith submits the accompanying Preliminary Plan of Property located in the City of Marlborough for approval as a subdivision as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

1. Name of Applicant: _____

Address: _____

Email: _____ Telephone: _____

2. Name of Owner (if different): _____

Address: _____

Email: _____ Telephone: _____

3. Name of Surveyor: _____

Address: _____

Email: _____ Telephone: _____

4. Deed of Property in the South Middlesex Registry of Deeds: _____

5. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

6. Number of Lots shown on the preliminary plan: _____

Signature of Owner

Print

Address: _____



RESERVED FOR OFFICIAL USE



A copy must be delivered to the City Clerk's Office

FORM A-2
APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL
WITH A SPECIAL PERMIT HAVING BEEN GRANTED BY THE PLANNING BOARD FOR A LIMITED
DEVELOPMENT SUBDIVISION

*File one completed form with the Planning Board and then file a copy
with the City Clerk in accordance with the requirements of §A676-3.*

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission.*

(Date)

To the Marlborough Planning Board:

The undersigned, believing that the accompanying plan of their property in the City of Marlborough does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submit said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant: _____
Address: _____
Email: _____ Telephone: _____
2. Name of Surveyor: _____
Address: _____
Email: _____ Telephone: _____
3. Deed of Property in the South Middlesex Registry of Deeds: _____
4. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

5. Special permit approved by Planning Board approved on: _____ (attach special permit to application).

Signature of Owner

Print

Address: _____

↑ RESERVED FOR OFFICIAL USE ↑
A copy must be delivered to the City Clerk's Office

FORM B
APPLICATION FOR APPROVAL OF A PRELIMINARY SUBDIVISION PLAN

***File one completed form with the Planning Board and a copy
with the City Clerk in accordance with the requirements of §A676-9.***

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission*

(Date)

To the Marlborough Planning Board:

The undersigned, herewith submits the accompanying Preliminary Plan of Property located in the City of Marlborough for approval as a subdivision as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

1. Name of Applicant: _____

Address: _____

Email: _____ Telephone: _____

2. Name of Owner (if different): _____

Address: _____

Email: _____ Telephone: _____

3. Name of Engineer: _____

Address: _____

Email: _____ Telephone: _____

4. Deed of Property in the South Middlesex Registry of Deeds: _____

5. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

6. Length of proposed roadway: _____ feet.

Signature of Owner

Print

Address: _____



RESERVED FOR OFFICIAL USE



A copy must be delivered to the City Clerk's Office

FORM B- 1
APPLICATION FOR APPROVAL OF A PRELIMINARY OPEN SPACE CONCEPT PLAN

***File one completed form with the Planning Board and a copy
with the City Clerk in accordance with the requirements of §A676-9.***

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission*

(Date)

To the Marlborough Planning Board:

The undersigned, herewith submits the accompanying Preliminary Plan of Property located in the City of Marlborough for approval as a subdivision as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

1. Name of Applicant: _____

Address: _____

Email: _____ Telephone: _____

2. Name of Owner (if different): _____

Address: _____

Email: _____ Telephone: _____

3. Name of Engineer: _____

Address: _____

Email: _____ Telephone: _____

4. Deed of Property in the South Middlesex Registry of Deeds: _____

5. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

6. Number of Lots shown, without excessive slopes or wetlands: _____

Signature of Owner

Print

Address: _____



RESERVED FOR OFFICIAL USE



A copy must be delivered to the City Clerk's Office

FORM C
APPLICATION FOR APPROVAL OF DEFINITIVE SUBDIVISION PLAN

***File one completed form with the Planning Board and one copy
with the City Clerk in accordance with the requirements of §A676-10.***

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission*

(Date)

☐ Preliminary plan approved on: _____

To the Marlborough Planning Board:

The undersigned, herewith submits the accompanying Definitive Plan of Property located in the City of Marlborough for approval as a subdivision as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

1. Name of Applicant: _____

Address: _____

Email: _____ Telephone: _____

2. Name of Owner (if different): _____

Address: _____

Email: _____ Telephone: _____

3. Name of Engineer: _____

Address: _____

Email: _____ Telephone: _____

4. Deed of Property in the South Middlesex Registry of Deeds: _____

5. Property address, description of property and plan reference: _____ Map: _____ Parcel: _____

6. Length of proposed roadway: _____ feet

Signature of Owner

Print

Address: _____

↑ RESERVED FOR OFFICIAL USE ↑
A copy must be delivered to the City Clerk's Office

FORM C-1
APPLICATION FOR APPROVAL OF OPEN SPACE DEVELOPMENT PLAN

***File one completed form with the Planning Board and one copy
with the City Clerk in accordance with the requirements of §A676-10.***

Marlborough, Massachusetts

*Note: Use as many sheets as necessary to fully describe
all of the properties affected in this plan submission*

(Date)

To the Marlborough Planning Board:

The undersigned, herewith submits the accompanying Definitive Plan of Property located in the City of Marlborough for approval as a subdivision as allowed under the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board in the City of Marlborough.

1. Name of Applicant: _____
Address: _____
Email: _____ Telephone: _____
2. Name of Owner (if different): _____
Address: _____
Email: _____ Telephone: _____
3. Name of Engineer: _____
Address: _____
Email: _____ Telephone: _____
4. Deed of Property in the South Middlesex Registry of Deeds: _____
5. Property address, description of property and plan reference: Map: _____ Parcel: _____

6. Length of proposed roadway: _____ feet

Signature of Owner

Print

Address: _____

↑ RESERVED FOR OFFICIAL USE ↑
A copy must be delivered to the City Clerk's Office

FORM D
PETITION FOR APPROVAL OF FINAL PLAN Page 1
*File one completed form with the Marlborough Planning Board and a copy
with the City Clerk in accordance with the requirements of §A676-10.*

Date: _____.

Subdivision Name: _____.

Applicant(s): _____.

To the Planning Board:

The undersigned petitioner desires to subdivide a parcel of land and to open in the City of Marlborough, as described on plot, ways or street for access to all lots of land within the parcel. Said parcel of land is described as follows:

All as more particularly described and bounded on a plot or plan filed herewith and made a part of this petition. The following are all of the mortgages and other liens or encumbrances on the whole or any part of the described property:

The undersigned hereby applies for the approval of said plan by the Planning Board. The undersigned hereby covenants and agrees with the City of Marlborough upon the approval of said plan:

- a. to complete the ways as finally approved by the Board within **2 years** from the date hereof;
- b. to install utilities in accordance with the Rules and Regulations of the Planning Board, the Commissioner of Public Works, Board of Health, and all general as well as Zoning Ordinances of said City, as are applicable to the installation of utilities within the limits of ways or streets;
- c. to complete and construct the said streets or ways in accordance with Section II (General Requirements) and the approved plan, profile, and cross-sections of same. All to be in accordance with the specifications provided for in said Rules and Regulations of the Board. Said plans, profiles, cross-sections, and construction specifications are specifically, by reference, incorporated herein and made a part of this petition. This petition shall be binding upon all heirs, executors, administrators, successor, grantees of the whole or part, and assigns of the undersigned.

Signature of Applicant(s):

Print: _____

Print: _____

Print: _____

Print: _____

FORM D
PETITION FOR APPROVAL OF FINAL PLAN Page 2

SUBDIVISION NAME: _____

SHEET NO.: _____ (Complete for each sheet of the subdivision plans as submitted)

- (1) Total area of original tract shown on this plan equals _____.
(a) Area in lots Nos. 1, 2, 3, etc. equals _____.
(b) Area in streets A-B-C equals _____.
(c) Area in easements equals _____.
(d) Area reserved for parks, schools, etc., equals _____.
Total area of Subdivision Lots equals _____. (Should equal (1a) above.)
- (2) Streets:
(a) Street _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
(b) Street _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
(c) Street _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
Total Area of Streets equals _____. (Should equal (1b) above.)
- (3) Easements:
(a) Easement _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
(b) Easement _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
(c) Easement _____ : Station _____ + _____ to Station _____ + _____ Equals _____ square feet.
Total Area of Easements equals _____. (Should equal (1c) above.)
- (4) Other Areas:
(a) Park Area (locate) _____ equals _____ square feet.
(b) School Area (locate) _____ equals _____ square feet.
(c) Other (define and locate) _____ equals _____ square feet.
Total remaining area equals _____. (Should equal (1d) above.)
- (5) A grading plan with two-foot (2') contour intervals depicting existing and proposed topographic conditions for the entire subdivision including on and off-site easements. The City shall not accept any design or layouts unless based on an actual on-the-ground survey.

FORM E

CERTIFICATE OF DELINEATION OF PLAN

File one completed form with the Marlborough Planning Board and a copy with the City Clerk in accordance with the requirements of §A676-10.

Date: _____

Subdivision Name: _____

Applicant(s): _____

To the Planning Board:

In preparing the plan entitled _____

my source of information about the location of boundaries shown on said plan were one or more of the following:

1. Deed from _____ to _____

Dated _____ and recorded in the Middlesex South District Registry of Deeds:

Book _____ Page _____

2. Other plans as follows: _____

3. Oral information furnished by: _____

4. Actual measurement on the ground from a starting point established by: _____

5. Other sources: _____

—

Signature of Engineer or Surveyor

FORM G

CONVEYANCE OF EASEMENTS AND UTILITIES

Page 1

File one completed form with the Planning Board and one copy with the City Clerk in accordance with the requirements of Section VI-F.

_____, of _____.
(name of owner) (address of owner)

Middlesex County, Massachusetts; for the consideration of _____.

hereby grants, transfers and delivers unto the City of Marlborough a municipal corporation in Middlesex County, the following:

A. The perpetual rights and easements to construct, inspect, repair, remove, replace, operate and forever maintain (1) a sanitary sewer or sewers with any manholes, pipes, conduits and other appurtenances, (2) pipes, conduits and their appurtenances for the conveyance of water, and (3) a covered surface and ground water drain or drains with any detention/retention basins, manholes, pipes, conduits and their appurtenances, and to do all other acts incidental to the foregoing, including the right to pass along and over the land for all the aforesaid purposes, in, through, and under the whole of _____, dated _____, said plan is made and said plan is incorporated herein for a complete and detailed description of said roads.

B. The perpetual rights and easements to use for _____.
(describe use or purpose)

of the following parcel of land situated on _____ in said City of Marlborough and
(name of street(s))

bounded and described as follows: _____.

_____.

_____.

_____.

The grantor warrants that the aforesaid easements are free and clear of all liens or encumbrances, that he (she/it) has good title to transfer the same, and that he will defend the same against claims of all persons.

For grantor's title see deed from _____ dated _____,

20____, and recorded in Middlesex South District Registry of Deeds, Book _____, Page _____.

This is not a homestead property.

And (to be completed if a mortgage exists) _____.
(name of mortgage holder)

_____ the present holder of a
(name and address)

mortgage on the above described land, which mortgage is dated _____, 20____, and recorded in the

FORM G

CONVEYANCE OF EASEMENTS AND UTILITIES

Page 2

South Middlesex Registry of Deeds as Book _____, Page _____, for consideration paid, hereby releases unto the City of Marlborough forever from the operation of said mortgages, the rights and easements hereinabove granted and assents thereto.

Authorized Signature of Mortgagee

Owner

IN WITNESS WHEREOF we have hereunto set our hand and seals this _____ day of _____ 20 ____.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

_____, 20 ____

Then personally appeared the above named _____
and acknowledged the foregoing to be
his/her/their free act and deed, before me.

Notary Public

My commission expires on: _____.

seal

NOTE: This conveyance is NOT effective until accepted by city council.

FORM H

STREET BOND/ LOT RELEASE REQUEST FORM

File one completed form with the City Engineer in accordance with the requirements of Section III-b.

FILL OUT SECTION A AND RETURN TO THE CITY ENGINEER'S OFFICE – PLANNING BOARD ADMINISTRATOR

SECTION A:

SUBDIVISION: _____ DATE _____.

DEVELOPER: _____.

DATE OF EXPIRATION FOR SUBDIVISION APPROVAL: _____.

NATURE OF REQUEST:

BOND ESTABLISHMENT ☐

LOT RELEASE ☐ COVENANT RECORDING INFORMATION BOOK _____ PAGE _____

BOND REDUCTION ☐ BOND RELEASE ☐ CURRENT BOND AMOUNT \$ _____

BOND EXPIRATION DATE: _____

FORM OF BOND: _____

DESCRIPTION OF WORK PERFORMED: _____

Provide the following:

- Updated Construction Schedule
- Certificate from the Tax Collector stating that all taxes are current and that there are no municipal liens on the property
- Certificate from the Code Enforcement Officer stating that the property is free from blight and other enforcement actions
- Continuation Certificate to verify bond status (current expiration date and bond amount)

The developer should be present at the Planning Board meeting for possible discussion regarding the progress of the construction of the subdivision.

Bond Reductions will not be considered unless the work performed has a value of at least 10% of the current bond amount. _

SECTION B – (FOR OFFICE USE ONLY)

PROJECT REVIEW SUMMARY: _____

DATE SCHEDULED FOR PLANNING BOARD REVIEW: _____.

FORM L
PLANNING BOARD APPLICATION – PRESENTATION PERMISSION FORM

*File one completed form with the Planning Board and then file a copy
with the City Clerk in accordance with the requirements of §A676-3.*

Marlborough, Massachusetts

(Date)

To the Marlborough Planning Board:

I the undersigned, Applicant/Presenter have been given permission by the following property owners to present to the Marlborough Planning Board, the following submittal(s) for their consideration:

For a special permit:

☐ Preliminary Open Space Development Plan

☐ Preliminary Limited Development Subdivision Plan (LDS)

For endorsement/approval:

☐ Approval Not Required (ANR) ☐ (LDS)

☐ Preliminary Subdivision Plan

☐ Open Space Development Plan

☐ Definitive Subdivision Plan

5. Name of Applicant/Presenter: _____

Address _____

Email _____ Telephone _____

Signature: _____

6. Plan Description: _____

7. Property Description:

Map: _____ Parcel: _____

Owner: _____

PRINT

Deed Reference: _____

Signature: _____

Date: _____

Map: _____ Parcel: _____

Owner: _____

PRINT

Deed Reference: _____

Signature: _____

Date: _____

FORM L
PLANNING BOARD APPLICATION – PRESENTATION PERMISSION FORM

Map: _____ Parcel: _____

Owner: _____
PRINT

Deed Reference: _____

Signature: _____

Date: _____

Map: _____ Parcel: _____

Owner: _____
PRINT

Deed Reference: _____

Signature: _____

Date: _____

DRAFT



RESERVED FOR OFFICIAL USE



A copy must be delivered to the City Clerk's Office

Mr. LaVenture explained that if anyone wanted to see the Appendices I, J, they talk about sidewalk cuts, American's with Disability Act, and mailbox placements. He explained there were no changes made to those appendices.

Ms. Fenby asked whether there had been any changes to the cross-sections.

Mr. LaVenture explained that there was only one small change due to an error that Mr. DiPersio had noticed. He touched base on the previously added language regarding, the course depths, soil types, matting and additional definitions.

Mr. LaVenture went over the typical cross-section 1, 2, 3, 4 and 5. He noted, previously they removed the top down views and was it was replaced with verbiage to make it clearer.

Ms. Fenby noted the added landscape easements.

Mr. LaVenture reminded the board that the proposed changes still need to be reviewed by the Mayor, the Council, Departments Heads, MAPC and legal still need to weigh in. However, legal has been involved in the working group discussions, so they have been seeing the language along this process. He thanked Mr. Piques for all his help and time during this process. He noted that H ¼ is still under review.

Ms. Fenby thanked everyone for their time and help during this process.

With no questions from the Board Mr. LaVenture concluded the Working Group's presentation.

All items presented were referred to Legal for review.

11. Calendar Updates (None)

12. Public Notices from other Cities and Towns (None)

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to adjourn the meeting. Yea: Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. (Mr. Elder has been disconnected) Motion carried.



IN CITY COUNCIL

Marlborough, Mass., _____ APRIL 26, 2021

ORDERED:

That the Proposed Rezoning of land at 290 Hudson Street, identified as Map 43, Parcel 38 from Limited Industrial to Residence A-3, be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, MAY 24, 2021.**

Yea: 11 – Nay: 0

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

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 650-8, entitled “Boundaries established; Zoning Map,” is hereby amended as shown on the accompanying map (Exhibit “A”) by re-zoning Map 43, Parcel 38, 290 Hudson Street, and portions of adjoining municipal property from “Limited Industrial District” to “Residence A-3 District.”

ADOPTED

ORDER NO. 21-1008266



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

JASON M. PIQUES
ASSISTANT CITY SOLICITOR

HEATHER H. GUTIERREZ
PARALEGAL

April 20, 2021

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

Re: Hudson Street Rezoning
Map 43, Parcel 38. 290 Hudson Street

Dear Honorable President Ossing and Councilors:

As requested by Councilor John J. Irish, enclosed please find the above-referenced proposed order to amend the City of Marlborough Zoning Ordinance, Zoning Map, Section 650-8. I have reviewed the proposed amendment and it is in proper legal form.

Please contact me if you have any questions or concerns.

Respectfully,

Jay Piques
Assistant City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Jason D. Grossfield, City Solicitor
Thomas DiPersio, City Engineer

U/A
- Planning Board
- Adversely
- P/H 5-24-21

ORDERED:

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 650-8, entitled "Boundaries established; Zoning Map," is hereby amended as shown on the accompanying map (Exhibit "A") by re-zoning Map 43, Parcel 38, 290 Hudson Street, and portions of adjoining municipal property from "Limited Industrial District" to "Residence A-3 District."

ADOPTED
In City Council
Order No. 21-
Adopted

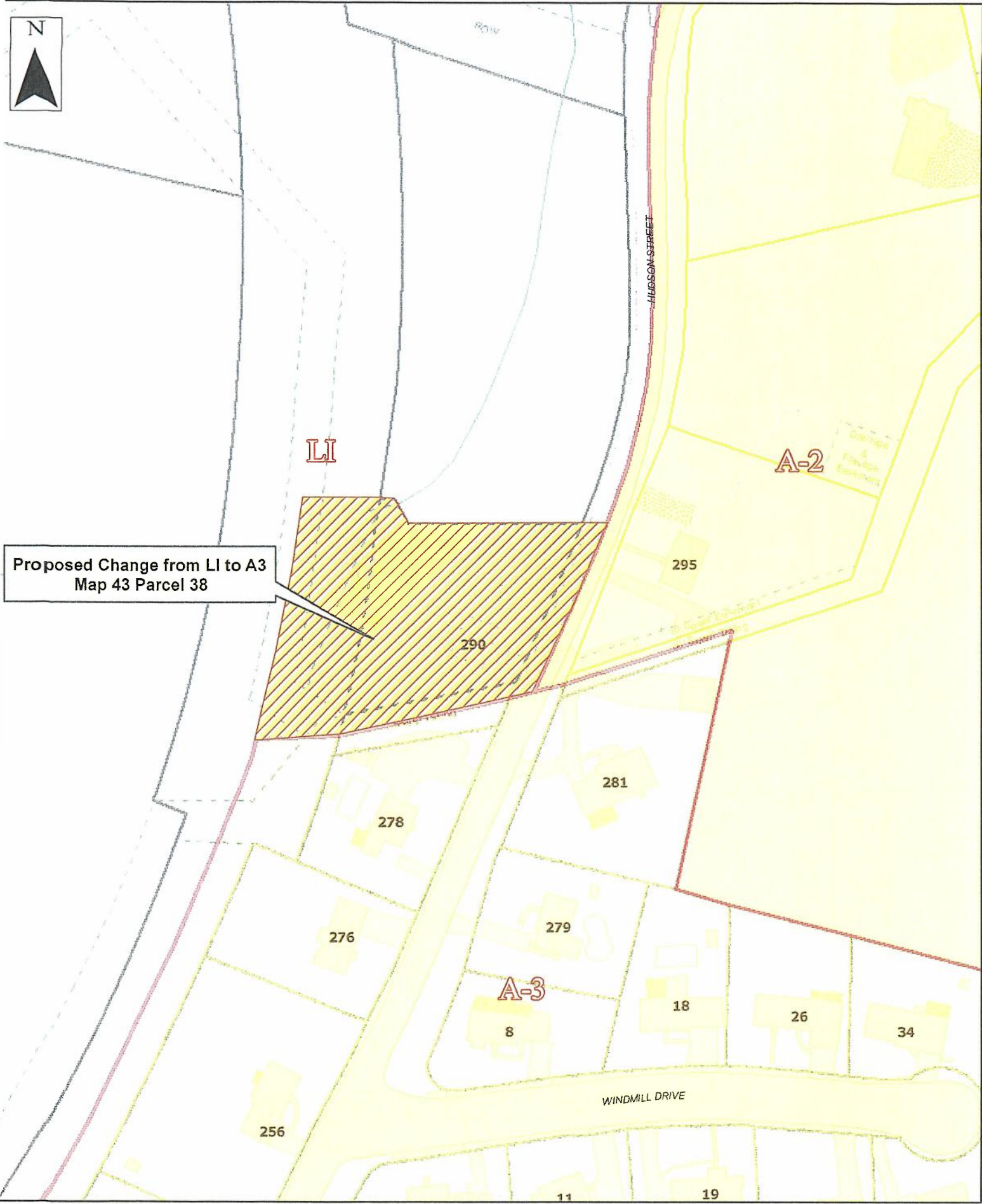
Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

EXHIBIT A



Proposed Change from LI to A3
Map 43 Parcel 38



**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK
MARLBOROUGH, MASSACHUSETTS 01752**

LEGAL NOTICE

Public Hearing –Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, Map 43, Parcel 38.

Notice is hereby given that the City Council of the City of Marlborough will hold a **PUBLIC HEARING** on **Monday, May 24, 2021 at 8:00 PM** in the City Council Chamber, 2nd floor, City Hall, 140 Main Street, Marlborough, Massachusetts to amend the zoning map established by Chapter 650 §8.

The materials will be available online at www.marlborough-ma.gov/city-council under Public Hearing Notices in addition they are also available in the Office of the City Clerk, City Hall, 140 Main Street, Marlborough, MA 01752, Telephone 508-460-3775.

PLEASE NOTE: Due to the Covid-19 pandemic and State of Emergency in Massachusetts, this hearing may be conducted by remote participation or in person. If this hearing is to be held remotely, instructions on how to participate will be posted on the Marlborough City Council agenda which can be found on the City Council page at www.marlborough-ma.gov/city-council.

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 650-8, entitled “Boundaries established; Zoning Map,” is hereby amended as shown on the accompanying map (Exhibit “A”) by re-zoning Map 43, Parcel 38, 290 Hudson Street, and portions of adjoining municipal property from “Limited Industrial District” to “Residence A-3 District.”

***Per Order of the City Council
#21-1008266***



IN CITY COUNCIL

Marlborough, Mass., APRIL 26, 2021

ORDERED:

PAGE 1

That the Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects, be and is herewith referred to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, MAY 24, 2021.**

Yea: 10 – Nay: 1

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

Nay: Robey.

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:

1. By inserting a new Section 650-61 entitled “Temporary Moratorium for Multi-Family Housing Projects” as follows:

Section 650-61. Temporary Moratorium for Multi-Family Housing Projects

A. Purpose

Section 18 of chapter 358 of the Acts of 2020 adds a new section 3A to the Zoning Act (Chapter 40A of the General Laws) applicable to MBTA communities, including the city of Marlborough, providing 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 Massachusetts Department of Housing and Community Development is required to promulgate guidelines to determine if an MBTA community is in compliance with section 3A, and the Department intends to issue more detailed guidelines on compliance criteria. These new requirements raise complex and novel zoning, planning, legal, and public infrastructure issues. Detailed guidelines will be informative to the city and its planning and zoning processes for siting multi-family residential uses. There is significant continued interest in the development of land and buildings for multi-family residential uses within the city which require consideration of how such development corresponds to various public infrastructure impacts. This section will allow the city time to undertake any necessary planning or zoning process to address the potential impacts of housing in the city, and consider the Department’s forthcoming detailed guidelines (once issued) and whether to amend its Zoning Ordinance.



IN CITY COUNCIL

Marlborough, Mass., APRIL 26, 2021

ORDERED:

PAGE 2

B. Temporary Moratorium

- (1) Notwithstanding any other provision of the Zoning Ordinance to the contrary, no special permit or site plan approval shall be issued for construction of multi-family housing projects for the period commencing on the first publication of notice of the public hearing on this zoning ordinance amendment and ending 90 days from the date of approval of this zoning amendment by the City Council. This moratorium shall apply to any use of land for 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, in all zoning districts in the city. In no case shall the City accept an application for special permit or site plan approval for said housing project during this period.
- (2) The provisions of this section shall not apply to an application for a special permit or site plan approval filed with the City Clerk, or granted, prior to the date of the first publication of notice of the public hearing on this zoning ordinance amendment.
- (3) Notwithstanding this section, the Building Commissioner may authorize submittal of such an application pertaining to existing housing deemed by the Building Commissioner to constitute blight, a dilapidated building, a hazard or a nuisance, as defined by section 485-2 of the City Code; provided, however, that the Building Commissioner make any such authorization expressly conditional on the City Council's subsequent decision to process the application.

ADOPTED

ORDER NO. 21-1008274



City of Marlborough
Office of the Mayor

RECEIVED
CITY CLERK'S OFFICE
MARLBOROUGH

Arthur G. Vigeant
MAYOR

2021 APR 22 A 11:36

Patricia M. Bernard
EXECUTIVE AIDE

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

Ryan P. Egan
EXECUTIVE SECRETARY

April 22, 2021

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

RE: Request for 90 Day Housing Moratorium

Honorable President Ossing and Councilors:

I am requesting the City Council to put a 90-day moratorium on accepting new housing projects. This requested moratorium does not include single family homes. I ask that the Council to advertise simultaneously while referring to Committee for further discussion. Enclosed is a draft of the proposed permitting moratorium.

We currently have 13 projects that are permitted or under consideration, totaling 1,888 units. We are waiting on the definitive regulations of the Governor's housing bill so we can adapt and potentially capitalize on state grant funding that is relevant to housing and transportation. I anticipate that we will have information from the Commonwealth within 90 days and can make more informative decisions going forward.

Please do not hesitate to contact me with any questions you may have.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosure

ORDERED:

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ADOPTED

In City Council

Order No. 21-

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST

**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK
MARLBOROUGH, MASSACHUSETTS 01752**

LEGAL NOTICE

Public Hearing –Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects.

Notice is hereby given that the City Council of the City of Marlborough will hold a Public Hearing on **Monday, May 24, 2021 at 8:00 PM** in the City Council Chamber, 2nd floor, City Hall, 140 Main Street, Marlborough, Massachusetts to amend Chapter 650 by adding a new §61 Temporary Moratorium for Multi-Family Housing Projects.

PLEASE NOTE: Due to the Covid-19 pandemic and State of Emergency in Massachusetts, this hearing may be conducted by remote participation or in person. If this hearing is to be held remotely, instructions on how to participate will be posted on the Marlborough City Council agenda which can be found on the City Council page at www.marlbrough-ma.gov/city-council. Any questions, please contact the City Clerk's Office.

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:

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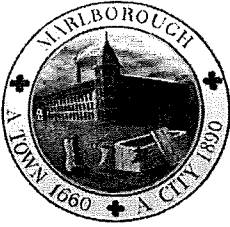
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City of Marlborough
Department of Public Works

135 NEIL STREET
 MARLBOROUGH, MASSACHUSETTS 01752
 TEL. 508-624-6910
 *TDD 508-460-3610

JOHN L. GHILONI
COMMISSIONER

May 3, 2021

Dr. Barbara L. Fenby, Chairwoman - Marlborough Planning Board
 c/o Katlyn Miller – Planning Board Administrator
 135 Neil Street
 Marlborough, MA 01752

RE: ANR - Map 111 Parcel 1 & Map 112 Parcel 10A

Dear Dr. Fenby,

Pursuant to the request of the Marlborough Planning Board at the meeting held on April 26, 2021, I have reviewed the following ANR plan submission dated August 8, 2019 and revised on September 5, 2019:

PLAN OF LAND
 CEDAR HILL STREET & SIMARANO DRIVE
 MARLBOROUGH, MA

PREPARED FOR:
 IPG PHOTONICS CORPORATION
 50 OLD WEBSTER ROAD
 OXFORD, MA 01540

PROPERTIES OWNED BY:

IPG PHOTONICS CORPORATION
 50 OLD WEBSTER ROAD
 OXFORD, MA 01540

BH GRP TCAM OWNER LLC
 100 CAMPUS DRIVE
 MARLBOROUGH, MA 01752

PREPARED BY:
 BRUCE SALUK & ASSOCIATES, INC.
 576 BOSTON POST ROAD - EAST
 MARLBOROUGH, MA 01752

The purpose of the plan is to modify the property line between two properties:

- Map 111 Parcel 1, off Simarano Drive – owned by IPG Photonic Corporation, currently containing 12.34 acres.

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

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

- Map 112 Parcel 10A, off Campus Drive – owned by BH GRP TCAM Owner LLC, currently containing 97.28 acres.

“Parcel A”, as shown on the plan, containing 122,518 square feet, would be transferred from BH GRP TCAM Owner LLC to IPG Photonic Corporation, providing a physical connection to other property owned by IPG Photonic Corporation on Cedar Hill Street.

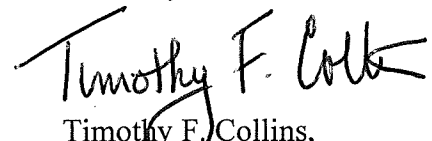
“Parcel B”, as shown on the plan, containing 122,668 square feet, would be transferred from IPG Photonic Corporation to BH GRP TCAM Owner LLC.

The “land swap” would result in a change of area of 150 square feet (0.0034 acres), which is considered unremarkable given the size of the two lots and thus no change in the area of land for each parcel would be noted on the City’s Assessor’s Maps.

Both “Parcel A” and “Parcel B” do not have any frontage and it is correctly noted on the plan that these parcels “shall not be used as separate building lots, but only used together with adjacent lots having area and frontage required by the Marlborough Zoning Code.”.

Should you have any questions regarding this matter, please do not hesitate to contact me at (508) 624-6910.

Sincerely,


Timothy F. Collins,
Assistant City Engineer

cc: Sean M. Divoll, P.E. - DPW Commissioner.
Thomas DiPersio, Jr., P.E., P.L.S. – City Engineer

DATE: DECEMBER 10, 2020

CEDAR HILL ST & SIMARANO DRIVE
MARLBOROUGH, MA

PREPARED BY:
BRUCE SALUK & ASSOC., INC.
CIVIL ENGINEERING & LAND SURVEYING
576 BOSTON POST ROAD EAST
MARLBOROUGH, MA 01752
TEL: 508-485-1552
FAX: 508-481-9929

[illegible]

FOR REGISTRY USE

APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED.

MARLBOROUGH PLANNING
BOARD

MEMBER:

NOTES:

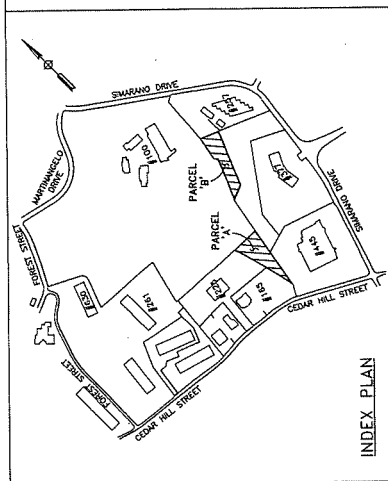
- THE LAND OWNED BY UNITED GLASS ASSOCIATES PARCELS, IGA ON MAP 117
AND ADJACENT PARCELS ON MAP 117, ARE LOCATED IN ZONE 7
(INDUSTRIAL). THE SURVEY WAS PERFORMED ON AUGUST 2020 &
NOVEMBER 2016.
2. THE PARCELS DESCRIBED IN THIS PLAN IS IN CONVEY:
- o PARCELS OWNED BY IGC PHOTONICS CORPORATION -
to BIP CDP TOWN OWNER LLC.
 - o PARCELS "A" & "B" SHALL NOT BE USED AS SEPARATE
PARCELS. THE PARCELS SHALL BE USED AS ONE UNIT
ADJACENT LOTS HAVING THE AREA AND FRONTAGE
REQUIRED BY THE MANHATTAN ZONING CODE.
3. THE PROPERTY DESCRIBED ON THIS SURVEY DOES NOT HAVE FEDERAL,
STATE OR LOCAL EASEMENTS, RIGHTS OF WAY, OR OTHER
ENCUMBRANCES. THE PROPERTY LIES WITHIN ZONE
7 (INDUSTRIAL) AND IS BEING RECLASSIFIED TO
ZONING DISTRICT 7 (INDUSTRIAL) BECOMING AN EFFECTIVE DATE OF JULY 7, 2014.
4. PROPERTY OWNERS:
- o BIP CDP TOWN OWNER LLC
10000 WILSON ROAD
MANHATTAN, MO 64523
 - o IGC PHOTONICS CORPORATION
50 OLD WESTER ROAD
CONROLD, MO 63740
5. DEED REFERENCES:
- o BNC 178500 PL 455
 - o BNC 178500 PL 451
 - o BNC 178500 PL 450
 - o BNC 5131 PL 456
 - o BNC 47277 PL 173
 - o BNC 47277 PL 172
 - o BNC 47498 PL 352
 - o BNC 47498 PL 353
6. PLAN REFERENCES:
- | PLAN | YEAR |
|------|------|
| 1288 | 1997 |
| 143 | 2015 |

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.

DATE _____ REG. LAND SURVEYOR _____



INDEX PLAN



May 5, 2021

VIA EMAIL

Town of Marlborough Planning Board
c/o Katlyn Miller
140 Main Street
Marlborough, MA 01752
kmiller@marlborough-ma.gov

*Re: RK Associates-Marlboro, Inc.
Petition for Sign Variance
191-237 Boston Post Road West (Route 20), Marlborough, Massachusetts*

Dear Members of the Planning Board:

RK Associates-Marlboro, Inc. requests a continuance of its Petition for Sign Variance at 191-237 Boston Post Road West to the Planning Board's June 7, 2021 hearing.

Thank you for your attention to this matter.

Very truly yours,



Michael E. Brangwynne
FLETCHERTILTON PC
12 Post Office Square, 6th Floor
Boston, MA 02109
P: 617-336-2281 | F: 617-336-4481
Email: mbrangwynne@fletchertilton.com

Fletcher Tilton



City of Marlborough
Department of Public Works

135 NEIL STREET
 MARLBOROUGH, MASSACHUSETTS 01752
 TEL. 508-624-6910
 *TDD 508-460-3610

JOHN L. GHILONI
 COMMISSIONER

May 6, 2021

Dr. Barbara L. Fenby, Chairwoman - Marlborough Planning Board
 c/o Katlyn Miller – Planning Board Administrator
 135 Neil Street
 Marlborough, MA 01752

RE: Lot Release - #70 Robert Road

Dear Dr. Fenby,

Our office received a request from Pino Law Offices, regarding the release of a Covenant for Hayes Estates, specifically for #70 Robert Road. I have reviewed the subdivision file and offer the following:

- The Definitive Subdivision Plan contains registered land and unregistered land.
- The document attached to the original inquiry is related to registered land – LC Lot 15 (a portion of Lot 7 - #70 Robert Road). Specifically, the recorded Covenant – the attorney is looking for a Lot Releases from the Covenant.
- I have attached a copy of the Land Court Plan [LC Plan 6759G.pdf] and portions of the Definitive Subdivision Plan [Def. Subdivision Plan No 1576 of 1987.pdf] showing the Land Court sections (highlighted) of the Definitive Subdivision Lots.
- I could find no record of a Covenant having been recorded at the South Middlesex Registry of Deeds, other than for the Land Court section shown in the original attachment.
- The roadways were completed and became Public Ways on May 22, 2006 – Council Order 06100-1069A

I have drafted a Lot Release, which has been reviewed and approved as to form by the Legal Department, for your consideration.

Should you have any questions regarding this matter, please do not hesitate to contact me at (508) 624-6910.

Sincerely,

Timothy F. Collins
 Timothy F. Collins,
 Assistant City Engineer

cc: Sean M. Divoll, P.E. - DPW Commissioner.
 Thomas DiPersio, Jr., P.E., P.L.S. – City Engineer
 Jason Piques – Assistant City Solicitor

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

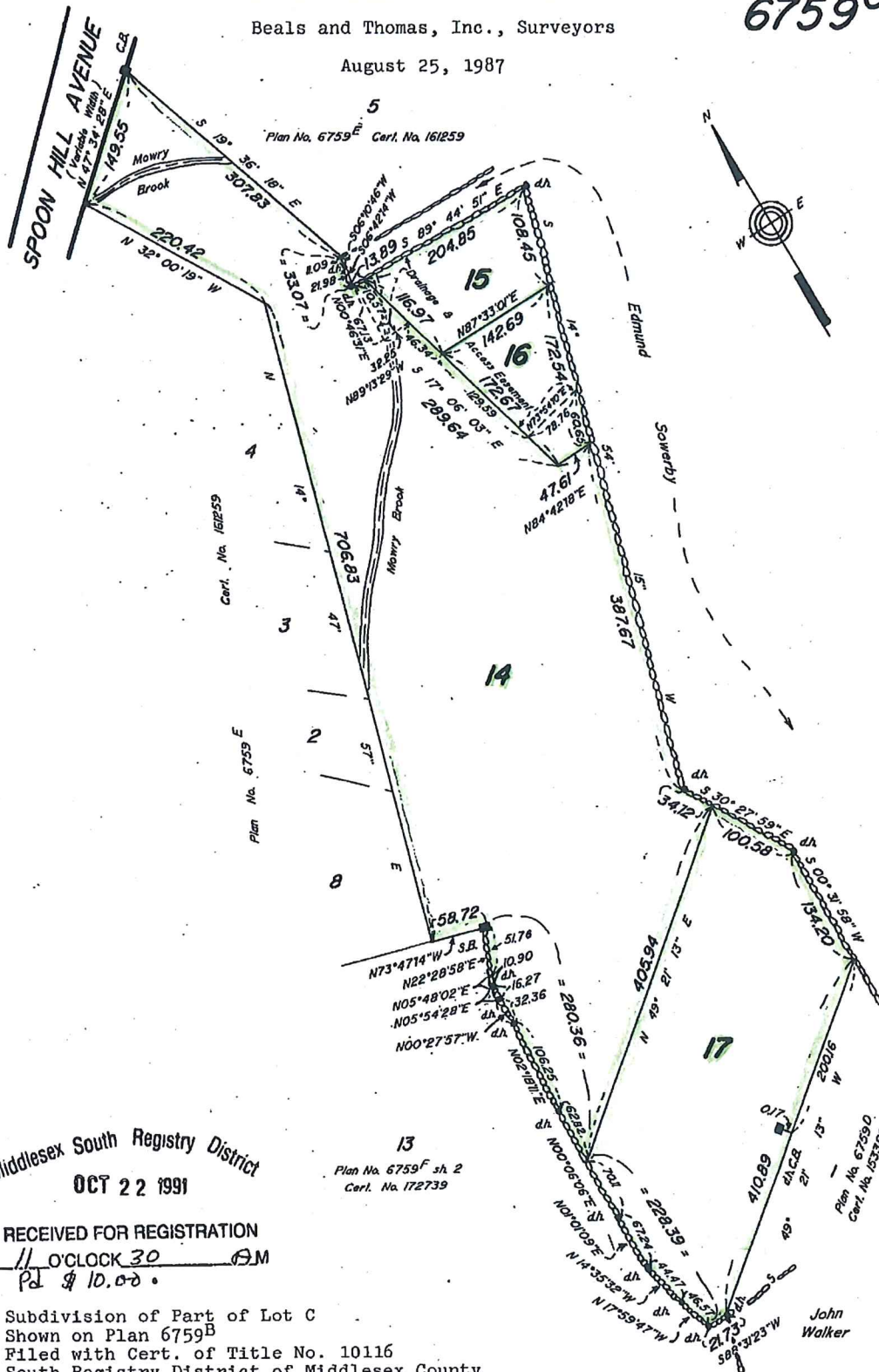
THOMAS DIPERSIO, P.E., P.L.S.
 CITY ENGINEER

SUBDIVISION PLAN OF LAND IN MARLBOROUGH

Beals and Thomas, Inc., Surveyors

August 25, 1987

6759^G



Middlesex South Registry District
OCT 22 1991

RECEIVED FOR REGISTRATION
11 O'CLOCK 30 AM
Pd \$ 10.00

Subdivision of Part of Lot C
Shown on Plan 6759^B
Filed with Cert. of Title No. 10116
South Registry District of Middlesex County

Separate certificates of title may be issued for land
shown hereon as Lots 14, 15, 16 and 17
By the Court.

Charles Thomas
Recorder

Nov. 10, 1987

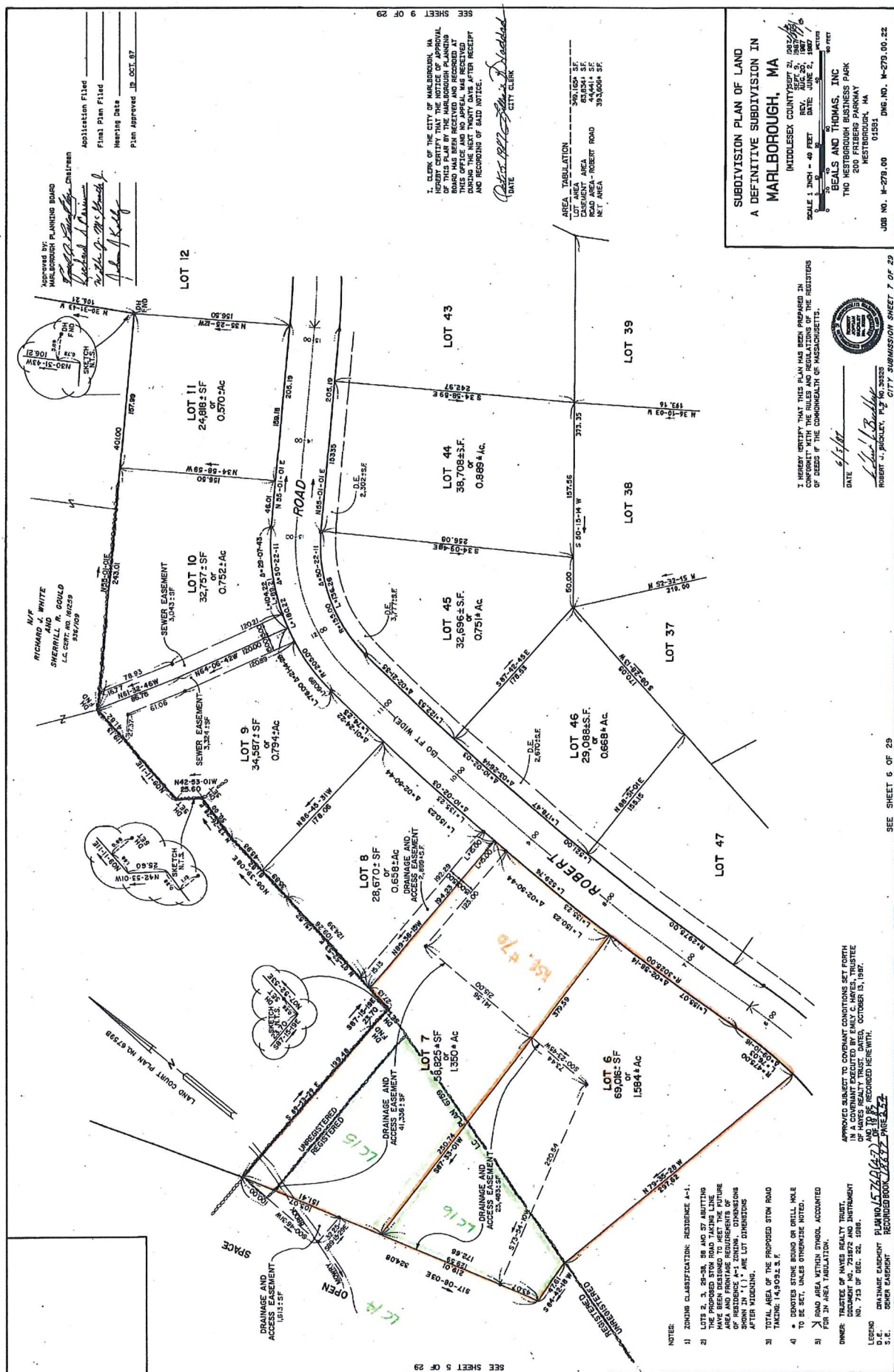
Abutters are shown as
on original decree plan.

Copy of part of plan

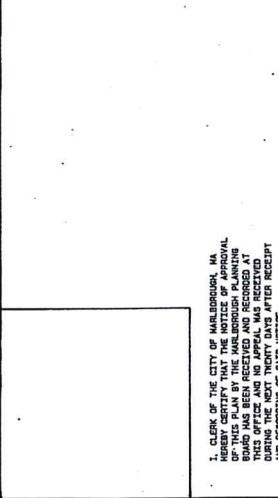
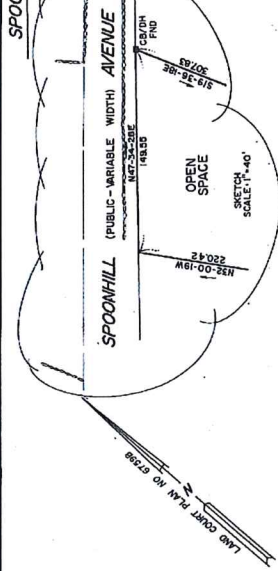
LAND REGISTRATION OFFICE

Nov. 10, 1987

Scale of this plan 120 feet to an inch
Louis A. Moore, Engineer for Court



SPoonHILL AVENUE (PUBLIC-VARIABLE WIDTH) AVENUE



1. CLERK OF THE CITY OF MARLBOROUGH, MA
HEREBY CERTIFY THAT THE NOTICE OF APPROVAL
OF THIS PLAN BY THE MARLBOROUGH PLANNING
BOARD WAS MAILED TO THE REGISTERED MAIL
OFFICE OF THE CITY OF MARLBOROUGH, MA
ON THE NEXT THIRTY DAYS AFTER RECEIPT
AND RECORDING OF SAID NOTICE.

DATE: 10/12/87
CITY CLERK

APPROVED BY: PLANNING BOARD
CHAIRMAN: [Signature]
MEMBERS: [Signatures]
Application Filed: [Date]
Final Plan Filed: [Date]
Hearing Date: [Date]
Plan Approved: 10 OCT 87

APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH
IN A COVENANT EXECUTED BY DAVID C. HAYES, TRUSTEE
OF HAYES REALTY TRUST, DATED, OCTOBER 13, 1987,
AND TO BE RECORDED FORTHWITH.

AREA TABULATION
OPEN SPACE AREA: 273,201 SF
EASEMENT AREA: 1,805 SF
NET AREA: 275,006 SF

- NOTES
- 1) ZONING CLASSIFICATION: RESIDENCE A-1.
 - 2) LOTS 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

LEGEND
D.E. DRAINAGE EASEMENT
S.E. SENIOR EASEMENT

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN
CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTER
OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

DATE: 6/6/87
[Signature]
ROBERT J. BUCKLEY, JR. No. 33289

SUBDIVISION PLAN OF LAND
A DEFINITIVE SUBDIVISION IN
MARLBOROUGH, MA

(MIDDLESEX COUNTY)
SEPT. 24, 1987
NOT RECORDED
DATE: JUNE 2, 1987
SCALE: 1 INCH = 40 FEET
REALS AND THOMAS, INC.
200 FRIBERG PARKWAY
MARLBOROUGH, MA
JOB NO. M-279.00
DWS NO. M-279.00.20

CITY SUBMISSION SHEET 5 OF 29

SEE SHEET 4 OF 29

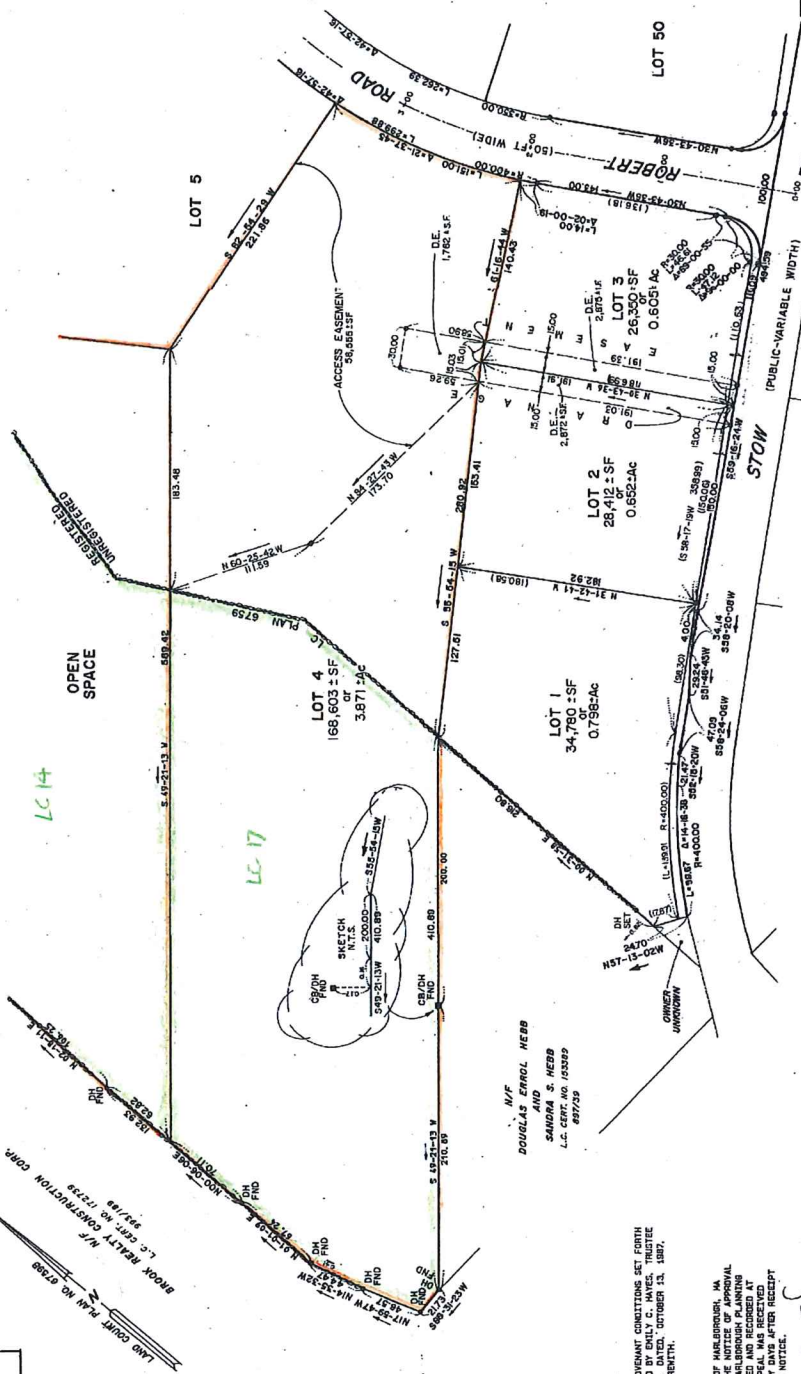
LOT 4 LC 17

PLAN NO. 15741A-2
RECORDED BOOK 21627-1 PAGE 15

1574A-2

5-3779
MPS-2364

LAND DOWN PLAN NO. 67288
BROOK REALTY CONSTRUCTION CORP.
L.C. 1000 NO. 12258
N/F



AREA TABULATIONS
GROSS AREA 230,140 ± S.F.
NET AREA 183,943 ± S.F.
NOTE: ROAD AREA ACCOUNTED FOR ON SHEET 6 OF 29

PROPOSED AREA TO BE DEED TO THE CITY OF MARLBOROUGH FOR STREET WIDENING PURPOSES
LOT 1 1,228 ± S.F.
LOT 2 27,897 ± S.F.
LOT 3 25,800 ± S.F.

LEADING D.E. DRAINAGE EASEMENT S.E.

NOTE:

- 1) ZONING CLASSIFICATION: RESIDENCE R-1.
 - 2) LOTS 2, 3, 20-30, 31 AND 37 SETTING BACK FROM THE STOW ROAD HAVE BEEN DESIGNED TO MEET THE FUTURE AREA AND FRONTAGE REQUIREMENTS OF THE STOW ROAD. THE SETTING BACKS SHOWN IN "1.1" ARE LOT DIMENSIONS AFTER WIDENING.
 - 3) TOTAL AREA OF THE PROPOSED STOW ROAD TAKING 14,909 ± S.F.
 - 4) * DENOTES STONE BOUND OR DRILL HOLE TO BE SET, UNLESS OTHERWISE NOTED.
 - 5) * ROAD AREA WITHIN STONEL ACCOUNTED FOR IN AREA TABULATION.
- OWNER: TRUSTEE OF HAYES REALTY TRUST, DEEDBOOK NO. 734672 AND INSTRUMENT NO. 713 OF DEC. 22, 1985.

APPROVED SUBJECT TO COVENANT CONDITIONS SET FORTH IN A COVENANT DECEASED BY EMILY C. HAYES, TRUSTEE OF THE HAYES TRUST, DATED JAN. 1, 1987, AND TO BE RECORDED HERENTH.

T. CLERK OF THE CITY OF MARLBOROUGH, MA
THIS PLAN HAS BEEN RECEIVED AND RECORDED AT THE OFFICE OF THE CLERK OF THE CITY OF MARLBOROUGH, MA, AND TO BE RECORDED HERENTH.

DATE 10/18/87
CITY CLERK

APPROVED BY:
MARLBOROUGH PLANNING BOARD
Application Filed
Final Plan Filed
Hearing Date
Plan Approved 10 OCT 87

PLANNING 1576A-3 OF 1987
RECORDED BOOK 12847 PAGE 232

SUBDIVISION PLAN OF LAND
A DEFINITIVE SUBDIVISION IN
MARLBOROUGH, MA

MIDDLESEX COUNTY, MASS.
REV. 21, 1987
REV. 22, 1987
SCALE 1" = 40' FEET
DATE 10/18/87

BEALS AND THOMAS, INC.
200 FRIBBER PARKWAY
NESTLEBOROUGH, MA 01854

JOB NO. W-279.00
DIB. NO. W-279.00.10
01854

S-279
MPS-2364

1576A-3



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

DATE 10/18/87
ROBERT W. BUCKLEY, JR. NO. 3025
CITY SUBMISSION 4 OF 29

RELEASE OF LOT(S)

The undersigned, representing the Planning Board of the City of Marlborough, Massachusetts, hereby certify that the construction of ways and installation of municipal services required to serve certain lots, as designated below, in accordance with the Covenant dated October 13, 1987 and recorded in the Middlesex South District Registry of Deeds, Land Court Certificate #181604, Document #761241, have been completed and that said lots being shown on a plan entitled "Hayes Estates Subdivision Plan of Land in Marlborough, Mass." dated June 2, 1987 and revised on September 18, 1987, prepared by Beals and Thomas, Inc., recorded with said Registry of Deeds, as Recorded Plan Number 1576 of 1987, Book 18697 Page 254, and Certificate #10116, Document Number 51005957 that restrictions as to building and sale specified in said Covenant have been released as to the following enumerated lots:

Lots 14 through Lot 17 as shown on Land Court Plan 6759G:

- LC Lot 14 – being a portion of the Open Space Lot, as shown on the Definitive Subdivision Plan
- LC Lot 15 – being a portion of Lot 7, as shown on the Definitive Subdivision Plan, with the address of #70 Robert Road (Assessor's Map 33 - Parcel 79),
- LC Lot 16 – being a portion of Lot 6, as shown on the Definitive Subdivision Plan, with the address of #52 Robert Road (Assessor's Map 33 - Parcel 78),
- LC Lot 17 – being a portion of Lot 4, as shown on the Definitive Subdivision Plan, with the address of #22 Robert Road (Assessor's Map 46 - Parcel 58).

Executed on this ____th day of May, 2021.

By _____, Chair

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

_____, 2021

Then personally appeared **Barbara L. Fenby**, Chairperson of the Marlborough Planning Board and acknowledged before me that the foregoing instrument is a free act and deed of said Planning Board.

Notary Public

My Commission Expires:

title-exam.com

MCDONOUGH & NOVAK, INC.

✱

ESTATE: 70 Robert Road, Marlborough Sheet#
 OWNERS: Vijay Dalal & Sangita V. Dalal Deed Doc. 1,791,407 / 71264-287 129
 Tenancy: husband & wife, tenants by the entirety Dated 6/29/2018
 DESCRIPTION: Lot 7 shown on Plan No. 1576A of 1987 (Included is Lot 15, land Court Plan 6759G) 3(4)
 SAID ESTATE SUBJECT TO: Mortgages.

Date Lender-\$ Book-Page

*Need
Discharge*

PRIOR OWNER:			
<u>12/13/2012</u>	<u>MERS/ Patriot Community Bank</u>	<u>\$391,000.00</u>	<u>60766-465</u> 125
	<u>discharged on Registered side only</u>		<u>Doc. 1,793,076</u> 128
CURRENT OWNER:			
<u>7/2/2018</u>	<u>Polish National Credit Union</u>	<u>\$424,000.00</u>	<u>Doc. 1,791,408 / 71264-290</u> 132
	<u>Homestead</u>		<u>Doc. 1,791,409 / 71264-305</u> 136
EASEMENTS, TAKINGS, RESTRICTIONS...			
	<u>Wetlands conditions set forth in deeds</u>		
	<u>Drainage & Access Easement shown on said plan</u>		<u>Plan No. 1576A of 1987</u> 3
	<u>Eminent Domain Taking of Land</u>		<u>Doc. 387,739</u> 49

Easements, Takings, Restrictions, Covenants, Other...

*also?
also
n.c.*

<u>Board of Appeals Notice of Variance - schB</u>	<u>Doc. 553,681</u>	<u>53</u>
<u>Order from the Dept. of Environmental Management - schB</u>	<u>Doc. 569,227</u>	<u>54</u>
<u>Easement to the American Telephone & Telegraph Company - schB</u>	<u>11940-710</u>	<u>63</u>
<u>Planning Board Covenant</u>	<u>Doc. 761,241</u>	<u>76</u>
<u>Conservation Order of Conditions DEP File No. 212-258</u>	<u>Doc. 761,015 & 18697-249</u>	<u>79</u>
<u>as affected by Amendment</u>	<u>Doc. 982,105 & 25634-413</u>	<u>80</u>
<u>as affected by Certificate of Compliance</u>	<u>46844-125</u>	<u>81</u>
<u>Conservation Order of Conditions DEP File No. 212-301</u>	<u>20439-508</u>	<u>84</u>
<u>as affected by Amendment</u>	<u>25624-351</u>	<u>85</u>
<u>as affected by Certificate of Compliance</u>	<u>46844-128</u>	<u>86</u>
<u>Easement to Massachusetts Electric Company</u>	<u>19140-516</u>	<u>89</u>

SEE MORE EASEMENTS IN REMARKS

Note: Bankruptcy index unreliable & not available in all registries.

REMARKS: <u>Sewer Easement - schB</u>	<u>20321-125</u>	<u>94</u>
<u>Declaration of Protective Covenants - schB</u>	<u>24667-492</u>	<u>109</u>
<u>Easement to the City of Marlborough - schB</u>	<u>26760-319</u>	<u>115</u>

MY EXAMINATION BEGINS: 11/10/69 & 8/17/49

AND ENDS: 4/12/2021

Initials: JM

CATIS

3/2

Sbrown C Marlborough - m.A. 500

7 6 1 2 4 1

LAND COURT, BOSTON. The land
herein described will be shown on
our approved plan to follow as

96

COVENANT

NOV 10 1987

Plan 6759 G Lots 14 thru 17
(EXAMINED AS TO DESCRIPTION ONLY)
Louis A. Moore, Engineer P.C.S.

The Undersigned, Emily C. Hayes, Trustee of
Hayes Realty Trust,
referred to as the Covenantor, having submitted to the Marlborough
Planning Board a definitive plan of a subdivision entitled "Hayes
Estates, Subdivision Plan of Land in Marlborough, Mass.",
dated June 2, 1987 and revised September 18, 1987
drawn by Beals and Thomas, Inc. (said plan being hereinafter
called the "Plan"), in accordance with the conditions of Approval as
voted by the Planning Board on September 14, 1987, does here-
by covenant and agree with said Planning Board, pursuant to Massa-
chusetts General Laws (Ter. Ed.) Chapter 41, Section 81-U, as amended
that:

1. The Covenantor is the owner of record of the premises shown on the Plan, which is to be recorded with this Covenant in the Middlesex South District Registry of Deeds.
2. This Covenant shall run with the land and be binding upon the successors and assigns of the Covenantor and its successors in title to the premises shown on the Plan.
3. The construction of ways and the installation of municipal services shall be provided to serve any and all lots in accordance with the applicable rules and regulations of said Planning Board before any such lot may be built upon or conveyed, other than by mortgage deed; provided, however, that a mortgagee who acquires title to the mortgaged premises or any part thereof may sell any such lot, subject only to that portion of this Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot.
4. Nothing herein shall be deemed to prohibit a conveyance subject to this Covenant, by a single deed, of the entire parcel of land shown on the Plan or all lots not previously released by the Planning Board without first providing such ways and services. A deed of any part of the premises shown on the Plan in violation of any portion of the above referenced statute shall be voidable by the grantee prior to the release of the Covenant, but not later than three (3) years from the date of such deed.
5. The Covenantor agrees to the easements shown on the Plan and will grant to the City of Marlborough the easements shown. Further, the Covenantor will submit to the City Solicitor's Office a written Attorney's Certification of Title to such easements to the City of Marlborough, specifying that the

7/26

Covenantor has good and marketable title to said easements and that said easements are free and clear of all encumbrances as of the time of conveyance to the City. Said Certificate shall be a required precedent to consideration by the City to accept any streets, ways, or roads as shown on the Plan.

6. Prior to the release by the Planning Board of any lots shown on the Plan from the terms of this Covenant, the Covenantor shall deposit with the City of Marlborough a Performance Bond in an amount to be determined by the Planning Board, said bond to be secured by the posting of cash, or by a surety company bond or by such other form of security as may be approved by the Planning Board. Said bond shall be to secure the performance by the Covenantor of the construction of the ways and the installation of municipal services as required by the Approval of the Plan, which ways and services will be constructed and installed within the time requirements as stipulated herein. The amount of the bond may be reduced from time to time by said Planning Board. However, due to present and anticipated future inflationary conditions, the amount of the Performance Bond is subject to annual redetermination by the Planning Board.
7. Pursuant to Rules and Regulations of the Planning Board, Section III (B) (7) (a), as amended, such bond or security, when filed or deposited shall be reviewed as to form and manner of execution by the City Solicitor's Office, and as to sureties by the City Treasurer.
8. No lot shall be built upon until such time as it has been approved by the Marlborough Board of Health.
9. No lot shall be sold or built until released by the Planning Board after acceptable bonding.
10. Pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81R, as amended, the Planning Board has agreed to waive compliance with its Rules and Regulations, Section V.B.2. to allow 32' of pavement in place of the required 36'.

EXECUTED AS A SEALED INSTRUMENT this 13th day of October
1987

By: Emily C. Hayes, Trustee
 Emily C. Hayes, Trustee of Hayes Realty Trust

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. October 13 19 87

Then personally appeared the above-named Emily C. Hayes, Trustee
 as aforesaid, and acknowledged the foregoing instrument to be the free
 act and deed of said Hayes Realty Trust, before me.

My Commission expires:

David L. Mitchell
 Notary Public David L. Mitchell

9-5-91

Approved and Accepted:

Marlborough Planning Board, CITY OF MARLBOROUGH

John R. Shaw

Paul D. Priest

John J. Kelly

with J. McGrath

79 5-6

