

# CITY OF MARLBOROUGH MEETING POSTING

Meeting: **Planning Board**  
Date: May 24, 2021  
Time: 7:00 PM  
Location: REMOTE MEETING NOTICE

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2021 MAY 20 P 2:15

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 May 24, 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: 793 063 134#

## Agenda Items to be Addressed:

---

### 1. Draft Meeting Minutes

- A. May 10, 2021

### 2. Chair's Business

- A. **SET PUBLIC HEARING DATE** - Referred from City Council: Proposed Amendment to Zoning Code, Chapter 650 by adding a new section to create the "Commercial Village Overlay District"
- B. Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, Map 43, Parcel 38  
**Public Hearing Date set for: June 7, 2021 – No discussion required at this meeting**
- C. Referred from City Council: Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects  
**Public Hearing Date set for: June 7, 2021 – No discussion required at this meeting**

### 3. Approval Not Required

- A. 285 and 297 Concord Road – Applicant Estate of Paul D May, & Joseph F. and Sandra M. May  
Deed Reference: Book 19501 Page: 343  
Deed Reference: Book 40720 Page: 293  
Deed Reference: Book 30947 Page: 443  
Surveyor: Hancock Associates (315 Elm Street, Marlborough, MA 01752)

### 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 Brangwynne, Fletcher Tilton PC – Continued from April 5, 2021  
**Continued to June 7, 2021 – No discussion required at this meeting**

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.

# CITY OF MARLBOROUGH MEETING POSTING

**9. Correspondence (None)**

**10. Unfinished Business**

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**

**Call to Order**

**May 10, 2021**

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

**1. Draft Meeting Minutes**

**A. April 5, 2021**

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the April 5, 2021 meeting minutes. Yea: Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Absent during time of vote: Mr. Elder. Motion carried.

**B. April 26, 2021**

On a motion by Mr. LaVenture, seconded by Mr. Hodge, the Board voted to accept and file the April 26, 2021 meeting minutes. Yea: Hodge, LaVenture, Russ, and Fenby. Nay: 0. Absent during time of vote: Mr. Elder. Motion carried. Mr. Fay abstained from the vote.

**2. Chair's Business**

**A. Referred from City Council, Order No. 21-1008266: Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, Map 43, Parcel 38**

- June 7, 2021, 7:00 pm was selected for the Planning Board's public hearing on the proposed zoning amendment.

**B. Referred from City Council, Order No. 21-1008274: Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects**

- June 7, 2021, 7:00 pm was selected for the Planning Board's public hearing on the proposed zoning amendment.

Dr. Fenby asked City Councilor Kathleen Robey who would be presenting the two above referenced public hearings. Councilor Ms. Robey explained she believes City Councilor Mr. Irish would be presenting the Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, and City Councilor Mr. Ossing or the Mayor Arthur Vigeant would be presenting the Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects.

Dr. Fenby asked the Planning Board Administrator to verify who would be presenting before the Planning Boards public hearings.

**3. Approval Not Required**

- |  |   |
|--|---|
| <p><b>A. Map 111 Parcel 1 – Applicant: BH GRP TCAM Owner, LLC</b><br/> <b>Map 112 Parcel 10A – Applicant: IPG Photonics Corporation</b><br/> <b>Surveyor: Bruce Saluk &amp; Associates, Inc</b><br/> <b>Recommendation letter from Engineering</b></p> | <p><b>Deed Reference: Book 70600, Page 451</b><br/> <b>Deed Reference: Book 74877, Page 455</b></p> |
|--|---|

Mr. LaVenture read the May 3, 2021 letter from Assistant City Engineer Timothy Collins into record. The letter concludes, "Parcel A", as shown on the plan, contains 125,518 square feet, and "Parcel B", as shown on the plan, contains 122,668 square feet. The "land swap" would result in a change of area of 150 square feet (0.0034 acres). 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 buildings lots, but only used together with adjacent lots having area and front age required by the Marlborough Zoning Code."

City Engineer Thomas DiPersio noted an error on the letter, the letter states:

- Map 111, Parcel 1, off Simarano Drive – owned by IPG Photonic Corporation, currently containing 12.34 acres.
- Map 112 Parcel 10A, off Campus Drive – owned by BH GRP TCAM Owner LLC, currently containing 97.28 acres.

Revised/Correct information is as follows:

- Map 111, Parcel 1, off Simarano Drive – owned by BH GRP TCAM Owner LLC, currently containing 97.28 acres.
- Map 112 Parcel 10A, off Campus Drive – owned by IPG Photonic Corporation, currently containing 12.34 acres.

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the revised letter as indicated, and to endorse the plan. Yea: Hodge, LaVenture, Russ, and Fenby. Nay: 0. Absent during time of vote: Mr. Elder. Motion carried. Mr. Fay abstained from the vote.

**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 Brangwynne, Fletcher Tilton PC – Continued from April 5, 2021  
Correspondence from Mr. Brangwynne – Request to continue to June 7, 2021

Mr. LaVenture read the May 5, 2021 letter from Mr. Brangwynne into record.

The letter states, “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 on this matter.”

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept, file, and put on the agenda for the June 7, 2021 Planning Board meeting. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

The Board had a discussion about the sign issue in general:

- Mr. Fay asked, Has anyone been referred to addressing the issue with the current sign violations on the mural at the Italian restaurant Evviva Trattoria?
- Mr. Elder said he believes it was referred to Pam Wilderman, the Code Enforcement Officer.
- Dr. Fenby asked Mr. Fay, What did you have in mind? Did you want to make an objection to bring it to the Boards attention?
- Mr. Fay explained the Planning Board is considering a variance in the same neighborhood and asking the property owner to negotiate with the Board because, although they may have established the grounds for variance, it’s not without limits. It’s very difficult to negotiate when there are violations across the street with no enforcement effort. The Board doesn’t have creditability when there are clear violations throughout the city. He then pointed out a couple of examples he has dealt with in the past.



- Councilor Ms. Robey explained that City Council received an email from the Mayor's Office asking MEDC to work the owner of the building at APEX to remove the signs. She spoke on behalf of the City Council stating, City Council feels Mr. Fay's frustrations, and explained Code Enforcement is working on many aspects of signage and code violations within the City; and that the City is diligent in making sure everyone is doing what they are supposed to be doing.
- Mr. Fay clarified that he doesn't believe that there is no enforcement going on, but there are notable properties the Planning Board has been dealing with for years and nothing seems to happen. He continued to discuss examples.
- Mr. Hodge brought up the increase of "feather" signs within the city.
- Councilor Ms. Robey said these "feather/butterfly" signs are illegal. Code Enforcement was ignoring them due to COVID-19, thinking that they were helping bring business to places that desperately needed it. It is her understanding that those are now being enforced.
- Mr. LaVenture said he supports Mr. Fay comments. He explained how the Board has continuously looked at evaluating waivers, and or variances using the same consistent rules. When people try to follow the rules, they should not be penalized. He backed Mr. Fay's comment, that if the Board wishes to be creditable in trying to have people meet the standards, then the enforcement needs to happen.
- Mr. Russ agreed with both Mr. Fay and Mr. LaVenture, stating if you are in violation then you need to be fined or be asked to be remove the violation.
- Mr. Elder agreed with Mr. Fays concerns regarding holding the line on the variances when there are multiple violations within the City, and multiple repeat offenders. He said the Board referred the signs violations at Evviva Trattoria (Previously, Evviva Cucina) to Code Enforcement twice about eight months ago and he doesn't believe the Board has heard anything back.
- Dr. Fenby asked should someone from Code Enforcement join the Board in a future meeting for clarification.
- Mr. Elder suggested getting information from legal regarding fining regulations.
- Mr. LaVenture agreed with Dr. Fenby about getting the Code Enforcement Officer to join the Board at a future meeting.
- Dr. Fenby asked to extend an invitation to the Code Enforcement Officer. She explained she wants to wait until the Code Enforcement Officer attends a Planning Board Meeting before the Board reaches out to legal.

## 9. Correspondence

- A. Request for Lot Release: 70 Robert Road, Marlborough, MA 01752  
Release of Lot(s) Form – for Signature

Mr. LaVenture read the May 9, 2021 letter from Assistant City Engineer Timothy Collins into record.

The letter states, "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.”

City Engineer Mr. DiPersio explained the Lot releases on this subdivision didn’t get formally recorded. This Lot involved both Land Court and Non-registered Land. He explained the Attorney was working on a conveyance for this Lot and found a covenant for the Land Court side, but it was missing the Lot Release for that covenant. Mr. DiPersio believes the Attorney did not find anything on the unregistered side. The Attorney requested the Planning Board to sign a release from the covenant for this Lot, so he can close out the title, and make sure his client on the conveyance has a clean title.

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to accept, file and to allow the Chairperson to sign the document. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

## **10. Unfinished Business (None)**

### **A. Working Group Discussion – Planning Board Rules and Regulations Continued**

Mr. LaVenture thanked everyone for their time at the last meeting as the Planning Board presented the proposed changes to date as a complete document. He acknowledged the continued support of the Engineering and Legal Departments. Assistant City Solicitor Jason Piques is continuing to review other municipality’s procedures and documents for comparison with the Planning Boards. In this meeting the Planning Board has a flowchart constructed by Assistant City Engineer Timothy Collins. As the Planning Board continues to discuss language to complete the proposed changes to A676-10 H and I, surety adjustment and release of performance guarantee, Mr. Collins fashioned the chart to guide the Planning Boards discussion.

Mr. LaVenture provided an update explaining City Engineer Mr. DiPersio was the Planning Boards point person to receive responses or requests for meeting by the Mayor, City Council, Department Heads, and other interested parties. Both Mr. DiPersio and City Solicitor Mr. Piques indicated there had been no response to date. Responses were requested by May 5, 2021. He reminded the board this is budget season so, if there are any, they might be delayed a bit.

Dr. Fenby said she spoke with the Mayor Mr. Vigeant and he said he was hoping to get to the review shortly.

Mr. LaVenture explained City Solicitor Mr. Piques was the Planning Boards point person reaching out to MEDC/MAPC. Other than an initial email indicating the unlikelihood of a response by MAPC prior to this meeting, the Planning Board hadn’t heard anything back yet.

Dr. Fenby asked how the Planning Board wanted to proceed with following up with the Departments.

- Councilor Ms. Robey explained when she saw the request from Mr. LaVenture she was concerned because members of the Council can’t meet and discuss something without it being a posted meeting item. She asked, At some point does this come to the Council where we would be voting on a zoning change?
- Dr. Fenby said that the regulations would be presented to City Council at a later date.
- Councilor Ms. Robey asked if the council would have an opportunity to discuss the changes at public hearing.
- Mr. LaVenture explained what the Working Group had proposed is, if any of the individuals in City Government that had received the proposed changes to date, if they had any questions or wanted to provide any feed back to the Planning Board, or just wanted to ask specifically what does this mean, or how might this conflict with their Department, or is there anything the individual needs to be aware of to do this. It was an opportunity for these individuals to reach out to the Planning Board. The Working Group had made the 4<sup>th</sup> and 5<sup>th</sup> available

as free time to do that. The Planning Board didn't expect there would be many takers on that. The Rules and Regulation changes that are being proposed are not drastic, and mainly engineering based. The most talked about are the changes to the fees. After the Board looks at the proposed changes it will advertised and will go before a public hearing/public meeting. All of the proposed changes will be displayed, and the Working Group will be there to explain why all of the changes are in the interest of the City, why it's being made, and to answer any questions from any City Government members or anyone from the public. He asked Councilor Ms. Robey if that answered her question.

- Councilor Ms. Robey said yes, explaining that may have been why Councilors didn't respond. It wasn't clear what was expected, and she mentioned the public meeting issues.
- Mr. LaVenture apologized and asked Councilor Ms. Robey and Dr. Fenby for suggestions for the best way to handle this going forward.
- Councilor Ms. Robey said the Council receives the Planning Board minutes and she believes most of the Council reads them. She said Mr. Ossing and herself attend as many of the Planning Board meetings as possible. She said she is aware and supports most if not all the proposed changes. She asked, Does this come to Council as a zoning amendment?
- Mr. LaVenture said based on his understanding from Legal the Planning Board has the final deciding authority to implement the proposed changes to the Planning Board's Rules and Regulations. His understanding is the Planning Board will vote to either adopt partially or in whole, as the Board will have multiple votes on different pieces of the proposed changes and explained the changes would be signed out by the Chair as adopted by the Board.
- Councilor Ms. Robey asked for it to be clarified because she knows the code has some things specific to the Planning Board and to Housing. She assumed that's what the Board was amending. She said if the proposed changes don't end up going to the council, maybe there would be more agreement to sending comments. She said she would check in with legal and encourage the councilors to read the minutes, and to provide questions or comments.

Dr. Fenby and Mr. LaVenture decided they would follow up with MEDC/MAPC.

Mr. LaVenture said he plans to keep everyone posted.

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

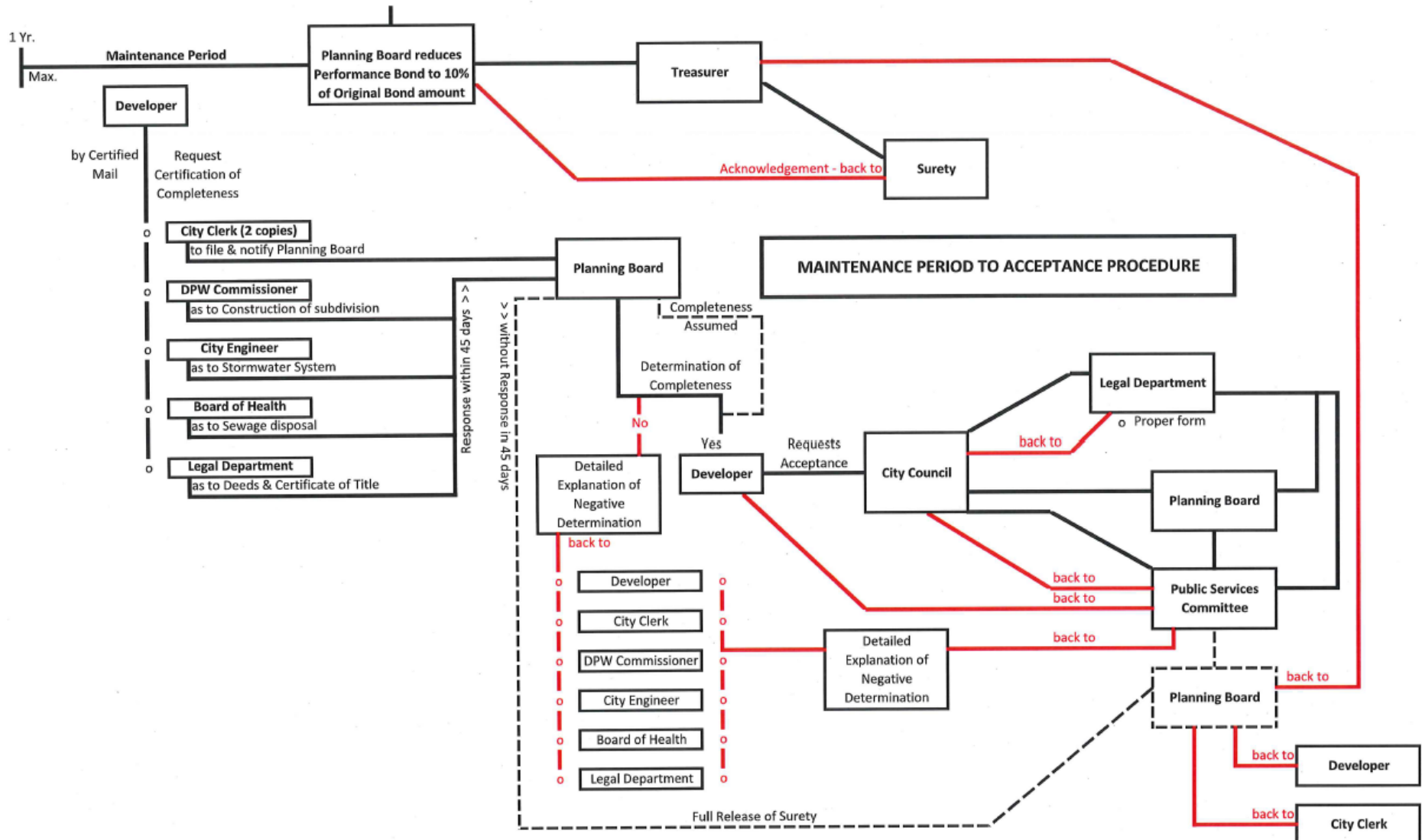
Mr. LaVenture explained the Working Group is working with Engineering and Legal on document templates for use such as Certificates of Vote, Covenants, and others. These will be presented after the public hearing on the Rules, likely in the Fall. They would not require a public hearing.

Mr. LaVenture reviewed and went over the flow chart displayed below.

Mr. LaVenture reminded the Board that the H ¼ language, getting the deeds for right-of-way, and easement granted to the city upfront, had been approved by City Solicitor Mr. Piques.

Mr. LaVenture explained in the past the Board has had issues with developers who didn't want to initiate the street acceptance process, leaving it to the Planning Board or the City Council. City Solicitor Mr. Piques has done research and determined that several Massachusetts Municipalities leave it to the developers to initiate this process.

Mr. LaVenture asked the Board if they had any questions or comments regarding the flow chart.



**11. Calendar Updates (None)**

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

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

Respectfully submitted,

/kmm

George LaVenture/Clerk

DRAFT



# IN CITY COUNCIL

Marlborough, Mass., MAY 10, 2021

ORDERED:

PAGE 1

That the Communication from Attorney Robert Buckley on behalf of Marlborough/Northborough Land Realty Trust re: Proposed Amendment to Zoning Code, Chapter 650 by adding a new section to create the "Commercial Village Overlay District", be and is herewith referred to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, JUNE 21, 2021.**

Yea: 11 – Nay: 0

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

## §650 – "COMMERCIAL VILLAGE HOUSING OVERLAY DISTRICT"

### A. Purpose and Objectives

The Commercial Village Housing Overlay District (herein, also a "CV Housing Overlay") allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying zoning district(s). The establishment goals of the CV Housing Overlay are to enhance land use development and encourage desired residential growth patterns for the benefit of the public health, safety and welfare and to allow for the development of higher density housing with potential accessory uses and in close proximity to commercial uses consistent with the stated economic development objectives of the City.

The CV Housing Overlay shall be applicable to the property identified as Map 100, Parcels 24, 25, 26, and 15 (including the private way "Atkinson Drive") and Map 89, Parcels 80-99 City of Marlborough Assessor's map dated September 21, 2012 (formerly the property shown on Map 100, Parcels 14 and 15 as shown on City of Marlborough Assessor's Map in effect on May 2006) and as further described on Exhibit "A" annexed hereto. The CV Housing Overlay shall be superimposed on the other zoning districts existing at the time that any land in any said underlying district is also included in the CV Housing Overlay.





# IN CITY COUNCIL

Marlborough, Mass., MAY 10, 2021

ORDERED:

PAGE 2

B. Authority of Permit Granting Authority

The City Council shall be the Permit Granting Authority for the Master Plan approval (defined below) and for any Special Permit to be issued in the CV Housing Overlay. In all instances, a development which proceeds under the CV Housing Overlay is subject to Site Plan Approval in accordance with §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for any Special Permit approval in the CV Housing Overlay.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to development and occupancy.

Special Permits within the CV Housing Overlay shall be approved by the City Council. Amendments to any Special Permits issued by the City Council shall be per the requirements of this Section (§650-35 et. seq.).

C. Master Plan

The property owner/developer of the CV Housing Overlay shall, prior to, or simultaneously with, the first application for approval of a site plan and/or special permit for the CV Housing Overlay, file the following with the City Council for approval:

- (1) A Master Plan, or preliminary project plan, inclusive of the following:
  - (a) A project narrative describing the proposed development including, without limitation, the number of units, format, restrictions, if any, of the proposed project.
  - (b) A Master Concept Plan ("Master Plan") which shall in a general manner show:
    - (i) The location and areas of proposed development and associated uses;
    - (ii) Proposed open space (usable and natural);
    - (iii) Proposed site access curb cuts off of public ways; and
    - (iv) Proposed building "envelope(s)" where construction is anticipated to occur.
  - (c) The following information for the proposed development:
    - (i) Total land area of each development area (building envelope area);
    - (ii) Total development limitations, if any, of uses in any developable area;
    - (iii) Total maximum development (number of units; square footage/use limitations); and
    - (iv) A report/memorandum discussing site circulation and traffic impacts.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ MAY 10, 2021

PAGE 3

## ORDERED:

The Master Plan shall be approved by a majority vote of the City Council in order to proceed with the proposed development and, if approved, shall thereafter become the general development plan governing development at the CV Housing Overlay. The Master Plan may be amended from time to time by a majority vote of the City Council by application from the property owner/developer to reflect changing development conditions.

- (2) A Development Agreement in recordable form binding upon the developer/property owner. The Development Agreement shall be approved by a majority vote of the City Council prior to the issuances of the first permit/site plan approval for development within the CV Housing Overlay, which Development Agreement may contain, without limitation:
  - (a) Required mitigation (including any traffic demand management initiatives), if any, to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the CV Housing Overlay progresses.
  - (b) Restrictions on development areas and such other development limitations as may be agreed upon such as, but not limited to, age restrictions and provision for affordable housing units and/or contributions, if any.
  - (c) Proposed phasing of the development of the CV Housing Overlay, if any.
  - (d) Obligations with respect to pedestrian and vehicular interconnectivity within the CV Housing Overlay, if any, to facilitate pedestrian access and circulation efficiencies.
  - (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications, if needed.

The Development Agreement shall govern the implementation of the Master Plan and development at the CV Housing Overlay.

## D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-33 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting Authority, if applicable. This Section (§650-35 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the CV Housing Overlay and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District). In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-35 et. seq.) shall govern and control.





# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ MAY 10, 2021

PAGE 4

## ORDERED:

### E. Eligible Uses

Except as specifically set forth below, all uses permitted in Residence Districts (RR, A-1, A-2, A-3, RB, RC, and RCR) either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the CV Housing Overlay. If a use requires a Special Permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

- (1) The following additional uses are also permitted BY-RIGHT in the CV Housing Overlay:
  - (a) Multi-family dwelling – up to 120 dwelling units within the entire CV Housing Overlay Zoning if said units are age restricted or age targeted (by design) dwelling units
  - (b) Consumer service and retail establishments accessory and complimentary to the other principal uses at the property
- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the CV Housing Overlay:
  - (a) Multi-family dwelling within the entire CV Housing Overlay Zoning District including, without limitation, age restricted/ age targeted dwelling units in excess of 120 units
- (3) Single family detached residential use is prohibited in the CV Housing Overlay.

### F. Dimensional Requirements

The CV Housing Overlay shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The CV Housing Overlay may consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the CV Housing Overlay so long as a CV Housing Overlay district shall be no less than 10 contiguous acres.
- (2) Minimum Lot Frontage measurement shall be no less than twenty (20) feet for any lot wholly located within the boundaries of the CV Housing Overlay.
- (3) Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a CV Housing Overlay.
- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more structures within the CV Housing Overlay, even if on separate lots. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ MAY 10, 2021

ORDERED:

PAGE 5

- (5) Maximum building height in CV Housing Overlay shall not exceed 60 feet; a structure located within 50 feet from the property line of a directly abutting parcel in a residentially zoned district shall not exceed 40 feet in height.
- (6) Maximum Lot Coverage shall be calculated on the entire land area of the CV Housing Overlay and not on an individual lot basis, and shall not exceed 65% percent of the total area of the CV Housing Overlay.

G. Parking and Curb Cut Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the CV Housing Overlay adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose.
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to permitted uses.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit. Where feasible, sharing of parking shall be encouraged among the various uses in the CV Housing Overlay.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

H. Signage

Except as otherwise provided in this CV Housing Overlay, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.



# IN CITY COUNCIL

Marlborough, Mass., MAY 10, 2021

ORDERED:

PAGE 6

## I. Application

An application for a Special Permit for a development in the CV Housing Overlay shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance. In the matter of a Site Plan Approval, the application shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

The City Council in connection with a Special Permit application shall review such applications with respect to the following design criteria:

- (i) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
- (ii) Street façade and exterior walls visible from public ways;
- (iii) Public space;
- (iv) Scale of buildings; and
- (v) External Lighting

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A building elevation shall be submitted prior to the close of the public hearing/meeting.

## J. Standards for Roadways and Drainage

- (1) Roadways – Internal CV Housing Overlay roadways shall be private ways and shall be maintained by the owners/developers of the CV Housing Overlay and portions thereof. Private ways within the CV Housing Overlay, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional or material requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The CV Housing Overlay shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended. This system shall be privately maintained.





# IN CITY COUNCIL

Marlborough, Mass., MAY 10, 2021

PAGE 7

## ORDERED:

### K. Amendments

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit may be made with approval by the City Code Enforcement Officer. A major amendment, consisting of any changes not approved as a minor amendment, shall be approved by a majority vote of the City Council at a public hearing. If amendments are referred to the City Council by the Code Enforcement Officer, it shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a minor or major amendment. In general, a minor modification shall not produce more than an immaterial increase in the scale of a project nor produce more than an immaterial increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a Special Permit are not minor, per Section 650-59 of the Zoning Ordinance, an application for a amended Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of Section 650-59.

### Exhibit "A"

- A) Lots 1-23 as shown on a plan entitled a Definitive Subdivision Plan "Commonwealth Heights in Marlborough, MA. Endorsed by the City of Marlborough Planning Board on April 9, 2007 and recorded with the Middlesex South Registry of Deeds as Plan 549 of 2007; and
- B) The property on Forrest Avenue shown on the above referenced plan as being owned by "N/F David E. Silva"

ADOPTED

ORDER NO. 21-1008293  
X 18-1007134B

April 26, 2021

**VIA FEDEX AND VIA**

**EMAIL:** kboule@marlborough-ma.gov

President and Members  
Marlborough City Council  
City Hall 140 Main Street  
Marlborough, MA 01752

Re: Petition for Amendment to Zoning Code and Zoning Map

Dear President and Members:

This Firm and the undersigned represent Marlborough/Northborough Land Realty Trust of 200 Summit Drive, Suite 400, Burlington, Massachusetts 01803 (herein after referred to as Petitioner), owner of land shown on the City of Marlborough Assessor's Map 100, Parcels 24, 25, 26 and 15 (including the private way "Atkinson Way"); and Map 89, Parcels 80-99 (the "Land").

Our client hereby petitions the City Council to amend the Zoning Code and Zoning Map of the City of Marlborough Chapter 650 by adding to Article VI Section 650-35 COMMERCIAL VILLAGE OVERLAY DISTRICT (the "CVOD") in accordance with Exhibit "A" attached hereto.

The enclosed ordinance provides for an age-targeted project that would allow for multi-family residential units with the option to provide supporting accessory mixed-use service components. Unlike the current underlying single-family zoning, the CVOD provides the opportunity for a more generous buffer to the existing neighborhood, improved diversity of housing choice within the City and is more consistent with the City's recent housing studies. Traffic associated with the CVOD would be limited and the impact on the infrastructure of the City including the school system would be minimal given the age targeted nature of any project. We look forward to working cooperatively with the City on the attached ordinance with an objective of enacting a responsive, practical, and creative planning option.

The Land area proposed to be included in the CVOD is currently zoned for single-family housing and a subdivision has been approved by the City, but not yet constructed. The Land is located on the corner of Ames and Forest streets in the southwest quadrant of the City adjacent to Central Steel and across from the Marlborough Technology Park and Avalon apartments. With adoption of the CVOD, the Land provides the opportunity to allow for a transition from the industrially and more densely developed uses to the neighborhood to the northwest.

We are also aware of the recent initiative of the Governor and Legislature in enacting the "Housing Choice Act" Chapter 358 of 2020. Pursuant to this legislation, municipalities are encouraged (and required if an MBTA community) to designate certain areas of the municipality for "as of right" multi-family residential housing to be eligible for certain State discretionary funding. The public policy underlying this initiative is to enhance the supply of adequate affordable housing throughout the Commonwealth. Municipalities that are proactive in developing such districts and housing will be entitled to consideration of certain state discretionary funds for various economic development, transportation, and infrastructure projects. Therefore, we submit it is beneficial to the fiscal interest of the City to consider such opportunities.

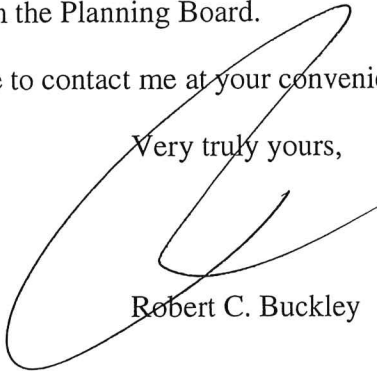
We also believe that the proposed CVOD ordinance could provide a basis for the City, working with the Petitioner, to satisfy the policy objectives embodied in the Housing Choice Act. The location of this proposed project and proposed uses are compatible with surrounding developments and other initiatives that have been undertaken in recent years. The Petitioner is desirous of working with the City to review and adjust this zoning proposal to be responsive to the objectives of both the Petitioner and the City and advance the policy objectives of the Housing Choice Act. This effort would be an example of a public/private partnership in the execution of legislative policy that could support the City in obtaining infrastructure funding which is likely to be available at the Federal and State level in the coming months.

We have annexed hereto for informational purposes: (i) a plan showing the currently approved residential subdivision; and (ii) conceptual plans and renderings showing proposed design and massing and view perspectives from abutting residential properties.

We respectfully request that a public hearing be scheduled on the Petition as provided for in Massachusetts General Laws Chapter 40A Section 5 and give written notice as provided therein to the Planning Board to permit a recommendation from the Planning Board.

If you have any questions, please feel free to contact me at your convenience.

Very truly yours,



Robert C. Buckley

RCB:mw

Enclosure: Proposed Zoning Ordinance Change  
Plans/Renderings

Cc: Steven W. Kerrigan, City Clerk  
Scott Weiss, The Gutierrez Company

25560/26  
2720052.2



**Exhibit “A”**

**ARTICLE VI**

**§650-35 - COMMERCIAL VILLAGE HOUSING OVERLAY DISTRICT**

**A. Purpose and Objectives**

The Commercial Village Housing Overlay District (herein, also a “CV Housing Overlay”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying zoning district(s). The establishment goals of the CV Housing Overlay are to enhance land use development and encourage desired residential growth patterns for the benefit of the public health, safety and welfare and to allow for the development of higher density housing with potential accessory uses and in close proximity to commercial uses consistent with the stated economic development objectives of the City.

The CV Housing Overlay shall be applicable to the property identified as Map 100, Parcels 24, 25, 26, and 15 (including the private way “Atkinson Drive”) and Map 89, Parcels 80-99 City of Marlborough Assessor’s map dated September 21, 2012 (formerly the property shown on Map 100, Parcels 14 and 15 as shown on City of Marlborough Assessor’s Map in effect on May 2006) and as further described on Exhibit “A” annexed hereto. The CV Housing Overlay shall be superimposed on the other zoning districts existing at the time that any land in any said underlying district is also included in the CV Housing Overlay.

**B. Authority of Permit Granting Authority**

The City Council shall be the Permit Granting Authority for the Master Plan approval (defined below) and for any Special Permit to be issued in the CV Housing Overlay. In all instances, a development which proceeds under the CV Housing Overlay is subject to Site Plan Approval in accordance with §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for any Special Permit approval in the CV Housing Overlay.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to development and occupancy.

Special Permits within the CV Housing Overlay shall be approved by the City Council. Amendments to any Special Permits issued by the City Council shall be per the requirements of this Section (§650-35 et. seq.).

C. Master Plan

The property owner/developer of the CV Housing Overlay shall, prior to, or simultaneously with, the first application for approval of a site plan and/or special permit for the CV Housing Overlay, file the following with the City Council for approval:

- (1) A Master Plan, or preliminary project plan, inclusive of the following:
  - (a) A project narrative describing the proposed development including, without limitation, the number of units, format, restrictions, if any, of the proposed project.
  - (b) A Master Concept Plan (“Master Plan”) which shall in a general manner show:
    - (i) The location and areas of proposed development and associated uses;
    - (ii) Proposed open space (usable and natural);
    - (iii) Proposed site access curb cuts off of public ways; and
    - (iv) Proposed building “envelope(s)” where construction is anticipated to occur.
  - (c) The following information for the proposed development:
    - (i) Total land area of each development area (building envelope area);
    - (ii) Total development limitations, if any, of uses in any developable area;
    - (iii) Total maximum development (number of units; square footage/use limitations); and
    - (iv) A report/memorandum discussing site circulation and traffic impacts.

The Master Plan shall be approved by a majority vote of the City Council in order to proceed with the proposed development and, if approved, shall thereafter become the general development plan governing development at the CV Housing Overlay. The Master Plan may be amended from time to time by a majority vote of the City Council by application from the property owner/developer to reflect changing development conditions.

- (2) A Development Agreement in recordable form binding upon the developer/property owner. The Development Agreement shall be approved by a majority vote of the City Council prior to the issuances of the first permit/site plan



approval for development within the CV Housing Overlay, which Development Agreement may contain, without limitation:

- (a) Required mitigation (including any traffic demand management initiatives), if any, to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the CV Housing Overlay progresses.
- (b) Restrictions on development areas and such other development limitations as may be agreed upon such as, but not limited to, age restrictions and provision for affordable housing units and/or contributions, if any.
- (c) Proposed phasing of the development of the CV Housing Overlay, if any.
- (d) Obligations with respect to pedestrian and vehicular interconnectivity within the CV Housing Overlay, if any, to facilitate pedestrian access and circulation efficiencies.
- (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications, if needed.

The Development Agreement shall govern the implementation of the Master Plan and development at the CV Housing Overlay.

D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-33 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting Authority, if applicable. This Section (§650-35 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the CV Housing Overlay and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District). In the event of any conflict between the provisions of this Section (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-35 et. seq.) shall govern and control.

E. Eligible Uses

Except as specifically set forth below, all uses permitted in Residence Districts (RR, A-1, A-2, A-3, RB, RC, and RCR) either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the CV Housing Overlay. If a use requires a Special Permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

- (1) The following additional uses are also permitted BY-RIGHT in the CV Housing Overlay:

- (a) Multi-family dwelling – up to 120 dwelling units within the entire CV Housing Overlay Zoning if said units are age restricted or age targeted (by design) dwelling units
- (b) Consumer service and retail establishments accessory and complimentary to the other principal uses at the property
- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the CV Housing Overlay:
  - (a) Multi-family dwelling within the entire CV Housing Overlay Zoning District including, without limitation, age restricted/ age targeted dwelling units in excess of 120 units
- (3) Single family detached residential use is prohibited in the CV Housing Overlay.

F. Dimensional Requirements

The CV Housing Overlay shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The CV Housing Overlay may consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the CV Housing Overlay so long as a CV Housing Overlay district shall be no less than 10 contiguous acres.
- (2) Minimum Lot Frontage measurement shall be no less than twenty (20) feet for any lot wholly located within the boundaries of the CV Housing Overlay.
- (3) Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a CV Housing Overlay.
- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more structures within the CV Housing Overlay, even if on separate lots. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.
- (5) Maximum building height in CV Housing Overlay shall not exceed 60 feet; a structure located within 50 feet from the property line of a directly abutting parcel in a residentially zoned district shall not exceed 40 feet in height.
- (6) Maximum Lot Coverage shall be calculated on the entire land area of the CV Housing Overlay and not on an individual lot basis, and shall not exceed 65% percent of the total area of the CV Housing Overlay.

G. Parking and Curb Cut Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the CV Housing Overlay adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose.
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to permitted uses.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit. Where feasible, sharing of parking shall be encouraged among the various uses in the CV Housing Overlay.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

H. Signage

Except as otherwise provided in this CV Housing Overlay, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

I. Application

An application for a Special Permit for a development in the CV Housing Overlay shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance. In the matter of a Site Plan Approval, the application shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

The City Council in connection with a Special Permit application shall review such applications with respect to the following design criteria:

- (i) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
- (ii) Street façade and exterior walls visible from public ways;
- (iii) Public space;



- (iv) Scale of buildings; and
- (v) External Lighting

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A building elevation shall be submitted prior to the close of the public hearing/meeting.

J. Standards for Roadways and Drainage

- (1) Roadways – Internal CV Housing Overlay roadways shall be private ways and shall be maintained by the owners/developers of the CV Housing Overlay and portions thereof. Private ways within the CV Housing Overlay, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional or material requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The CV Housing Overlay shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended. This system shall be privately maintained.

K. Amendments

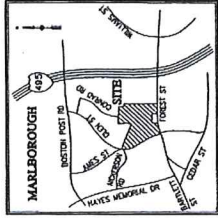
After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit may be made with approval by the City Code Enforcement Officer. A major amendment, consisting of any changes not approved as a minor amendment, shall be approved by a majority vote of the City Council at a public hearing. If amendments are referred to the City Council by the Code Enforcement Officer, it shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a minor or major amendment. In general, a minor modification shall not produce more than an immaterial increase in the scale of a project nor produce more than an immaterial increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a Special Permit are not minor, per Section 650-59 of the Zoning Ordinance, an application for a amended Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of Section 650-59.

**Exhibit "A"**

- A) Lots 1-23 as shown on a plan entitled a Definitive Subdivision Plan  
"Commonwealth Heights in Marlborough, MA. Endorsed by the City of  
Marlborough Planning Board on April 9, 2007 and recorded with the Middlesex  
South Registry of Deeds as Plan 549 of 2007; and
- B) The property on Forrest Avenue shown on the above referenced plan as being  
owned by "N/F David E. Silva"

RCB:mw  
25560/26

2190920.8



LOCUS MAP  
(NOT TO SCALE)



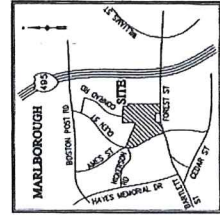
View Location  
— X —



Conceptual Site Plan  
**Marlborough, Ma.**  
Ames/Forest Street  
Date: 12/22/20







View Location  
 ← X



Conceptual Site Plan  
**Marlborough, Ma.**  
 Ames/Forest Street Date: 3/6/19







DRAFT  
LOW-RES PROC





## Commonwealth Heights Comparative Massing Views

February 24, 2021

### SINGLE FAMILY SUBDIVISION

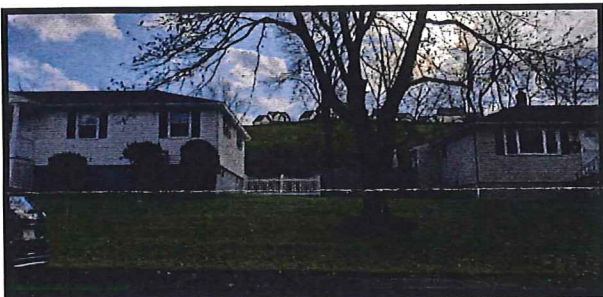
View A:



View B:



View C:



### CONDO BUILDING

View A:



View B:



View C:



## PLANNING BOARD

DATE 5/14/21  
 AGENDA 5/24/21  
 ACTION \_\_\_\_\_

## APPENDIX A

APPLICATION FOR ENDORSEMENT OF  
 PLAN BELIEVED NOT TO REQUIRE APPROVAL

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

Marlborough, Massachusetts

May 5<sup>th</sup>, 2021  
 (Date)

To the Planning Board:

The undersigned, believing that the accompanying plan of his 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 Estate of Paul D. May, & Joseph F. and Sandra M. May  
 Address 285 and 297 Concord Rd.
2. Name of Engineer / Hancock Associates  
 Land Surveyor  
 Address 315 Elm Street, Marlborough, MA
3. Deed of Property recorded in Middlesex South Registry of  
 Deeds Book 19501, 40720 Page(s) 343 293.  
30947 443
4. Location and description of property:  
Assessors Map 46 Lots 40 and 39

Joseph F. May  
 Signature of Owner

Address: 287 CONCORD RD. MARLBORO

Contact email address: joeamay@comcast.net  
 Contact phone number: 774-245-2968

Sandra M. May

Joseph F. May, EXECUTOR OF THE ESTATE OF PAUL MAY  
285 CONCORD RD. MARLBORO



# LEGEND

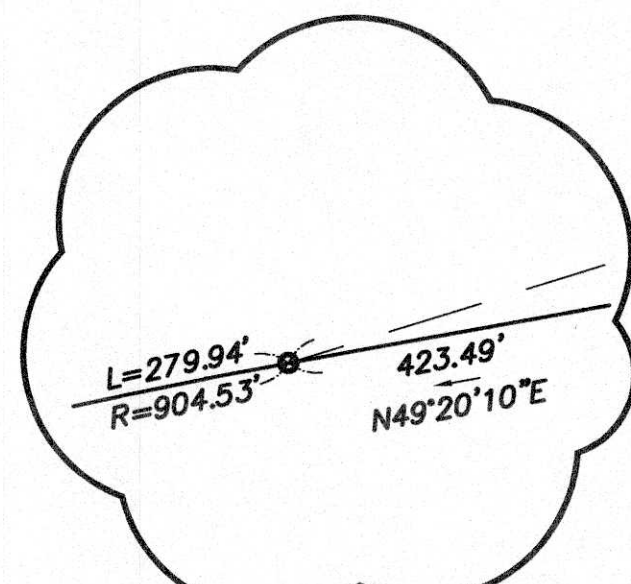
|         |                           |
|---------|---------------------------|
| —x—x—x— | RAIL FENCE                |
| —o—o—o— | STONE WALL                |
| —+—+—+— | EDGE OF PAVEMENT          |
| —OHW—   | OVERHEAD WIRES            |
| ● DH    | DRILL HOLE                |
| □ DHSB  | DRILL HOLE IN STONE BOUND |
| (F)     | FOUND                     |
| ⊠ A/C   | AIR CONDITIONING UNIT     |
| ○ IP    | IRON PIPE                 |
| CP      | CONCRETE PAD              |
| NTS     | NOT TO SCALE              |
| (F/H)   | FOUND AND HELD            |

APPROVAL UNDER THE SUBDIVISION  
CONTROL LAW NOT REQUIRED.  
MARLBOROUGH PLANNING BOARD

DATE: \_\_\_\_\_

NOTE: PLANNING BOARD ENDORSEMENT DOES NOT  
IMPLY CONFORMANCE WITH ZONING BYLAWS.

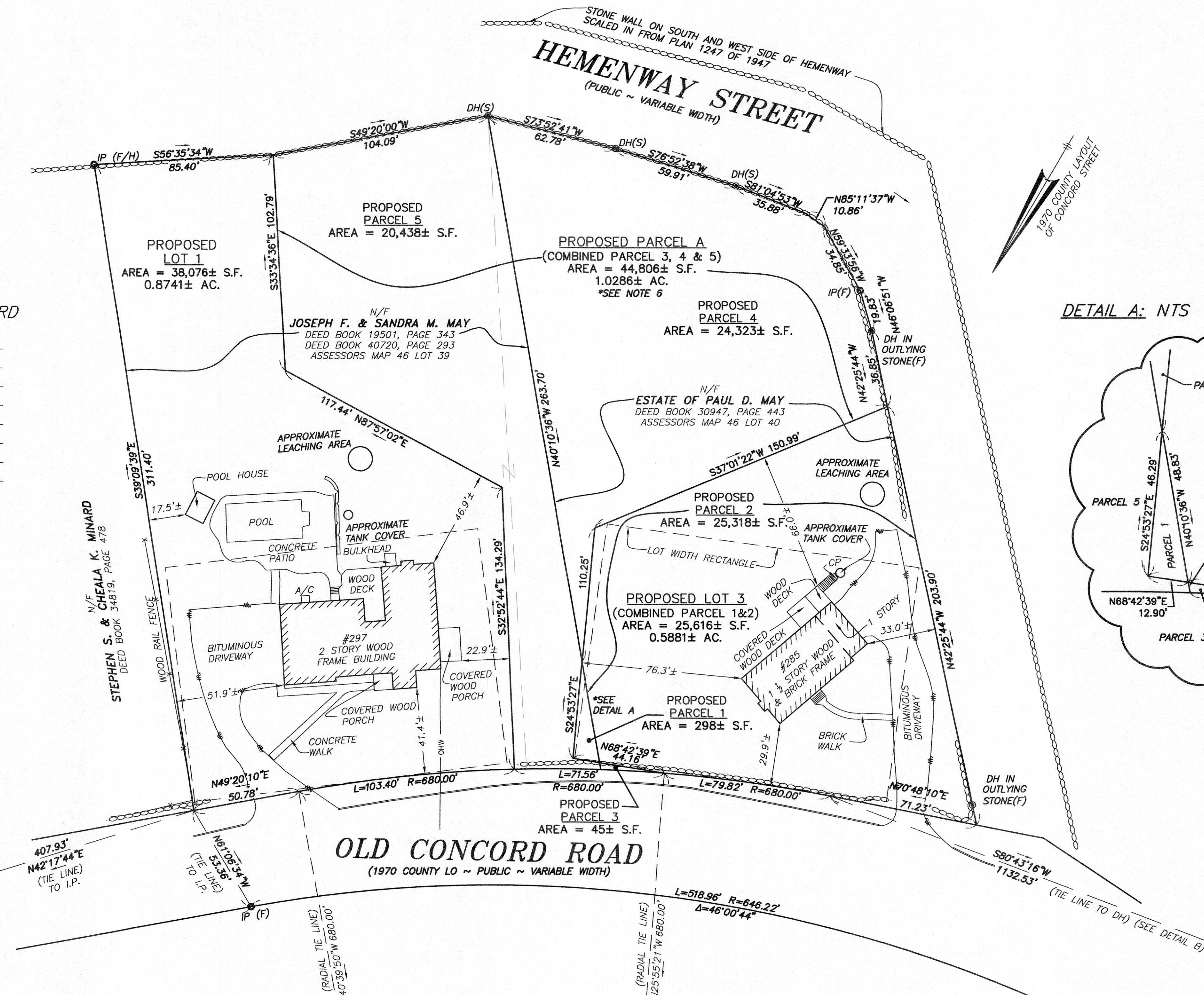
DETAIL C:



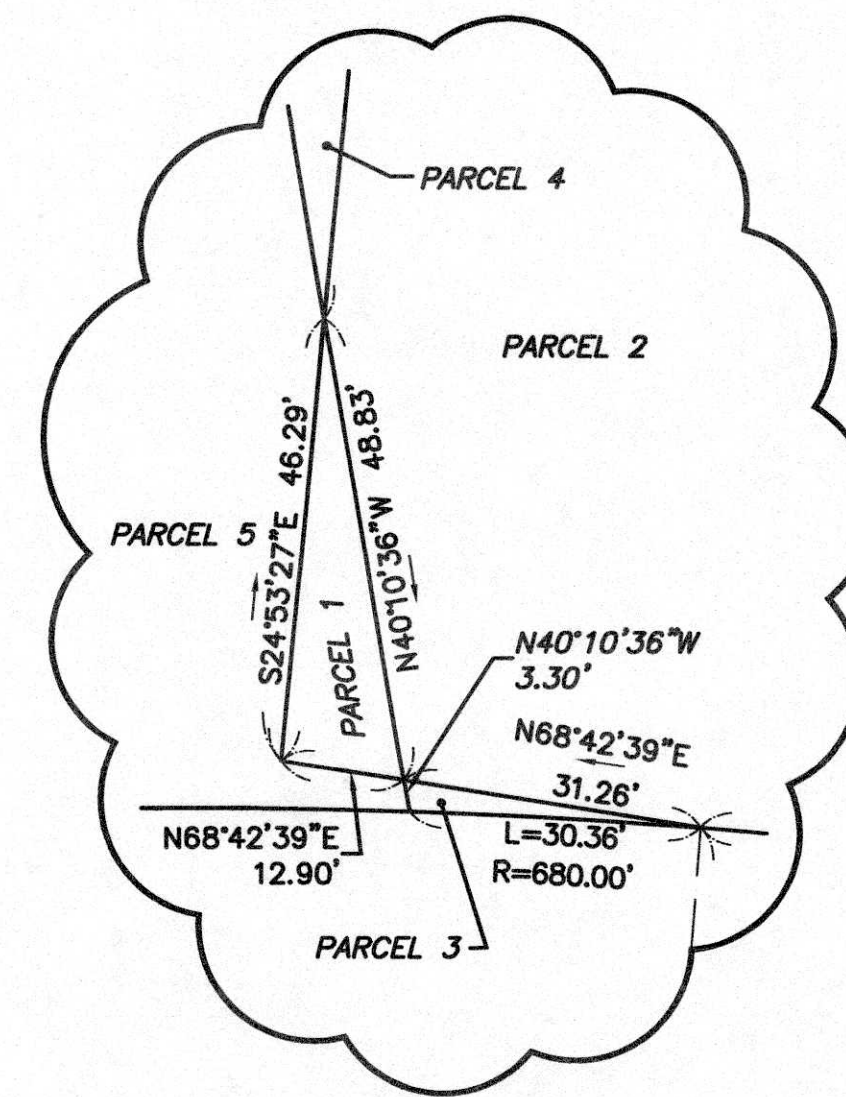
FOR REGISTRY USE

I CERTIFY THAT THIS PLAN CONFORMS TO  
THE RULES AND REGULATIONS OF THE  
REGISTERS OF DEEDS.

DATE: \_\_\_\_\_ PROFESSIONAL LAND SURVEYOR



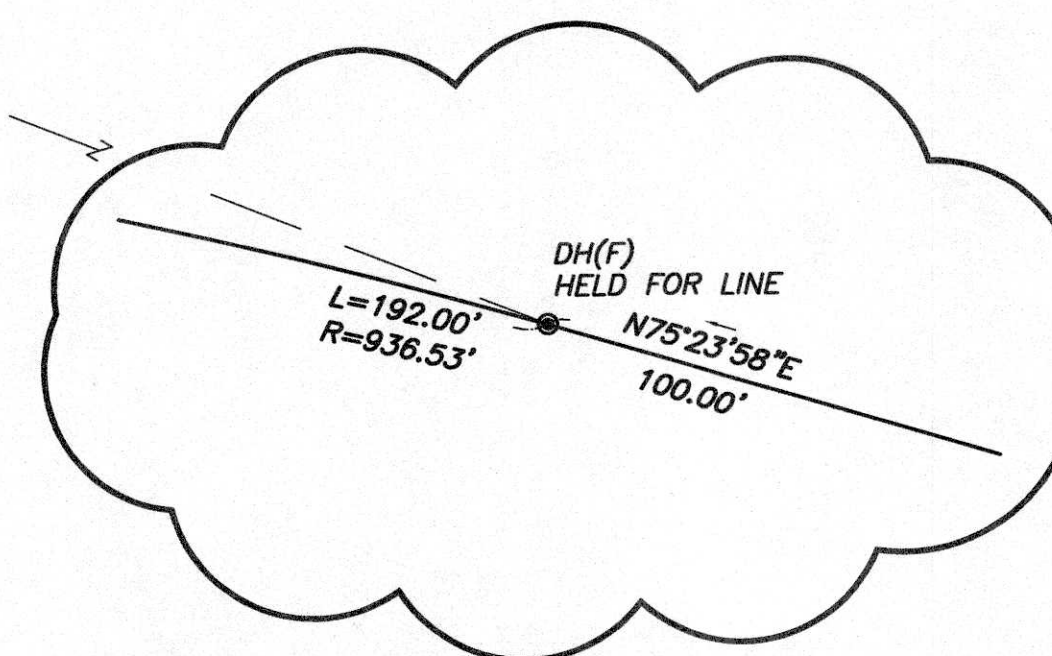
DETAIL A: NTS



NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DIVIDE TWO LOTS SHOWN AS LOTS 39 AND 40 ON THE MARLBOROUGH ASSESSORS MAP 46 INTO THREE LOTS.
2. THIS PLAN IS BASED UPON A GROUND SURVEY CONDUCTED BY HANCOCK ASSOCIATES THROUGH 11/6/19.
3. PROPOSED LOT 3 CONSISTS OF PROPOSED PARCEL 1 AND PARCEL 2.
4. PROPOSED PARCEL A CONSISTS OF PROPOSED PARCEL 3, PARCEL 4, AND PARCEL 5.
5. OFFSETS TO BUILDINGS ARE TO CORNER BOARDS.
6. PARCEL A IS NOT CURRENTLY A BUILDABLE LOT.

DETAIL B:



## CITY OF MARLBOROUGH ZONING BY-LAW ZONING DISTRICT: RESIDENCE "A-1"

|          | LOT AREA     | LOT FRONTAGE | SIDE YARD* | FRONT YARD | REAR YARD | LOT COVERAGE |
|----------|--------------|--------------|------------|------------|-----------|--------------|
| MINIMUM  | 22,500 S.F.  | 150'         | 20' **     | 30'        | 40'       |              |
| MAXIMUM  |              |              |            |            |           | 25%          |
| LOT 1    | 38,076± S.F. | 154'±        | 22.9'±     | 41.4'±     | 46.9'±    | 18.0% ±      |
| PARCEL A | 44,761± S.F. | 71'± ***     |            |            |           |              |
| LOT 3    | 25,616± S.F. | 151'±        | 33.0'±     | 29.9'±     | 66.0'±    | 17.7% ±      |

\*- SIDEYARDS LISTED IN TABLE ARE TO THE NEW LOT LINES BEING CREATED ONLY  
\*\*- APPLIES TO ALL BUILDINGS ERRECTED AFTER 1-27-1969; ALL OTHERS, 10'  
\*\*\*- THERE IS 365.05±' OF FRONTAGE ON HEMENWAY STREET  
\*\*\*\*- PARCEL A IS NOT CURRENTLY A BUILDABLE LOT

ASSESSORS:

MAP 46, LOT 40  
MAP 46, LOT 39

ZONING:

RESIDENTIAL "A-1"

REFERENCES:

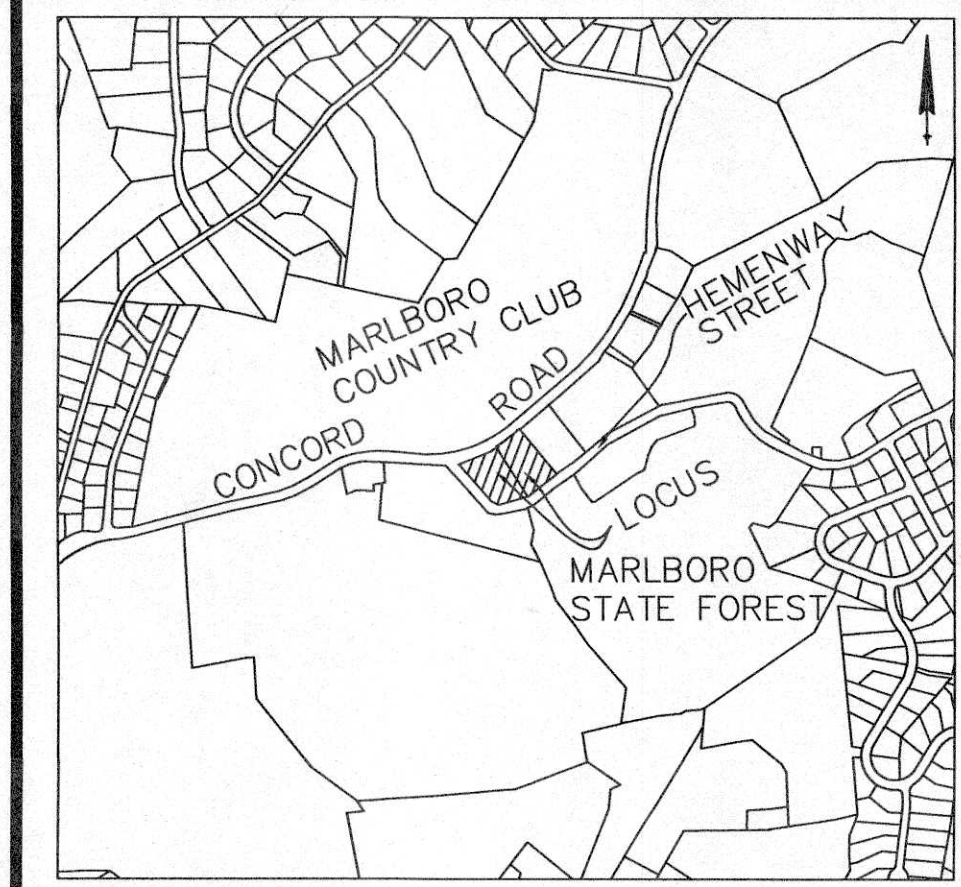
DEED BOOK 40720, PAGE 293  
DEED BOOK 30947, PAGE 443  
DEED BOOK 19501, PAGE 343  
PLAN 1241 OF 1947  
PLAN 389 OF 1956  
PLAN 1679 OF 1988  
1970 COUNTY ROAD LAYOUT

RECORD OWNER:

MAP 49, LOT 39  
(LOT 1, PARCEL 1 AND PARCEL 5)  
JOSEPH F. & SANDRA M. MAY  
297 CONCORD ROAD  
MARLBOROUGH, MA 01752

MAP 49, LOT 40  
(PARCELS 2, 3 & 4)  
ESTATE OF PAUL D. MAY  
285 CONCORD ROAD  
MARLBOROUGH, MA 01752

LOCUS MAP SCALE: 1" = 1000'



SITE ADDRESS:

#285 & 297  
CONCORD ROAD  
STREET

Marlborough, MA 01752

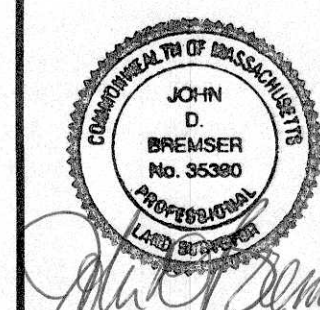
HANCOCK  
ASSOCIATES

Civil Engineers

Land Surveyors

Environmental  
Consultants

315 Elm Street, Marlborough, MA 01752  
Voice (508) 460-1111, Fax (508) 460-1121  
www.hancockassociates.com



NO. BY APP DATE ISSUE/REVISION DESCRIPTION

DATE: 4/30/21 DRAWN BY: KJD  
SCALE: 1" = 30' CHECK BY: JDB/CMF

PLAN OF  
LAND IN  
MARLBOROUGH,  
MA

OWNED BY:  
JOSEPH & SANDRA MAY  
AND  
PAUL D. MAY

PREPARED FOR:  
MR. JOSEPH MAY  
297 CONCORD ROAD  
MARLBOROUGH, MA 01752

DWG: 21315sv-3.dwg

LAYOUT: ANR (3)

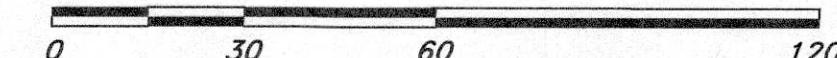
SHEET: 1 OF 1

PROJECT NO.:

ANR

21315

SCALE: 1" = 30'





- (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 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. This 10% shall be held by the City for one year after completion of construction and installation of services or until the streets are accepted by the City, whichever comes first. 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(~~1~~) above may be increased by the Planning Board.

Any reduction ~~of~~ 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 ~~DPE's~~ 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.

~~(amended 5-1-15)~~

- H<sup>1/4</sup> 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~~ 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. ~~(amended 5-1-15)~~
- H<sup>1/2</sup>. 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~~ installed 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~~ the 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. ~~(amended 5-1-15)~~

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, , two copies to the City Clerk and one copy each to the DPW Commissioner, the City Engineer, the Board of Health, and the City Solicitor, a written statement in duplicate that the said construction ~~or~~ and installation of services 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~~ Such statement ~~to must~~ contain the address of the applicant, ~~and~~ and The City Clerk shall forthwith furnish a copy of said statement to the Planning Board.

Within 15 days of receipt of such statement, the following shall respond regarding compliance with the Board's Subdivision Rules and Regulations in place at the time the Board approved the definitive subdivision plan and may also recommend the termination of the Maintenance Period:

- (a) The Commissioner of Public Works shall respond as to the construction of all ways, the installation of water, sewer, drainage utilities, and sidewalks, installation of monuments, street signs, lights, gutters, and curbs, required grading and lot drainage, and planting and whether the condition of the subdivision road(s) and subdivision infrastructure are acceptable.
- (b) The City Engineer shall respond as to the construction of the Stormwater Management facilities.
- (c) The Board of Health shall respond as to the installation of sewage disposal facilities, if applicable.
- (d) The City Solicitor shall respond as to receipt of executed deeds for the roadway layout and municipal easements and as to the Developer's Certificate of Title.

(2) After receiving favorable written statements of compliance from the DPW Commissioner, the City Engineer, the Board of Health and the City Solicitor, and, if the Planning Board determines that said construction and installation of services has been satisfactorily completed and the Maintenance Period may be terminated, it shall notify the:

- (a) Developer that they should petition the City Council for Acceptance of the streets and the associated municipal easements.
- (b) City Council, when requested, regarding its recommendation for Acceptance of the subdivision streets and the associated municipal easements including in such recommendation the expiration date of the developer's responsibility for maintenance of said way or portion thereof and that said way should be laid out as a public way with its maintenance the responsibility of the City.
- (c) City Treasurer, Surety, the Developer, and the City Clerk~~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 for one year after completion of construction or until the streets are accepted by the City, whichever comes first. 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. (amended 5-1-15)~~

~~(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 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) 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:~~

~~(a) From the 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) From the Board of Health as to the installation of sewage disposal facilities, if applicable, and adequate lot drainage.~~

~~(c) From the Commissioner of Public Works as to construction and installation of water and sewer facilities.~~

~~(53) If the Planning Board determines that said construction or and installation of services has not been completed, or does not receive the above written statements of approval 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 ~~under Article V~~within these Rules and Regulations.

~~(4) In the event~~Upon failure of the Planning Board does not make a determination regarding the status of construction and installation of services to act on such application within 45 days after the receipt of the application by the City Clerk of the applicant's written statement, 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;