

CITY OF MARLBOROUGH MEETING POSTING

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CITY OF MARLBOROUGH

2021 JUN -3 P 1:00

Meeting: Planning Board
Date: June 7, 2021
Time: 7:00 PM
Location: REMOTE MEETING NOTICE

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 June 7, 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: 504 416 424#

Agenda Items to be Addressed:

1. Draft Meeting Minutes

- A. May 10, 2021
- B. May 24, 2021

2. Chair's Business

- A. Sign Ordinance discussion with Code Enforcement Officer Pamela Wilderman
- B. Discussion regarding the transition to in person Planning Board meetings
- C. Referred from City Council: Proposed Amendment to Zoning Code, Chapter 650 by adding a new section to create the "Commercial Village Overlay District"
Public Hearing Date set for: June 21, 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)
Vote on endorsement – Engineering review letter

4. Public Hearings

- A. Proposed Zoning Amendment to Chapter 650 to add a new Section 61 Temporary Moratorium for Multi-Family Housing Projects
- B. Proposed Zoning Map Amendment, Section 650-8 – Land at 290 Hudson Street, Map 43, Parcel 38

5. Subdivision Progress Reports (None)

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

7. Definitive Subdivision Submissions (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.

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8. Signs

- A. Sign Variance Application 191-237 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
Correspondence from Mr. Brangwynne – Request to continue to July 19, 2021
- B. Sign Variance Application 121 Bolton Street, Marlborough, MA 01752
Representative: Brian Falk, Mirick O'Connell (100 Front Street, Worcester, MA 01608)

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)

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1A

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.

City Councilor Kathleen 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.

3. Approval Not Required

- A. Map 111 Parcel 1 – Applicant: BH GRP TCAM Owner, LLC**
Map 112 Parcel 10A – Applicant: IPG Photonics Corporation
Surveyor: Bruce Saluk & Associates, Inc
Recommendation letter from Engineering

Deed Reference: Book 70600, Page 451
Deed Reference: Book 74877, Page 455

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."

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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.

Mr. Fay discussed his concerns regarding the current sign violations and code enforcement within the City. Councilor Ms. Robey assured the Board that Code Enforcement and the Mayor’s office are working on many aspects of signage and code violations within the City. The Board decided to invite the Code Enforcement Officer to a future Planning Board meeting for further discussion and clarification.

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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

- 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.

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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.

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.

Councilor Ms. Robey expressed her concerns regarding the request for comments and questioned if the Planning Boards Rules and Regulations would go to City Council as a zoning amendment. Mr. LaVenture explained based on his understanding from Legal, the Planning Board has the final deciding authority to implement the proposed changes. Councilor Ms. Robey concluded 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 on the following page.

Mr. LaVenture reminded the Board that the H $\frac{1}{4}$ 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.

10 A



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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

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1B

Call to Order

May 24, 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. Members absent – Sean Fay.

1. Draft Meeting Minutes

A. May 10, 2021

Mr. LaVenture asked the Board to table consideration of the draft minutes to the next meeting set for June 7, 2021. Dr. Fenby tabled.

2. Chair's Business

- A. Referred from City Council: Proposed Zoning Amendment to Zoning Code, Chapter 650 by adding a new section to create the "Commercial Village Overlay District"
- June 21, 2021, 7:00 pm was selected for the Planning Board's public hearing on the proposed zoning amendment.

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)

Dan Bremser, Senior Project Manager of Hancock Associates spoke on behalf of his client Joseph May. Mr. Bremser explained Joseph and Sandra May live at 297 Concord Road, and Paul May lived at 285 Concord Road. The main purpose of this ANR is to reconfigure the 285 and 297 Lot lines. This reconfiguration would create a proposed "Parcel A".

Mr. Russ and City Engineer Thomas DiPersio discussed concerns on the wording of a note on the Plan. Mr. DiPersio assured the Board that Engineering would review the language during their review process.

Mr. Bremser explained this ANR plan would result in the descriptions below:

Proposed Lot 3:	Area: 25,616 S.F.	Frontage: 151 ft
Proposed Lot 1:	Area: 38,076 S.F.	Frontage: 154 ft
Proposed Parcel A:	Area: 44,806 S.F.	Frontage: 71.56 ft - Does not meet requirement (not a buildable Lot)

On a Motion by Mr. LaVenture to refer to Engineering, seconded by Mr. Russ. 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)

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7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

A. Working Group Discussion – Planning Board Rules and Regulations

Mr. LaVenture acknowledged the support from the Engineering and Legal Departments. Specifically Assistant City Engineer Timothy Collins, City Solicitor Jason Piques, City Engineering Thomas DiPersio, and Mr. Russ. All have contributed and continue to contribute tremendously to the Working Group's efforts.

Mr. LaVenture explained on display for the Board are a few pages from the full set of Rules and Regulations with proposed changes. The pages cover A676-10 H & I. Mr. LaVenture provided a description, Per A676-10 (G) an applicant may provide construction and services installation performance guarantees by one, or in part by one and in part by the other, of bonds or surety or covenant. (H) speaks to adjustment of any bond or surety that has been used to guarantee performance. (I) address the release of any performance guarantee after successfully completing construction and services installation.

Mr. LaVenture went over the proposed changes within the document displayed on the next four pages.

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- (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.

Mr. Hodge addressed concerns on the placement of language, potentially resulting in confusion. Mr. LaVenture decided to review the placement of language at the next Working Group meeting.

Similarly, the penal sum of any such bond or the amount of any deposit held under Subsection G(II) 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^{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-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^{1/2}. 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

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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:

- Ø) 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.
- Ø) The City Engineer shall respond as to the construction of the Stormwater Management facilities.
- Ø) The Board of Health shall respond as to the installation of sewage disposal facilities, if applicable.
- Ø) 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) 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:

- Ø) Developer that they should petition the City Council for Acceptance of the streets and the associated municipal easements.
- Ø) 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.
- Ø) 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

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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

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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;

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With no questions from the Board, Mr. LaVenture discussed street acceptance.

With no language to display Mr. LaVenture provided a high-level briefing of what the Working Group has been discussing. He explained their goal is two-fold, keeping an applicant engaged in the street acceptance process and protect the city in the rare event that a developer should, for whatever reason, be unavailable. Based on review of model subdivision regulations developed by the Pioneer Valley Planning Commission supporting Agawam, Belchertown, Easthampton, Ludlow, South Hadley, and Ware, and discussions Assistant City Solicitor Mr. Piques has had with the town of Taunton planners, the Working Group is discussing adding a new section L to A676-10 called Street Acceptance.

Mr. LaVenture explained the idea is to accomplish the following:

- require a Street Acceptance Deposit in the form of bonds/cash/securities or a buildable lot as part of the initial Definitive Plan submission [however it could be done prior to endorsement if that makes more sense].
- require the developer petition the City Council to accept the ways as public,
- require the Planning Board respond to the Council's request for its' recommendation, and
- require the developer to then request the release of their deposit to start that process

This will help protect the City in the event a developer should fail/fold or walk away from a project without conveying the land and easements required under A676-10 H-1/4.

Mr. LaVenture clarified the bond and covenant described below are separate from the performance guarantee sections of G, H and I, which are solely to ensure that the construction and the installation of services have been adequately and satisfactorily completed. Once that has been determined those bonds and covenants are released.

1. 100% Bond/cash or security deposit

The applicant would be required to submit a Street Acceptance Deposit of some amount tied to the value of a buildable lot in cash with their Definitive Plan submission.

Since all subdivisions are different, the Working Group is considering setting a minimum deposit amount but allowing the Planning Board to raise it depending on the circumstance.

2. 100% Covenant (Presumably called Supplemental Covenant)

Here the Planning Board would stipulate that one buildable lot will be held as the Street Acceptance Deposit.

3. Combination of Bond and Covenant

Requirements would be worked out on a case by case basis. This is an unlikely method.

Release of the deposit or last remaining buildable lot would occur after the applicant has petitioned the City Council for street acceptance, the Planning Board has responded to a City Council request regarding street acceptance, and the applicant has petitioned, in writing, the Board for release of the deposit or buildable lot.

With no questions from the Board, Mr. LaVenture provided an update, as of the last Working Group meeting on the 19th, the City Engineer Mr. DiPersio hadn't received feedback from any of the city departments regarding the proposed changes. Mr. LaVenture said City Solicitor Mr. Piques indicated he had briefly communicated with Meredith Harris at MEDC and that there is no timeline for a MAPC response yet.

The Board set a tentative date of September 13, 2021, for their public hearing to present the proposed changes to the Planning Board's Rules and Regulations.

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

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

Respectfully submitted,

/kmm

George LaVenture/Clerk



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

SEAN M. DIVOLL, P.E.
 COMMISSIONER

June 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 46 Parcels 39 & 40

Dear Dr. Fenby,

Pursuant to the request of the Marlborough Planning Board at the meeting held on May 24, 2021, I have reviewed the following ANR plan submission dated 4/30/21 and revised on 6/3/21:

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

PREPARED BY:
 HANCOCK ASSOCIATES, 315 ELM STREET, MARLBOROUGH, MA 01752.

The purpose of the plan is to subdivide two properties:

- Map 46 Parcel 39, owned by Joseph F. & Sandra M. May, and;
- Map 46 Parcel 40, owned by Estate of Paul D. May;

to create several parcels and lots as follows:

- "Parcel 1" containing 298+/- square feet;
- "Parcel 2" containing 25,318+/- square feet;
- "Parcel 3" containing 45+/- square feet;
- "Parcel 4" containing 24,323+/- square feet;
- "Parcel 5" containing 20,438+/- square feet, and;
- "Lot 1" containing 38,076+/- s.f.

None of the parcels contain the necessary area and frontage to be considered separate building lots, and are correctly noted as such on the plan.

"Lot 1" contains the necessary area, frontage, and lot width rectangle for a buildable lot, and will be the new lot containing house number 297.

"Parcels 1 and 2" are to be combined to create "Lot 3", which contains the necessary area, frontage, and lot width rectangle for a buildable lot, and will be the new lot containing house number 285.

"Parcels 3, 4, and 5 are to be combined to create "Parcel A". "Parcel A" contains 44,806+/- square feet and has a total of 71.56 feet of frontage on Concord Road. A note on the plan indicates that "Parcel A" is not currently a buildable lot.

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

Sincerely,

A handwritten signature in blue ink that reads "Thomas DiPersio, Jr." with a stylized flourish at the end.

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

cc: Sean M. Divoll, P.E. - DPW Commissioner.
Timothy F. Collins – Assistant City Engineer

LEGEND

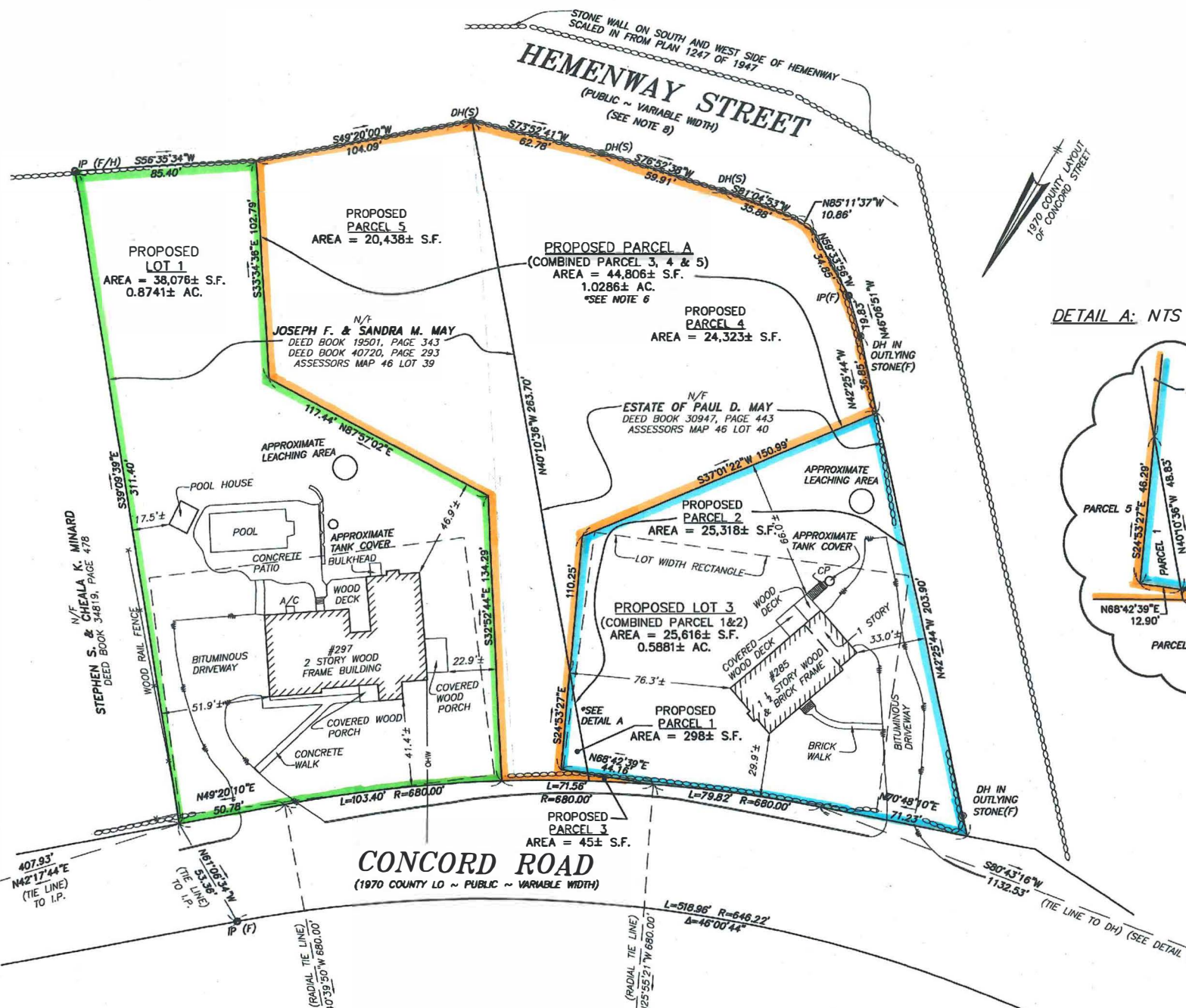
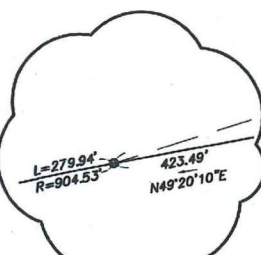
- RAIL FENCE
- STONE WALL
- EDGE OF PAVEMENT
- OVERHEAD WIRES
- DH(S) DRILL HOLE
- DH(S) DRILL HOLE IN STONE BOUND
- (F) FOUND
- A/C AIR CONDITIONING UNIT
- IP IRON PIPE
- CP CONCRETE PAD
- NTS NOT TO SCALE
- (F/H) FOUND AND HELD

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:

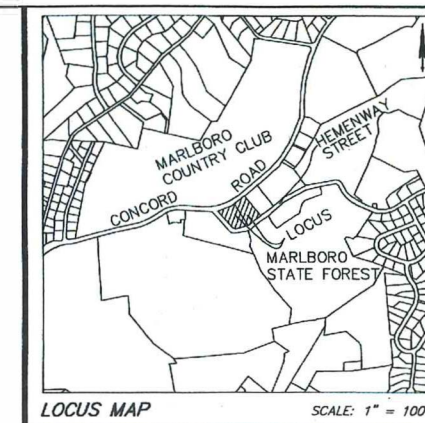


CONCORD ROAD
(1970 COUNTY LD ~ PUBLIC ~ VARIABLE WIDTH)

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 ERECTED AFTER 1-27-1969; ALL OTHERS, 10'
***- THERE IS 365.05±' OF FRONTAGE ON HEMENWAY STREET
****- PARCEL A IS NOT CURRENTLY A BUILDABLE LOT



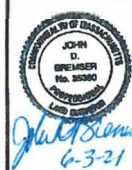
SITE ADDRESS:
**#285 & 297
CONCORD ROAD**

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



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 369 OF 1956
PLAN 1679 OF 1988
1970 COUNTY ROAD LAYOUT

RECORD OWNER:

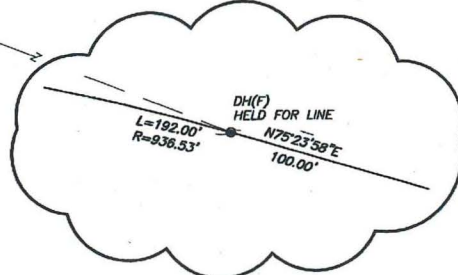
MAP 49, LOT 39
(LOT 1, PARCEL 1 AND PARCEL 5)
JOSEPH F. & SANDRA M. MAY
297 CONCORD ROAD
MARLBOROUGH, MA 01752

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

NOTES:

- 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.
- THIS PLAN IS BASED UPON A GROUND SURVEY CONDUCTED BY HANCOCK ASSOCIATES THROUGH 11/8/19.
- PROPOSED LOT 3 CONSISTS OF PROPOSED PARCEL 1 AND PARCEL 2.
- PROPOSED PARCEL A CONSISTS OF PROPOSED PARCEL 3, PARCEL 4, AND PARCEL 5.
- OFFSETS TO BUILDINGS ARE TO CORNER BOARDS.
- PARCEL A IS NOT CURRENTLY A BUILDABLE LOT.
- PARCELS 1 THROUGH 5 ARE UNBUILDABLE PARCELS CREATED TO ALLOW CONVEYANCES THAT WILL MAKE PROPOSED LOTS 1 AND 3 "BUILDABLE" PARCELS.
- HEMENWAY STREET IS NOT BUILT TO CURRENT STANDARDS.

DETAIL B:



SCALE: 1" = 30'

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: 21315v-3.dwg
LAYOUT: ANR (3)
SHEET: 1 OF 1

ANR

PROJECT NO.: 21315

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

DATE: _____ PROFESSIONAL LAND SURVEYOR



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:

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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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

In City Council

Order No. 21-

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST



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

3
- 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

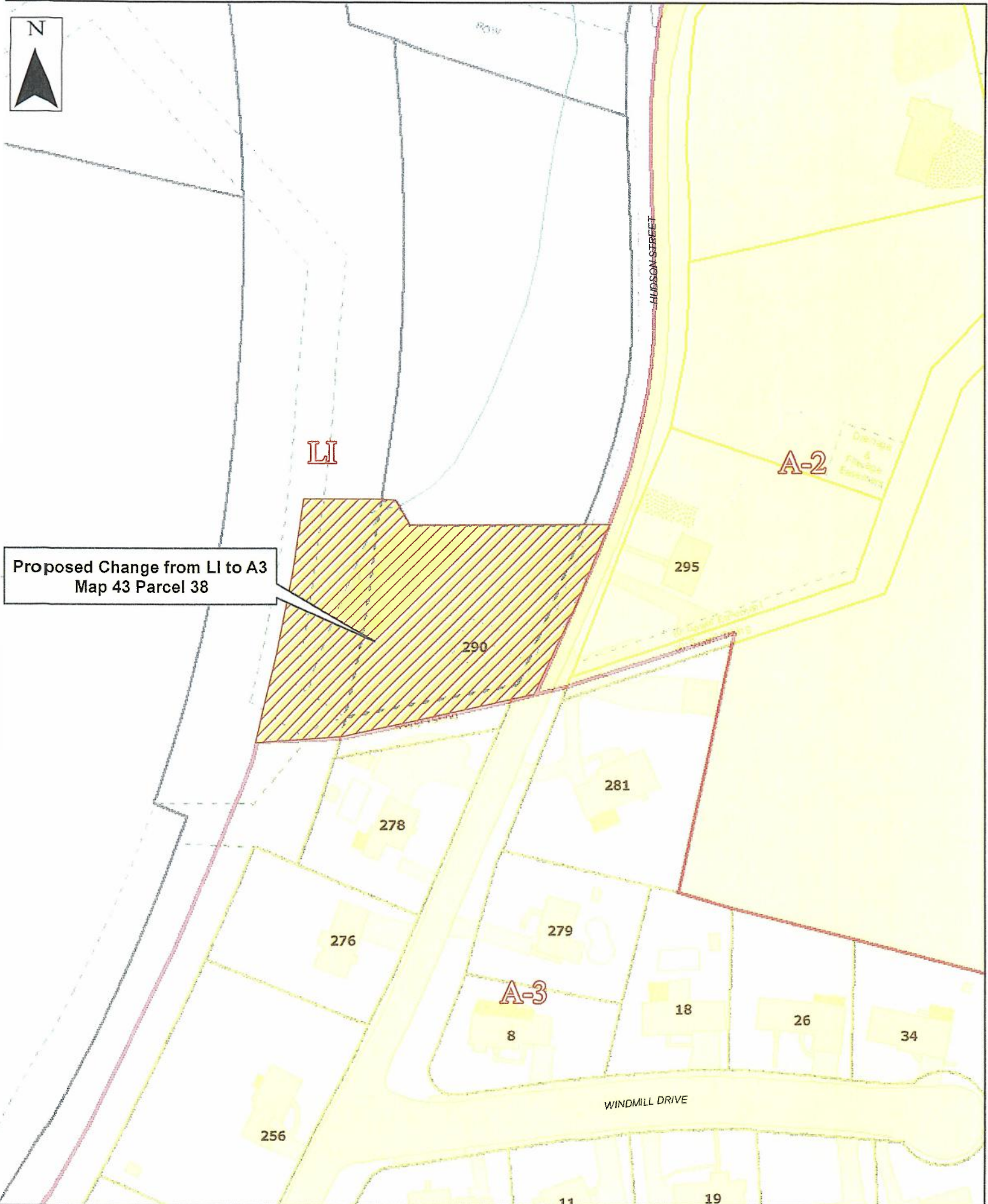
Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

EXHIBIT A



Proposed Change from LI to A3
Map 43 Parcel 38



June 3, 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 July 19, 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

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

Brian R. Falk
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
bfalk@mirickoconnell.com
t 508.929.1678
f 508.983.6256

May 28, 2021

Dr. Barbara L. Fenby, Chair
Marlborough Planning Board
City Hall
Marlborough, MA 01752

Re: 121 Bolton Street Sunoco Station; Application for a Sign Variance

Dear Dr. Fenby and Board Members:

On behalf of my client One Energy, Inc., enclosed please find an application for a Sign Variance for the Sunoco station at 121 Bolton Street. As set forth the enclosed denial letter, the applicant seeks variances from the restriction on electronic message center (EMC) signs in the RB Zoning District and the 200-foot buffer for EMC signs from residential zones.

This site received a Section 6 finding special permit from the City Council in 2019, authorizing the modification of a preexisting nonconforming gas station use to accommodate gas station renovations, a new convenience store, and – most importantly – the environmental cleanup of the site. There has been an auto repair and/or gas station use at this site for decades, predating the Zoning Ordinance.

The applicant seeks to install a fairly typical gas station pylon sign with an EMC display for prices, as shown in the enclosed application. Strict enforcement of the Sign Ordinance restrictions in this case would present a significant hardship and practical difficulties for the applicant, as this would be among the only gas stations in the City without a similar sign. Granting this variance would not substantially derogate from the intent and purpose of the Sign Ordinance as the surrounding neighborhood is used to having a business at this location, and neighbors expressed support for this new business during the City Council's special permit process in 2019. In addition, this area of Bolton Street is home to several business, so a new, updated sign at this location would not be out of place.

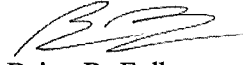
Following the grant of a sign variance by this Board, the applicant will require a Sign Ordinance special permit from the City Council for the EMC sign.

MIRICK O'CONNELL

Marlborough Planning Board
May 28, 2020
Page 2

Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'BRF', with a horizontal line extending to the right.

Brian R. Falk

BRF/

Encl.

cc: Client



CITY OF MARLBOROUGH
APPLICATION FOR SIGN APPEAL TO PLANNING BOARD

INSTRUCTIONS: Use this form if your sign permit application has been denied by the Building Inspector and your denial letter indicates your right to appeal to the City of Marlborough Planning Board. This application must be filed with the Planning Board within 30 days of the date of the decision of the of the Building Inspector. (See Number 7 below.) Applicant must attach a copy of the Building Inspector's decision letter (usually a denial of a sign permit.) This application form must be signed by the applicant or their authorized agent (and the property owner if the owner is not the applicant.) Send the completed form along with the \$25.00 filing fee to the Planning Board administrative offices at 135 Neil St. 2nd Floor, Marlborough, MA 01752. The Planning Board Administrator will sign this form and schedule an appeal hearing date at a future scheduled meeting of the Planning Board.

1. **Location of Proposed Sign: Street Address:** 121 Bolton Street
What other signs exist on the property: (Type, Size, Location) Wall signs; directional signs; pump signs.
2. **Name of business or activity applying for sign:** One Energy, Inc. (Sunoco Station)
3. **Applicant:** One Energy, Inc.
Applicant Address: 420 Lakeside Drive, Marlborough, MA 01752
Applicant Contact Info: (name, email and phone) (Atty. Brian R. Falk, bfalk@mirickoconnell.com - 508-929-1678)
4. **Building Owner:** One Energy, Inc.
Owner Address: 420 Lakeside Drive, Marlborough, MA 01752
Owner Contact Info: (name, email and phone) (Atty. Brian R. Falk, bfalk@mirickoconnell.com - 508-929-1678)
5. **Applicant is** ☒ **Building Owner** ☐ **Tenant** ☐ **Other** _____
6. **Date of Building Inspector's decision from which appeal is taken:** May 3, 2021
(Attach copy of denial of sign permit.)
7. **Section of the Sign Ordinance from which appeal is requested:** Chapter 650, Section(s)
Section heading(s): Section 562-13 (See enclosed Denial Letter)
8. **Description of Sign:** Pylon - Length: 11' - 7 1/4" Width: 5' - 1 1/4" Height (Free Standing): 17' - 0" Area: 59.2 SF
9. **Give a brief outline why permit was refused and the purpose of the sign:** _____
See enclosed Cover Letter

Other pertinent information may be submitted with this application or requested by the Planning Board.
I hereby request a hearing before the Planning Board with reference to the above noted application:

Signed: _____ **Date:** 5/28/2021 **Owner:** One Energy, Inc.
Applicant

Received: \$25 application fee - Check payable to City of Marlborough **Initials of Board agent** _____
Scheduled Hearing Date: _____ **Date of payment** 5/28/21 #2292

NEW SIGNS MAY NOT BE ERECTED UNTIL APPEAL HAS BEEN GRANTED AND PERMIT IS ISSUED

Variance Decision: ☐ **Approved** ☐ **Denied**
(attached)



CITY OF MARLBOROUGH
APPLICATION FOR SIGN APPEAL TO PLANNING BOARD

PLANNING BOARD SIGN VARIANCE DECISION:

Applicant: One Energy, Inc.

At its regular meeting of the Planning Board on _____, on a motion by _____, seconded by _____, the Board voted the following:

☐

Appeal Granted.

The Board determined that this specific case appeared not to have been contemplated by the ordinance, that enforcement would involve practical difficulties, and to grant relief would not substantially derogate from the intent and purpose of this ordinance.

Special Conditions of Variance (If any):

The applicant must apply to the Building Inspector for a new sign permit in accordance with the decision of the Planning Board. Attach this decision to the new application.

☐

Appeal Denied.

Appeal was denied. The Board determined that the circumstances of this specific case appeared to have been contemplated by the ordinance, that enforcement would not involve unusual practical difficulties, and that to grant relief would substantially derogate from the intent and purpose of this ordinance.

Motion Carried.

Barbara L. Fenby, Chair
Marlborough Planning Board

Date

City of Marlborough
Commonwealth of Massachusetts



Ethan Lippitt
Code Enforcement Officer
140 Main Street
Marlborough, MA 01752
Phone: (508) 460-3776 XT 30201
Fax: (508) 460-3736
Email: elippitt@marlborough-ma.gov
pwilderman@marlborough-ma.gov

5/3/2021

Carolyn A. Parker Consulting
3 Lorian Avenue
Worcester MA
01506

RE: Sign Permit Application BP-2021-000587,

To whom it may concern,

On 4/28/2021 sign permits were applied for regarding the installation of an EMC sign upon the property at 121 Bolton Street. Signs upon that property must meet the two criteria related to all EMC signs.

- The first is that all EMC signs installed within Marlborough must comply with 526-13 (B) (12).
- The second is that a special permit is required per 526-13 (A) (2) in that a special permit is required and that the installation of an EMC within the RB zone is not allowed.

Both code sections have been included in this letter for your convenience.

§ 526-13 Electronic message center signs; digital display signs.

[Added 8-25-2014 by Ord. No. 14-1005880B]

A. Applicability.

(2) The regulations in § 526-13 permit digital display signs and electronic message center (EMC) signs in all zoning districts except for Rural Residence (RR) Districts, Residence (A-1) Districts, Residence (A-2) Districts, Residence (A-3) Districts, Residence B (RB) Districts, Residence C (RC) Districts, Retirement Community Residence (RCR) Districts, and the Downtown Business District outlined in § 526-9L, in which districts such signs are strictly prohibited. Digital display signs and EMC signs shall be permitted with the approval of the Building Commissioner, shall be subject to all other provisions governing signs in Chapter 526, the City's Sign Ordinance, and shall require a special permit.

[Amended 10-6-2014 by Ord. No. 14-1005921A]

§ 526-13 Electronic message center signs; digital display signs.

[Added 8-25-2014 by Ord. No. 14-1005880B]

B. Standards. EMC signs and digital display signs shall be allowed by special permit, but only pursuant to the following standards:

(12) Setbacks from residential zoned areas. The sign must be set back a minimum distance of 200 feet from the nearest point of any abutting residentially zoned district. If, because of the shape, size and/or proximity of a commercial lot to a residentially zoned district it is not possible to place the sign more than 200 feet from the nearest point of an abutting residentially zoned district, then the

Planning Board may grant a variance for closer placement, provided that when located within 200 feet of a residentially zoned district, all digital display portions of the sign shall be oriented so that no portion of the sign is visible from an existing primary residential structure in that district.

The Planning Board Appeal has been included for your convenience

§ 526-12 Administration and penalties.

C. Rights to appeal.

(1) Any applicant for a permit, any person who has been ordered by the Building Commissioner to incur expense in connection with a sign and any person dissatisfied with any refusal, order or decision of the Building Commissioner may appeal to the Planning Board within 30 days from the date of such refusal, order or decision. The fee for the filing of said appeal shall be \$25, payable to the City of Marlborough upon the filing of said appeal. After written notice given to such parties as the Planning Board shall order, the Planning Board shall address the appeal at a regularly scheduled meeting of the Board. Applying the standards described in Subsection C(2) below, where applicable, and interpreting this chapter, the Planning Board shall affirm, annul or modify such refusal, order or decision within 45 days after hearing the appeal. The action of the Building Commissioner may be annulled or modified only by a two-thirds vote of the Planning Board. If the action of the Building Commissioner is modified or annulled, the Building Commissioner shall issue a permit or order in accordance with the decision of the Planning Board.

[Amended 10-6-2014 by Ord. No. 14-1005921A]

(2) Variances. The Planning Board may vary the provisions of this chapter in specific cases which appear to it not to have been contemplated by this chapter, and in cases wherein its enforcement would involve practical difficulties if, in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this chapter but not otherwise. Any decision to vary the provisions of this chapter shall be by 2/3 majority and shall specify any variance allowed and the reason therefor. Each decision of the Planning Board shall be filed in the office of the City Clerk within 30 days after the decision and a copy of the decision shall be sent by mail or delivered to the appellant and any other person appearing at the hearing and so requesting in writing. Failure to file such a decision within 30 days after the hearing shall not be deemed to be approval of any variance sought. No variances shall be allowed by the Planning Board from the date on which this sentence becomes effective until July 1, 2007.

[Amended 10-30-2006 by Ord. No. 06100-1323A]

(3) Conditions and safeguards. The Planning Board shall set forth appropriate conditions and safeguards whenever in its opinion they are desirable.

The Special Permit Application can be found on the City's website.
<https://www.marlborough-ma.gov/city-clerk/pages/city-council-applications>

Code Enforcement Officer Ethan Lippitt

CC  File
 Planning Board Secretary
 City Council
 Commissioner Htway



City of Marlborough
BUILDING DEPARTMENT

140 Main Street
Marlborough, Massachusetts 01752

PYLON
SIGN

Date: 4/13/21

Permit No. _____

Address/Location of Sign 121 BOLTON STREET

Name of Business SUNOCO

Name of Owner of Business ONE ENERGY, INC Telephone (508) 460-1010

Type of Sign: (check off which applies)

____ Flat Wall ☒ Free Standing ____ Awning ____ Banner ____ Projecting

Does this site have a Special Permit ☒ YES ____ NO 19-1007780B

Is this a replacement of a same size existing sign(s) ____ YES ☒ NO

Dimensions Sign: PYLON

Length 11'-7 1/4" Width 5'-1 1/4" Height (Free Standing) 17'-0" Area 59.2 SF

Location of Sign on Bld. North ____ South ____ East ____ West ____

Dimensions Façade:

Length ____ Width ____ Area ____

Carolyn A Parker - AGENT 774-239-2781
Signature of Responsible Party capconsulting@verizon.net Telephone

Installer Company READY IMAGING, INC. Telephone 860-649-2755

awhiting@readyimaging.com
Email

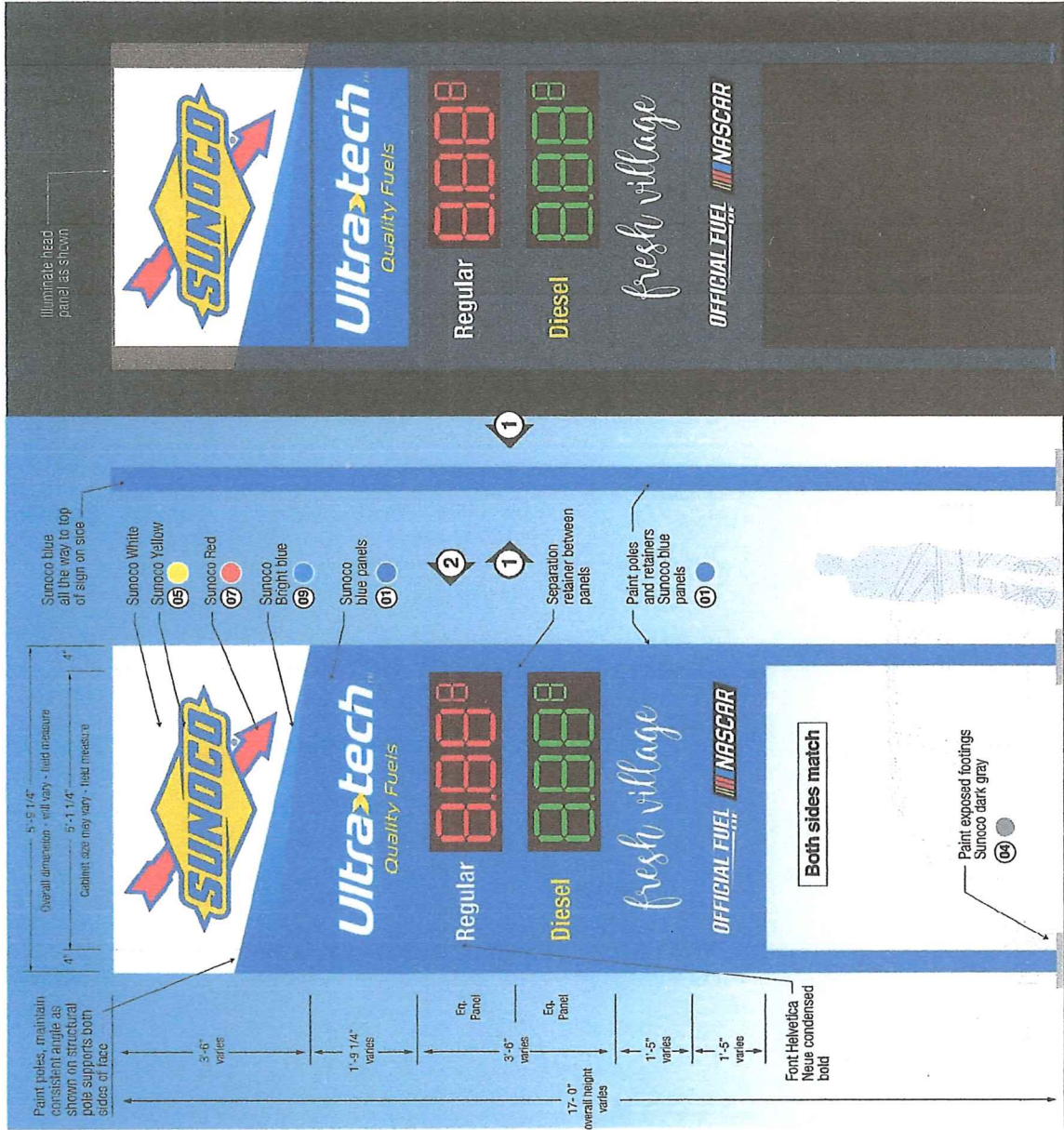
I hereby declare that I have the authority to request this permit and that the statements and information provided are true and accurate to the best of my knowledge and belief as well as to conform to the City's current Sign Ordinance and MA State Building Code, signed under the pains and penalties of perjury.

Carolyn A Parker
Signature

4/13/21
Date

Cost of Sign(s) \$21,000.00

Permit Fee \$ _____



Electronic and fabrication components are responsible for following approved listing guidelines and standards required to meet all applicable codes and regulations. All components must be approved by the manufacturer and listed for use in the intended application. The manufacturer is responsible for the design, construction, and installation of the sign. The manufacturer is not responsible for the design, construction, and installation of the sign. The manufacturer is not responsible for the design, construction, and installation of the sign. The manufacturer is not responsible for the design, construction, and installation of the sign.

retail visual standards			
Project	Sunoco - Bolton St. MA		
Site	Existing MID	Owner	SUMI.0110
Scale	See Dwg's	Date	March 24, 2021

121 BOLTON STREET
MARLBOROUGH, MA

REFERENCE:
PROPERTY, LINES AND OTHER INFORMATION SHOWN ON THIS DRAWING WERE TAKEN FROM A PLAN SUBMITTED TO THE CITY OF MARLBOROUGH FOR REVIEW AND APPROVAL. THE CITY OF MARLBOROUGH HAS REVIEWED THE PLAN AND HAS ISSUED A PERMIT TO CONSTRUCT. THE CITY OF MARLBOROUGH HAS REVIEWED THE PLAN AND HAS ISSUED A PERMIT TO CONSTRUCT. THE CITY OF MARLBOROUGH HAS REVIEWED THE PLAN AND HAS ISSUED A PERMIT TO CONSTRUCT.

- GENERAL NOTES:
1. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MARLBOROUGH ZONING ORDINANCES AND THE CITY OF MARLBOROUGH DEPARTMENT OF PUBLIC WORKS REQUIREMENTS.
 2. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MARLBOROUGH ZONING ORDINANCES AND THE CITY OF MARLBOROUGH DEPARTMENT OF PUBLIC WORKS REQUIREMENTS.
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REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	01/15/11	ISSUED FOR PERMIT	AYOUB
2	02/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
3	03/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
4	04/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
5	05/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
6	06/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
7	07/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
8	08/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
9	09/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
10	10/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
11	11/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB
12	12/15/11	REVISED PER CITY REVIEW COMMENTS	AYOUB

ZONING			
REFERENCE & DIST.	REQUIREMENTS	REMARKS	NOTES
MAP OF MARLBOROUGH, MASS. 1996	1.5' SIDE SETBACK	1.5' SIDE SETBACK	1.5' SIDE SETBACK
MAP OF MARLBOROUGH, MASS. 1996	1.5' SIDE SETBACK	1.5' SIDE SETBACK	1.5' SIDE SETBACK
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