

# CITY OF MARLBOROUGH MEETING POSTING

Meeting: Planning Board

Date: October 4, 2021

Time: 7:00 PM

Location: Memorial Hall, 3<sup>rd</sup> Floor, City Hall, 140 Main Street, Marlborough, MA 01752

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2021 OCT 30 P 2:23

This meeting of the Planning Board will be held in Memorial Hall on Monday, October 4, 2021 at 7:00 PM.

**PUBLIC ATTENDANCE IS PERMITTED.**

## Agenda Items to be Addressed:

---

### 1. Draft Meeting Minutes

- A. September 27, 2021

### 2. Chair's Business

- A. Marlborough Planning Board Subdivision Rules and Regulations – ongoing discussion
- B. Scenic Roads – ongoing discussion
  - Correspondence from Robert Fagone – Historical Commission Re: Scenic Road Street Signs
  - Correspondence from Robert Fagone – Historical Commission Re: Stone Walls

### 3. Approval Not Required (None)

### 4. Public Hearings (None)

### 5. Subdivision Progress Reports

- A. Commonwealth Heights Subdivision – Schedule Update
  - Correspondence from Scott Weiss, The Gutierrez Company
  - Commonwealth Heights Covenant
  - Planning Board approval letter

### 6. Preliminary/Open Space/Limited Development Subdivision

- A. Informal Discussion of potential subdivision - 342 Sudbury Street, Marlborough, MA 01752 – Continued from July 19, 2021
  - Representative: Neal Vigeant
  - Engineer: Robert Parente, P.E.
  - Correspondence from Neal Vigeant
  - Correspondence from Chris Russ
  - Example: City of Newton's zoning by-law that regulates rear lot developments

### 7. Definitive Subdivision Submissions (None)

### 8. Signs (None)

### 9. Correspondence (None)

### 10. Unfinished Business (None)

### 11. Calendar Updates (None)

### 12. Public Notices of other Cities & Towns

- A. Misc. surrounding Cities/Towns Planning Board – Notices of Public Hearings

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

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

1A

**Call to Order**

**September 27, 2021**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, Phil Hodge, Chris Russ, Matthew Elder and William Fowler. Meeting support provided by City Engineer, Thomas DiPersio.

**1. Draft Meeting Minutes**

**A. September 13, 2021**

On a motion by Mr. Fay, seconded by Mr. Hodge, the Board voted to accept and file the September 13, 2021 meeting minutes. Yea: Fay, Fowler, Hodge, and Fenby. Nay: 0. Abstain: Elder and Russ. Motion carried.

**2. Chair's Business**

**A. Marlborough Planning Board Subdivision Rules and Regulations discussion**

On a Motion by Mr. Fay, seconded by Mr. Russ, the Board voted to refer the Marlborough Planning Board's Subdivision Rules and Regulation to the Legal Department, requesting the Rules and Regulations be put into final legal form. The Board also requested that Legal advise them on the proper procedure and language for their final vote to adopt the new regulations and to put them into effect. Yea: Elder, Fay, Fowler, Hodge, Russ, and Fenby. Nay: 0. Motion carried.

**3. Approval Not Required (None)**

**4. Public Hearings (None)**

**5. Subdivision Progress Reports (None)**

**6. Preliminary/Open Space/Limited Development Subdivision**

**A. Preliminary Subdivision Application - 209 Cullinane Drive Extension – Continued from August 23, 2021**

Applicant: J. Mor Realty Trust (209 Cullinane Drive, Marlborough, MA 01752)

Engineer: William Tirrell, Chappell Engineering Associates, LLC (201 Boston Post Road West, Suite 101, Marlborough, MA 01752)

Mr. Elder read the correspondence from John Garside into the record.

The Board had a discussion regarding the Title 5 and sewer connection concerns addressed in John Garside's letter. Mr. Fay and City Engineer Thomas DiPersio had a discussion on the gravity sewer easement and the concerns on whether the subdivision would prevent potential sewer connections from Red Spring Road through to Cullinane Drive. Mr. Russ and City Engineer Thomas DiPersio addressed concerns on potential future roadway connection to Red Spring Road.

On a Motion by Mr. Fay, seconded by Mr. Hodge, the board voted to approve alternative 3 of the preliminary subdivision plan with the following conditions:

1. Satisfactory Septic inspections and or approval of sewer connections consistent with communications from John Garside dated September 24<sup>th</sup>, 2021.
2. The applicant shall work with the Planning Board on connection of the existing recreational path that runs from Longfellow Terrace to Cullinane Drive.
3. The subdivision shall not connect through to Red Spring Road because it would change the character of its surrounding neighborhood, which was not contemplated.

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

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

**B. Informal Discussion of potential subdivision - 342 Sudbury Street, Marlborough, MA 01752 – Continued from July 19, 2021**

Representative: Neal Vigeant

Engineer: Robert Parente, P.E.

Mr. Elder read the correspondence from Engineering into the record.

The Board had a discussion regarding concerns on the proposed road being a private way and setting a precedent.

City Engineer Thomas DiPersio and Dr. Fenby addressed the previous discussions the City has had in trying to push to have all current private ways be accepted as public ways. Mr. DiPersio explained these roads ways are private due to faults in the process such as never getting the plans, deeds not being record, and or easement issues. These roads being accepted as public ways would credit the City more Chapter 90 allotment.

The Board determined the applicant by right could do a full road construction with no waivers, but it would require a higher priced house be built to become profitable and would also eliminate the 40-foot no cut buffer zone which is being proposed to appease the abutters.

Mr. Russ discussed setting a precedent on “pork-chop” lots and how some surrounding cities/towns have zoning by-law’s that require the back lot to be x percentage larger than the front lot. The Board requested he provide an example of this at the next meeting.

Mr. Fowler spoke in opposition to the proposed subdivision because the proposed roadway is private.

The Board requested the applicant determine how many lots there are within the City that have the same or more acres with the ability to fit the rectangle lot shape requirements within the zoning, where a similar project could be proposed.

The Board determined they are generally in favor of the proposed subdivision if the Board has the ability to control the precedent.

City Councilor Laura Wagner spoke in favor of this proposed subdivision and expressed the want to conserve the land and the character of the neighborhood.

**7. Definitive Subdivision Submissions (None)**

**8. Signs (None)**

**9. Correspondence (None)**

**10. Unfinished Business (None)**

**11. Calendar Updates (None)**

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

**12. Public Notices of other Cities & Towns**

A. Misc. surrounding Cities/Towns Planning Board – Notices of Public Hearings

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to and accept and file the correspondence under number 12. Yea: Elder, Fay, Fowler, Hodge, Russ, and Fenby. Nay: 0. Motion carried.

The Board had a discussion on the Commonwealth Heights Subdivision and requested the City Engineering reach out for an update.

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

Respectfully submitted,

/kmm

George LaVenture/Clerk

**CITY OF MARLBOROUGH**  
*HISTORICAL COMMISSION*



Robert A. Fagone, Chair  
 Andrea Bell Bergeron, Vice-Chair  
 Brendan Downey  
 Alan Slattery  
 Melanie Whapham  
 Pamela Wilderman  
 Lawrence Reeves AIA, Associate Member

Sean Divoll, Commissioner  
 Department of Public Works  
 135 Neil Street  
 Marlborough MA 01752

Re: Scenic Road Street Signs

9/22/2021

Dear Sean:

The Marlborough Historical Commission tasked me to contact the DPW about “Scenic Road” street name signs to be placed on those streets already approved by the City Council as Scenic Roads. The Council’s approved list of Scenic Roads is attached.

This initiative supports the Mayor’s recent letter protecting Marlborough’s historic stone walls and shade trees which also falls under the purview of City of Marlborough Code Ch 497 §1,2,3,4.

The Commission, therefore, proposes that:

- 1.) The DPW select the appropriate Sign Design. Four design examples are attached as suitable examples, with the final design chosen by the DPW to blend with the City’s existing and future requirements.
- 2.) The location of and number of Scenic Road signs can be determined by the DPW so long as the terminus of such streets and major cross streets be safely included.
- 3.) The timeline for completion of this project may cover one or more DPW budget periods.

The Marlborough Historical Commission has a responsibility to educate the public about our historical structures, monuments and venues. We deem it appropriate, therefore, to help the public become aware of our designated Scenic Roads and the responsibilities associated with them. We are ready to offer further consultation and feedback should you feel it necessary.

Thanks, as always, for your cooperation.

Robert A. Fagone, Chair

cc: Arthur G. Vigeant, Mayor  
 Dr. Fenby, Marlborough Planning Board      Atch: Council Approval; Scenic Street Sign Examples  
 City Hall  
 140 Main Street  
 Marlborough MA 01752  
 (508) 624-6910 Ext 33215



## IN CITY COUNCIL

JUNE 22, 1992

Marlborough, Mass., \_\_\_\_\_ 19

ORDERED:

That the following list of Streets be designated as  
SCENIC ROADS in accordance with MGL Chapter 405, Section 15C:

Ash Street	Hemenway Street
Beach Street	Hemenway Street Extension
Berlin Road	Hosmer Street
Bigelow Street	Millham Road
Brigham Street	Parmenter Road
Church Street	Pleasant Street
Cloverhill Street	Robin Hill Road
	Spoonhill Avenue
Concord Road	Stevens Street
Dudley Street	Stow Road
East Dudley Street	Sudbury Street
Elm Street	Wayside Inn Road
	West Hill Road
Farm Road	Westboro Road
Fitchburg Street	
Framingham Road	

ADOPTED  
In City Council  
Order No. 92-4365A  
Adopted June 22, 1992

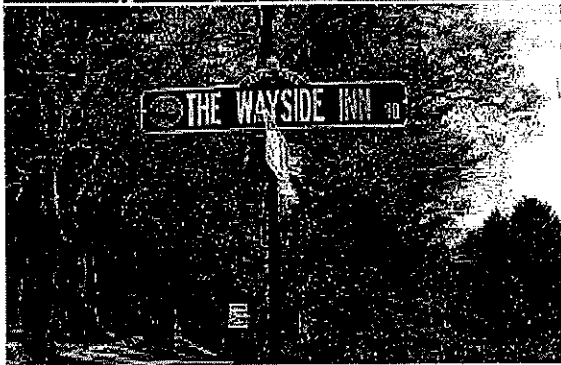
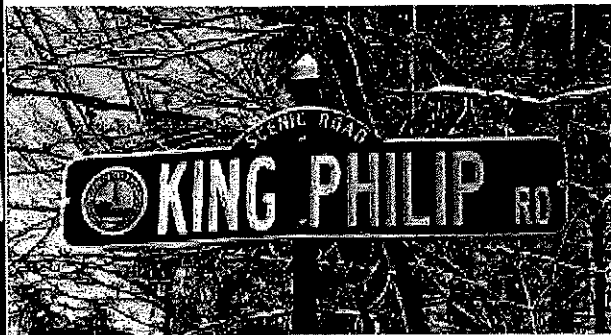
Returned unsigned by Mayor  
Michael P. Hogan  
July 14, 1992

A TRUE COPY  
ATTEST:

*James E. Reynolds*  
City Clerk



4 EXAMPLES OF SCENIC ROAD SIGNAGE DESIGNS





The City of Marlborough has a long and storied past history that reflects upon the development of our nation as a whole, not just as a New England town and city. We are committed to preserve and protect the few visible images of our growth and development like our characteristic New England stone walls.

The hills of Marlborough were once covered with farms and apple orchards. The Boston Post Road lead America into and through a frontier wilderness. Although, today, we have very few physical reminders of that past history, we're lucky that many of us and our neighbors own property that contain the remnants of the "stone wall" markings that delineated farmers' fields, town roads and property lines.

Marlborough's stone walls are as real history markers as any monuments we've put up to commemorate our soldiers and past presidents. As a matter of fact, they are more precious as monuments because they rest where they were originally hand laid well over two centuries ago. They were not erected by artists and masons; they were laid by fathers, brothers, grandparents, wives and sisters. We do not know the names of all these artisans other than that they were residents like us of Marlborough. They wrote no signatures or etched no names on their stonework. Some walls are still pleasant to look at, full and robust; some are falling down; some partially intact; some thin and barely visible.

We in the City of Marlborough and the State of Massachusetts have established ordinances that guarantee our present and future residents the right to protect and conserve these stone walls. We want to enforce these ordinances with care and respect for private property. But we do not conserve and protect them simply because they are important rocks and stones. We preserve and protect them because they carry the DNA of the energy and drive of our ancestors that we still touch today and pass on to our own children. Marlborough's pride and economic development did not start in the 21<sup>st</sup> century. It started with our founders, their families and the sweat of their labors.

If you are fortunate enough to live on a property along a Marlborough scenic road that is even partially lined with these ancient New England stone walls, please take time to minimize their demise, to care for their upkeep as best as you can, and to inform the City when vandalism occurs. If we can preserve our past history even in small matters like stone walls, we show respect for our present community and guarantee respect for our future development.

Thank you for your cooperation.

September 30, 2021

Ms. Barbara Fenby, Chair  
Marlborough Planning Board  
140 Main Street  
Marlborough, MA 01752

**Re: Commonwealth Heights Subdivision  
Schedule Update**

Dear Ms. Fenby:

As you know, The Gutierrez Company sought approvals from the City to allow for a more appropriate transitional housing development at the location of the Commonwealth Heights subdivision. Earlier this month, the City Council denied this request. As such, Gutierrez is now marketing the subdivision property for sale. We anticipate following the schedule below:

Marketing / Sale:	Sept. '21 – Dec. '21
Review / Bid / Contracting	Jan. '22 – Mar. '22
Road Construction	Apr. '22 – Oct. '22
Lot Release (1 <sup>st</sup> )	Aug. '22

Please feel free to let me know if you have any questions. Thanks.

Very truly yours,

THE GUTIERREZ COMPANY



Scott J. Weiss  
Vice President of Development

CommonwealthHeights-LtrToPB\_2021-09-30

## COVENANT

This Covenant recorded in the Middlesex South District Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ is made this \_\_\_\_ day of \_\_\_\_\_, 2020. The undersigned, Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of the Marlborough/Northborough Land Realty Trust under Declaration of Trust dated October 12, 2000 and recorded in the Middlesex South District Registry of Deeds on October 18, 2000 in Book 31932 Page 433, having a usual place of business c/o The Gutierrez Company, 200 Summit Drive, Suite 400, Burlington, MA 01803 (hereinafter referred to as the "Covenantor"), having submitted to the Marlborough Planning Board (hereinafter referred to as the "Planning Board") a definitive plan of a subdivision entitled "Definitive Subdivision of 'Commonwealth Heights' in Marlborough, Massachusetts," dated October 24, 2019 and revised through July 16, 2020, drawn by Connorstone Consulting Civil Engineers and Land Surveyors, 10 Southwest Cutoff, Suite 7, Northborough, MA 01532 (said plan being hereinafter called the "Plan"), in accordance with the conditions of Approval as voted by the Planning Board on July 20, 2020, does hereby covenant and agree with the Planning Board, pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81U, as amended that:

A. The approval of the prior covenant: dated May 7, 2007 and recorded in the Middlesex South District Registry of Deeds in Book 49528, Page 456, as amended by a First Amendment to Covenant dated March 23, 2009 and recorded in the Middlesex South District Registry of Deeds in Book 52553, Page 40 was automatically rescinded by its own terms.

1. The Covenantor is the owner of record of the premises, including 21 house lots ("Lots") ; Lots 1 through 8 and Lots 11 through 23 and one additional non-buildable parcel, "Parcel 9-10", as shown on the "Plan", which is to be recorded in the Middlesex South District Registry of Deeds herewith as Plan No \_\_\_\_\_ of 2020 and is referred to herein.
2. This Covenant shall run with and shall operate as restrictions upon the land included in the subdivision and shall be binding upon any executor, administrators, devisees, heirs, successors and assigns of the Covenantor and any of its successors in title to the premises shown on the Plan.
3. The construction of the subdivision roadway and the installation of municipal services shall be provided to serve any and all Lots in accordance with the applicable Rules and Regulations of the Planning Board before any such Lot may be built upon or conveyed, other than by mortgage deed; provided, however, that a mortgagee who acquires title to the mortgaged premises or any part thereof may sell any such Lot, subject only to that portion of this Covenant which provides that no Lot so sold shall be built upon until such ways and services have been provided to serve such Lot.
4. Nothing contained herein shall be deemed to prohibit a conveyance subject to this Covenant, by a single deed, of the entire parcel of land shown on the Plan or all Lots not previously released by the Planning Board without first providing such subdivision road and services. A deed of any part of the premises shown on the Plan in violation of any portion of the above referenced statute shall be voidable by the grantee prior to the release of the Covenant, but not later than three (3) years from the date of such deed.
5. The Covenantor agrees to the easements shown on the Plan and will grant to the City of Marlborough the easements shown thereon. Further, the Covenantor will submit to the City Solicitor's Office a written Attorney's Certification of Title or Title Commitment or Policy regarding such easements to the City of Marlborough, specifying that the Covenantor has good and marketable title to said easements and that said easements are free and clear of all encumbrances at

the time of conveyance to the City. Said Certificate or Title Commitment or Policy, as applicable, shall be a condition precedent to consideration by the City to accept the subdivision road as shown on the Plan.

6. Prior to the release by the Planning Board of any Lots shown on the Plan from the terms of this Covenant, the Covenantor shall deposit with the City of Marlborough a Performance Bond in an amount to be determined by the Planning Board, said bond to be secured by the posting of cash, or by surety company bond or by such other form of security as may be approved by the Planning Board. Said bond shall be to secure the performance by the Covenantor of the construction of the subdivision road and the installation of municipal services as required by the Approval of the "Plan", within the time requirements as stipulated herein. The amount of the bond may be reduced from time to time by said Planning Board. However, due to present and anticipated future inflationary conditions, the amount of the Performance Bond is subject to annual redetermination by the Planning Board.
7. Pursuant to the Rules and Regulations of the Planning Board, Section III.B.7(a), as amended, such bond or security, when filed or deposited shall be reviewed as to form and manner of execution by the City Solicitor's Office, and as to sureties by the City Comptroller.
8. No Lot shall be built upon until such time as it has been approved by the Marlborough Board of Health.
9. No Lot shall be sold or built upon until released by the Planning Board after acceptable bonding. If at any time said bonding as required in Paragraph 6 expires, then all Lot releases of Lots not transferred to third party purchasers or mortgaged subsequent to release, shall be void.
10. Pursuant to Massachusetts General Laws (M.G.L.) Chapter 41, Section 81R, as amended, the Planning Board has not agreed to waive compliance with its Rules and Regulations, as set forth in the Marlborough City Code, Chapter A676, entitled "Subdivision Regulations," except as follows:

Section A676-12 Streets. E. Dead-end streets. (1) to allow a dead-end roadway longer than 500 feet for the road length of approximately 964;

Section A676-24 Street and roadway. B.(2) to allow a reduced pavement width from thirty-two (32) feet to twenty-eight (28) feet;

Section A676-26 Sidewalks, curbs and gutters. A.(1) to reduce the sidewalk width from 6 feet to 5 feet;

Section A676-27 Grass plots C. to provide a grass plot between the roadway and sidewalk;  
and

Section A676-28 Trees. A. to allow staggered street tree planting to alternate both in front of and behind the sidewalk.

The Planning Board has made these waivers after determining that such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law and with the Planning Board Rules and Regulations.

11. **This section is a specific condition of approval of this Plan and of this Covenant:** A Pre-construction meeting shall be held, on site at least seven (7) days prior to the start of construction. Prior to scheduling the Pre-Construction meeting, a Health & Safety Plan shall be submitted to, and approved by the Board of Health, the City Engineer and the Conservation Officer or their respective designees.

The Covenantor shall pay for and engage the services of a Licensed Site Professional (LSP), to be approved by the City to advise the City and provide technical assistance on the review of construction of this project relating to dust and air quality monitoring. At the Pre-Construction Meeting, the LSP shall review Covenantor's construction protocols concerning dust control, vegetation removal, on-site soil management (including stockpiling, stabilization and permanent disposal), off-site soil removal (if any) and reporting requirements.

The LSP will remain engaged by the City until the contaminated soils are fully consolidated in their final location, covered and stabilized.

12. **This section is a specific condition of the approval of this Plan and of this Covenant:** The Covenantor shall hire an Erosion Control Consultant (ECC), approved as to an adequate level of experience by the City Engineer and the Conservation Officer. The ECC shall be hired prior to construction and shall take part in the Pre-Construction meeting. The ECC shall oversee the construction of the site and direct the Covenantor in compliance with the Soil Management Plan. The ECC shall be consulted when there is any discussion about deviation from the approved construction plan or the Soil Management Plan; to ensure that there is always proper coordination between the site development, the erosion control and the stormwater management.

13. The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Planning Board within a period of two (2) years from the date of the "approval of the Plan". Failure to so complete or to obtain an extension shall automatically rescind approval of the Plan as to Lots not yet released from this Covenant and full re-application for approval of such Lots will be required.

The Covenantor hereby agrees that the two (2)-year time period for completion of the subdivision may be extended at the sole discretion of the Planning Board, but only upon the condition that the City of Marlborough has received, on or before the specified completion date, payment of all real estate taxes owed as to the premises shown on the Plan, and upon the further condition that the Board has received, on or before the specified completion date, a certification from the City's Code Enforcement Officer determining that no conditions exist on the said premises that are in violation of the City's so-called Anti-Blight Ordinance set forth in Chapter 485 of the Marlborough City Code; provided, however, that the Anti-Blight condition may be waived temporarily by a majority vote of the Board if the Board finds that an extension of no more than thirty (30) calendar days from the specified completion date is necessary for the Code Enforcement Officer to examine the said premises and make a proper determination.

14. Upon the proper completion of all improvements and their approval by the City Engineer, and if said improvements comply with the applicable state laws, city ordinances, and Planning Board Rules and Regulations and requirements, the City may then, and only then, accept the improvements.

15. Pursuant to Section A676-10. H¼ of the Rules and Regulations, immediately upon providing the performance guarantee to construct the approved definitive subdivision plans, the Applicant shall deed to the City the subdivision road(s) as well as all municipal utility easements, if any; and shall provide the City with a certificate of liability insurance, naming the City as an additional insured relative to the subdivision road as well as all municipal utility easements, if any, to be deeded to the City.
16. **This section is a specific condition of the approval of this Plan and of this Covenant:** Pursuant to the requirements of the Soil Management Plan prepared by Sanborn Head & Associates, Inc., dated April 24, 2020; prior to the conveyance of any Lot or Parcel within the Subdivision, the Covenantor agrees to file a Notice of Deed Restriction at the Middlesex South Registry of Deeds on any Lot or parcel used for impacted soil disposal within the subdivision including "Parcel 9-10", Lot 8 or any other Lot or area of a Lot within the Subdivision. Such deed restriction shall include the following restrictions:

*The following activities are restricted as noted:*

- Use of the property for agricultural purposes, where on-site soil within the property is used for growing fruits or vegetables for human consumption;
- Any activity that disturbs soil below the bottom of a Protective Layer on the property, with the exception of short-term emergency utility repairs, without the prior development and implementation of a Soil Management Plan and a Health and Safety Plan, as approved by the City Engineer;
- Any activity that results in the removal of a Protective Layer which is not followed by repair of the Protective Layer or replacement with another Protective Layer, as approved by the City Engineer; and
- Relocation of any soil located below the bottom of a Protective Layer, unless such activity is first evaluated by a Licensed Site Professional (LSP) who renders an Opinion that states that such relocation is consistent with a condition of No Significant Risk.
- Construction or use of the premises for any dwelling.

*The property shall be maintained as follows:*

- All soil within the property that is subject to the restrictions contained herein must be covered by a Protective Layer (as defined below) and approved by an LSP;
- All Protective Layers described in this Notice must be maintained in place;
- A "Protective Layer" must be one or more of the following: concrete building foundation, asphalt pavement with associated clean base-course, concrete pavement or sidewalk with associated clean base-course, landscaped area with a clean soil layer (minimum one-foot thickness), or another protective layer of similar protective value;
- The Protective Layer may be removed for construction or utility activities undertaken in accordance with this Notice. Following completion of any such construction or utility activity, a protective barrier of similar protective value must be promptly reinstalled and maintained;
- Other than for emergency utility repairs, prior to the commencement of any activity that would disturb soil below the bottom of a Protective Layer, a Soil Management Plan must be prepared by an LSP and followed during the work. The Soil Management Plan must describe appropriate soil excavation, handling, storage, transport and disposal procedures and include a description of any engineering controls and air monitoring procedures that may be necessary. On-site workers

involved in an excavation project must be informed of the requirements of the Soil Management Plan, and the plan must be available on-site throughout the course of the work; and

- A Health and Safety Plan must be prepared by an LSP, a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any activity, other than emergency utility maintenance, which is likely to disturb soil located below the bottom of a Protective Layer. The Health and Safety Plan should specify the type of personal protection, engineering controls, and environmental monitoring that may be necessary for the activity. Workers involved in an excavation project must be informed of the requirements of the Health and Safety Plan, and the plan must be available on-site throughout the course of the project.

Any proposed changes in activities and uses at the property which may result in substantially higher levels of exposure to impacted soils than currently exists, shall be evaluated by a LSP who shall render an Opinion as to whether the proposed change will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare or the environment or to create substantial hazards due to exposure to impacted soils without prior evaluation by a LSP, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

17. The Covenantor shall prepare a grant of authority to the Marlborough Police Department to enforce all traffic regulations dictated by the traffic signage approved and shown on the Plan, during the period the subdivision road is a private way.
18. Covenantor shall establish a fund and deposit a sum no less than \$25,000.00, to be held in a mutually agreeable escrow account, for the express purpose of providing compensation to abutting property owners for cognizable property damage claims arising from the intentional or unintentional actions of the Covenantor, their contractors, employees, or other agents. Abutting property owners shall promptly provide notice of any claim of property damage to Covenantor and the City Engineer; and the City Engineer shall act as the arbiter for the validity of any such claim. This paragraph is intended to supplement any additional rights an abutting property owner may have and shall not be their exclusive remedy. Covenantor shall provide proof of compliance with this section, including deposit of these funds prior to construction.
19. The City of Marlborough shall not be responsible for the maintenance and care of the subdivision road or other improvements, until the same have been accepted. In emergency situations as determined by the City Engineer, the City of Marlborough may take steps to correct a condition(s) within the subdivision which, if not corrected, would jeopardize public health and safety. In these instances, any and all costs so incurred by the City to correct said condition(s), shall be reimbursed to the City within thirty (30) days of notice to the Covenantor. Failure to reimburse the City within this period will be considered cause to rescind approval of the Plan.
20. All as-built plans and profiles pertaining to the above described Plan shall be submitted to the City Engineer forthwith after the completion of said subdivision road. The subdivision road will not be

considered for acceptance until such plans and profiles have been approved by the City Engineer. Copies of all the site plans prepared for each of the individual building Lots shall be forwarded to the City Engineer and to the Planning Board at the time they are submitted to the Building Inspector for a Building Permit.

21. Prior to the execution of this Covenant, the Covenantor agrees to submit a work schedule, and a progress report every month after the commencement of work, to the City Engineer, with copies to the Planning Board, until said subdivision has been completed. Said progress reports shall be delivered to the Planning Board prior to the third Monday of each and every month. Failure to comply with the provisions of this paragraph shall give the Planning Board the right to rescind the approval of the application for subdivision approval after notice to the Covenantor and opportunity to be heard.
22. If the City, by its Planning Board, determines that there is a violation of the applicable state laws, City ordinances, Planning Board Rules and Regulations and/or the terms and provisions of this Covenant, it shall seek a cease and desist order after appropriate application to a court of competent jurisdiction, and it shall seek any and all other equitable and legal relief it deems necessary. If in the opinion of the Covenantor, there has not been a violation of said applicable state laws, city ordinances, Planning Board Rules and Regulations, or the terms and provisions of this Covenant, nothing herein shall be construed as the Covenantor's consent to cease and desist from work on the Subdivision without Court order.
23. The Covenantor's applications, all plans and profiles, calculations, and other supporting data relating to the Plan, state laws, city ordinances, Planning Board Rules and Regulations and all terms, provisions, and conditions of final approval of the Plan are incorporated herein by reference, as if set forth in full, except as expressly modified herein.
24. This Covenant shall take effect upon the approval of the Plan.
25. Reference to this Covenant shall be entered upon the Plan and the Covenant shall be recorded with the Plan. The Covenantor further agrees that it shall cause two certified copies of this Covenant as recorded at the Middlesex South District Registry of Deeds to be delivered to the City Solicitor's Office and the Planning Board Administrator – DPW, Engineering Office, Marlborough, Massachusetts within three business days of the date of recording.
26. The provisions of this Covenant are severable, and if any of these provisions shall be held to be illegal or unconstitutional by any Court of competent jurisdiction, then the remaining provisions of this Covenant shall continue in effect.
27. The undersigned Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of the Marlborough/Northborough Land Realty Trust, hereby certify that (i) the Trust remains in full force and effect and has not been altered, amended, rescinded, revoked or terminated in whole or in part; (ii) Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez are the sole Trustees of the Trust; (iii) none of the beneficiaries of the Trust is a corporation, no person who at any time has been a beneficiary of the Trust has died, and all of the beneficiaries of the Trust are eighteen (18) years of age or older, and of sound mind, and (iv) that we have been authorized and directed by all of the beneficiaries of the Trust to execute and deliver this Covenant.

*Signature Page to Follow*



EXECUTED AS A SEALED INSTRUMENT this 25<sup>th</sup> day of August, 2020.

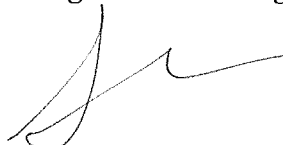
Covenantor:

Marlborough/Northborough Land Realty Trust



Arthur J. Gutierrez, Jr., as Trustee and  
not Individually

Marlborough/Northborough Land Realty Trust



Gloria M. Gutierrez, as Trustee and  
not Individually

THE COMMONWEALTH OF MASSACHUSETTS

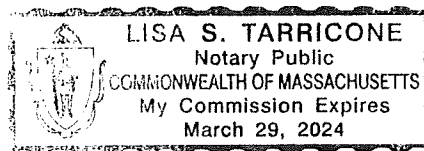
MIDDLESEX, SS

On this 25<sup>th</sup> day of August, 2020, before me, the undersigned notary public, personally appeared Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees and not Individually of the Marlborough/Northborough Land Realty Trust, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document(s), and acknowledged to me that they signed it voluntarily for its stated purpose.

 (official seal)

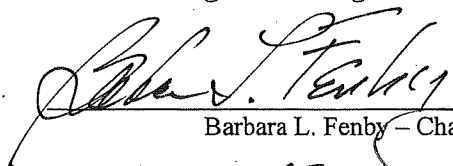
Notary Public

My Commission Expires: 3/29/2024

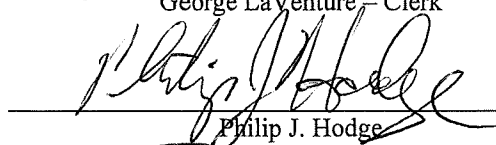



CITY OF MARLBOROUGH  
COMMONWEALTH OF MASSACHUSETTS

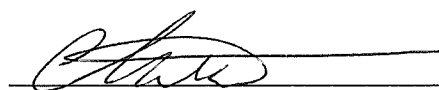
Approved and Accepted: August 24, 2020  
Marlborough Planning Board, City of Marlborough

  
Barbara L. Fenby – Chair

  
George LaVenture – Clerk

  
Philip J. Hodge

  
Sean N. Fay

  
Christopher P. Russ

  
Matthew Elder

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



# City of Marlborough Planning Board

Administrative Office  
135 Neil St.  
Marlborough, MA 01752

## PLANNING BOARD

Barbara L. Fenby, Chair  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Christopher Russ  
Matthew Elder

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

August 25, 2020

Mr. Steven Kerrigan  
City Clerk, City of Marlborough  
140 Main St.  
Marlborough, MA 01752

Dear Mr. Kerrigan:

At its regular meeting held on Monday, August 24, 2020, the Planning Board took the following actions:

On a motion by Mr. Elder, seconded by Mr. Hodge, it was duly voted:

To approve the Commonwealth Heights Covenant as amended below:

*(Item 11 – Replace paragraph 2 with the below:)*

*The Covenantor shall pay for and engage the services of a Licensed Site Professional (LSP), to be approved by the City to advise the City and provide technical assistance on the review of construction of this project relating to dust and air quality monitoring. At the Pre-Construction Meeting, the LSP shall review Covenantor's construction protocols concerning dust control, vegetation removal, on-site soil management (including stockpiling, stabilization and permanent disposal), off-site soil removal (if any) and reporting requirements.*

--

*(Insert the below condition at item 18:)*

*Covenantor shall establish a fund and deposit a sum no less than \$25,000.00, to be held in a mutually agreeable escrow account, for the express purpose of providing compensation to abutting property owners for cognizable property damage claims arising from the intentional or unintentional actions of the Covenantor, their contractors, employees, or other agents. Abutting property owners shall promptly provide notice of any claim of property damage to Covenantor and the City Engineer; and the City Engineer shall act as the arbiter for the validity of any such claim. This paragraph is intended to supplement any additional rights an abutting property owner may have and shall not be their exclusive remedy. Covenantor shall provide proof of compliance with this section, including deposit of these funds prior to construction.*

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried 6-0.

On a motion by Mr. LaVenture, seconded by Mr. Elder, it was duly voted:

To endorse the plan entitled "Definitive Plan of Land of Commonwealth Heights in Marlborough, MA" dated October 24, 2019 and revised through July 16, 2020.

Owner: Marlborough/Northborough Land Realty Trust 1 Wall Street, Burlington, MA 01803.  
Engineer: Connorstone Consulting Civil Engineers and Land Surveyors, 10 Southwest Cutoff, Suite 7, Northborough, MA 01532.  
Location: 10.6 Acres located on the corner of Forest Street and Ames Street. Middlesex Registry of Deeds Book 31932, page 445 (Lot 14).  
Subdivider: Commonwealth Heights, LLC 128 West Main Street, Wilmington, MA 01887.

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried 6-0.

Owner/Developer is responsible for presenting to the Planning Board evidence that the approved covenant and endorsed plan has been filed with the Middlesex South Registry of Deeds or Land Court as applicable.

Sincerely,



Barbara L. Fenby  
Chairperson

/kih

**Katlyn Miller**

---

**From:** Neal Vigeant <neal.ngvigeant@gmail.com>  
**Sent:** Thursday, September 30, 2021 9:46 AM  
**To:** Katlyn Miller  
**Subject:** Re: Water sewer list

We will go for the 18th and will get you our submission the week prior.

Thank you  
-Neal

On Thu, Sep 30, 2021 at 8:08 AM Katlyn Miller <[kmiller@marlborough-ma.gov](mailto:kmiller@marlborough-ma.gov)> wrote:

Hi Neal,

Thank you - If you could please let me know what you will have by noon it would be greatly appreciated. I have to get the agenda stamped by the Clerks department and posted on our website by 3 pm.

The following meeting is October 18<sup>th</sup>.

Thanks,

Katlyn

---

**From:** Neal Vigeant <[neal.ngvigeant@gmail.com](mailto:neal.ngvigeant@gmail.com)>  
**Sent:** Thursday, September 30, 2021 7:27 AM  
**To:** Katlyn Miller <[kmiller@marlborough-ma.gov](mailto:kmiller@marlborough-ma.gov)>  
**Subject:** Re: Water sewer list

Thank you,

I'm not sure what we will have for this meeting. I'll know today.

When is the following meeting?

**Katlyn Miller**

---

**From:** Christopher Russ <cpruss24@gmail.com>  
**Sent:** Thursday, September 30, 2021 9:11 AM  
**To:** Katlyn Miller; sohoHinny  
**Subject:** Re: 342 Sudbury St  
**Attachments:** img026.pdf

Hi Kaytlin,

Attached are a couple of pages from the City of Newton's Zoning By Law that regulates Rear Lot Developments.

In summary:

- Newton only allows rear lots by special permit (see attached for review criteria)
- Rear lots should be 120% larger than the front lot (without the vehicle access)
- The rear lot house size is limited to about 50% of the size of the front house

Let me know if you need anything else.

Chris

On Wed, Sep 29, 2021 at 12:57 PM Katlyn Miller <[kmiller@marlborough-ma.gov](mailto:kmiller@marlborough-ma.gov)> wrote:

Hi Chris,

Just a reminder because we have a meeting on Monday, If you plan to provide any information for the 342 Sudbury street just let me know so I can include it on the agenda tomorrow. Also if there anything you want me to print for the packets ill just need it by Friday morning.

Thanks!

Katlyn

Katlyn Miller

Engineering and Planning Board Administrator

Department of Public Works

135 Neil Street

Marlborough, MA 01752

P: 508.624.6910 ext. 33200

[kmiller@marlborough-ma.gov](mailto:kmiller@marlborough-ma.gov)



district and the City. Such conditions may include, but are not limited to, the following:

1. Requirement of front, side or rear yards greater than the minimum required by this Chapter;
2. Limitation of the number of occupants, size, method of time of operation, or extent of facilities; and
3. Requirement of off-street parking or other features beyond the minimum required by this, or any other applicable Chapter.

(Ord. No. S-260, 08/03/87; Ord. No. Y-17, 05/21/07)

### 7.3.4. Special Requirements for Rear Lots in Residential Zoning

- A. Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in Secs. 3.1.5 and 3.1.10 for Single residence districts, and Secs. 3.2.5 and 3.2.12 for Multi residence districts, respectively, shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district unless waivers from such controls are granted by the City Council.
  1. The provisions of Sec. 7.8.4 shall not apply to the creation of rear lots under this Sec. 7.3.4.
  2. **Additional Application Requirements.** In addition to the information required in Sec. 7.3.1, there shall be submitted architectural plans for all proposed residential buildings and structures, a landscape plan, site plan, and an area plan showing distances from proposed buildings or structures to existing residential buildings and structures on the original lot and all abutting lots, along with information on the heights and number of stories of these existing buildings or structures. All plans must be prepared, stamped and signed, as appropriate, by an architect, landscape architect, professional engineer or registered land surveyor.
- B. **Review Criteria.** The City Council shall consider the special permit application for a rear lot development in light of the following criteria:
  1. Whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes;

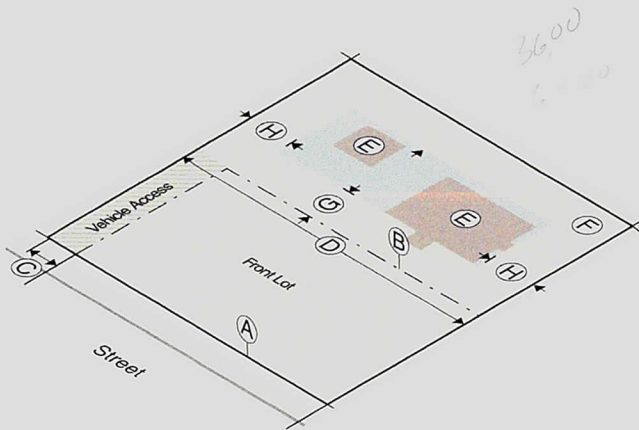
2. The scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood;
3. Topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes;
4. Proposed landscape screening;
5. Adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways;
6. Whether any historic or conservation public benefit is provided or advanced by the proposed development;
7. Whether the location of structures used for accessory purposes or mechanical equipment, including but not limited to free-standing air conditioning units or compressors, on the new rear lot or on abutting lots will negatively impact either the proposed rear lot development or abutting property;
8. Siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes; and
9. Impact of proposed lighting on the abutting properties.

(Ord. No. X-123, 12/06/04; Ord. No. A-99, 01/17/17)

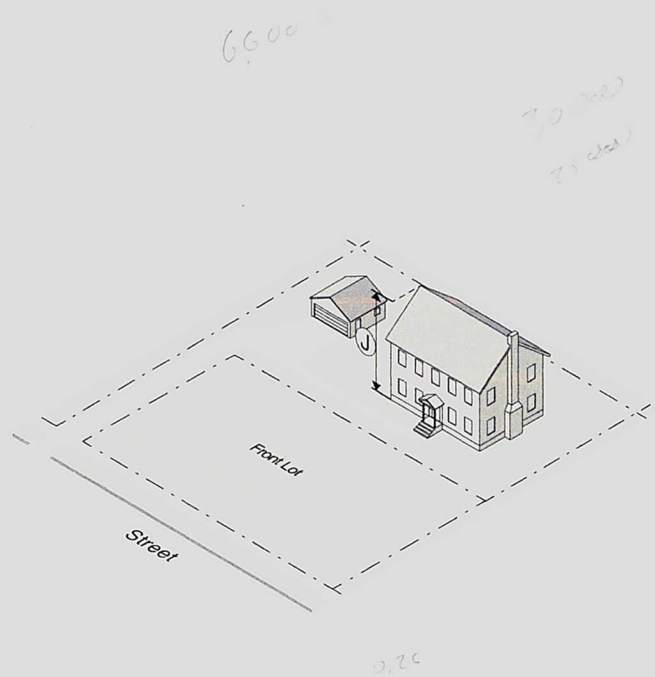
### 7.3.5. Special Requirements in MU3/TOD

- A. **Additional Filing Requirements.** In addition to the provisions of Sec. 7.3 and Sec. 7.4, applicants for a special permit under Sec. 4.2.4 shall submit:
  1. **Conceptual Plans.** Prior to submittal of an application for a special permit in the Mixed Use 3/Transit-Oriented Development (MU3/TOD), which will include subsection 2. to 12. below, applicants shall present conceptual plans for review by the Land Use Committee of the City Council at a public meeting. The Land Use Committee shall provide a forum for a public presentation whereby the Land Use Committee and public may ask questions,

### 3.1.5. Single-Family Detached: Rear Lot



	SR1	SR2	SR3
<b>Lot Dimensions</b>			
(A) Lot Area, Front Lot plus Rear Lot (min)	55,000 sf	33,000 sf	22,000 sf
(B) Lot Area (min)	30,000 sf	18,000 sf	12,000 sf
(C) Vehicle Access (min)	20'	20'	20'
(D) Frontage (min)	140'	100'	80'
(E) Lot Coverage (max)	13%	17%	25%
(F) Usable Open Space (min)	70%	65%	50%
<b>Principal Building Setbacks</b>			
(G) Front (min)	40'	30'	30'
(H) Side (min)	30'	23'	15'
(I) Rear (min)	38'	23'	23'
<b>Alternate Side Building Separation</b>			
Side Separation (min)	60'	46'	30'
Distance to Side Lot Line (min)	20'	15'	10'
Rear Separation (min)	76'	46'	46'
Distance to Rear Lot Line (min)	25'	15'	15'



	SR1	SR2	SR3
<b>Building Height</b>			
Sloped Roof (max)	36'	36'	36'
Flat Roof (max)	30'	30'	30'
(J) Stories (max)	2.5	2.5	2.5
(J) Stories by special permit	3	3	3
<b>Floor Area Ratio</b>			
Floor Area Ratio (max)	0.12	0.20	0.24

For additional requirements, see [Sec. 3.1.10](#)

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11; Ord. No. A-99, 01/17/17)





# Town of Hudson

## Planning Department

78 Main Street, Hudson, MA 01749  
Tel: (978) 562-2989 Fax: (978) 568-9641  
Email: [kjohnson@townofhudson.org](mailto:kjohnson@townofhudson.org)

12A

### LEGAL NOTICE Town of Hudson Public Notice of Hearing

In accordance with the provisions of M.G.L. Chapter 40A, Section 5, the Hudson Planning Board will hold a public hearing on October 5, 2021 fully remote Pursuant to the Chapter 20 of the Acts of 2021 Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, on whether the Town will vote to amend the Zoning Protective By Laws to delete, in their entirety, the existing Zoning By-law, including the Zoning Map and substitute a new document entitled "Town of Hudson Protective Zoning By-laws" and new Zoning Maps.

New components have been added to the By-laws to not only enhance the user experience, but help the Building Commissioner with zoning enforcement issues, and reflect new land uses over the past 60 years. New components include the following:

- updated land-use definitions
- a solar by-law;
- a drive-through by-law;
- updated parking requirements by land-use;
- a table of land uses by zoning district;
- the consolidation of zoning districts;
- the digitization of the Zoning Maps and;
- clarity to the section on non-conforming uses and structures.

A new updated and reformatted zoning booklet has been created, which looks different from the current zoning booklet used today. It should be noted that there are no substantive changes being proposed as part of the By-laws update. **All zoning district and overlay district regulations will remain exactly the same as they are today.** One district boundary tweak is being proposed for the Downtown Zoning district to include 31 and 35 Washington Street, Map 29 Parcel 272 and Parcel 274, 32 Washington Street Map 29 Parcel 235, and two minor boundary corrections are being proposed for consistency purposes.

The text of these proposed amendments and any related maps are on file with the Town Clerk and the Department of Planning and Community Development at 78 Main Street, Hudson, MA and may be reviewed during business hours. For more information, contact the Department of Planning and Community Development at (978) 562-2989. All persons interested or wishing to be heard relative to the proposed zoning amendment should appear at the time and place designated above.

Hudson Planning Board Chair, Robert D'Amelio  
**Metrowest Daily News September 21, 2021 and September 28, 2021**

A Public Hearing will be held on said petition via remote participation with instructions to be posted on the Planning Board meeting agenda: **7:00 PM, Tuesday October 5, 2021.**



# **Town of Hudson**

## **Planning Department**

78 Main Street, Hudson, MA 01749  
Tel: (978) 562-2989 Fax: (978) 568-9641  
Email: [kjohnson@townofhudson.org](mailto:kjohnson@townofhudson.org)

12A

### **LEGAL NOTICE**

#### **Town of Hudson**

#### **Public Notice of Hearing**

In accordance with the provisions of M.G.L. Chapter 40A, Section 5, the Hudson Planning Board will hold a public hearing on October 5, 2021 fully remote Pursuant to the Chapter 20 of the Acts of 2021 Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, on whether the Town will amend Section 5.12.5 Paragraph 10 of the Use Regulations of the Zoning By-laws for the Recreational Marijuana Zoning Overlay District to open, operate, or receive deliveries between the hours of 10:00 PM and 8:00 AM.

The text of these proposed amendments and any related maps are on file with the Town Clerk and the Department of Planning and Community Development at 78 Main Street, Hudson, MA and may be reviewed during business hours. For more information, contact the Department of Planning and Community Development at (978) 562-2989. All persons interested or wishing to be heard relative to the proposed zoning amendment should appear at the time and place designated above.

Hudson Planning Board Chair, Robert D'Amelio  
**Metrowest Daily News September 21, 2021 and September 28, 2021**

A Public Hearing will be held on said petition via remote participation with instructions to be posted on the Planning Board meeting agenda: **7:00 PM, Tuesday October 5, 2021.**