

CITY OF MARLBOROUGH MEETING POSTING

Meeting: **Planning Board**
Date: **December 02, 2019**
Time: **7:00 PM**
Location: **Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA**
Agenda Items to be Addressed:

1) Meeting Minutes

- A. October 21, 2019
- B. November 18, 2019

2) Chair's Business

3) Approval Not Required

- A. ANR 92 Crowley Drive, Assessor's Map 15 Parcels 22 and 23 – Applicant: First Colony Crowley Drive One, LLC, Jon Delli Priscoli- Representative. Engineer: Arthur F. Borden & Associates, Inc., 302 Broadway, Unit 4, Raynham, MA
 - i. Plan
 - ii. Engineering Recommendation
- B. ANR 285, 297 Concord Rd. Middlesex South Registry of Deeds Book 19501 page 343 and Book 30947 page 443. Applicants: Paul, Joseph and Sandra May, Engineer: Hancock Associates, 315 Elm Street, Marlborough, MA 01752, J. Dan Bremser, applicant's representative.

4) Public Hearings

- A. **Continued:** Public Hearing - Council Order Number 19-1007738C, Proposed Zoning Amendment Section 650-8, 269 Mechanic Street. Proposed change from Limited Industrial to Residence B. (Assessor's Map 56, parcel 126, plus a small area behind the parcel within an easement area.) Attorney Michael Norris
Communication from City Solicitor Grossfield re: 269 Mechanic Legal opinion request
- B. Public Hearing - Council Order Number 19-1007716A, Proposed Zoning Amendment, Section 650-7, entitled "Districts Enumerated"; Section 650-17, entitled "Table of Uses"; New Section, Section 650-40, entitled "Special Provisions Applicable to the Route 20 East (Wayside) Zoning District.

5) Subdivision Progress Reports (City Engineer- Updates and Discussion)

- A. Goodale Estates
 - i. Communication from Kevin Gillis, re: Setting bond
 - ii. Draft Deed

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

7) Definitive Subdivision Submissions (None)

8) Signs (None)

9) Correspondence (None)

10) Unfinished Business (None)

11) Calendar Updates

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 NOV 27 AM 10:01

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

October 21, 2019

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, Phil Hodge, Sean Fay, George LaVenture, Chris Russ and Matthew Elder. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes

A. October 07, 2019

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to approve and file the meeting minutes of October 07, 2019. Motion carried.

2. Chair's Business

- A. Set Public Hearing Date – Council Order Number 19-1007738C, Proposed Zoning Amendment Section 650-8, 269 Mechanic Street. Proposed change from Limited Industrial to Residence B. (Assessor's Map 56, parcel 126, plus a small area behind the parcel within an easement area.) Attorney Norris Present. November 18, 2019 was chosen for the hearing date.**
- B. Set Public Hearing Date – Council Order Number 19-1007716A, Proposed Zoning Amendment, Section 650-7, entitled "Districts Enumerated"; Section 650-17, entitled "Table of Uses"; New Section, Section 650-40, entitled "Special Provisions Applicable to the Route 20 East (R20E) Zoning District. December 2, 2019 was chosen for the hearing date.**
- C. Open Space/Recreation Plan Update**
Chairperson Fenby informed the Board that the Open Space Committee will accept final comment on the City's open space plan. The plan was developed during the last year, and they anticipate releasing the report in March of 2020. The Board will invite Conservation Officer Ryder to an upcoming meeting in the February timeframe to review the work prior to publishing the report.

3. Approval Not Required

- A. Engineering Review, ANR Application: Filomena Connor, Paul Connor, Paul DiTullio; Engineer: Connorstone Engineering, Inc. 10 SW Cutoff, Northborough, MA 01532; Description of Property: Middlesex South Registry of Deeds, Book 19669, Page 89; Book 20809, Page 350; Book 40262, Page 318; Book 40726, Page 371. Lots and description of property: Lots located between 297 DeSimone Drive & 3 LaRose Drive.**
Mr. LaVenture read a portion of the October 16, 2019 favorable recommendation letter from Assistant City Engineer Collins into the record. Prior to taking the vote, Chair Fenby asked City Engineer DiPersio to review the driveway easement on two of the new lots. Mr. DiPersio explained that the plan creates an Access and Egress Easement over Lot-1 and Lot-2 to correct a driveway encroachment for Lot-4. The driveway leading to the barn on Lot-4 (23 LaRose Dr.) is on a portion of both Lot-1 and Lot-2. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to endorse and file the referenced plan of land believed to be Approval Not Required under the Subdivision Control Law. Motion carried.

4. Public Hearings (None)

5. Subdivision Progress Reports (City Engineer, Updates and Discussion)

- A. Goodale Estates- Kevin Gillis, Managing Director, Northborough Capital Partners, LLC**
 - i. City Engineer DiPersio began by reviewing the proposed roadway profile. The plan prepared by Bohler Engineering shows a slightly higher profile than the original plan.**

City Engineer DiPersio said the new profile changes the grade from 3% to 4.5%, which is still within the design criteria of the City's regulations. The new road profile would be about 1' higher. The Board asked the City Engineer if he had any concerns about the proposed grade. Mr. DiPersio said the new vertical grade allows greater utility coverage. This new grade will further protect the water line. The Board agreed. The Board wondered whether there were enough materials on site to change the grade. Mr. Gillis indicated that about 1' of gravel is needed at the base of the roadway, but other sections of the roadway are where they need to be. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept and file the new roadway profile prepared by Bohler Engineering. Motion carried.

- ii. Letter from Kevin Gillis regarding subdivision extension request (Blight Determination, Tax Status, New Schedule) Current expiration: 11-24-19

Mr. LaVenture read the October 16, 2019 extension request letter from Mr. Gillis, who seeks a one-year extension on the Goodale Estates subdivision approval. Mr. LaVenture reviewed the required extension supplements which included the following: The 10-16-19 letter from Code Enforcement Wilderman confirming the site is free from blight; The 10-17-19 email from Collector, Eileen Bristol, indicating that the property taxes are up to date; The revised subdivision completion schedule.

Mr. Gillis said that the current priorities are getting a roadway base layer completed, continued catch basin construction and the installation of fencing around the catch basin. Mr. LaVenture noted that relocating the access road was not included in the new schedule. What impact will that have on the schedule? Mr. Gillis was not concerned about that. He said that work on the left side of the property (the area of the temporary access road) will continue once the base layer of the subdivision road is complete. Mr. DiPersio commented that the two are closely related, since once there is pavement down, the site's drainage will completely change. He did feel that the completed portion of the detention basin does have some capacity to accept runoff now, but the basin work should continue.

Mr. Fay expressed concern with the lack of progress in the past year. He speculated that approving a one-year extension without the developer meeting benchmarks could result in history repeating itself. Mr. Gillis acknowledged that he is a banker, and that subdivision development is not his specialty. He is similarly concerned with the delays but is committed to making meaningful progress. Mr. Russ asked Mr. DiPersio how much "actual work" time is necessary to complete the subdivision? (roadway and utility infrastructure) Mr. DiPersio estimated three months of concerted effort. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept and file the items under 5A ii and to extend the subdivision approval on the Goodale Estates Subdivision until 06-30-20. Motion carried. The Board will monitor progress from now through spring. For the benefit of the neighborhood, the Board is expecting meaningful progress from the developer.

B. Howe's Landing – Release of Tripartite Agreement

Mr. LaVenture read the 8-30-19 letter from Attorney Paul Galvani. While the subdivision bond was reduced to zero at the Planning Board meeting on 9-23, the release of the Tripartite Agreement was still outstanding. Ms. Fenby asked if Legal had reviewed the release. Ms. Holmi confirmed yes. The Legal Department confirmed the release was in proper legal form. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept and file the correspondence and to sign Exhibit "B", Certificate of Release for the Howe's Landing development.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Informal Discussion (None)

10. Unfinished Business (None)

11. Calendar Updates

- A. Goodale Estates Subdivision Extension Approval until June 30, 2020.
- B. Public Hearing - Council Order Number 19-1007738C, Proposed Zoning Amendment Section 650-8, 269 Mechanic Street. November 18, 2019
- C. Public Hearing - Council Order Number 19-1007716A, Proposed Zoning Amendment RT 20 East Zoning District. December 2, 2019

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 of the Planning Board. Motion carried.

Respectfully submitted,

George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1B

Call to Order

November 18, 2019

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, Phil Hodge, George LaVenture, Chris Russ and Matthew Elder. Absent: Sean Fay. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes (None)

2. Chair's Business

- A. Chair Fenby informed the Board of a request by First Colony Crowley Drive One, LLC. An ANR submission at 92 Crowley Drive is planned for the 12-02-19 Planning Board meeting. The project on the adjacent lot has been previously reviewed in Site Plan Committee. First Colony respectfully requests that the Planning Board refer the ANR plan to Engineering. Ms. Fenby asked City Engineer DiPersio to comment on the substance of the ANR. Mr. DiPersio said the matter was a straightforward land swap between parcels of commonly owned property. The land swap would not adversely affect the existing building on Lot #3. The ANR is intended to accommodate a portion of the parking lot for the planned retirement community next door. On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board referred the plan to Engineering for review and recommendations. Motion carried. The applicant is required to formally present the ANR plan at the Planning Board meeting on 12-02-19.

3. Approval Not Required (None)

4. Public Hearings

- A. Council Order Number 19-1007738C, Proposed Zoning Amendment Section 650-8, Boundaries Established; 269 Mechanic Street. Proposed change from Limited Industrial to Residence B. (Assessor's Map 56, parcel 126, plus a small area behind the parcel within an easement area.) Attorney Michael Norris present.

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

Presentation:

Attorney Michael Norris of 171 Locke Dr. is back with a slightly modified request for a zoning amendment for the property at 269 Mechanic St. The new zoning amendment includes an additional area in the rear of the building, because the building extends beyond the rear property line. Attorney Norris showed the location of this encroachment. The property is currently between two zones, the front half of the parcel RB (Residence B) and the abutting area to the north is LI (Limited Industrial). The proposed use is to convert the warehouse to condo units after rezoning the entire parcel to RB.

Speaking in Favor:

No person spoke in favor of the proposed amendment. Ms. Fenby closed that portion of the hearing.

Speaking in Opposition:

No person spoke in opposition to the proposed amendment. Ms. Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Given the proponent for the zone change does not own the property, Mr. Elder asked Attorney Norris if he is within his rights to request the zone change.

Attorney Norris indicated he had consulted with City Solicitor Grossfield, and Solicitor Grossfield had confirmed that the petitioner was within his rights. That Legal determination wasn't shared with the Board. The proposed zoning amendment was changed to include the portion of the building that was encroaching into City property. The existing deed also contains a maintenance easement. Mr. Russ asked Attorney Norris if his client intended to add on to the building. Attorney Norris said no, there are no plans to increase the building footprint. The Board would like to hear from the City Solicitor on the following points: 1) Does the proponent have the right to rezone a property or a portion of a property that is not owned by the proponent. 2) Can the new owner legally redevelop the property even though the property lies, in part, on city property. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to refer the preceding questions to the City Solicitor for comment. Motion carried.

5. Subdivision Progress Reports (City Engineer, Updates and Discussion)

A. Goodale Estates- Goodale Estates- Recording of Open Space Deed (Bk 73647 page 403)

On a motion by Mr. Mr. Hodge, seconded by Mr. Russ, the Board voted to accept and file the recorded deed for the open space parcel of Goodale Estates Subdivision. Motion carried.

City Engineer DiPersio updated the Board on site progress. The binder layer is now down. Granite curbing is on site, but not installed. The owner must request a bond to secure the completion of the subdivision and obtain lot releases or make any conveyances.

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

7. Definitive Subdivision Submissions

A. Definitive Subdivision Application: Richard and Joan Lavoie, 24 Clearview Drive and Richard Archibald, 18 Clearview Drive. Engineer: Robert Parente, 118 Deerfoot Rd., Southborough, MA 01772. Description of Property: 18 and 24 Clearview Drive, Marlborough, MA 01752.

Mr. Parente was present to introduce the definitive subdivision submission at 18 and 24 Clearview Dr. The applicant is seeking approval of the plan under subdivision control law including a waiver for the frontage of house #18, which is less than the required frontage of 100 feet for the A-3 zoning district. The plan will remedy an encroachment issue between the two properties. December 16, 2019 was identified as the next available date for the public hearing on the subdivision application. The hearing will be advertised for December 16, and abutters will be notified by mail. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the application. Motion carried.

B. Definitive Subdivision Application: Marlborough/Northborough Land Realty Trust c/o The Gutierrez Company, 200 Summit Drive, Suite 400, Burlington MA 01803. Engineer: Connorstone Engineering, Inc., 10 Southwest Cutoff, Suite 7, Northborough, MA 01532. Description of Property: Middlesex South Registry of Deeds Book 31932 Page 445. (Property described as 10.6 acres located at the northeast corner of Ames St. & Forest St.)

Vito Colonna of Hancock Associates and Scott Weiss of The Gutierrez Corporation were present for the introduction of the definitive subdivision application. Mr. Colonna explained that the submittal is essentially the same plan as the Commonwealth Heights plan that was previously approved in 2007. There are minor changes from the original plan including changes to the granite curbing, updates to stormwater standards and updated utilities. Mr. LaVenture read the 10-24-19 cover letter from Mr. Colonna to the Board detailing the project overview. On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to accept and file the letter. Motion carried.

Mr. Elder addressed the room and disclosed that while he is not an identified abutter, he lives in proximity to the project. He has reached out to the City Solicitor's Office to seek guidance on whether he has any conflicts in participation or voting on this matter.

8. Signs

- A. Communication from Code Enforcement Officer, Pam Wilderman, Re: Doble Engineering, 123 Felton St. Mr. LaVenture read the 10-23-19 letter from Code Enforcement Officer Wilderman into the record. Ms. Wilderman's letter stated that upon further review, Doble's building size allowed for a sign "bonus area". A Planning Board variance for sign square footage was not required.

9. Correspondence

- A. Invitation to Planning Board Members " The Branches " Grand Opening – Nov. 19
On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file. Motion carried.

10. Unfinished Business (None)

11. Calendar Updates

- A. 18 and 24 Clearview Definitive Subdivision Public Hearing – 12-16-19 7:00 pm
- B. Commonwealth Heights Definitive Subdivision Public Hearing – 12-16-19 7:10 pm

12. Public Notices of other Cities & Towns

- A. Town of Sudbury (3 Notices)
- B. City of Framingham (13 Notices)
On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the notices. Motion carried.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to adjourn the meeting of the Planning Board. Motion carried.

Respectfully submitted,

/kih

George LaVenture/Clerk

APPENDIX A

PLANNING BOARD
DATE 11-15-19
AGENDA 12-2-19
ACTION _____

APPLICATION FOR ENDORSEMENT OF
PLAN BELIEVED NOT TO REQUIRE APPROVAL

pl. check # 462

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

Marlborough, Massachusetts

Nov. 15, 2019
(Date)

To the Planning Board:

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

1. Name of Applicant FIRST COLONY CROWLEY DRIVE ONE, LLC

Address P.O. Box 952 CARVER, MA. 02330

2. Name of Engineer ARTHUR F. BORDEN & ASSOCIATES, INC

Address 302 BROADWAY - UNIT #4 RAYNHAM, MA. 02767

3. Deed of Property recorded in MIDDLESEX Co. Registry of

Deeds Book 66504 Page(s) 125

4. Location and description of property:

LOT #3B @ 92 CROWLEY DRIVE - PLAN #B-1303


Signature of Owner

Address: 7 EDA RD

CARVER, MA 02330

Tony Della 2 First Colony Dev Comm
508.328.2974



City of Marlborough
Department of Public Works

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

JOHN L. GHILONI
COMMISSIONER

November 26, 2019

Marlborough Planning Board
 Dr. Barbara Fenby – Chairperson
 City Hall – 140 Main Street
 Marlborough, MA 01752

RE: ANR – Crowley Drive – First Colony Drive One, LLC

Dear Dr. Fenby,

I have concluded my review of the following ANR plan submission dated October 29, 2019 and revised on November 22, 2019:

PLAN OF LAND
 OF
 #92 CROWLEY DRIVE
 IN MARLBOROUGH, MASS
 PREPARED FOR:
 FIRST COLONY CROWLEY DRIVE ONE, LLC

PREPARED BY:
 ARTHUR F. BORDEN & ASSOCIATES
 302 BROADWAY, UNIT 4
 RAYNHAM, MASSACHUSETTS 02767

The purpose of the plan is to modify the property line between two lots off Crowley Drive:

- Lot 3 Map 15 - Parcel 22, containing 374,904 square feet (8.607± acres)
- Lot 4 Map 15 - Parcel 23, containing 484,933 square feet (11.033± acres)

A 9,673 square foot parcel, shown on the plan as Parcel “3-B” will be subtracted from Lot 3 creating Lot “3-1” containing 365,231 square feet (8.385± acres) and added to Lot 4 creating Lot “4-1” containing 494,606 square feet (11.355± acres).

Both of the lots have adequate area and frontage, meet the lot shape requirement, and have present adequate access.

After completing my review of the subject plan, I am in a position to give a favorable recommendation to the Marlborough Planning Board to endorse this plan.

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

Sincerely,



Timothy F. Collins.
Assistant City Engineer

cc: John L. Ghiloni, DPW Commissioner
Thomas DiPersio, Jr. P.E., P.L.S. – City Engineer
First Colony Crowley Drive One, LLC

APPENDIX A

APPLICATION FOR ENDORSEMENT OF
PLAN BELIEVED NOT TO REQUIRE APPROVAL

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

Marlborough, Massachusetts

11/20/19

(Date)

To the Planning Board:

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

1. Name of Applicant Paul D. May & Joseph F. & Sandra M. May

Address 285-297 Concord Road, Marlboro, MA

2. Name of Engineer Hancock Associates

Address 315 Elm Street, Marlboro, MA

3. Deed of Property recorded in South Middlesex Registry of

Deeds Book 19501 Page(s) 343
30947 443

4. Location and description of property:

285 & 297 Concord Rd, Marlboro, MA (2.4833 Acres)

Paul D. May, Joseph F. May, Sandra M. May
Signature of Owner

Address: 285 Concord Rd & 297 Concord Rd.

PLANNING BOARD

DATE 11-26-19
AGENDA 12-02-19
ACTION _____

LETTER OF TRANSMITTAL

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Environmental Services Since 1978

HANCOCK ASSOCIATES

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

TO: Krista Holmi	DATE:	JOB #: 21315
135 Neil Street- 2 nd Floor	FROM: J. Dan Bremser, P.L.S.	
Marlborough, MA 01752	RE:	

● We are sending you:

☒ Prints ☐ Plans ☐ Samples ☐ Specifications ☐ Copy of letter ☐ Change order

COPIES	DATE	JOB #	DESCRIPTION
2	11-26-19	21315	24" x 36" bond prints of ANR
11	11-26-19	21315	11"x 17"
1	11-22-19		\$200 pd. Check #7508 LH
1	11-20-19		Appendix A orig
1	"		" copy

PLANNING BOARD

DATE 11-26-19
AGENDA 12-02-19

● These are transmitted as checked below:

☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☒ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____ corrected prints
☐ For review and comment ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS:

COPY TO: HSA

SIGNED:

If enclosures are not as noted, kindly notify us at once.

**CITY OF MARLBOROUGH
PLANNING BOARD
MARLBOROUGH, MASSACHUSETTS 01752**

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 OCT 23 A 9:23

LEGAL NOTICE

Public Hearing –Proposed Zoning Map Amendment, Section 650-8 – Land off Mechanic Street, Map 56, Parcel 125.

Notice is hereby given that the Planning Board of the City of Marlborough will hold a Public Hearing on **Monday, November 18, 2019 at 7:00 PM** in Memorial Hall, 3rd floor, City Hall, 140 Main Street, Marlborough, Massachusetts to amend the zoning map established by Section 650-8.

The materials are available for viewing in the Office of the City Clerk, City Hall, 140 Main Street, Marlborough, MA 01752, 508-460-3775 and the administrative offices of the Planning Board at 135 Neil St., Marlborough, MA 01752, 508-624-6910 x33200.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH HEREBY ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP, SECTION 650-8, AS FOLLOWS:

That rear land at 269 Mechanic Street currently owned by Carmi Greb, LLC on Assessors Map 56, Parcel 125 presently zoned Limited Industrial be rezoned as Residential B as it is contiguous to the Assessors Map 56, Parcels 131, 130, 129, 128, 127, and 123, that are all currently zoned Residential B and a parcel containing 432 s. f. to the rear of the building on land known as the Assabet River Rail Trail currently owned by the City of Marlborough be rezoned to Residential B. The area to the rear of Map 56, Parcel 125, being a rectangle parcel 4.40' on the northerly side to and 1.86' on the southerly side a distance of 142.39'.

Per Order of the City Council
#19-1007738C

This Legal Advertisement will be published on www.wickedlocal.com and
<http://masspublicnotices.org>.

Marlborough Enterprise- 10-31-19, 11-07-19

From: Jason Grossfield <jgrossfield@marlborough-ma.gov>

Sent: Friday, November 22, 2019 12:06 PM

To: Krista Holmi <kholmi@marlborough-ma.gov>; Barbara Fenby <sohohinny@aol.com>

Cc: Mayor <mayor@marlborough-ma.gov>; Nathan Boudreau nathan.boudreau@marlborough-ma.gov

Subject: Order No. 19-1007738C re: Petition to Amend Zoning re: 269A Mechanic St.

Dear Planning Board Members: You requested a legal opinion for your next meeting concerning two questions regarding the above-referenced petition, and I address each one in turn.

Question: Whether an individual petitioner has the right to petition to rezone a property or a portion of a property that is not owned by the proponent?

Answer: In my opinion, yes. A petition for a zoning change may be brought by or on behalf of an "individual owning land to be affected by change or adoption", and may affect both the individual's land and land owned by others. MGL c. 40A, s. 5. Also See Marlborough Zoning Ord. 650-60; Davolio v. Town of Shrewsbury, Misc. Case No. 171842 at 2-6, 8 (Land Ct. 1992)(zoning amendment initiated by individual relative to a district affecting multiple parcels valid and facts do not require strict compliance with MGL c. 40A, s. 5).

Question: Whether the petitioner can redevelop property that is essentially on city land, in part?

Answer: In my opinion, whether the petitioner has the legal rights to develop a parcel is more germane to permitting (i.e. special permit) than zoning. See e.g., MGL c. 40A, s. 11 (eligible applicants for zoning relief). The Land Court held that zoning must deal with land use "[w]ithout regard to ownership of the property involved or who may be the operator of the use." Cumberland Farms, Inc. v. Jacob, 2015 WL 5824402 * 5 (2015)(interpreting the uniformity requirements of MGL c. 40A, s. 6). I am informed by counsel for the petitioner that their position is an easement right granted by the MBTA permits the referenced encroachment.

Please don't hesitate to contact me if you have any additional questions.

Thank you,

-Jason

Jason D. Grossfield
City Solicitor
City of Marlborough
City Hall, 4th Floor
140 Main Street
Marlborough, MA 01752
T: (508) 460-3771
F: (508) 460-3698
jgrossfield@marlborough-ma.gov

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 OCT 30 A 10:33

**CITY OF MARLBOROUGH
PLANNING BOARD
MARLBOROUGH, MASSACHUSETTS 01752**

LEGAL NOTICE

Public Hearing –Proposed Zoning Amendment to Sections 650 §7, §17 & New Section 650-40 to create the Route 20 East Zoning District.

Notice is hereby given that the Planning Board of the City of Marlborough will hold a Public Hearing on **Monday, December 2, 2019 at 7:00 PM** in Memorial Hall, 3rd Floor, City Hall, 140 Main Street, Marlborough, Massachusetts, to amend Sections 650 §7, and create a new Section 650-§40 of the Zoning Code of the City of Marlborough. **The materials are available for viewing in the Office of the City Clerk, City Hall, 140 Main Street, Marlborough, MA 01752, 508-460-3775 and the administrative offices of the Planning Board, 135 Neil St., Marlborough, MA 01752 508-624-6910 x33200.**

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE MASSACHUSETTS 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 650-7, entitled "Districts Enumerated," is hereby **amended** as follows:
 - (1) By deleting from the first sentence the number "13" and by inserting in place thereof the number "14".
 - (2) By inserting at the end of the list of District types, the following:
Route 20 East Zoning District R20E.
- II. Chapter 650 is hereby amended in 650 Attachment 1 (§ 650-17), entitled "Table of Uses," by **inserting** the highlighted portions and text of Exhibit "A" attached to this order, inserting under the heading entitled "Zoning District Abbreviations" a new zoning district abbreviation as follows: "R20E", and beneath the new district abbreviation R20E column the text as shown on said Exhibit "A".
- III. Chapter 650 is hereby amended by **inserting** a new §40, entitled "Special Provisions Applicable to the Route 20 East Zoning District (R20E)", as follows:

§ 650-40. Special Provisions Applicable to the Route 20 East Zoning District (R20E)

Within the Route 20 East Zoning District (R20E), the following provisions govern. Where these provisions conflict with other sections of the Zoning Ordinance, the provisions of this section shall apply.

- A. Purpose and vision.** The purpose of the Route 20 East Zoning District is to encourage compact mixed-use development that encourages walking and biking with development that will enhance compatible land uses and encourage desired growth patterns to improve a traditionally automobile-oriented commercial corridor for the benefit of public health, safety and welfare, by promoting integrated, pedestrian-friendly, commercial mixed-use development including retail, housing, and workplaces within close proximity to each other that are consistent with the stated economic development objectives of the City, contribute to enhanced streetscape, and designed to further promote livability and quality of life within the district.

(1) Commercial mixed-use development.

- (a) For the purposes of this Zoning District, a commercial mixed-use development shall include any eligible use set forth in Subsection E below, which shall be commingled into a single structure or multiple structures with other eligible uses on the same property. Accordingly, commercial mixed-use developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking area and driveway curb cuts, to reduce automobile trips and traffic congestion, and accordingly to improve air quality.
- (b) All developments shall be designed to be pedestrian-friendly and that shall include site design, building layout, and pedestrian circulation features and amenities in compliance with the design standards of this Zoning District. Pedestrian-friendly developments shall benefit the public health, safety and welfare, through the encouragement of walking and physical activity.

- B. Site plan review.** Projects within the Route 20 East Zoning District shall be subject to site plan review as provided in § 270-2, entitled "Site plan review and approval," of the Marlborough City Code.

(1) Applicability.

- (a) In all instances, a development which proceeds within the Route 20 East Zoning District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code.
- (b) Site plan review applies to both as of right and uses available by grant of a special permit within the Route 20 East Zoning District. Site plan review applicability includes, but is not limited to, new construction of any building or structure; addition to an existing building or structure; and increase in area of on-site parking or loading areas. [See § 270-2(3).]

- (c) Site plan review shall be conducted administratively, as provided in § 270-2, except for multifamily uses, hotel uses, and for those projects over 10,000 square feet, which projects shall undergo administrative site plan review with final review and approval by the City Council.
 - (d) The City Council may elect to vary the dimensional and parking requirements of this section by site plan approval if, in its opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.
- C. **Special permit granting authority.** The City Council shall be the special permit granting authority within the Route 20 East Zoning District.
- D. **Exclusivity/control.** This section of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the Route 20 East Zoning District and supersedes any other provision of the Zoning Ordinance. In the event of any conflict between the provisions of this section and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.
- E. **Eligible uses.** Except as specifically provided herein, any uses which are not permitted, whether as of right or by a special permit, within the Route 20 East Zoning District (R20E) under § 650-17, Table of Use Regulations, of the Zoning Ordinance, shall be prohibited. Uses allowed as of right and uses allowed by special permit are encouraged to be combined as a commercial mixed-use development. All uses noted as not permitted shall be deemed prohibited, except where to so deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation, permit or license, or any state or federal law or regulation.
- F. **Dimensional requirements.** Dimensional requirements are set forth in § 650-41, Table of Lot Area, Yards and Height of Structures,” as specified for the R20E. The special permit height of 85 feet shall step down to 52 feet when the building is within 50 feet setback from a property line that abuts a residential district.
- G. **Parking, curb cut and landscaping requirements.** Except as otherwise provided in this section, parking, circulation and landscape requirements shall conform with the provisions of § 650-47, § 650-48 and § 650-49 of the Zoning Ordinance.
 - (1) **Parking locations.**
 - (a) Parking shall be located to the side and/or rear of all new building structures that front on Route 20 East, an existing connecting street, or a new internal access street.

- (b) Parking may be provided at ground level, underground, or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses but must be integrated with the surrounding site plan and oriented so as to minimize visual impact of the parking garage on surrounding uses.
- (2) Parking access. Where a proposed parking lot is adjacent to an existing parking lot of a similar use, providing vehicular and pedestrian connections between the two parking lots shall be required. This access shall allow vehicular circulation between parking areas without the need to travel on Route 20. This access shall allow the unobstructed flow of pedestrians between adjacent properties, businesses, and parking areas. A sidewalk shall be provided on at least one side of the driveway.
- (3) Parking requirements. Parking in the R20E shall be provided at a minimum of 1 parking space per 250 square feet of net floor area for retail and restaurant uses. Parking for other commercial uses shall be provided at a minimum of 1 parking space per 350 square feet of net floor area. Parking for residential units shall be provided at a minimum of 1 parking space per unit.
- (4) Curb cuts. Curb cuts shall be minimized. To the extent feasible, vehicular access shall be provided through one of the following methods:
 - (a) Through the use of a common driveway serving multiple lots, or
 - (b) Through the use of an existing side or rear street.

H. **Design standards.** In addition to the following design standards which apply to all developments within the Route 20 East Zoning District, Route 20 East commercial mixed-use development that includes residential development shall incorporate design guidance from the City of Marlborough Multifamily Development Review Criteria and Design Guidelines as adopted by the City Council.

- (1) Site layout
 - (a) Site and building layout. Buildings shall be located in close proximity to streets with the primary building frontage(s) oriented to street frontage(s) and to define outdoor spaces in coordination with adjacent buildings located on the same property or abutting property.

- (b) Site and parking layout. Parking shall be located to the rear or to the side of buildings that front on a street. Where an existing parking lot is in front of a building that will be redeveloped, landscaping shall be placed to screen parking and enhance the visual appeal of the site and street frontage. Where a new parking lot is to the side or rear of a building, but adjacent to a street, landscaping shall be used to screen the parking and reduce the visual impact of the parking as viewed from the street.
- (c) Site buffer. The setback abutting an existing residential or industrial use shall include landscape plantings and features that screen and separate adjacent residential or business uses from new commercial mixed-use development. This requirement does not need to be provided where adjacent to an existing commercial mixed-use development, retail, or restaurants.

(2) Pedestrian and bicycle circulation

- (a) Pedestrian circulation. Safe, convenient, and attractive pedestrian circulation shall be incorporated into the site plan design. Where appropriate, new pedestrian and bicycle paths shall connect the site with abutting sidewalks, trails, amenities, or parks to promote pedestrian and bicycle circulation and safety. Where appropriate, pedestrian access should be expanded into a shared-use path to provide safe, convenient, and attractive bicycle access. Where parking is located to the rear of the building, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.
- (b) Pedestrian connections. Sidewalks shall provide access from internal site uses, building entries, and parking areas to Route 20 and between adjacent sites.
- (c) Bicycle amenities. All developments shall include provisions for the parking of bicycles at locations that are safely separated from vehicular and pedestrian circulation and convenient to building entries. Bicycle racks shall be placed as to not obstruct pedestrian walkways or impede the parking area for automobiles.

(3) Outdoor Pedestrian Spaces

- (a) Useable Outdoor Pedestrian Space. Buildings and site features shall be arranged to create functional public and private outdoor spaces, including sidewalks, patios, entryways, courtyards, and other types of spaces. Useable and accessible outdoor pedestrian space shall be provided and integrated with the site plan and building design. Such outdoor pedestrian spaces shall enhance visual connections between buildings, streets, open spaces, and pedestrian circulation. Outdoor pedestrian spaces shall be set back from major vehicular ways and be of a scale that is appropriate to the anticipated level of foot traffic.

- (c) Location of outdoor seating. Outdoor seating areas may be provided for restaurants, cafes, coffee shops, or other establishments with seating and may overlap with outdoor pedestrian spaces. Outdoor pedestrian spaces and seating areas shall be oriented to street frontage, with side streets and secondary access streets the preferred locations and integrated with the streetscape. Amenities and seating shall not reduce the required sidewalk widths or impact pedestrian or bicycle circulation.

(4) Building design

- (a) Mixed-uses. Route 20 East Zoning District shall benefit from mixed-use development that combines several uses that are allowed as of right or by special permit in the district. These uses could be provided in a cluster of separate buildings or combined vertically in a single building. A mix of uses in close proximity shall be used to create smaller, walkable clusters that enhance the Route 20 East corridor and provide opportunities for residents and patrons to circulate between uses without the use of a vehicle.
- (b) Façade step back. A step back in the façade of a building shall occur at the upper floor(s) for all buildings above 3-stories in height. For example, the fourth story of a 4-story building shall be recessed from the lower 3-stories of the primary façade with a step back. Or, the fourth and fifth story of a 5-story building shall be recessed from the lower 3-stories of the primary façade with a step back. 5 feet shall be the minimum step back.
- (c) Multiple buildings. In mixed-use developments with multiple buildings, recurring forms and materials shall be used to unify the development while establishing an overall hierarchy of buildings for visual interest and orientation.
- (d) Define corners. Prominent corners of sites and buildings should be defined and celebrated by the layout and design of the building(s). Prominent building corners may use design elements such as towers, arches, unique building massing, or roof forms to serve as identifiable and memorable landmarks.
- (e) Roof forms. Gable, hip, mansard, gambrel, stepped, and peaked roofs add variety and interest to buildings and shall be incorporated into mixed-use developments. Flat roofs may be incorporated into the roof design with other roof forms and features.
- (f) Blank walls. Large portions of building facades which are unarticulated or blank walls shall be avoided through the careful placement of doors, windows, façade features, and transitions in façade materials and finishes.

(g) Design quality. Building massing and façade design shall be of a high quality with well composed and articulated building forms using a variety of techniques to create visual interest and character with architectural details, vertical and horizontal projections and recesses, changes in height, roof forms, cornice treatments, pilasters, window reveals, materials, colors, and prominent building entrances or other design features.

(h) Building materials. Use of traditional, natural, and sustainable building materials such as wood, brick, and stone shall be preferred over other synthetic materials.

I. Signage.

(1) Except as otherwise provided in this section, signage shall conform to the provision of Chapter 526 of the City Code, the Sign Ordinance.

a. Sign quality. Signs and sign locations shall be an integral part of a high-quality development, designed to be consistent with the scale and style of the associated buildings. Sign design and materials shall relate to the building and site elements.

b. Integrated signs. Signs mounted on buildings shall be integrated with the architectural design of the building and should not be located to cover or obscure architectural elements. The building design should offer an integrated location on the building façade to receive signs. For buildings with multiple tenants, a consistent and integrated location on the building façade should be designed to receive signs for each separate tenanted space.

c. Awnings. Awnings, trellises, or canopies are encouraged above windows, doors, and entrances to provide shade and architectural relief from flat facades while providing an alternative location for signage.

J. Application.

(1) Special permits. An application for a special permit for a use in a development in the Route 20 East Zoning District shall comply with the requirements of § 650-59 of the Zoning Ordinance.

(2) Site plan approval. An application for site plan approval in the Route 20 East Zoning District shall comply with the requirements of Chapter 270 of the City Code, Article II, Permits and Approvals, § 270-2.

K. Site plan; Special Permit approval review criteria.

(1) Review criteria. The City Council in connection with a special permit and/or site plan application in the Route 20 East Zoning District shall review such applications with respect to the following review criteria:

- (a) Compliance of the design with the Design Standards in the above subsection H;
 - (b) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
 - (c) Scale of buildings relative to surroundings and relative to City of Marlborough Multi-family Development Review Criteria and Design Review Guidelines;
 - (d) Quality of design and materials for building facades visible from public ways;
 - (e) Quality of design and materials for public space; and
 - (f) Placement of utilities and wiring underground, to the extent practical.
- (2) Submission requirements:
- (a) Site plan depicting proposed development, buildings, parking, vehicular, pedestrian, and bicycle circulation, open space;
 - (b) Building elevations;
 - (c) Landscape plan;
 - (d) Lighting plan with photometrics; and
 - (e) Site and building signage plan.
- (3) Public presentation. Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted prior to the close of the public hearing/meeting.

L. Standards for roadways and drainage.

- (1) Roadways. Internal Route 20 East Zoning District roadways shall be private ways and shall be maintained by owners/developers of the Route 20 East Zoning District and portions thereof. Private ways within the Route 20 East Zoning District, to the extent feasible, shall be constructed using the methods and materials prescribed in the City of Marlborough Subdivision Regulations, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.

- (2) Stormwater management system. Developments proposed in the Route 20 East Zoning District shall have a stormwater management system designed in accordance with the City of Marlborough Subdivision Regulations, the Department of Environmental Protection's Storm Water Handbook, and the Standards and the City's Stormwater Ordinance (Chapter 271 of the City Code), as amended. The stormwater design shall infiltrate all stormwater on site and avoid run-off onto adjacent properties and is encouraged to integrate bioswales, rain gardens, or other surface stormwater treatment features that are integral to the function of the site's stormwater management and highlighted as a landscape feature.

- M. Amendments.** After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a special permit and major or minor amendments to a site plan approval may be made by a super majority (2/3) vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the surrounding neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for a revised special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3) of § 650-59.
- IV.** Chapter 650 is hereby amended by **inserting** into 650 Attachment 2 (§ 650-41), entitled "Table of Lot Area, Yards and Height of Structures," the text as shown in highlighted format in Exhibit "B" attached hereto.

- V. The Zoning Map described in § 650-8 is amended as shown on the accompanying Map (Exhibit "C"). The newly established R20E shall include all or portions properties as shown in highlighted format on the Map as existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

74-2A	73-54	59-17A	60-24
73-15A	72-29A	59-16	60-31A
73-43	72-29	59-4	61-3
72-36	73-54A	59-4F	60-30A
72-28	72-13	59-4D	61-12
73-24	72-30	59-4E	61-6
73-701	72-35	59-4C	60-31
73-26	73-59	59-4B	61-2
72-16B	73-31B	59-11A	61-5
73-42	73-57	59-5B	61-19
73-41A	73-44	59-5A	74-2
73-41	73-33	59-5	61-18
73-21	73-55	59-5C	61-25B
73-39D	73-39B	72-31	61-31
73-22	73-700	60-26	61-22A
73-20	73-35	60-38	62-14
73-16	74-4	60-25	61-22
73-23	73-39A	60-27	61-30
73-25	73-37A	60-28	61-25A
73-40	74-3A	60-29	61-23
73-17	74-3	73-56	61-25
73-26A	73-36	73-30	61-21
73-35A	73-38	74-5	61-34
73-31A	73-37B	73-31	61-20
73-39C	73-37	61-27	61-2A
73-32	59-18	73-58	61-17
73-27	59-12	61-27A	61-17A
72-15	59-17C	59-8	62-20
73-29A	59-11	60-1	62-23
73-28	59-17B	59-10	62-2
72-14	59-17	59-14	62-21
61-28	59-9	61-15	
62-2B	61-10	61-32	
62-13	61-8	62-1	
61-29	61-1	61-700	
61-29A	61-14	61-9	
61-701	61-28A	61-7	
62-24	62-2A	62-22	
59-7	61-9A	48-32	

VI. The effective date of these amendments shall be the date of their passage.

Per Order of the City Council
#19-1007716A

This Legal Advertisement will be published on www.wickedlocal.com and <http://masspublicnotices.org>.

Marlborough Enterprise- Thursday, November 14, 2019 & Thursday, November 21, 2019.

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE MASSACHUSETTS 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 650-7, entitled “Districts Enumerated,” is hereby **amended** as follows:
 - (1) By deleting from the first sentence the number “13” and by inserting in place thereof the number “14”.
 - (2) By inserting at the end of the list of District types, the following:
Wayside Zoning District Wayside.
- II. Chapter 650 is hereby amended in 650 Attachment 1 (§ 650-17), entitled “Table of Uses,” by **inserting** the highlighted portions and text of Exhibit “A” attached to this order, inserting under the heading entitled “Zoning District Abbreviations” a new zoning district abbreviation as follows: “Wayside”, and beneath the new district abbreviation Wayside column the text as shown on said Exhibit “A”.
- III. Chapter 650 is hereby amended by **inserting** a new §40, entitled “Special Provisions Applicable to the Wayside Zoning District”, as follows:

§ 650-40. Special Provisions Applicable to the Wayside Zoning District

Within the Wayside Zoning District, the following provisions govern. Where these provisions conflict with other sections of the Zoning Ordinance, the provisions of this section shall apply.

A. Purpose and vision. The purpose of the Wayside Zoning District is to encourage compact mixed-use development that encourages walking and biking with development that will enhance compatible land uses and encourage desired growth patterns to improve a traditionally automobile-oriented commercial corridor for the benefit of public health, safety and welfare, by promoting integrated, pedestrian-friendly, commercial mixed-use development including retail, housing, and workplaces within close proximity to each other that are consistent with the stated economic development objectives of the City, contribute to enhanced streetscape, and designed to further promote livability and quality of life within the district.

(1) Commercial mixed-use development.

- (a) For the purposes of this Zoning District, a commercial mixed-use development shall include any eligible use set forth in Subsection E below, which shall be commingled

into a single structure or multiple structures with other eligible uses on the same property. Accordingly, commercial mixed-use developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking area and driveway curb cuts, to reduce automobile trips and traffic congestion, and accordingly to improve air quality.

- (b) All developments shall be designed to be pedestrian-friendly and that shall include site design, building layout, and pedestrian circulation features and amenities in compliance with the design standards of this Zoning District. Pedestrian-friendly developments shall benefit the public health, safety and welfare, through the encouragement of walking and physical activity.

B. Site plan review. Projects within the Wayside Zoning District shall be subject to site plan review as provided in § 270-2, entitled "Site plan review and approval," of the Marlborough City Code.

(1) Applicability.

- (a) In all instances, a development which proceeds within the Wayside Zoning District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code.
- (b) Site plan review applies to both as of right and uses available by grant of a special permit within the Wayside Zoning District. Site plan review applicability includes, but is not limited to, new construction of any building or structure; addition to an existing building or structure; and increase in area of on-site parking or loading areas. [See § 270-2(3).]
- (c) Site plan review shall be conducted administratively, as provided in § 270-2, except for uses not requiring a special permit, multifamily uses, hotel uses, and for those projects over 10,000 square feet, which projects shall undergo administrative site plan review with final review and approval by the City Council.
- (d) The City Council may elect to vary the dimensional and parking requirements of this section by special permit or site plan approval if, in its opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to occupancy.

C. Special permit granting authority. The City Council shall be the special permit granting authority within the Wayside Zoning District.

D. Exclusivity/control. This section of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the Wayside Zoning District and supersedes any other provision of the Zoning Ordinance. In the event of any conflict

between the provisions of this section and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.

E. Eligible uses. Except as specifically provided herein, any uses which are not permitted, whether as of right or by a special permit, within the Wayside Zoning District under § 650-17, Table of Use Regulations, of the Zoning Ordinance, shall be prohibited. Uses allowed as of right and uses allowed by special permit are encouraged to be combined as a commercial mixed-use development. All uses noted as not permitted shall be deemed prohibited, except where to so deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation, permit or license, or any state or federal law or regulation.

F. Dimensional requirements. Dimensional requirements are set forth in § 650-41, Table of Lot Area, Yards and Height of Structures,” as specified for the Wayside Zoning District. The special permit height of 85 feet shall step down to 52 feet when the building is within 50 feet setback from a property line that abuts a residential district.

G. Parking, curb cut and landscaping requirements. Except as otherwise provided in this section, parking, circulation and landscape requirements shall conform with the provisions of § 650-47, § 650-48 and § 650-49 of the Zoning Ordinance.

(1) Parking locations.

- (a) Parking shall be located to the side and/or rear of all new building structures that front on Route 20 East, an existing connecting street, or a new internal access street.
- (b) Parking may be provided at ground level, underground, or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses, but must be integrated with the surrounding site plan and oriented so as to minimize visual impact of the parking garage on surrounding uses.

- (2) Parking access. Where a proposed parking lot is adjacent to an existing parking lot of a similar use, providing vehicular and pedestrian connections between the two parking lots shall be required. This access shall allow vehicular circulation between parking areas without the need to travel on Route 20. This access shall allow the unobstructed flow of pedestrians between adjacent properties, businesses, and parking areas. A sidewalk shall be provided on at least one side of the driveway.
- (3) Parking requirements. Parking in the Wayside District shall be provided at a minimum of 1 parking space per 250 square feet of net floor area for retail and restaurant uses. Parking for other commercial uses shall be provided at a minimum of 1 parking space per 350 square feet of net floor area. Parking for residential units shall be provided at a minimum of 1 parking space per unit.

- (4) Curb cuts. Curb cuts shall be minimized. ~~To the extent feasible, vehicular~~ Vehicular access shall be provided through one of the following methods:
 - (a) Through the use of a common driveway serving multiple lots, or
 - ~~(b)~~ Through the use of an existing side or rear street, or-
 - ~~(b)(c)~~ Through the reduction in the number of existing curb cuts or the reduction of the width of existing curb cuts.

H. Design standards. In addition to the following design standards which apply to all developments within the Wayside Zoning District, commercial mixed-use development that includes residential development shall incorporate design guidance from the City of Marlborough Multifamily Development Review Criteria and Design Guidelines as adopted by the City Council.

(1) Site layout

- (a) Site and building layout. Buildings shall be located in close proximity to streets with the primary building frontage(s) oriented to street frontage(s) and to define outdoor spaces in coordination with adjacent buildings located on the same property or abutting property.
- (b) Site and parking layout. Parking shall be located to the rear or to the side of buildings that front on a street. Where an existing parking lot is in front of a building that will be redeveloped, landscaping shall be placed to screen parking and enhance the visual appeal of the site and street frontage. Where a new parking lot is to the side or rear of a building, but adjacent to a street, landscaping shall be used to screen the parking and reduce the visual impact of the parking as viewed from the street.
- (c) Site buffer. The setback abutting an existing residential or industrial use shall include landscape plantings and features that screen and separate adjacent residential or business uses from new commercial mixed-use development. This requirement does not need to be provided where adjacent to an existing commercial mixed-use development, retail, or restaurants.

(2) Pedestrian and bicycle circulation

- (a) Pedestrian circulation. Safe, convenient, and attractive pedestrian circulation shall be incorporated into the site plan design. Where appropriate, new pedestrian and bicycle paths shall connect the site with abutting sidewalks, trails, amenities, or parks to promote pedestrian and bicycle circulation and safety. Where appropriate, pedestrian access should be expanded into a shared-use path to provide safe, convenient, and attractive bicycle access. Where parking is located to the rear of the building, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

- (b) Pedestrian connections. Sidewalks shall provide access from internal site uses, building entries, and parking areas to Route 20 and between adjacent sites.
- (c) Bicycle amenities. All developments shall include provisions for the parking of bicycles at locations that are safely separated from vehicular and pedestrian circulation and convenient to building entries. Bicycle racks shall be placed as to not obstruct pedestrian walkways or impede the parking area for automobiles.

(3) Outdoor Pedestrian Spaces

- (a) Useable Outdoor Pedestrian Space. Buildings and site features shall be arranged to create functional public and private outdoor spaces, including sidewalks, patios, entryways, courtyards, and other types of spaces. Useable and accessible outdoor pedestrian space shall be provided and integrated with the site plan and building design. Such outdoor pedestrian spaces shall enhance visual connections between buildings, streets, open spaces, and pedestrian circulation. Outdoor pedestrian spaces shall be set back from major vehicular ways and be of a scale that is appropriate to the anticipated level of foot traffic.
- (b) Location of outdoor seating. Outdoor seating areas may be provided for restaurants, cafes, coffee shops, or other establishments with seating and may overlap with outdoor pedestrian spaces. Outdoor pedestrian spaces and seating areas shall be oriented to street frontage, with side streets and secondary access streets the preferred locations, and integrated with the streetscape. Amenities and seating shall not reduce the required sidewalk widths or impact pedestrian or bicycle circulation.

(4) Building design

- (a) Mixed-uses. Wayside Zoning District shall benefit from mixed-use development that combines several uses that are allowed as of right or by special permit in the district. These uses could be provided in a cluster of separate buildings, or combined vertically in a single building. A mix of uses in close proximity shall be used to create smaller, walkable clusters that enhance the Route 20 East corridor and provide opportunities for residents and patrons to circulate between uses without the use of a vehicle.
- (b) Façade step back. A step back in the façade of a building shall occur at the upper floor(s) for all buildings above 3-stories in height. For example, the fourth story of a 4-story building shall be recessed from the lower 3-stories of the primary façade with a step back. Or, the fourth and fifth story of a 5-story building shall be recessed from the lower 3-stories of the primary façade with a step back. 5 feet shall be the minimum step back.

- (c) Multiple buildings. In mixed-use developments with multiple buildings, recurring forms and materials shall be used to unify the development while establishing an overall hierarchy of buildings for visual interest and orientation.
- (d) Define corners. Prominent corners of sites and buildings should be defined and celebrated by the layout and design of the building(s). Prominent building corners may use design elements such as towers, arches, unique building massing, or roof forms to serve as identifiable and memorable landmarks.
- (e) Roof forms. Gable, hip, mansard, gambrel, stepped, and peaked roofs add variety and interest to buildings and shall be incorporated into mixed-use developments. Flat roofs may be incorporated into the roof design with other roof forms and features.
- (f) Blank walls. Large portions of building facades which are unarticulated or blank walls shall be avoided through the careful placement of doors, windows, façade features, and transitions in façade materials and finishes.
- (g) Design quality. Building massing and façade design shall be of a high quality with well composed and articulated building forms using a variety of techniques to create visual interest and character with architectural details, vertical and horizontal projections and recesses, changes in height, roof forms, cornice treatments, pilasters, window reveals, materials, colors, and prominent building entrances or other design features.
- (h) Building materials. Use of traditional, natural, and sustainable building materials such as wood, brick, and stone shall be preferred over other synthetic materials.

I. Signage.

- (1) Except as otherwise provided in this section, signage shall conform to the provisions of Chapter 526 of the City Code, the Sign Ordinance.
 - a. Signage plan. A master sign plan for the premises shall be provided for review and approval by the City Council, setting forth the types, locations and dimensions of proposed signs
 - b. A maximum of two wall signs, individual-letter signs, logo signs or projecting signs affixed to a building for each store, business or tenant. No sign shall project above the highest line of the roof, parapet or building. Each wall sign, individual-letter sign, or roof sign shall not exceed an area of 2.5 square feet for each linear foot of the storefront, business front or occupied tenant space for each applicable business or tenant advertised. In the event that a storefront, business front or occupied tenant space occupies more than one front of a building, the longest front shall be

utilized to calculate the total area per wall sign, individual-letter sign, logo sign or projecting sign (up to a maximum of two). The total area as calculated herein shall be the applicable maximum area for each sign and not split between the two.

- c. Projecting signs shall not project more than six feet from the building, subject to approval by the City Council as part of the signage plan.
- d. Illumination, including internal illumination with translucent faces, shall be permitted for wall signs, individual-letter signs, logo signs or projecting signs provided under this section.
- e. Any business, tenant, or storefront may divide any allowed exterior sign(s) affixed to a wall of the building, to which it is entitled or hereinabove provided, into separate signs affixed to and parallel to such wall; provided, however, that the aggregate area of the separate signs shall not exceed the maximum area allowed under this section for a single exterior sign on the same front.
- f. A lot shall be allowed one freestanding pole, monument, ground or pylon sign for frontage on Route 20 East, provided that each freestanding sign shall be subject to the following dimensional and lighting requirements:
 - (a) The total allowed illuminated cabinet square feet of signage shall not exceed 200 square feet per side, per freestanding sign, exclusive of any sign embellishments, structure and address panels located thereon;
 - (b) The height of any freestanding sign shall not exceed 30 feet from the ground measured directly at the sign base;
 - (c) No freestanding sign shall be located closer than five feet to any property line;
 - (d) Signs, logos or cabinets may be either externally illuminated or internally illuminated with translucent or transparent faces; and
 - (e) Wire frame signs and A-frame signs are prohibited.

J. Application.

- (1) Special permits. An application for a special permit for a use in a development in the Wayside Zoning District shall comply with the requirements of § 650-59 of the Zoning Ordinance.
- (2) Site plan approval. An application for site plan approval in the Wayside Zoning District shall comply with the requirements of Chapter 270 of the City Code, Article II, Permits and Approvals, § 270-2.

K. Site plan; Special Permit approval review criteria.

- (1) Review criteria. ~~The City Council~~ in connection with a special permit and/or site plan application in the Wayside Zoning District, ~~shall review~~ such applications shall be reviewed with respect to the following additional review criteria:
 - (a) Compliance of the design with the Design Standards in the above subsection H;

- (b) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
 - (c) Scale of buildings relative to surroundings and relative to City of Marlborough Multi-family Development Review Criteria and Design Review Guidelines;
 - (d) Quality of design and materials for building facades visible from public ways;
 - (e) Quality of design and materials for public space; and
 - (f) Placement of utilities and wiring underground, to the extent practical.
- (2) Submission requirements:
- (a) Site plan depicting proposed development, buildings, parking, vehicular, pedestrian, and bicycle circulation, open space;
 - (b) Building elevations;
 - (c) Landscape plan;
 - (d) Lighting plan with photometrics; and
 - (e) Site and building signage plan.

~~(3) Public presentation. Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted prior to the close of the public hearing/meeting.~~

L. Standards for roadways and drainage.

- (1) Roadways. Internal Wayside Zoning District roadways shall be private ways and shall be maintained by owners/developers of the Wayside Zoning District and portions thereof. Private ways within the Wayside Zoning District, to the extent feasible, shall be constructed using the methods and materials prescribed in the City of Marlborough Subdivision Regulations, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Stormwater management system. Developments proposed in the Wayside Zoning District shall have a stormwater management system designed in accordance with the

City of Marlborough Subdivision Regulations, the Department of Environmental Protection's Storm Water Handbook, and the Standards and the City's Stormwater Ordinance (Chapter 271 of the City Code), as amended. The stormwater design shall infiltrate all stormwater on site and avoid run-off onto adjacent properties and is encouraged to integrate bioswales, rain gardens, or other surface stormwater treatment features that are integral to the function of the site's stormwater management and highlighted as a landscape feature.

M. Amendments. After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a special permit and major or minor amendments to a site plan approval may be made by a super majority (2/3) vote of the City Council, or administratively as to site plan amendments when approval was granted for a site plan approval administratively in accordance with §270-2. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the surrounding neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for a revised special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3) of § 650-59.

IV. Chapter 650 is hereby amended by **inserting** into 650 Attachment 2 (§ 650-41), entitled "Table of Lot Area, Yards and Height of Structures," the text as shown in highlighted format in Exhibit "B" attached hereto.

V. The Zoning Map described in § 650-8 is amended as shown on the accompanying Map (Exhibit "C"). The newly established Wayside Zoning District shall include all or portions properties as shown in highlighted format on the Map as existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

Map and Parcel Number
73-43
73-42
73-41A
73-41
73-39D
73-40
73-39C
73-44
73-39B
73-39A
73-37A

73-38
73-37B
73-37
60-38
60-27
60-28
60-29
61-27
61-27A
60-30
60-31A
61-3
60-30A
61-12
61-6
60-31
61-2
61-5
61-19
61-25B
61-31
61-22A
62-14
61-22
61-30
61-25A
61-23
61-25
61-21
61-34
61-20
61-2A
61-17
61-17A
62-20
62-23
62-2
62-21
61-28
62-2B
62-13

61-29
61-29A
61-701
62-24
61-10
61-8
61-1
61-11
61-14
61-28A
62-2A
61-9A
61-15
61-32
62-1
61-700
61-9
61-7
62-22
48-32

VI. Section 650-18, entitled “Conditions for Uses,” is hereby amended as follows (new text shown as underlined, deleted text shown as ~~strikethrough~~): **[EDITS TO BE INCORPORATED AS SHOWN FOR 650-18 AT END OF TABLE OF USES EXHIBIT]**.

VII. The effective date of these amendments shall be the date of their passage.

ADOPTED

In City Council
Order No 19-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

Northborough Realty Holdings, LLC
4 Courthouse Lane, Suite 16
Chelmsford, MA 01824
978-934-9000
kgillis@northborocapital.com

November 20, 2019

Via: Email-kholmi@marlborough-ma.gov
U.S. Postal

Chairperson Fenby
City of Marlborough
Planning Board Administration Office
Town Hall
135 Neil Street
Marlborough, MA 01752

**RE: Goodale Estates Subdivision
Goodale Street
Marlborough, Massachusetts
Map 2 Parcel 5**

Dear Chairperson Fenby:

Northborough Realty Holdings, LLC is hereby requesting that the amount of the bond required to ensure the completion of the subdivision be established. We are aware of the additional terms of the Covenant that are prerequisite conditions to permit lot releases and will have those fully satisfied at the time the final amount of the surety is considered by the Board.

Work continues on the subdivision subject to weather conditions.

Sincerely,



Kevin A. Gillis
Managing Director

QUITCLAIM DEED

NORTHBOROUGH CAPITAL PARTNERS, LLC, a Rhode Island limited liability company with an address of 4 Courthouse Lane, Suite 16, Chelmsford, Massachusetts 01824, for consideration paid of less than One Hundred Dollars (\$100.00) grants to the City of Marlborough with a mailing address of 140 Main Street, Marlborough, MA 01752, with QUITCLAIM COVENANTS, the following described property:

That certain parcel of land in located in Marlborough, County of Middlesex, Commonwealth of Massachusetts, commonly known as Jenks Lane, and more particularly bounded and described as set forth on Exhibit A attached hereto and made a part hereof, together with a Drainage Easement and Exclusive Use Easement as noted therein..

MEANING AND INTENDING TO CONVEY and hereby conveying a portion of the same premises conveyed to the Grantor by Deed in Lieu of Foreclosure dated October 18, 2018 and record in Deeds in Book 71768, Page 336 of the Middlesex County Registry of Deeds, said premises transferred hereunder not being "all or substantially all" of the assets of Grantor.

IN WITNESS WHEREOF, NORTHBOROUGH CAPITAL PARTNERS, LLC has caused this QUITCLAIM DEED to be executed by Kevin A. Gillis, a duly authorized Managing Director/Manager this ____th day of _____, 2019.

Northborough Capital Partners, LLC

By: _____
Kevin A. Gillis,
Managing Director/Manager

COMMONWEALTH OF MASSACHUSETTS
Middlesex ,ss. _____, 2019

As of the above date, before me, the undersigned notary public, personally appeared Kevin A. Gillis, as Managing Director/Manager of Northborough Capital Partners, LLC, and proved to me through satisfactory evidence of identification, which was a copy of a state driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My commission expires:

FOR REFERENCE ONLY:
Jenks Lane
Marlborough, MA

Exhibit A

COMMENCING AT A POINT ON THE EASTERLY SIDELINE OF GOODALE STREET (PUBLIC - VARIABLE WIDTH), SAID POINT BEING ON THE MUNICIPAL BOUNDARY LINE BETWEEN THE CITY OF MARLBOROUGH AND THE TOWN OF HUDSON, SAID POINT ALSO BEING A CORNER IN COMMON WITH MAP 46, LOT 2 (N/F LANDS OF HUDSON GOLF, LLC), RUNNING THENCE, ALONG SAID EASTERLY SIDELINE OF GOODALE STREET, SOUTH 31 DEGREES - 11 MINUTES - 30 SECONDS EAST, A DISTANCE OF 210.58 FEET TO THE POINT OF BEGINNING, RUNNING THENCE:

1. ALONG THE DIVIDING LINE WITH MAP 2, LOT 5 (N/F LANDS OF GOODALE ESTATES, LLC), ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 66 DEGREES - 49 MINUTES - 32 SECONDS, AND AN ARC LENGTH OF 34.99 FEET, THENCE;
2. ALONG THE DIVIDING LINE WITH SAID LOT 5, MAP 2, LOT 6 (N/F LANDS OF GOODALE ESTATES, LLC), AND MAP 2, LOT 7 (N/F LANDS OF GOODALE ESTATES, LLC), NORTH 81 DEGREES - 58 MINUTES - 58 SECONDS EAST, A DISTANCE OF 348.02 FEET TO A POINT OF TANGENCY, THENCE;
3. ALONG THE DIVIDING LINE WITH SAID LOT 7, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 56 DEGREES - 15 MINUTES - 04 SECONDS, AND AN ARC LENGTH OF 29.45 FEET TO A POINT OF REVERSE CURVATURE, THENCE;
4. ALONG THE DIVIDING LINE WITH SAID LOT 7, MAP 2, LOT 8 (N/F LANDS OF GOODALE ESTATES, LLC), MAP 2, LOT 9 (N/F LANDS OF GOODALE ESTATES, LLC), MAP 2, LOT 10 (N/F LANDS OF GOODALE ESTATES, LLC), AND MAP 2, LOT 28 (N/F LANDS OF GOODALE ESTATES, LLC), ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 60.00 FEET, A CENTRAL ANGLE OF 292 DEGREES - 30 MINUTES - 08 SECONDS, AND AN ARC LENGTH OF 306.30 FEET TO A POINT OF REVERSE CURVATURE, RUNNING THENCE, ALONG THE DIVIDING LINE WITH SAID LOT 28, THE FOLLOWING THREE (3) COURSES:
5. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 56 DEGREES - 15 MINUTES - 04 SECONDS, AND AN ARC LENGTH OF 29.45 FEET, THENCE;
6. SOUTH 81 DEGREES - 58 MINUTES - 58 SECONDS WEST, A DISTANCE OF 305.22 FEET TO A POINT OF TANGENCY, THENCE;
7. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 113 DEGREES - 10 MINUTES - 28 SECONDS, AND AN ARC LENGTH OF 59.26 FEET TO A POINT ON THE EASTERLY SIDELINE OF GOODALE STREET, THENCE;
8. ALONG SAID EASTERLY SIDELINE OF GOODALE STREET, NORTH 31 DEGREES - 11 MINUTES - 30 SECONDS WEST, A DISTANCE OF 108.78 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 26,962 SQUARE FEET OR 0.62 ACRES, MORE OR LESS.

MEANING AND INTENDING TO CONVEY THE ROAD ENTITLED "JENKES LANE" SHOWN ON THAT CERTAIN MAP PREPARED BY BRUCE SALUK & ASSOCIATES, INC. ENTITLED "DEFINITIVE PROPERTY PLAN - GOODALE ESTATES, MARLBOROUGH, MA," DATED JULY 19, 2016, RECORDED IN THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN NO. 1099 OF 2016.

A certain Drainage and Exclusive Use Easement located in the City of Marlborough, County of Middlesex, Commonwealth of Massachusetts, depicted on A Map Prepared By Bruce Saluk & Associates, Inc. Entitled "Definitive Property Plan - Goodale Estates, Marlborough, MA," Dated July 19, 2016, Recorded In The Middlesex County Registry Of Deeds As Plan NO. 1099 OF 2016.