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2023 AUG 17 PM 12:10

CITY OF MARLBOROUGH
City Council Agenda

Monday, August 21, 2023
8:00 PM

This meeting of the City Council will be held in City Council Chambers, City Hall, 140 Main Street. **PUBLIC ATTENDANCE IS PERMITTED.** This meeting will be televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34), or you can view the meeting using the link under the Meeting Videos tab on the city website (www.marlborough-ma.gov).

1. Minutes, City Council Meeting, July 24, 2023.
2. PUBLIC HEARING on the Petition from Massachusetts Electric and Verizon New England, to install two new joint owned Poles (Pole 22-25 & 22-26) on Forest Street approximately 1500' east of the centerline of the intersection of Forest Street and Sandini Road to serve a new building at 201 Forest Street, Order No. 23-1008940.
3. PUBLIC HEARING on the Application for Special Permit from George Voyiatzis, to convert an existing building into a multi-family residential building consisting of 17 residential units in the Neighborhood Business District at 358 Lincoln Street, Order No. 23-1008939.
4. Certification from Ward 1 Councilor Laura Wagner as required under MGL Chapter 39 §23D ("Mullin Rule"), regarding the Application for Special Permit from Rick Marino, Trustee on behalf of Marco Realty Trust, to expand a pre-existing nonconforming use pursuant to City Code Chapter 650 "Zoning" §12(B) at 13-15 Mechanic Street, Order No. 23-1008926A.
5. Communication from the Mayor, re: Grant Acceptance in the amount of \$10,000.00 from the National Council on Aging awarded to Council on Aging to be used to purchase and administer COVID-19 Booster vaccine and/or Influenza vaccine to at least 100 seniors.
6. Communication from the Mayor, re: Proposed Acceptance of Easement for a small portion of land at the corner of Hayes Memorial Drive and Boston Post Road West (Route 20) for the "Welcome to Marlborough" sign.
7. Communication from City Solicitor Jason Grossfield, re: Request for Executive Session to discuss litigation strategy relative to JW Capital Partners, LLC and Marlborough TOTG LLC v. City of Marlborough (Land Court No. 23 MISC 000199).
8. Communication from City Solicitor Jason Grossfield, re: Proposed Zoning Ordinance Amendment to Chapter 650 "Zoning" of the Code relative to Definitions, Affordable Housing, and the Marlborough Village District (MV), in proper legal form, Order No. 22/23-1008721G.
9. Communication from City Solicitor Jason Grossfield, re: Application for Modification of a Sign Special Permit from Attorney Brian Falk, on behalf of Lincoln Street 431, LLC, to amend an EMC Sign Permit to add non-EMC panels to the existing free-standing sign at 431 Lincoln Street, in proper legal form, Order No. 23-1008889B (X 20-1007948H).

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.

10. Communication from City Solicitor Jason Grossfield, re: Application for Special Permit from Andy Fitz, on behalf of JP Morgan Chase Bank to install a drive-thru ATM for the Chase Bank branch to be located at 189 Boston Post Road West, in proper form, Order No. 23-1008890B.
11. Communication from City Solicitor Jason Grossfield, re: Application for Modification of Special Permit from Ralph Aronov on behalf of Green Gold Group, Inc., to amend the hours of operation, type of use, and to allow for internally illuminated signage at the adult use marijuana retail establishment located at 910 Boston Post Road East within the Wayside District, in proper form, Order No. 20/23-1008062G.
12. Petition from Massachusetts Electric and Verizon New England, to install a new joint owned Pole (Pole 3-5) on High Street approximately 300' east of the centerline of the intersection of High Street and Bolton Street and to install a new Man Hole (1) and underground conduit from Pole 3-5 to new Man Hole (1) and to existing Transformer 1-2 on Exchange Street.
13. Communication from Attorney Brian Falk on behalf of the Red Spring Road Homeowners Association, Inc., re: Proposed Zoning Amendment to Chapter 650 "Zoning" of the Code to add a new section to create the "Red Spring Road Overlay District" (RSR).
14. Application for Special Permit from Attorney Brian Falk on behalf of Post Road Realty, LLC to construct a multi-family residential project in the Executive Residential Overlay District (EROD) which will consist of 475 units at the corner of Simarano Drive and Cedar Hill Street (**Materials and Plans are on file in the City Clerk's Office**).
15. Communication from Central MA Mosquito Control Project, re: Personnel will be in the community responding to residents' concerns about mosquitos on various dates in August 2023.
16. Communications from residents, re: Support of Application for Special Permit from Rick Marino, Trustee on behalf of Marco Realty Trust, to expand a pre-existing nonconforming use pursuant to City Code Chapter 650 "Zoning" §12(B) at 13-15 Mechanic Street, Order No. 23-1008926A.
17. Minutes of Boards, Commissions and Committees:
 - a) Commission on Disabilities, March 6, 2023.
 - b) Conservation Commission, July 20, 2023.
 - c) Cultural Council, May 17, 2023.
 - d) Planning Board, June 5, 2023.
 - e) Traffic Commission, May 31, 2023.
 - f) Zoning Board of Appeals, May 2, 2023, May 23, 2023 & June 20, 2023.
18. CLAIMS:
 - a) Christopher Castillo, 22 Maple Street, pothole or other road defect.
 - b) Alessandro De Oliveira, 40 Harvard Street, #2, pothole or other road defect.
 - c) Maryanne DeProspo, 16 McIntyre Court, pothole or other road defect.
 - d) Rishikesh Desai, 13 Country Candle Lane, Northborough, pothole or other road defect.
 - e) Kelliann Parker, 6 Stevens Street, #2, other property damage and/or personal injury.
 - f) Linda Pakus, 17 Red Spring Road, other property damage and/or personal injury.
 - g) Navid Sharifi, 31 Winter Lane, Framingham, pothole or other road defect.
 - h) James Smith, 92 Silver Leaf Way, pothole or other road defect.
 - i) Stanley Webster, 425 Pleasant Street, other property damage and/or personal injury.

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Public Services Committee

19. **Order No. 23-1008924: Application for Taxi/Livery License from Tim Ending, d/b/a Platinum Care Plus to operate a Livery service with one vehicle from 67 Forest Street, #267.**

Recommendation of the Public Services Committee is to APPROVE.

On a motion by Councilor Irish, seconded by the Chair, the Platinum Care Plus taxi/livery license was approved. Vote 3-0.

From Urban Affairs Committee

20. **Order No. 23-1008721G: Proposed Ordinance amendments to Chapter 650 "Zoning" relative to certain provision concerning mixed use and affordable housing.**

Recommendation of the Urban Affairs Committee is to APPROVE as amended.

On a motion by Councilor Navin moved to recommend approval of the draft as amended during the 3 committee meetings, it was seconded and carried 4-1 (Doucette opposed). The chair will send copies of the final draft along with the minutes to all councilors so they can check it and see if changes need to be made. She will report out the 3 meetings at the July 24th council meeting and ask for suspension to refer the final draft to the solicitor.

21. **Order No. 23-1008889B (X 20-1007948H): Application for Modification of a Sign Special Permit from Attorney Brian Falk, on behalf of Lincoln Street 431, LLC, to amend an EMC Sign Permit to add non-EMC panels to the existing free-standing sign at 431 Lincoln Street.**

Recommendation of the Urban Affairs Committee is to APPROVE.

On a motion by Councilor Doucette moved to approve the amended decision on an LED sign special permit with Attachment A showing the current digital display sign and Attachment B showing the image of Karine's Pizza and Deli; the motion was seconded and approved 4-1 (Robey).

22. **Order No. 23-1008890B: Application for Special Permit from Andy Fitz, on behalf of JP Morgan Chase Bank to install a drive-thru ATM for the Chase Bank branch to be located at 189 Boston Post Road West.**

Recommendation of the Urban Affairs Committee is to APPROVE.

On a motion by Councilor Doucette moved to recommend approval of the decision on a special permit with amendment to condition 8 and solicitor reviewing other conditions, the motion was seconded and carried 5-0.

Councilors-at-Large

Mark A. Oram
Michael H. Ossing
Samantha Perlman
Kathleen D. Robey



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AUG -9 PM 2:00

Ward Councilors

Ward 1 – Laura J. Wagner
Ward 2 – David Doucette
Ward 3 – J. Christian Dumais
Ward 4 – Teona C. Brown
Ward 5 – John J. Irish
Ward 6 – Sean A. Navin
Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

**CITY OF MARLBOROUGH
CITY COUNCIL
MEETING MINUTES
MONDAY, JULY 24, 2023**

The regular meeting of the City Council was held on Monday, July 24, 2023, at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Perlman & Robey. Absent: Wagner. Meeting adjourned at 9:50 PM.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, June 26, 2023, **FILE**; adopted.

That the PUBLIC HEARING on the Petition from Lightpath, to install underground cable in conduit and other equipment within the public way on Cedar Hill Street near D'Angelo Drive, Order No. 23-1008925, all were heard who wish to be heard, hearing closed at 8:08 PM, adopted.

Councilors Present: Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Councilors Absent: Wagner.

That the PUBLIC HEARING on the Application for Special Permit from Rick Marino, Trustee on behalf of Marco Realty Trust, to expand a pre-existing nonconforming use pursuant to City Code Chapter 650 "Zoning" §12(B) at 13-15 Mechanic Street, Order No. 23-1008926, all were heard who wish to be heard, hearing closed at 9:08 PM, adopted.

- a) Communication from Robert Cucchi, 107 Westminster Drive in support of the project.
- b) Communication from RMA Management, 40 Mechanic Street in opposition of the project.

Councilors Present: Doucette, Dumais, Brown, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Councilors Absent: Wagner.

President Ossing called a recess at 9:10 PM and returned to open meeting at 9:12 PM.

Motion by Councilor Navin, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Councilors Ossing & Wagner, re: Municipal Aggregation – June 2023 Update, **FILE**; adopted.

Motion by Councilor Brown, seconded by the Chair to adopt the following:

ORDERED: That the Certification from Ward 4 Councilor Teona Brown as required under MGL Chapter 39 §23D (“Mullin Rule”), regarding the Application for a Wireless Special Permit from Kristen LeDuc on behalf of Dish Wireless to install three (3) Wireless Antennas and related equipment on the rooftop at 2 Mount Royal Avenue, Order No. 23-1008913, **FILE**; adopted.

Motion by Councilor Brown, seconded by the Chair to adopt the following:

ORDERED: That the Certification from Ward 4 Councilor Teona Brown as required under MGL Chapter 39 §23D (“Mullin Rule”), regarding the Application for Modification of Special Permit from Ralph Aronov on behalf of Green Gold Group, Inc., to amend the hours of operation, type of use, and to allow for internally illuminated signage at the adult use marijuana retail establishment located at 910 Boston Post Road East within the Wayside District, Order No. 20/23-1008062 (X 21-1008326 & 21-1008371), **FILE**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$100,000.00 from Undesignated Stabilization to a new Homeless/Immigrant Population Account for emergency related expenditures along with the proposed resolution, referred to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		Mayor				FISCAL YEAR		2024	
FROM ACCOUNT:					TO ACCOUNT:				
Available									Available
Balance	Amount	Org Code	Object	Account Description	Amount	Org Code	Object	Account Description	Balance
\$19,218,186.56	\$100,000.00	83600	35900	Undesignated Stabilization	\$100,000.00	11990006	56005	Homeless Population	\$0.00
Reason:		To cover expenses associated with the homeless population staying at local hotels							
	\$100,000.00	Total			\$100,000.00	Total			

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$199,964.00 from the Executive Office of Public Safety & Security, State 911 Department, awarded to the Police Department to be used to offset personnel overtime costs in the Public Safety Dispatching Center; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$37,864.18 from the Executive Office of Public Safety & Security, State 911 Department, awarded to the Police Department to be used for equipment, quality assurance reviews of dispatch personnel and an offset of overtime costs; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$36,187.36 from the Executive Office of Public Safety & Security, State 911 Department, awarded to the Police Department to be used to offset personnel training costs in the Public Safety Dispatching Center; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the sum of \$4,925,000.00 (four million nine hundred twenty-five thousand dollars) be and is hereby appropriated for emergency communication systems and public safety equipment.

That to meet said appropriations, the Finance Director/Treasurer, with the approval of the Mayor, is hereby authorized to borrow the sum of \$4,925,000.00 under and pursuant to the provisions of Chapter 44, Section 7(1) of the Massachusetts General Laws, as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the City of Marlborough (the "City") therefor; that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Referred to the **FINANCE COMMITTEE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Mayor, re: Streets Acceptance information, referred to **PUBLIC SERVICES COMMITTEE** and the **PLANNING BOARD**; adopted.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Acceptance of Deed -In-Lieu of Foreclosure concerning parcels of land located off Mosher Lane identified as Map 10, Parcel 41, Map 10, Parcel 82, Map 11, Parcels 3 & 40, referred to the **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendment to the City Code, Chapter 125 "Personnel" §6 "Salary Schedule" and a Proposed Job Description pursuant to Chapter 125 "Personnel" §5 "Preparation of Classification Descriptions" to create a new position of Special Traffic Constable within the Police Department, referred to the **FINANCE COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendments to the City Code, Chapter 125 "Personnel", §6 "Salary Schedule" and Proposed Job Descriptions pursuant to Chapter 125, "Personnel", §5 "Preparation of Classification Descriptions relative to positions for the Public Library, Assessors Office, and Public Facilities, referred to the **FINANCE COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from City Solicitor Jason Grossfield, re: Petition from Andrew Delli Carpini on behalf of Colbea Enterprises, LLC, for hours of operation of a gas station (Shell Station) at 342 Boston Post Road East pursuant to Chapter 342 of the Code, in proper legal form, Order No. 23-1008870, **MOVED TO REPORTS OF COMMITTEE & FILE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Assistant City Solicitor Jeremy McManus, re: Application for a Wireless Special Permit from Kristen LeDuc on behalf of Dish Wireless to install three (3) Wireless Antennas and related equipment on the rooftop at 2 Mount Royal Avenue, in proper legal form, Order No. 23-1008913, **MOVED TO REPORTS OF COMMITTEE & FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Attorney Sem Aykanian on behalf of SUCIU LLC d/b/a Exela Storage, re: Request to Extend Time Limitations until 10:00 PM on December 31, 2023, on the Application for a Special Permit to add additional storage units to a nonconforming storage facility located at 846 Boston Post Road East within the Wayside District, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY AUGUST 21, 2023**, as the **DATE FOR PUBLIC HEARING**, on the Application for Special Permit from George Voyiatzis, to convert an existing structure into a multi-family residential building consisting of 17 units in the Neighborhood Business District at 358 Lincoln Street, referred to the **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY AUGUST 21, 2023**, as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install two new joint owned Poles (Pole 22-25 & 22-26) on Forest Street approximately 1500' east of the centerline of the intersection of Forest Street and Sandini Road to serve a new building at 201 Forest Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Attorney Gemma Cashman on behalf of Trammell Crow Company, re: Proposed Amendment to City Code, Chapter 650 "Zoning" by adding a new section to create the "Sasseville Way Residential Overlay District", referred to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, SEPTEMBER 11, 2023**; adopted.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS 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 BY AMENDING AND ADDING THERETO AS FOLLOWS:

1. Article VI, entitled "Special Districts, Overlays and Special Requirements" is hereby amended to add a new Section 650-39A, or such other numbering as deemed appropriate and adopted by the City of Marlborough, entitled "Sasseville Way Residential Overlay District" which shall read as follows:
 - A. Purpose and objectives.
 - (1) The purpose of the Sasseville Way Residential Overlay District (herein, also SWR Overlay District) shall be to encourage and enhance land development and desired growth patterns for the advancement of the public health, safety and welfare by providing for the development of mixed use multi-family housing developments on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities, will provide an appropriate environment for a mixed use multi-family housing development consistent with the stated economic development objectives of the City.
 - (2) For purposes of this zoning district, a mixed-use development shall include a mix of multi-family residential uses and any eligible use set forth in Subsection D, which may be commingled into a single structure or multiple structures with other eligible uses on the same property. Accordingly, 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, reduce automobile trips and traffic congestion, improve walkability within the property, and thereby improve air quality.
 - (3) For purposes of this section, the SWR Overlay District shall be superimposed on the other districts existing at the time that any land in said underlying district is also included in the SWR Overlay District. The SWR Overlay District is located adjacent to Sasseville Way as indicated on the City Zoning Map.
 - B. Authority of permit granting authority.
 - (1) The City Council shall be the permit granting authority for special permit and site plan approval in the SWR Overlay District. In all instances, a development which proceeds under the SWR Overlay District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code, with the exception that the City Council shall be the permit granting authority for special permit and site plan approval in the SWR Overlay District and the voting threshold shall be a simple majority.

- (2) The City Council may elect to waive or modify any of the dimensional and parking requirements set forth in this section during Site Plan Review if, it makes a finding that to do so will enhance the overall design of the SWR Overlay District. This authority continues subsequent to occupancy of any structure within the SWR Overlay District.
- C. Exclusivity/control. This section (§ 650-39A) of the Zoning Ordinance exclusively controls any mixed-use development in the SWR Overlay District and supersedes any other provision of the Zoning Ordinance with respect to all matters described in this section. In the event of any conflict between the provisions of this section (§ 650-39A *et seq.*) and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.
- D. Eligible uses. Except as specifically set forth to the contrary below, all uses permitted in the Residential A-2 and Limited Industrial Districts, either as of right or by special permit in accordance with § 650-17 of the Zoning Ordinance, are permitted to the same extent in the SWR Overlay District.
 - (1) The following uses are permitted by right in the SWR Overlay District:
 - (a) Multifamily dwelling, up to 300 dwelling units.
 - (b) Car parking lots, garages accessory to any principal uses at the property: a structure or a group of structures that facilitate the parking of vehicles at ground level, above or below grade and shall include area for the parking of vehicles at, above and/or below grade under a building or otherwise integrated into another structure.
 - (c) Consumer service establishments complementary to the other principal uses at the property, provided that said facilities are less than 10,000 square feet of floor area.
 - (d) Restaurant, restaurants serving food outdoors, cafe with or without table service (including outside seating and service), brew pub provided that said facilities are less than 10,000 square feet of floor area.
 - (e) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities accessory to a multifamily dwelling use, provided that said facilities if enclosed in a building(s) are less than 10,000 square feet of floor area. For the avoidance of doubt, any outdoor areas shall not be subject to said floor area restriction.
 - (2) The following uses are permitted by special permit in the SWR Overlay District:
 - (a) Consumer service establishments complementary to the other principal uses at the property and said facilities are 10,000 square feet of floor area or greater.
 - (b) Restaurant, restaurants serving food outdoors, cafe with or without table service (including outside seating and service), brew pub and said facilities if enclosed in a building(s) are 10,000 square feet of floor area or greater.
 - (c) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities accessory to a multifamily dwelling use and said facilities if enclosed in a building(s) are 10,000 square feet of floor area or greater. For the avoidance of doubt, any outdoor areas shall not be subject to said floor area restriction.

- (d) Accessory solar energy installations, including but not limited to rooftop systems and solar parking canopies, and accessory telecommunications facilities and wireless communications facilities.
- E. Affordable Housing. All site plan review approvals granted to applicants to construct multi-family dwellings shall be subject to the provisions of § 650-26 of the Zoning Ordinance; provided, however, the percentage of dwelling units to be constructed for homeownership or rental purposes to be made available at affordable prices to home buyers or renters shall be 10% with respect to developments of 20 or more units.
- F. Dimensional requirements. The SWR Overlay District shall be subject to the dimensional standards in accordance with Article VII of the Zoning Ordinance with the following exceptions:
- (1) The SWR Overlay District shall consist of one or more lots. The minimum acreage requirement for contiguous parcels/lots to be developed as a SWR Overlay District is twenty (20) acres.
 - (2) Minimum lot frontage measurement shall be no less than 200 feet for any lot wholly located within the boundaries of the SWR Overlay District.
 - (3) Minimum side yard measurement shall be no less than 50 feet and minimum front yard measurement shall be no less than 50 feet for any lot wholly located within boundaries of a SWR Overlay District.
 - (4) Maximum building height in SWR Overlay District shall not exceed 70 feet, provided that:
 - (a) For the purposes of measuring height in SWR Overlay District, the “front” of each building shall be measured on the side facing Sasseville Way;
 - (b) No non-residential structure or building shall be more than 2 stories or 45 feet in height: and
 - (c) For the avoidance of doubt, roof structures that are not occupiable shall not be included in the overall height measurement.
 - (5) Maximum combined lot coverage, including any permitted accessory structures, shall not exceed 50% of the tract or contiguous parcels.
 - (6) The total number of dwelling units within the SWR Overlay District shall be limited to 15 units per acre of gross land area.
 - (7) The SWR Overlay District may contain studio, one (1), two (2) and three (3) bedroom units.
- G. Parking and curb cut requirements. Except as otherwise provided in this section, parking and circulation requirements shall conform to the provisions of §§ 650-48 and 650- 49 of the Zoning Ordinance.

- (1) General. In the SWR Overlay District, adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal, for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal, the City Council shall consider complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.
 - (2) Parking locations. 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.
 - (3) Parking spaces for each dwelling unit. There shall be a minimum parking ratio of 1.5 parking spaces for each dwelling unit.
 - (4) Granting of relief from parking regulations. The City Council may waive any of the foregoing requirements or the requirements of § 650-48 during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.
- H. Landscaping and screening requirements. The SWR Overlay District shall be subject to the landscaping and screening standards in accordance with Article VII of the Zoning Ordinance with the following exceptions:
- (1) In the SWR Overlay District, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.
 - (2) The City Council may waive any of the requirements of § 650-47 during Site Plan Review during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.
- I. Signage.
- (1) Except as otherwise provided in this section, signage shall conform to the provisions of Chapter 526 of the Marlborough City Code, the Sign Ordinance.
 - (2) The City Council may waive any of the requirements of the Sign Ordinance during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.
- J. Application.
- (1) An application for a special permit for a use in the SWR Overlay District shall comply with the requirements of § 650-57 *et seq.* of the Zoning Ordinance. In the matter of a site plan approval, the application shall comply with the requirements of the City Code, Chapter 270, Article II, Permits and Approvals, § 270-2 *et seq.*

- (2) The City Council in connection with a special permit and/or site plan application shall review such applications with respect to the following design criteria:
 - (a) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
 - (b) Street facade and exterior walls visible from public ways;
 - (c) Public space;
 - (d) Scale of buildings; and
 - (e) External lighting.
 - (3) 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.
- K. Amendments. After approval, an 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 majority 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 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)(f) of § 650-59.
2. The Zoning Map described in § 650-8 is amended as shown on the accompanying Map (Exhibit "A"). The newly established "Sasseville Way Residential Overlay District" shall include all or portions of the properties shown on the Map existing at the passage of this Ordinance, which properties include the following parcel of land (herein identified by the Assessors' Map and Parcel Number): 29-23.

Motion by Councilor Brown, seconded by the Chair to adopt the following:

ORDERED: That the Communication from MA Department of Public Utilities, re: Petition of MA Electric and Nantucket Electric d/b/a National Grid for Approval of a mid-term modification to its 2022-2024 Three-Year Energy Efficiency Plan, **FILE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) School Committee, June 13, 2023.
- b) Board of Assessors, July 1, 2022 & November 4, 2022.
- c) Conservation Commission, June 1, 2023 & June 15, 2023.
- d) Historical Commission, April 27, 2023 & May 18, 2023.
- e) Planning Board, May 22, 2023.
- f) Traffic Commission, April 26, 2023.

Motion by Councilor Perlman, seconded by the Chair to adopt the following:

ORDERED: That the following CLAIMS, referred to the **LEGAL DEPARTMENT**; adopted.

- a) Jessica Culkin, 9 Johansen Drive, other property damage and/or personal injury.
- b) Robert Gilliam, 18 Sandini Road, other property damage and/or personal injury.
- c) Peter Johnson, 29 Morrissey Road, pothole or other road defect.
- d) Stephanie & Brian Ramirez, 15 Greenwood Street, other property damage and/or personal injury.

Reports of Committees:

Councilor Landers reported the following out of the Public Services Committee:

**City Council Public Services Committee
July 17, 2023
Minutes and Report**

This meeting convened at 6:45 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov).

Committee members present: Chair Landers, Councilor Irish and Councilor Brown.

Other Councilors present: Councilors Ossing, Robey and Dumais.

Others Present: Tim Ending of Platinum Care Plus and Dan Gagne of Dish Wireless.

Order No.23-1008842: Application for Renewal of Junk Dealer License, Best Buy Stores, LP #840, d/b/a Best Buy, 769 Donald Lynch Boulevard.

This renewal is postponed in committee as applicant was not present.

Order No.23-1008924: Application for Taxi/Livery License from Tim Ending, d/b/a Platinum Care Plus to operate a Livery service with one vehicle from 67 Forest Street, #267.

The application for a Taxi/Livery license for Platinum Care Plus was reviewed by the committee. The Chair noted the CORI check was completed with no issues.

On a motion by Councilor Irish, seconded by the Chair, the Platinum Care Plus taxi/livery license was approved. Vote 3-0.

Order 23-1008913: Application for Special Permit by Kristen LeDuc on behalf of Dish Wireless to install three (3) wireless antennas and related equipment on the rooftop at 2 Mt. Royal Avenue.

The Committee reviewed the special permit application for the installation of 3 wireless antennas and related equipment at 2 Mt. Royal Avenue. Councilor Brown informed the committee that she reviewed the information related to the order and completed the required documentation to participate. The Chair reviewed the conditions in the special permit.

Motion by Councilor Irish, seconded by Councilor Brown, to approve the special permit. Vote 3-0. The Committee agreed to have the Solicitor place the special permit in proper format for the July 24, 2023, City Council meeting and ask for a suspension of the rules to approve.

Reports of Committee Continued:

Meeting adjourned at 7:00 PM.

Councilor Robey reported the following out of the Urban Affairs Committee:

**City Council Urban Affairs Committee
Monday, July 10, 2023
Minutes and Report**

This meeting convened at 7:00 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov).

Urban Affairs & Housing Committee members present: Chairman Katie Robey, Councilor Doucette, Councilor Landers, Councilor Navin, and Councilor Wagner.

Other Councilors present: Councilors Brown, Dumais, Irish, and Ossing. Councilor Oram (arrived at 7:10 PM.). Councilor Perlman was absent.

Present for the Shell Station application was Attorney James Hall. Present for discussion of amending Chapter 650 was City Solicitor Jason Grossfield.

Order No. 23-1008870: Petition of Delli Carpini on behalf of Colbea Enterprises LLC, to operate a gas station/convenience store (Shell Station) at 342 Boston Post Road East on a 24-hour basis pursuant to Chapter 342 of the Code of the City of Marlborough.

The applicant reminded the committee that the standard is whether or not the proposal tends to provide a convenience without a degradation to the community. He also discussed the increase in customers at this location.

The chair reviewed the fact that we had given another gas station requesting 24-hour operation but had given them permission to operate 5 AM to 11 PM daily for a period of one year with renewal for up to 5 years. Committee members did not support 24-hour operation but was supportive of approving 5 AM to 11 PM operating hours.

Councilor Doucette moved to approve allowing the gas station to operate 5 AM to 11 PM for one year. The chair read through the conditions of Order 22-1008740, Shell Station at 431 Lincoln St. Attorney Hall had no issues with any of them. Councilor Doucette amended the motion to include the conditions in this order, the motion was seconded and carried 5-0.

The chair will ask that this be on the July 24th agenda in proper form and will ask for suspension to approve at that meeting.

Order No. 23-1008721F: Proposed Ordinance amendments to Chapter 650 "Zoning" relative to certain provisions concerning mixed use and affordable housing.

The chair reminded the committee this was continued discussion from our June 14th meeting. Everyone had received a 6-page document along with an additional 2 page document from the chair and a 2 page document from Councilor Ossing.

Reports of Committee Continued:

The chair began reviewing the document amending many sections of Chapter 650.

1. adding a new definition for Area Median Income (AMI) with concern on how the information was found. It was agreed that the definition be changed to state whatever statistical area Marlborough was in rather than listing Boston-Cambridge-Quincy, MA-NH Metropolitan statistical Area.
2. Amending definition of Mixed-Use. After a lengthy discussion, it was agreed to strike the new language of #3- "During the site plan/special permit process, the city council will consider the ratio to business use to ensure it fits the site" and leave the remaining amendments in place.
3. Amending the Table of Use Regulation, 650-17. Councilor Doucette moved to change both hotels to N in MV, it was not seconded and it was agreed to change in the MV column, both hotels from Y to SP and to change Mixed-Use Developments (42) from Y to SP. There would be further developments to MV to specify that hotels would be by special permit.
4. After much discussion it was agreed that the amendment to strike the last sentence of Chapter 650-18 Conditions for uses-Multifamily dwelling was in error and this would remove this section from the next version of the amendments.
5. Next was discussion of Chapter 650-26 Affordable Housing. It was agreed to strike the definition proposed and insert "To ensure future housing projects have an affordable component to ensure the city stays above the state's minimum required inventory of affordable housing."
6. Because we have made mixed-use in MV by special permit, it was agreed to amend part A to read, "All special permits approved for multifamily dwellings as part of a mixed use development, and all special permits granted..." The solicitor did suggest that language from the original order be included but upon review, the chair believes it is included in 1a.
7. When the original order that was vetoed by the mayor was discussed by committee, it was agreed to amend the number that would be impacted by affordable housing would change from 20 to 8, and it was agreed to strike the ability to buy-out building affordable housing. After discussion at this meeting, it was agreed to amend the proposed language of 1a and strike 1b completely (language that split the 12% into categories for different AMI's) and use the following language: The 12% of the dwelling units constructed for homeownership or rent shall be available to households at no more than eighty percent (80%) of AMI. It was agreed a new c would be added that income shall be verified annually. Local preference was kept at 70% and period of affordability would be in perpetuity. The language regarding alternate site was deleted. Language was added that "no final certificate of occupancy shall be issued for any unit within a development until all actions necessary to preserve the affordable units are met. No change would be made to special permit for retirement communities. It was agreed to strike "The provisions of this section shall not apply to projects which are granted special permits within the Marlborough Village District." and to add new language regarding a proviso for projects which have a special permit or site plan submitted/approved before the date these amendments were submitted to the City Council.

Reports of Committee Continued:

8. It was agreed to strike the proposed adding in new language regarding site plan review.
9. It was agreed to go back to “The guidelines “will” complement the design standards...”
The solicitor brought up concern that if guidelines are mandatory that they might need to be reviewed or anything specific we want should be added into the ordinance. It was agreed to add “special permit” to applications for projects in MV that are subject to design standards. is applied Councilors were asked to check the guidelines for discussion on Tuesday.

It was agreed to stop discussion for the night and continue with parking and heights on Tuesday with councilors bringing their calendars to set up another meeting to finalize amendments.

Councilor Wagner moved to adjourn; it was seconded and carried 5-0. The meeting adjourned at 9:04 pm.

Councilor Robey reported the following out of the Urban Affairs Committee:

**City Council Urban Affairs Committee
Tuesday, July 11, 2023
Minutes and Report**

This meeting convened at 7:30 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city’s website, home page (www.marlborough-ma.gov).

Urban Affairs & Housing Committee members present: Chairman Katie Robey, Councilor Doucette, Councilor Landers, Councilor Navin, and Councilor Wagner.

Other Councilors present: Councilors Brown, Dumais, Irish, Oram and Ossing. Councilor Perlman was absent.

Those present for each order are specified below.

Order No. 23-1008890: Application for Special Permit from Andy Fitz, on behalf of JP Morgan Chase Bank to install a drive-thru ATM for the Chase Bank branch to be located a 189 Boston Post Road West. Present for this applicant was Joshua Kline, Stonefield Engineering.

The chair called the meeting to order at 7:30 PM. Committee members had received a draft decision. The chair read through the comments from department heads, most had no concerns but Mr. DiPersio had an amendment to condition 8. She then started review of the draft decision stating she though there were some items in this that did not pertain to this site but would let the solicitor go through it as he checks it over—Condition 2. Is the council the site plan review for this site? Condition 2-Is it city council who would approve engineering changes to the Plans or is it Site Plan Review committee? Condition 5-is Storm Water and Erosion control Management needed for this site? Condition 8-Amend language to strike the direction of west and insert east. Add a new sentence to read-Other, on-site directional signs and pavement markings shall be installed to ensure proper traffic flow, to the satisfaction of the Site Plan Review Committee.

Councilor Doucette moved to recommend approval of the decision on a special permit with amendment to condition 8 and solicitor reviewing other conditions, the motion was seconded and carried 5-0.

Reports of Committee Continued:

The chair will report this out at the July 24th meeting and ask for suspension to refer to solicitor to be placed on our August 21 meeting for vote.

Order No. 23-1008889 X20-1007948H: Communication from Attorney Falk with application to amend an Electronic Sign Permit to add non-EMC panels to the existing free-standing sign at 431 Lincoln St. the sign panels, on both faces of the existing sign will advertise food options within the Shell station convenience store. Present for this application were Attorney Falk and station owner William Camuso.

Councilors were sent a draft decision on the amended LED special permit. If approved the additional sign would be a static sign that was backlit only when the station was open. The chair reviewed the Building Commissioner's denial to approve a modification stating it needed to come to the city council. The chair stated she felt as the council had approved an LED sign special permit specifically to show gasoline prices that she wasn't in favor of adding something that was not related to gasoline prices as specified in Section 526-13. Other councilors were supportive of letting a small business owner advertise something they offered was acceptable.

Councilor Doucette moved to approve the amended decision on an LED sign special permit with Attachment A showing the current digital display sign and Attachment B showing the image of Karine's Pizza and Deli; the motion was seconded and approved 4-1 (Robey).

The chair stated this would be reported out at the July 24th council meeting with request to suspend rules to refer to solicitor for vote of council on August 21 agenda.

Order No. 23-100872F: Proposed Ordinance amendments to Chapter 650 "Zoning" relative to certain provision concerning mixed use and affordable housing.

All councilors were given print copies of the Multifamily Development Review Criteria and Design Guidelines as well as Design Review Guidelines for The Marlborough Village District. The chair also read through comments from the solicitor as he wasn't able to attend this meeting. Discussion resumed on the draft copy. Councilor Doucette brought up issue on page 16 of the Design Review Guidelines for MV where it mentions the predominant material would be red brick. This is quoting from 650.33 D (2) (d) which is part of the code so it would need to be added to our list of amendments. It was agreed to add a new section 650.33 with amendments offered by the city engineer.

A discussion began on parking--what parking can be counted with thought it should only be overnight parking. It was agreed to:

1. Amend Section E of Parking requirements for the MV District, (1) General parking requirements (a) Residential projects. [2] "Spaces in city-owned garages..." to public garages and to keep "and lot within 1,000 feet of the development."
2. Amend (b) Retail, restaurant, and other business uses [1] to add "...unless the use is part of a mixed-use development where off-street parking would be determined during the site plan review process."

We went back and forth on parking in lieu, what the payment should be, what payment is used for, one-time vs yearly payment, how much building a garage costs, and where to put a new garage finally agreeing to:

Reports of Committee Continued:

1. amend E.(2) Payment in lieu of parking-any new commercial or mixed use structure that is required to provide parking may “request to” make a payment to the City in lieu of providing for “part” of the on-site required parking. Add in a new sentence to read: “The City Council may allow the developer to buy out up to 20% of their required spaces in the special permit process.”
2. Section (a) would be amended to read “Payment made to the City of Marlborough in lieu of providing “some” of the required...”may” be “granted in the special permit in spaces designated for overnight parking and listed as a condition of the Special Permit.”
3. Amend (b) to have the fee to be paid be “\$25,000” per parking space.
4. Strike (3) Additional reduction in parking requirements in its entirety.

Another meeting was set for Monday, July 17th to continue discussion on F. Heights of structures and a final review of the changes.

Councilor Doucette moved to adjourn; it was seconded and carried 5-0. The meeting adjourned at 9:17 PM.

Councilor Robey reported the following out of the Urban Affairs Committee:

**City Council Urban Affairs Committee
Monday, July 17, 2023
Minutes and Report**

This meeting convened at 7:30 PM in the City Council Chamber and was open to the public. The meeting was televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) and available for viewing using the link under the Meeting Videos tab on the city’s website, home page (www.marlborough-ma.gov).

Urban Affairs & Housing Committee members present: Chairman Katie Robey, Councilor Doucette, Councilor Landers, Councilor Navin, and Councilor Wagner.

Other Councilors present: Councilors Brown, Dumais, Irish, Oram and Ossing. Councilor Perlman was absent.

City solicitor Jason Grossfield was also present.

Order No. 23-100872F: Proposed Ordinance amendments to Chapter 650 “Zoning” relative to certain provision concerning mixed use and affordable housing.

All councilors were given clean copies of the draft amendments with changes made during the prior 2 meetings incorporated in the document. They also received comments on the new addition of 650-34 Design standards, (d) External materials and appearance provided by Mr. Larry Reeves, a local architect involved in drafting these regulations.

The chair began discussion with a change to Section 650-17 Table of Use regulations to have hotels and hotels with conference facilities have a N in the MV and striking (41) Hotels in 650-18 conditions for uses.

Reports of Committee Continued:

1. It was agreed to change both hotels back to SP in MV and keep the definition in 650-18.
2. It was agreed to amend (42) Mixed-use development in 650- by striking “not” to read “...shall be subject to special permit provisions for multifamily uses...”
3. Councilor Ossing pointed out the word “final” that needed to be added to 650-26 (1)(k) to make it read “No final certificate of occupancy shall be issued...”

Discussion was held on suggested changes to (d) external materials and appearance. It was agreed to amend the following:

1. (d) [1] To strike the current language and insert new language to read, “Predominant wall materials for all ground floors shall be brick in traditional New England colors and character and stone. Wood siding may be used where the structures are adjacent to residential districts where the intent is to blend the structure more into the existing neighborhood. Thin brick veneer, precast concrete panel finished to look like brick or stone, masonry brick panels, and Flexbrick can be used on upper floors. Glass Fiber reinforced Concrete (GFRC) panels can be used for a curtain wall (non-load-bearing) exterior wall cladding. If painted, or coated, a nonmetallic finish is to be used. Cladding materials should be consistent on all facades with the exception of special design elements, such as turrets. Materials designed to imitate brick, e.g., faux brick, are not permitted.
2. (d) [2] The standards for all acceptable masonry construction are as follows:
 - [a] Acceptable masonry construction for bricks will be standard, fired clay, brick units bonded together with mortar. Acceptable applications include building components, such as walls, stairs, columns, arches, planter beds, etc. Bricks should be sound, hard, well-burnt with uniform color, shape and size. The bricks should be compact, homogeneous, free from holes, cracks, flaws, air-bubbles, spawls and stone lumps. Frogged bricks shall be laid with the frogs pointing upwards.
 - [b] Mortar specifications shall comply with relative ASTM International standards.
 - [c] The properties of all other masonry units shall comply with the requirements of relevant ASTM International standards. These include concrete masonry, stone masonry and composite masonry.

Discussion began on F. Heights of structures. It was agreed to amend as follows:

1. In (1) amend 2nd sentence by striking current language and inserting new language to read, “Minimum height shall be 35 feet or 2.5 stories with a maximum height of 60 feet or 4 stories.” Strike in its entirety, “By grant of a special permit, maximum building height; including building areas within 50 feet of a residential district boundary, may be increased to seven stories and up to 85 feet.”
2. In (2) amend the last sentence by striking “as” and inserting “but” so it reads “The portions of a building designed as a roof deck shall be subject to maximum height restrictions but may be increased by special permit.”
3. The solicitor will amend 650-41 Table of Lot Areas, Yards, and Heights of Structures where there is current information on Marlborough Village District’s height to match the above and will change language of footnote 12 with language specific to roof top decks.
4. Add in a new proviso for MV specifying any project for which only a site plan was required that has an unexpired site plan granted before these amendments are submitted will not be impacted by the changes.

Reports of Committee Continued:

The chair stated she would like to be able to report out all meetings at the July 24th council meeting and ask for suspension to refer the final draft amendments to the solicitor to be put in proper form for the August 21st council meeting. This document would then be referred to the Planning Board, who would have to advertise/hold a public hearing, and the council would need to set a date for its public hearing and advertise the date which would probably be during the September 18th council meeting. Councilor Doucette preferred to hold another committee meeting to go over the final draft one more time. Because the committee can't meet before July 24th, it was pointed out that holding another meeting would delay the final draft being reported out and referred to the solicitor until the August 21st meeting and the final document would not be on an agenda until the September 11th meeting delaying referring it to the Planning Board and setting the council's public hearing.

Councilor Navin moved to recommend approval of the draft as amended during the 3 committee meetings, it was seconded and carried 4-1 (Doucette opposed). The chair will send copies of the final draft along with the minutes to all councilors so they can check it and see if changes need to be made. She will report out the 3 meetings at the July 24th council meeting and ask for suspension to refer the final draft to the solicitor.

Councilor Wagner moved to adjourn; it was seconded and approved 5-0. The meeting adjourned at 8:43 PM.

Suspension of the Rules requested – granted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
DISH WIRELESS, LLC
ORDER NO. 23-1008913B**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Dish Wireless LLC (the "Applicant") to allow for the co-location of a new Wireless Communications Facility (3 antennas and associated equipment) on an existing building, pursuant to the submitted plans, as provided in the DECISION and subject to the Findings of Fact and Conditions therein.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation and FCC Licensee having a principal office located at 9601 S. Meridian Boulevard, Englewood, CO 80112 c/o Network Building & Consulting, LLC, 100 Apollo Drive, Chelmsford, MA 01824.
2. The Applicant is a sublessee of a portion of the property located at 2 Mount Royal Avenue (Assessor's Map 79, Parcel(s) 33) and 0 Lakeside Avenue-A (Assessor's Map 79, Parcel(s) 33B), Marlborough, Massachusetts (the "Site").

3. On May 24, 2023, the Applicant filed with the City Clerk of the City of Marlborough an application (hereinafter referred to as the "Application") for a Special Permit under Chapter 650 (Zoning) of the Code of the City of Marlborough (hereinafter referred to as the "Zoning Ordinance"), Section 650-25 entitled Wireless Communications Facilities.
4. In accordance with Article V, Section 650-18(A)(20) and Section 650-25 of the Zoning Ordinance, the Applicant proposes the co-location of a new Wireless Communications Facility (3 antennas and associated equipment) on an existing building) (the "Use") at the Site, as shown in the plans submitted with the Application and referenced in paragraph 5 below.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and plans by NB&C Engineering Services, LLC, with the last revision date of November 18, 2022, (collectively the "Plans"), attached hereto as "**Attachment A.**"
6. Pursuant to the Application, the Applicant is licensed by the FCC to provide personal wireless services in the City of Marlborough and surrounding areas and currently has a problem with significant gaps in coverage and capacity issues with coverage that could be alleviated by installing the Use on the subject location as shown on the Plans.
7. The Site is located in the Business (B) Zoning District which allows a Special Permit to be issued for a Wireless Communication Facility ("WCF").
8. Pursuant to the Rules and Regulations of the City Council of the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application, and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters and the planning boards of all surrounding towns entitled thereto in accordance with applicable regulations and law.
9. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on June 26, 2023. The public hearing was held in the City Council Chamber, at the Marlborough City Hall, 140 Main Street. The public hearing was closed on June 26, 2023.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Use meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. At the Public Hearing, there were no members of the public speaking in opposition to the Use.
12. The Council, in reviewing the Application, considered the Review Standard and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS:**

- A. The Applicant has complied with the Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

- B. The City Council finds the proposed Use of the Site is in harmony with the intent and general purpose of the Zoning Ordinance of the City of Marlborough when subject to appropriate terms and conditions as provided in this Decision. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council finds that the proposed Use is consistent with the purposes of Section 650-25 governing WCFs in the City.
- D. The proposed WCF and location are consistent with both the applicable review standards in Section 650-25(D) and the development requirements in Section 650-25(E).
- E. The City Council recognizes the Applicant is a federal licensee afforded certain protection under federal telecommunications law, to the extent provided by law.
- F. The City Council confirms the Applicant has demonstrated the need to construct the proposed facility to solve certain wireless coverage and capacity issues that currently exist in its network in the vicinity.
- G. The City Council finds that there are adequate, ample parking spaces on the host parcel.
- H. The City Council finds the proposed Use, which consists of an unmanned and unoccupied facility, will have no impact on traffic and pedestrian safety in the area.
- I. The City Council finds the proposed Use will not be contrary to the public health, safety, convenience and welfare and will not be offensive or detrimental.
- J. The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance **GRANTS** to the Applicant a Special Permit for construction of the Use, a wireless communications facility on the existing monopole, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
 2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
 3. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Public Services Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

4. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
5. All work performed on the Site shall comply with this Decision. No other building or construction or activity (including but not limited to any other communications device, WCF, tower, etc.) shall occur without further modification of this Special Permit. This condition shall be interpreted consistent with federal law governing WCF's.
6. No signage or advertising of any sort shall be permitted as part of the Use.
7. The Applicant shall comply with all applicable conditions for WCFs as set forth in Section 650-25(F), each of which shall constitute conditions of this special permit.
8. In accordance with the provisions of Massachusetts General Laws Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council Office, the Building Department and the City Solicitor's Office.

Yea: 10 – Nay: 0 – Absent: 1

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

Absent: Wagner.

Suspension of the Rules requested – granted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the application of Andrew Delli Carpini, CEO on behalf of Colbea Enterprises, LLC (the "Petitioner" or "Holder") to issue a permit to grant an exemption to the hours of operation under City Code Chapter 342, Article 1, Section 342-2, allowing the Shell Gas Station at 342 Boston Post Road East to be open for business for certain additional hours is hereby approved in part, in accordance with the following findings and subject to the below conditions:

A. Findings

The City Council hereby finds that the petition may be granted, when limited and conditioned as set forth below, so that the public convenience and welfare may be substantially served without detrimental effect upon the public health, peace or safety.

B. Permit Conditions

1. This permit authorizes a partial exemption to the hours of operation set forth in City Code 342-1 which is limited to the following: The service station located at 342 Boston Post Road East, Marlborough may be open for business from 5:00 AM to 11:00 PM daily. The service station is not permitted to be open for business outside of those hours.
2. This permit is effective for a period of one (1) year from the date of approval of this permit. Thereafter, at the discretion of the City Council, it may be renewed for periods of up to five (5) years.

3. In regard to both location and holder, the exemption shall be non-transferrable.
4. Petitioner shall install, maintain, and use a video surveillance and video recording system to monitor entry ways and sales attendant positions.
5. Petitioner shall install and maintain a silent robbery/panic alarm system which must be monitored by a central alarm system. Alarm activators must be installed at all sales attendant positions.
6. Petitioner shall permit the Chief of Police or the Chief's designee to inspect, upon demand, the video surveillance, video monitoring and alarm systems. If any of the systems are found to be not in compliance with these conditions, Petitioner must limit the hours of operation of the station to between 6:00 AM and 11:00 PM until full compliance with conditions is achieved.
7. Petitioner shall not permit or suffer any automotive repair work to be performed on the premises by any person.

APPROVED; adopted.

Suspension of the Rules requested – granted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Application for Special Permit from Andy Fitz, on behalf of JP Morgan Chase Bank to install a drive-thru ATM for the Chase Bank branch to be located at 189 Boston Post Road West, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE AUGUST 21, 2023, COUNCIL MEETING;** adopted.

Suspension of the Rules requested – granted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Application for Modification of a Sign Special Permit from Attorney Brian Falk, on behalf of Lincoln Street 431, LLC, to amend an EMC Sign Permit to add non-EMC panels to the existing free-standing sign at 431 Lincoln Street, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE AUGUST 21, 2023, COUNCIL MEETING;** adopted.

Suspension of the Rules requested –granted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Zoning Ordinance Amendments to Chapter 650 "Zoning", to various sections relative to mixed-use, affordable housing, design standards and parking requirements, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE AUGUST 21, 2023, COUNCIL MEETING;** adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Robert Bourn, III as Plumbing and Gas Inspector for 3-year term from date of City Council confirmation pursuant to City Code Chapter 7, §79, **APPROVED;** adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of John Cain as Wiring Inspector for a 3-year term from the date of City Council confirmation pursuant to City Code Chapter 473 §1, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Patrick Hughes to the Planning Board for a 5-year term to expire on February 1, 2028, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Jonathon Friedman to the Commission on Disabilities for 3-year term from date of City Council confirmation, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 9:50 PM; adopted.



IN CITY COUNCIL

Marlborough, Mass., JULY 24, 2023

ORDERED:

That there being no objection thereto set **MONDAY AUGUST 21, 2023**, as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install two new joint owned Poles (Pole 22-25 & 22-26) on Forest Street approximately 1500' east of the centerline of the intersection of Forest Street and Sandini Road to serve a new building at 201 Forest Street, be and is herewith referred to the **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 23-1008940



IN CITY COUNCIL

Marlborough, Mass., _____ JULY 24, 2023 _____

ORDERED:

That there being no objection thereto set **MONDAY AUGUST 21, 2023**, as the **DATE FOR PUBLIC HEARING**, on the Application for Special Permit from George Voyiatzis, to convert an existing structure into a multi-family residential building consisting of 17 units in the Neighborhood Business District at 358 Lincoln Street, be and is herewith referred to the **URBAN AFFAIRS COMMITTEE & ADVERTISE**.

Ninety days after public hearing is 11/19/23 which falls on a Sunday, therefore 11/20/23 would be considered the 90th day.

ADOPTED

ORDER NO. 23-1008939

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 AUG 10 PM 4:05

CERTIFICATION PURSUANT TO G. L. c. 39, SECTION 23D ("MULLIN RULE")

I, Laura Wagner, hereby do swear and certify under the pains and penalties of perjury as follows:

1. I am a member of the Marlborough City Council.
2. I missed a single hearing session on the matter of Order No. 23-1008926: Special

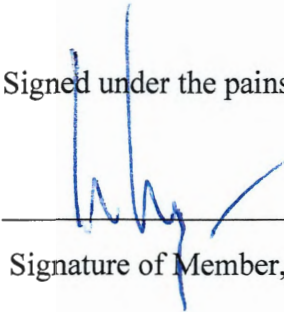
Permit Application from Rick Marino, Trustee, Marco Realty Trust to expand a pre-existing, nonconforming use at 13-15 Mechanic Street, Marlborough, MA, pursuant to the Marlborough City Code Chapter 650 "Zoning" §12 (B), which was held on July 24, 2023.

3. On August 4, 2023 I examined all the evidence and testimony received at the hearing session that I missed which included a review of (initial below which is/are applicable):

- a. _____ official audio recording of the missed hearing session; or
- b. X official video recording of the missed hearing session; or
- c. _____ official transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this 10th day of August 2023.



Signature of Member, Laura Wagner

Received as part of the record of the above matter:

Date: August 10, 2023



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 AUG 17 AM 11:15

City of Marlborough
Office of the Mayor

Arthur G. Vigeant
MAYOR

Patricia Bernard
CHIEF OF STAFF

Jailyn Bratica
EXECUTIVE ADMINISTRATOR

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

August 17, 2023

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

RE: Council on Aging Grant Acceptance

Honorable President Ossing and Councilors:

Enclosed for your acceptance is a grant in the amount of \$10,000.00 from the National Council on Aging. This grant funding will enable the Council on Aging (COA) and Board of Health to set up a vaccine clinic at the Senior Center this fall. These funds will be used to purchase and administer the COVID-19 Booster vaccine and/or Influenza vaccine to at least 100 seniors.

I would like to take this opportunity to thank COA Director Patricia Pope and former Board of Health Director John Garside for their collaboration to secure this important grant funding. I would also like to thank the National Council on Aging for providing funds to this vital program.

Please do not hesitate to contact me or Director Pope with any questions.

Sincerely,

Arthur G. Vigeant
Mayor

Enclosures



City of Marlborough
Council on Aging and Senior Center

40 New Street
Marlborough, Massachusetts 01752
Telephone (508) 485-6492 Facsimile (508) 460-3726

Patricia A. Pope
EXECUTIVE DIRECTOR

July 20, 2023

Mayor Arthur G. Vigeant
City Hall
140 Main Street
Marlborough, MA 01752

Re: Grant Acceptance – National Council on Aging

Dear Mayor Vigeant,

I am very pleased to submit to you a grant from the National Council on Aging in the amount of \$10,000.00.

This grant to be used for the purchase and administering of the Covid-19 Booster vaccine and/or the Influenza vaccine to at least 100 seniors. I consulted with Director Garside before applying for this grant. We both agreed this is a very worthwhile endeavor. The COA will work in collaboration with the Board of Health to set up a vaccine clinic at the Senior Center this fall.

I would like to thank the National Council on Aging for providing funds for this extremely important program. As always, I am available should you or the Councilors have any questions.

Sincerely,

Patricia A Pope
Executive Director

**CITY OF MARLBOROUGH
NOTICE OF GRANT AWARD**

DEPARTMENT: Council on Aging DATE: 20-Jul-23

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Patricia Pope

NAME OF GRANT: Covid-19 & Influenza Vaccine Uptake Initiative

GRANTOR: National Council on Aging

GRANT AMOUNT: \$10,000.00

GRANT PERIOD: 97/06/23 - 04/30/24

SCOPE OF GRANT/ Provide vaccines to 100 seniors

ITEMS FUNDED Covid 19 Boosters and Influenza Vaccines for 100 seniors

IS A POSITION BEING
CREATED: No

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? No

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS
TO BE USED:

ANY OTHER EXPOSURE TO CITY?
None

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: as soon as possible

**DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT**



**Covid-19 and Influenza Vaccine Uptake Initiative:
Agreement for Contracted Services**

This Agreement for Contracted Services (including all Exhibits and Schedules, the "Agreement"), is entered into by and between the National Council On Aging, Inc., (hereinafter referred to as NCOA) and Marlborough COA, (hereinafter referred to as CONTRACTOR). CONTRACTOR agrees to operate the project in accord with all clauses and exhibits included in this CONTRACT.

FUNDER		CONTRACTOR
National Council on Aging 251 18 th Street, South Suite 500 Arlington, VA 22202		Name of Entity: Marlborough COA Address: Street address 1: 40 New Street Street address 2: City, State ZIP: Marlborough, MA 01752
CONTRACT PERIOD		Period of performance: 07/06/2023 to 04/30/2024
Contract Amount		\$10,000
NCOA's Federal Source:	Federal Award #: 90ADCI0008-01-05 Federal Award ID #: 90ADCI0008	Agency Name: Department of Health and Human Services, Administration For Community Living (ACL)
Method of Payment	<u>One-time payment</u>	One payment – \$10,000 upon execution of this contract
Approved for NCOA by:		Approved for CONTRACTOR by:
NAME: Josh Hodges		NAME: Patricia A. Pope
TITLE: Chief Customer Officer		TITLE: Executive Director
SIGNATURE <small>DocuSigned by:</small> Josh Hodges		SIGNATURE Patricia A. Pope
DATE 7/17/2023 15:16:27 EDT		DATE July 14, 2023

RECITALS

WHEREAS, NCOA is a non-profit organization which educates, provides research and advocates for public policy issues to improve the lives of older Americans and wishes to engage Contractor to make available experts to perform certain services on behalf of NCOA as described in this Agreement;

WHEREAS, Contractor has expertise and experience in providing the services described in the attached Statement(s) of Work and has agreed to provide services to NCOA in its area of expertise.

WHEREAS, NCOA desires to retain the services of Contractor and Contractor desires to render such services on the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of mutual promises and covenants set forth hereunder, the parties agree as follows:

1. Provision of Services by Contractor.

1.01 Services. Contractor agrees to perform for NCOA the services described in the Statement(s) of Work attached hereto and made a part hereof referencing this Agreement (each, a "SOW") as may be mutually agreed upon and signed by both parties. Such services, including without limitation, any deliverables and work product to be furnished by Contractor, are hereinafter referred to as the "Services." SOW Number 1 is attached hereto as Exhibit A.

1.02 Fees and Expenses. As compensation for the Services, NCOA will pay to Contractor the fees set forth in the applicable SOW. Payment terms will be as described in each SOW.

1.03 Taxes. Contractor will pay any and all Federal, state, local or foreign sales, excise, service, use, value-added and other governmental taxes or assessments, however designated, with respect to the Services, payments hereunder or otherwise arising out of this Agreement (collectively, "Taxes"). **NCOA will not withhold any funds from Contractor for Taxes or other governmental purposes.**

1.04 Contractor Responsibilities.

i. Contractor shall perform Services diligently and in a workmanlike manner in accordance with industry standards and will use its reasonable commercial efforts to meet the needs and requirements of NCOA.

ii. Contractor shall manage the work of all staff retained on its behalf to perform Services and shall provide all equipment, materials and supplies to its personnel assigned to perform Services hereunder at its expense.

iii. Contractor shall perform the Services in conformance with all applicable laws, rules, and regulations relating to performance of the Services and all requirements set forth in any SOW.

v.

4. Examinations

4.01 Audits, Inspections and Inquiries. In the event Contractor is notified of any regulatory inspection or other audit or inquiry that relates to any Services provided under this Agreement, Contractor shall: (a) promptly notify NCOA of any such inspection or inquiry; (b) forward to NCOA copies of any correspondence from the regulatory agency relating to any such inspection or inquiry; and (c) seek the applicable Client's consent before referring to any Client in any correspondence responding or relating to any such regulatory inspection or inquiry (or related regulatory correspondence).

5. Term and Termination

5.01 **Term.** This Agreement shall commence on the Effective Date and continue until April 30, 2024, unless terminated earlier in accordance with the provisions of this Section 5 (the "Initial Term").

5.02 **Termination for Material Breach.** In the event either party defaults in any material obligation in this Agreement, the non-defaulting party shall give written notice of such default. If the party in default has not cured the default within thirty (30) days of receipt of the notice, the non-defaulting party may terminate this Agreement by delivering notice thereof to the defaulting party.

5.03 **Termination for Insolvency.** In the event that either party becomes insolvent (i.e., becomes unable to pay its debts in the ordinary course of business as they come due) or makes assignment of this Agreement for the benefit of creditors, the other party may terminate this Agreement immediately upon written notice.

5.04 **Termination for Convenience.** Unless otherwise provided in a SOW, NCOA may terminate this Agreement or any SOW upon at least thirty (30) days advance written notice to Contractor.

5.05 **Effect of Termination.** Termination or expiration of this Agreement shall automatically terminate all services provided, and licenses granted, by the parties hereunder. NCOA shall be liable for any fees and expenses incurred by Contractor prior to the effective date of termination.

6. Confidentiality.

6.01 **Confidential Information.** During the term of this Agreement, each party may receive or have access to information that is confidential or proprietary to the other party (the "Confidential Information"). Confidential Information shall mean sensitive or proprietary materials and information, in whatever form, written, oral or otherwise, and shall include, but shall not be limited to (i) the distinctive methods or procedures which a party utilizes in the conduct of its business, (ii) each party's existing or future business models, relationships, plans, products and services marketed or planned to be marketed by such party; (iii) information relating to a party's general business operations, including but not limited to, sales, costs, profits, organizations, promotions, leads, ideas and methods and pricing structures; (iv) the terms and pricing under this Agreement, (v) a party's business processes and strategies, (vi) all Client information and data, including personally-identifiable information provided by Clients and (vii) all information clearly identified by a party as confidential. Confidential information shall not include information that, as evidenced by documentary evidence: (a) is or becomes generally available to the public through no act or omission of the receiving party or its personnel; (b) was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the disclosing party either directly or indirectly from the disclosing party or from a third party who such party knows or should know is under an obligation of confidentiality with NCOA; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; (d) is independently developed by the receiving party without reference to the Confidential Information; or (e) is obligated to be disclosed by court order or government requirement. For purposes of this Agreement, a "Client" of NCOA means any business partner (including any corporation, partnership, governmental organization, joint venture, health plan, educational institution, not-for-profit organization, community senior center and other party with whom NCOA engages in any business transaction), business associate and any party that provides information to NCOA, including members of the general public.

6.02 **Nondisclosure.** Each party agrees to hold the other party's Confidential Information in confidence during the term of this Agreement and at all times after termination or expiration of this Agreement. The parties agree not to make the Confidential Information available in any form to any third party (provided that Contractor may make the terms and pricing of this Agreement available to auditors and legal counsel who are bound by confidentiality obligations with respect thereto) or to use the Confidential Information for any purpose other than the implementation of this Agreement. Each party agrees to take all

reasonable steps to ensure that Confidential Information is not disclosed or distributed by any person or entity in violation of the terms of this Agreement. Within thirty (30) days after any request made from time to time by the disclosing party, the receiving party shall return to the disclosing party, or at the disclosing party's direction destroy, and certify to the disclosing party in writing that the original and all copies, in whole or in part, of the Confidential Information have been returned to the disclosing party or destroyed. If a party is compelled to disclose any of the Confidential Information by court order or government regulation, it will disclose only that portion thereof which it is compelled to disclose and shall reasonably cooperate with the disclosing party's efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the Confidential Information so disclosed. Each party shall promptly inform the other party in the event such party learns of any disclosure of Confidential Information.

7. Warranties.

7.01 Services Warranties. Contractor warrants that (i) the Services shall be performed by qualified personnel in a good and workmanlike manner with due care and diligence consistent with industry standards; (ii) Contractor and its representatives shall perform the Services in conformance with all applicable laws, rules and regulations relating to performance of the Services.

7.03 Debarment. Contractor represents, warrants and covenants that all times during the Term, Contractor and each of Contractor's officers and directors, employees and other personnel assigned to perform Services: (i) are not presently listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549; (ii) have not, within a three (3) year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against it or them for commission of fraud or a criminal offense; (iii) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the foregoing offenses; and (iv) have not within the preceding three (3) years had one or more public transactions (Federal, State, or local) terminated for cause or default.

7.04 Mutual Warranties. Each party represents and warrants to the other party that: (i) such party has sufficient rights, power and authority to execute and deliver this Agreement and perform its obligations hereunder and has taken all necessary corporate and other action to authorize the execution and delivery of this Agreement; (ii) execution and performance of each party's respective obligations under this Agreement will not result in a breach of or conflict with any other agreement to which such party is a party or is bound; (iii) this Agreement is and shall be the legal, valid, and binding obligation of such party and shall be enforceable in accordance with its terms; and (iv) such party will comply with all applicable privacy or data protection statutes, rules or regulations governing the respective activities of that party.

7.05 Disclaimer. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT AND TO MAXIMUM THE EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES MAKE NO, AND HEREBY DISCLAIM ANY, REPRESENTATION, WARRANTY OR GUARANTY, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY: (1) OF MERCHANTABILITY OR SATISFACTORY QUALITY; (2) OF FITNESS FOR A PARTICULAR PURPOSE; OR (3) ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

7.07 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7.08 This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) 3.908.

The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section FAR 3.908.

8. Disclaimers of Damage and Limitations of Liability.

8.01 Disclaimer of Certain Damages: IN NO EVENT SHALL EITHER PARTY OR ITS OFFICERS, DIRECTORS, EMPLOYEES, SUPPLIERS, LICENSORS, SERVICE PROVIDERS AND CONSULTANTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF THE COMPANY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY, OR HAS CONSTRUCTIVE KNOWLEDGE, OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE. NO THIRD PARTY SHALL BE DEEMED A THIRD PARTY BENEFICIARY OF THIS AGREEMENT.

8.02 Exclusions. The limitations and disclaimers in this Section 8 shall not apply with respect to: (a) either party’s liability for infringement of the other party’s or a third party’s proprietary rights; (b) either party’s liability for damage to or destruction of tangible personal property or real property; (c) either party’s liability for breach of its privacy and confidentiality obligations.

9. Indemnification.

9.01 Indemnification. Each Party will, indemnify and hold harmless the other Party, and its respective officers, directors, employees and representatives from and against any costs, claims, demand, lawsuits, actions, causes of action, liabilities, penalties, losses and expenses (including reasonable counsel fees) arising from ~~(i)~~ any breach of this Agreement (including the terms and conditions of any Exhibit or Addendum) by the Indemnifying Party of its representatives, except to the extent that such claims, damages, losses, liabilities, judgements, settlements, costs and expenses are caused by negligence or

intentional misconduct of the Indemnified Party. The Indemnified Party shall notify the Indemnifying Party of any such claim and reasonably cooperate with the Indemnifying Party in defense of such claims at the Indemnifying Party's expense.

10. General.

10.01 Independent Contractors. NCOA and Contractor are independent parties and this Agreement shall not be construed to create an employment, agency, partnership or joint venture relationship between the parties. **The status of Contractor and Contractor's personnel will be that of independent contractors and not that of an employee or agent of NCOA.** Accordingly, Contractor recognizes and agrees that neither Contractor nor Contractor's personnel are eligible to participate in any employee welfare or other benefit plans, however characterized, maintained by NCOA and shall not be entitled to unemployment compensation at the termination or expiration of this Agreement or any SOW. Contractor agrees to assume all responsibility and liability for any and all federal and state employers' liability, workers' compensation, social security and unemployment insurance requirements with respect to Contractor and Contractor's personnel. Contractor agrees to pay and report (or require to be paid and reported) all federal, state and local income, employment and payroll withholding taxes and other governmental taxes or charges for personnel rendering Services, including, without limitation, federal and state income tax withholding, FICA, FUTA, SDI, and state payroll taxes, as may be applicable.

110.03 Assignment. Contractor understands that Contractor has been selected by NCOA to perform the Services on the basis of Contractor's unique qualifications, experience and skills. Accordingly, Contractor agrees that Contractor cannot assign any this Agreement or portion of Contractor's performance under this Agreement without the prior written consent of NCOA.

10.04 Costs and Expenses. Except as set forth in this Agreement, each party shall pay all its own costs and expenses in the performance of its obligations under this Agreement.

10.05 Waiver. The failure of either party to enforce any of the provisions of this Agreement shall not constitute a waiver of the provisions or of the right of the party to enforce each and every provision contained in this Agreement.

10.06 Severability. If any provision of this Agreement for any reason shall be declared void, illegal, invalid or unenforceable in whole or in part, such provision shall be severable from all other provisions herein and shall not affect or impair the validity or enforceability of any other provisions of this Agreement.

10.07 Survival. The following provisions shall survive expiration or termination of this Agreement for any reason: Sections 1.05(iv) and (vi) (maintenance of records; privacy); 2 (Ownership); 6 (Confidentiality); and 9 (Indemnification).

10.08 Force majeure. Neither party shall be liable for any delay or failure to perform its obligations under this Agreement if prevented from doing so by a cause or causes beyond its reasonable control. Without limiting the generality of the foregoing, such causes include acts of God, the public enemy, fires, floods, storms, earthquakes, riots, terrorism, strikes, blackouts, wars or war operations, restraints of government, utility or communications failures, computer malfunctions and equipment failure, computer hackers, telecommunications slow-downs or failure, or other causes which could not with reasonable diligence be controlled or prevented by the party.

10.09 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the federal laws of the United States and the laws of the State of Delaware, without regard to its conflicts of laws rules. Each party hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal courts located in the Commonwealth of Virginia for any action arising under this Agreement.

10.10 Injunctive Relief. The parties acknowledge that violations of Sections 1.05(vi) and 6 of this Agreement may result in irreparable harm to the non-violating party for which remedies other than injunctive relief may be inadequate, and that the non-violating party shall be entitled to receive from a court of competent jurisdiction injunctive or other equitable relief to restrain such unauthorized acts in addition to other appropriate remedies. In the event of any claimed breach of any provisions of this Agreement, and in the event a party requests any injunctive relief or other relief in equity to stop or enjoin any act or acts by the other party, the parties agree that should such relief be granted by any court, that the requesting party shall not be required to post any bond or other surety as a pre-condition to such relief being granted and enacted.

10.11 Notices. All notices and demands under this Agreement shall be in writing and shall be sufficient if sent by fax, registered mail or courier service in English, in each instance with confirmation of receipt, to the other party at its address given below, or at another address designated by such party in writing at a later time. A notice shall be deemed given on the date it was received.

Contractor:
Marlborough COA
40 New Street
Marlborough, MA 01752

NCOA:
Chief Customer Officer
National Council on Aging
251 18th Street South, Suite 500
Arlington, VA 22202

10.12 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the terms and conditions between the parties regarding the subject matter hereof, and supersedes all prior negotiations, agreements and representations regarding the subject matter hereof. There are no other agreements or representations not set forth herein. The Agreement shall not be modified except by a written instrument, signed by an authorized representative of both parties.

10.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same document, binding on all parties notwithstanding that each of the parties may have signed different counterparts. The exchange of a fully executed Agreement, in counterparts or otherwise, by facsimile or electronic scanning shall be sufficient to bind the parties to the terms and conditions of the Agreement.

EXHIBIT A

Statement of Work No. 1

This Statement of Work No. 1 ("Statement of Work") is entered into by and between NCOA and Contractor under a certain Agreement for Contracted Services dated as of July 6, 2023 (the "Agreement"), and is incorporated by reference into and made a part of the Agreement. Any capitalized terms not defined in this Statement of Work shall have the meaning set forth in the Agreement.

1. Statement of Work Effective Date: July 6, 2023

2. Scope of Services:

The purpose of this contract is for Contractor to provide services related to COVID-19 and flu vaccine outreach and vaccinations to older adults and people with disabilities in its catchment area. Specifically, Contractor will:

- Provide a minimum of 100 vaccinations to older adults and/or people with disabilities. Vaccinations must be either COVID-19 or flu, or a combination of both. (Contractor may offer additional vaccinations, but only COVID-19 and flu vaccines will be counted toward the goals of this agreement.)
- Attend required onboarding and regular technical assistance meetings held by NCOA staff.
- Use NCOA-branded templates for marketing and outreach materials.
- Send vaccination data to NCOA. NCOA will supply a template for the vaccination data. Data is expected to include type of vaccination administered and date of vaccination.
- Provide composite demographic data of members/participants served in catchment area.
- OPTIONAL: Report one vaccine success story to NCOA.

3. Target Completion Date: All Services will be completed by April 30, 2024. The following deliverables shall be completed on or before the target completion date of this agreement:

- 100 vaccinations administered to older adults and/or people with disabilities.
- Data on vaccinations administered sent to NCOA upon completion of required 100 vaccinations and at the end of the project period.
- Attendance at mandatory onboarding and technical assistance meetings.

4. Fees and Payment Terms:

a. Fees/ Payment Terms:

NCOA has retained Contractor to perform the Services for a total amount of \$10,000. The Contractor will not be paid until after receipt of this Agreement, signed by both parties, and a completed W-9 form. Once all documentation is complete, Contractor will be paid in full.

5. Reporting Requirements:

Contractor will provide vaccination data to NCOA per the scope of work and deliverables above.



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 AUG 17 AM 11:15

City of Marlborough
Office of the Mayor

Arthur G. Vigeant
MAYOR

Patricia Bernard
CHIEF OF STAFF

Juilyn Bratica
EXECUTIVE ADMINISTRATOR

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

August 17, 2023

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

RE: Easement Acceptance – 1000 Nickerson Road

Honorable President Ossing and Councilors:

Enclosed for your acceptance is an order for a small easement offered to the City from the property owners of 1000 Nickerson Road for the Welcome to Marlborough sign to be placed on the east bound side of Route 20 allowing passerby vehicles and pedestrians to view while entering from Northborough.

The sign is consistent with the other welcome signs visible from Route 85 north and south, as well as the downtown locations on S. Bolton Street and the intersection of West Main and Granger Boulevard.

I'd like to take this opportunity to thank AG 1000 Nickerson Owner, LLC for allowing the City access.

Engineer Tom DiPersio will be available at a future meeting if there are any follow up questions to be addressed.

Sincerely,

Arthur G. Vigeant
Mayor


Enclosures



City of Marlborough
Department of Public Works

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

SEAN M. DIVOLL, P.E.
 COMMISSIONER

Date: August 16, 2023
To: Mayor Vigeant
From: Thomas DiPersio, Jr., City Engineer 
Copy: Jason Grossfield, City Solicitor
Re: "Welcome to Marlborough" Sign Easement

I requested that the owners of the property at 1000 Nickerson Road, AG 1000 Nickerson Owner, LLC, grant to the City a small easement at the corner of Hayes Memorial Drive and Boston Post Road West, for the placement of a new "Welcome to Marlborough" sign. This area is the most visible location for people entering the City from Northboro and points west, and there is not enough room within the roadway layout for placement of the sign. The owners of the property graciously agreed to grant the easement to the City without compensation.

City Solicitor Grossfield's office has drafted the easement document which has been reviewed and accepted by the owners, and I have had an easement plan drafted as well. The document and plan are attached for your reference, and are ready to be sent to the City Council for their vote on acceptance of the easement.

Please contact me with any questions, and if necessary I can be available at the City Council meeting as well to answer any questions the council may have.

ORDERED:

That the City Council for the City of Marlborough hereby accepts from AG 1000 Nickerson Owner, L.L.C., with a principal office of c/o Angelo, Gordon & Co., L.P., 53 State Street, 8th Flr., Boston MA 02109 (the "Grantor"), in substantially the form as attached hereto in the Sign Easement Agreement, a sign easement and access easement over a certain portion of the Grantor's land located at 1000 Nickerson Road, Marlborough, Massachusetts, and the Mayor is authorized to execute said agreement on behalf of the City.

The sign easement area is shown on the plan as the "Proposed Sign Easement to City of Marlborough", attached to the Sign Easement Agreement as Exhibit B.

ADOPTED

In City Council
Order No. 23-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

When recorded return to:
 Pierce Atwood LLP
 100 Summer Street
 Boston, MA 02110
 Attention: Peter Gelzinis

SIGN EASEMENT AGREEMENT

THIS SIGN EASEMENT AGREEMENT (the "Easement Agreement") is entered into as of the ____ day of July, 2023, by and between **AG 1000 NICKERSON OWNER, L.L.C.**, a Delaware limited liability company with a mailing address c/o Angelo, Gordon & Co., L.P., 53 State Street, 8th Floor, Boston, Massachusetts 02109 ("Grantor") and the **CITY OF MARLBOROUGH**, a municipal corporation formed under the laws of the Commonwealth of Massachusetts, and having an address of 140 Main Street, Marlborough, MA 01752 ("Grantee") on the terms and condition set forth herein. Grantor and Grantee are sometimes herein referred to collectively as the "Parties", and each individually as a "Party".

RECITALS:

WHEREAS, Grantor is the record title owner of a certain parcel of land, together with all buildings and improvements located thereon, known as 1000 Nickerson Road, Marlborough, Middlesex County, Massachusetts, as further described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, Grantee desires an easement in order to install, use, maintain, repair, and/or replace a sign on the Property in the location more particularly shown on the plan attached hereto as Exhibit B ("Sign Easement Area"); and

WHEREAS, Grantor hereby agrees to grant Grantee a non-exclusive easement in order to install, use, maintain, repair, and/or replace a sign within, together with a right of ingress and egress to and from the Sign Easement Area, at Grantee's sole cost and expense.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other valuable consideration in amount of Ten Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee, intending to be legally bound, agree as follows:

1. **Sign Easement**. Subject to the terms and conditions set forth herein, Grantor hereby grants to Grantee a non-exclusive easement (the "Sign Easement") to install, use, maintain, repair, and/or replace a sign with the phrase "Welcome to Marlborough, A Town 1660 A City 1890, Mayor Arthur G. Vigeant and City Council" written thereon, or such other phrase for welcoming visitors to the City of Marlborough as may be approved by Grantor in its reasonable discretion (the "Sign"), except that, if the mayor of the City of Marlborough changes, then Grantee has the right

to change the name of the mayor on the Sign to the current sitting mayor without approval of the Grantor, in the Sign Easement Area described on Exhibit B attached hereto; provided, that:

- (a) the Sign Easement Area shall not exceed 20' x 30' in size without Grantor's prior written consent;
- (b) there shall be a low stone wall surrounding the Sign that shall not exceed sixteen (16) feet in diameter without Grantor's prior written consent;
- (c) the height of the Sign shall not exceed four (4) feet without Grantor's prior written consent;
- (d) the phrase "Welcome to Marlborough, A Town 1660 A City 1890, Mayor Arthur G. Vigeant and City Council" shall be the only words depicted on the Sign unless Grantor has approved an alternative welcome phrase, except that, if the mayor of the City of Marlborough changes, then Grantee has the right to change the name of the mayor on the Sign to the current sitting mayor without approval of the Grantor;
- (e) the Sign shall be no larger than 4' x 6' without Grantor's prior written consent;
- (f) no portion of the Sign shall extend beyond the Sign Easement Area;
- (g) the Sign shall, at all times, comply with all applicable local, state, and federal laws, rules, regulations, orders, decrees, and ordinances;
- (h) Grantee shall at all times maintain the Sign in good condition and repair at Grantee's sole cost and expense;
- (i) the Sign shall be visible from the public ways abutting the Sign Easement Area, and Grantor agrees not to take any action that would impede the Sign's visibility from the public ways abutting the Sign Easement Area, including obstructing said visibility with structures and/or landscaping.

2. **Access Easement.** Subject to the terms and conditions set forth herein, Grantor hereby grants to Grantee a non-exclusive easement (the "Access Easement") to enter upon the Property to access the Sign Easement Area with persons, vehicles and equipment for the purposes of installing, maintaining, repairing and/or replacing the Sign. Grantee shall provide not less than one (1) business day prior written notice to Grantor before entering on the Property, except in the event of an emergency, in which case Grantee shall use reasonable efforts to provide such notice as is reasonable under the circumstances.

3. **Indemnity.** To the extent permitted by law, Grantee shall indemnify, defend, and hold Grantor harmless from and against any and all loss, cost, damage, injury or expense (including, without limitation, reasonable attorneys' fees) arising by reason of injury to or death of persons or damage to property attributable to the negligence or willful misconduct of Grantee, its employees,

contractors or occupants arising out of the easements granted herein or the exercise by Grantee of the rights granted to it in this Easement Agreement, except to the extent arising from the negligence or willful misconduct of the Grantor, its employees, contractors or occupants.

4. **Termination.** Either Party shall have the right to terminate this Easement Agreement upon thirty (30) days written notice to the non-terminating Party. The Parties acknowledge and agree that a notice of termination shall be executed by both Parties and recorded in the Middlesex South Registry of Deeds by the Grantor. In the event the Grantee removes the Sign and is no longer using the Sign Easement Area for at least three (3) months, this Easement Agreement shall automatically terminate, and Grantee agrees to promptly sign a notice of termination as set forth herein.

5. **In Gross.** The easements granted herein shall be easements in gross for the benefit of the Grantee named herein.

6. **Governing Law.** This Easement Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

7. **Counterparts.** This Easement Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

8. **Covenants Running with the Land; Successors and Assigns.** All rights and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding on the parties hereto and their successors and assigns.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF each of the Grantor and the Grantee hereto has caused this Easement Agreement to be executed under seal as of the date first above written.

GRANTOR:

AG 1000 NICKERSON Owner, L.L.C.
a Delaware limited liability company

By: _____
Name:
Title:

STATE OF NEW YORK
COUNTY OF _____, ss.

On this date, _____, 2023, before me the undersigned notary public, personal appeared _____, the _____ of AG 1000 Nickerson Owner, L.L.C., proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/s she signed it voluntarily for its stated purposes and as the free act and deed and voluntary act on behalf of AG 1000 Nickerson Owner, L.L.C.

Notary Public
My commission expires:

GRANTEE:

CITY OF MARLBOROUGH

By: _____

Name:

Title:

Authorized by City Council Order No. _____

Attached hereto as Exhibit C

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX. ss.

On this date, _____, 2023, before me the undersigned notary public, personal appeared _____, the _____ of City of Marlborough, proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/s she signed it voluntarily for its stated purposes and as the free act and deed and voluntary act on behalf of the City of Marlborough.

Notary Public

My commission expires:

EXHIBIT A**Property**

LOT #1 and LOT #2 as shown on a plan entitled Plan of Land in Marlborough, MA, dated July 8, 2013, prepared by Bruce Salk & Associates, Inc., and recorded with the Middlesex South County Registry of Deeds as Plan No. 535 of 2013.

EXHIBIT B

Sign Easement Area

[NTD: GRANTEE TO PROVIDE DRAWING NOTING "SIGN EASEMENT AREA"]

EXHIBIT C

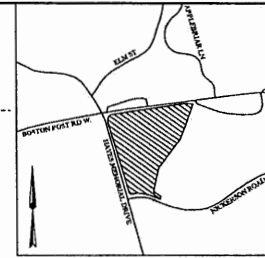
Order of City of Marlborough City Council Authorizing Acceptance of Easement

BOSTON POST ROAD
(PUBLIC - VARIABLE WIDTH ROW)

NORTHBORO ROAD CENTRAL
(PUBLIC - VARIABLE WIDTH ROW)

HAYES MEMORIAL DRIVE
(PUBLIC - VARIABLE WIDTH ROW)

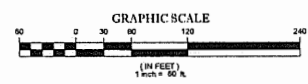
NICKERSON ROAD
(PUBLIC - 50' WIDE ROW)
(PER REF #1)



FOR REGISTRY USE ONLY

- REFERENCES**
1. THE TAX ASSESSOR'S MAP OF THE CITY OF MARLBOROUGH, MIDDLESEX COUNTY, MAP NO. 1.
 2. MAP ENTITLED "NATIONAL FLOOD INSURANCE PROGRAM, FIRM, FLOOD INSURANCE RATE MAP, MIDDLESEX COUNTY, MASSACHUSETTS (ALL JURISDICTIONS) PANEL 418 OF 88", MAP NUMBER 28072CM79, MAP REVISION JULY 2014.
 3. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MA (MIDDLESEX COUNTY)", PREPARED BY PRECISION LAND SURVEYING, INC., DATED AUGUST 4, 2004, LAST REVISED NOVEMBER 23, 2004, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1815 OF 2004.
 4. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASSACHUSETTS, PREPARED FOR METROPOLITAN LIFE INSURANCE COMPANY, PREPARED BY VANASSE HANGEN BRUSTON INC., DATED NOVEMBER 1, 1986, THREE SHEETS, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1346 OF 1986.
 5. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASS., PROPERTY OF METROPOLITAN LIFE INSURANCE COMPANY, PREPARED BY OVERSEAS ENGINEERS, INC., DATED DECEMBER 19, 1986, THREE SHEETS, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1174 OF 1986.
 6. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASS., PROPERTY OF METROPOLITAN LIFE INSURANCE COMPANY, PREPARED BY OVERSEAS ENGINEERS, INC., DATED AUGUST 11, 1986, EIGHT SHEETS, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1135 OF 1986.
 7. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASS., OWNED BY MARLBOROUGH INVESTMENT CORP., PREPARED BY HIGHLAND LAND SURVEYORS, INC., DATED MARCH 5, 1974, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1031 OF 1974.
 8. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASS., OWNED BY MARLBOROUGH INVESTMENT CORP., PREPARED BY HIGHLAND LAND SURVEYORS, INC., DATED APRIL 23, 1979, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1075 OF 1979.
 9. MAP ENTITLED "PLAN OF LAND IN MARLBOROUGH, MASS., OWNED BY MARLBOROUGH INVESTMENT CORP., PREPARED BY HIGHLAND LAND SURVEYORS, INC., DATED MARCH 31, 1979, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 1075 OF 1979.
 10. MAP ENTITLED "CONSTRUCTION PLAN, PROJECT FILE NO. 88133, PREPARED BY THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF HIGHWAYS, DATED 1986, SHEETS 12 THROUGH 14 OF 111.
 11. MAP ENTITLED "MARLBOROUGH, TOWN OF BRIDGE HEIGHTS, NO. 9, PREPARED BY THE CITY OF MARLBOROUGH DEPARTMENT OF PUBLIC WORKS, RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS AS PLAN 186 OF 1986.
 12. MAP ENTITLED "AMENDED PLAN IN MARLBOROUGH, MIDDLESEX COUNTY", PREPARED BY THE MASSACHUSETTS DEPARTMENT OF HIGHWAYS, DATED SEPTEMBER 24, 2004, LAYOUT NO. 734, SHEETS 1 THROUGH 4 OF 15.
 13. MAP ENTITLED "ALTAIR/PLS LAND TITLE SURVEY, LINCOLN PROPERTY COMPANY, 8 BOSTON POST ROAD WEST, 1000 NICKERSON ROAD, MAP NO. LOT 28 IN A CITY OF MARLBOROUGH, MIDDLESEX COUNTY, COMMONWEALTH OF MASSACHUSETTS, PREPARED BY CONTROL POINT ASSOCIATES, INC., DATED MAY 14, 2012, LAST REVISED AUGUST 19, 2012, FOUR SHEETS.
 14. MAP ENTITLED "RECORD SURVEY AND ORIGINAL CONTRIBUTION, 1000 NICKERSON ROAD & BOSTON POST ROAD WEST, MAP NO. LOT 28 IN A CITY OF MARLBOROUGH, MIDDLESEX COUNTY, COMMONWEALTH OF MASSACHUSETTS, PREPARED BY CONTROL POINT ASSOCIATES, INC., DATED JUNE 1, 2012, LAST REVISED JULY 13, 2012, FOUR SHEETS.

- NOTES:**
1. PROPERTY SHOWN AS LOTS 28 & 29 AS SHOWN ON THE CITY OF MARLBOROUGH, MIDDLESEX COUNTY COMMONWEALTH OF MASSACHUSETTS MAP NO. 1.
 2. AREA: LOT 28 - 28,134 SQUARE FEET OR 0.64 ACRES
LOT 29 - 21,109 SQUARE FEET OR 0.48 ACRES
TOTAL - 49,243 SQUARE FEET OR 1.12 ACRES
 3. PROPOSED EASEMENT - 65' SQUARE FEET OR 0.02 ACRES
 4. UNDERGROUND UTILITIES HAVE NOT BEEN SHOWN. BEFORE ANY SITE EVALUATION, PREPARATION OF DESIGN DOCUMENTS OR EXAMINATION IS TO BE MADE, THE LOCATION OF UNDERGROUND UTILITIES SHOULD BE VERIFIED BY THE PROPER UTILITY COMPANIES.
 5. THIS PLAN IS BASED ON INFORMATION PROVIDED BY A SURVEY PREPARED IN THE FIELD BY CONTROL POINT ASSOCIATES, INC. AND OTHER REFERENCE MATERIAL AS LISTED HEREON.
 6. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO THE RESTRICTIONS, COVENANTS AND EASEMENTS THAT MAY BE CONTAINED THEREIN.
 7. BY GRAPHIC PLOTTING ONLY PROPERTY IS LOCATED IN FLOOD HAZARD ZONE ALUNGHATED AREAS DETERMINED TO BE OUTSIDE THE 5% ANNUAL CHANCE FLOOD PLAIN PER REF. #2.
 8. THE PURPOSE OF THIS PLAN IS TO CREATE A PROPOSED EASEMENT FOR THE BENEFIT OF THE CITY OF MARLBOROUGH OVER A PORTION OF MAP NO. LOT 28, AS SHOWN HEREON.



THIS IS TO CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS. NO NEW BOUNDARY LINES ARE BEING CREATED AND THOSE BOUNDARY LINES EXISTING ARE NOT BEING CHANGED OR ALTERED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WALLS ARE SHOWN.		PREPARED BY GERRY L. HOLDRIGHT, PLS. MASSACHUSETTS PROFESSIONAL LAND SURVEYOR #18011	DATE 03-20-2023	PROJECT NO. 03-200414-03	SHEET NO. 1 OF 1
CITY OF MARLBOROUGH 1000 NICKERSON ROAD & BOSTON POST ROAD WEST MAP NO. LOT 28 & 29 CITY OF MARLBOROUGH, MIDDLESEX COUNTY COMMONWEALTH OF MASSACHUSETTS		CONTROL POINT ASSOCIATES, INC. 150 WASHINGTON ROAD SOUTHERN MILLS, MA 01972 TEL: 978-330-1100 • FAX: 978-330-1100			





City of Marlborough
Legal Department

140 MAIN STREET
 MARLBOROUGH, MASSACHUSETTS 01752
 TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
 LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
 CITY CLERK'S OFFICE
 CITY OF MARLBOROUGH
 2023 AUG 15 PM 2:02

JASON D. GROSSFIELD
 CITY SOLICITOR

JEREMY P. MCMANUS
 ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
 PARALEGAL

August 15, 2023

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

Re: JW Capital Partners, LLC and Marlborough TOTG LLC v. Marlborough City Council
(Land Court No. 23 MISC 000199) - Request to Enter Executive Session

Dear Honorable President Ossing and Councilors:

I respectfully request that this Honorable City Council convene in Executive Session. The purpose of the session is to discuss strategy with respect to the above-referenced litigation as an open meeting may have a detrimental effect on the litigating position of the City Council.

Enclosed please find a proposed order, to be conducted by roll call vote, in order to enter into executive session. The open meeting law requires that the public body chair declare that an open meeting may have a detrimental effect on the litigating position of the public body. The order must specify whether the City Council will or will not re-convene in open session after the executive session.

Please contact me if you have any questions or concerns.

Respectfully,


 Jason D. Grossfield
 City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor

ORDERED:

Moved that the Marlborough City Council meet in executive session under Purpose 3 of the Open Meeting Law, MGL c. 30A, s. 21(a)(3), to “discuss strategy with respect to...litigation if an open meeting may have a detrimental effect on the...litigating position of the public body” regarding the pending matter, *JW Capital Partners, LLC and Marlborough TOTG LLC v. Marlborough City Council* (Land Court No. 23 MISC 000199), as the chair hereby declares that discussion in an open session may have a detrimental effect on the City and the City Council’s litigating position.

The City Council will [or will not] re-convene in open session after the executive session.

Be and is herewith APPROVED.



City of Marlborough

Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

JASON D. GROSSFIELD
CITY SOLICITOR

2023 AUG 16 PM 3:17
JEREMY P. MCMANUS
ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
PARALEGAL

August 16, 2023

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

Re: Order No. 23-1008721 - Proposed Zoning Ordinance Amendments re: Definitions: Affordable Housing; Marlborough Village District (MV)

Dear Honorable President Ossing and Councilors:

In connection with the above-referenced item, enclosed please find the proposed zoning ordinance amendments relative to the above matters, as referred to this office. In summary, I note the following:

Part IV: Within the amendment to Section 650-26(A), the document incorporates language from the March 2023 version, as referenced in the Urban Affairs Committee;

Part V: Within the amendment to Section 650-34(D)(1), reference is made to the existing design review guidelines for the MV district;

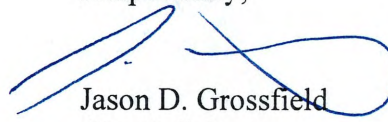
Part VII: Where a particular product is referenced in the amendment, my recommendation is to provide a description of the product type, rather than a product name or similar product;

Parts VIII and IX: The amendment contemplates a maximum number of on-site parking spaces that may be subject to payment-in-lieu: 20% of the required spaces. With the amendment in Part VIII, when seeking to calculate that figure, the minimum amount of required parking for a mixed-use development's retail, restaurant, or other business uses is not set in Section 650-34 and appears to be determined at the time of permitting. It may be advisable to consider how the required number of spaces would be determined; and

Part XIV: Incorporates a proviso to address how these amendments would not affect prior applications or decisions on special permits or site plan approvals.

I have reviewed the proposed amendments and they are in proper legal form. Please contact me if you have any questions or concerns.

Respectfully,



Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Tin Htway, Building Commissioner

ORDERED:

THAT, PURSUANT TO SECTION 5 OF CHAPTER 40A OF THE GENERAL LAWS, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT CHAPTER 650 OF THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

I. By amending Chapter 650 (Zoning), Section 650-5 (Definitions; word usage), Subsection B, by inserting a new definition for "Area Median Income (AMI)" and "Eligible Household", and amending the existing definition for "Mixed Use", to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

AREA MEDIAN INCOME (AMI)

The Housing Area Median Family Income set forth in or calculated from regulations promulgated by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, determined annually for the Metropolitan Statistical Area that includes the City of Marlborough and adjusted for family size.

ELIGIBLE HOUSEHOLD

A household whose gross household income does not exceed the corresponding percentage of AMI specified in Section 650-26.

MIXED USE

(1) A combination of permitted (Y) or special permit (SP) residential/business uses as listed in §650-17, Table of Use Regulations, for a particular zoning district, located on the same lot and arranged vertically in multiple stories of a structure or horizontally adjacent to one another in one or more buildings.

(2) ~~The To achieve a mix of residential to business uses, such as retail or restaurant, -uses shall be that is balanced and compatible, and shall contribute to a vibrant downtown atmosphere, including a combination of ground floor street front uses, such as retail or restaurant.~~

(3) ~~G~~ground floors of buildings fronting streets or public accessways shall be reserved for restricted to nonresidential public business/commercial uses, except as specified below:

Dwelling units shall be allowed on ground floors of a buildings ~~if~~

(a) ~~The building that~~ is set behind ~~another~~ a mixed-use building that has business commercial uses on the ground floor and residential on other floors so long as the building set behind does not face a public way. ~~or (b) The residential portion of the ground floor of a building is set behind street front nonresidential uses within the same building.~~

II. By amending Chapter 650 (Zoning), Section 650-17 (Table of Uses), by striking “Y” and replacing it with “SP” for the following specific uses, in the MV zoning district, to read as follows: (new text shown as underlined, deleted text shown as ~~striketthrough~~):

Business Use	Zoning District Abbreviations													Ways ide
	RR	A - 1	A - 2	A - 3	R B	R C	R C R	N B	B	C A	L I	I	MV	
Hotels (41)	N	N	N	N	N	N	N	S P	S P	S P	S P	S P	Y <u>SP</u>	N
Hotels with conference facilities and commercial uses (21)	N	N	N	N	N	N	N	N	S P	S P	S P	S P	Y <u>SP</u>	N
Mixed-Use Development (42)	N	N	N	N	N	N	N	S P	S P	N	N	N	Y <u>SP</u>	SP

III. By amending Chapter 650 (Zoning), Section 650-18 (Conditions for uses), Subsection A, paragraphs 41 and 42, as follows: (new text shown as underlined, deleted text shown as ~~striketthrough~~):

(41) Hotels within the Marlborough Village District are by ~~rights~~special permit, and subject to site plan approval by the City Council with input from department staff who participate in administrative site plan review as provided under § 270-2. See in § 650-34B special provisions for site plan review by City Council of hotels in the Marlborough Village District.

(42) Mixed-use development, including multifamily residential uses, shall ~~not~~ be subject to special permit provisions for multifamily uses. In the Wayside District, multifamily dwelling shall be allowed only as part of a mixed-use development. Mixed-use development may include vertically mixed uses in a single building or horizontally mixed uses in which multiple buildings create the mix of uses on a single parcel. Each individual building may include a single use with multiple uses occurring next to each other and within multiple buildings on the single parcel.

IV. By amending Chapter 650 (Zoning), Section 650-26 (Affordable Housing), to read as follows: (new text shown as underlined, deleted text shown as ~~striketthrough~~):

§ 650-26. Affordable housing.

The purpose of this section is to provide that multifamily uses include an affordable component to ensure the city remains above the state’s required inventory of affordable units.

A. This section 650-26 shall apply to all developments that result in or contain eight (8) or more dwelling units, in all zoning districts, for the following types of uses: multifamily dwelling(s) or mixed-use development containing multifamily dwelling(s). This section shall apply as set forth above unless an exception is otherwise stated in this section 650-26. Compliance with this section shall be made a condition of any special permit that is required for the development.

All special permits granted to applicants to construct multifamily dwellings, or mixed-use development containing multifamily dwelling(s), thereby increasing the number or density of residential dwellings to a number or level greater than that allowable as a matter of right under the zoning classification for the subject parcel shall require the following.

(1) Developments of ~~20~~8 or more units.

(a) Number of on-site affordable units. ~~The A development subject to this section 650-26 shall i) provide that at least 12.5% of the dwelling units to be constructed for homeownership or rental purposes will be made available at affordable prices to eligible home buyers or renters; or ii) if authorized by a majority of the City Council, provide a sum not less than \$50,000 per affordable dwelling unit that would have been required in Item i) above to be deposited as directed by the City Council into the fund for economic development created by Chapter 126 of the Acts of 2011 or into another fund designated by the City Council. If when applying the specified percentage to the total number of units to determine the required number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if equal to or over one-half, shall be rounded up to the next whole number. ;~~

(b) Eligibility for affordable units. All affordable units must be eligible for inclusion on the state's Subsidized Housing Inventory (SHI). The affordable units shall be available to households at no more than eighty percent (80%) of AMI in accordance with SHI requirements. After initial occupancy, the gross household income of an eligible household shall be verified annually to determine continued eligibility and rent.

(bc) Local preference. The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the affordable dwelling units to eligible residents of the City of Marlborough.

(de) Distribution of affordable units. Dwelling units to be sold or rented at affordable prices shall be integrated into the overall development to prevent physical segregation of such units.

(ed) Appearance. The exterior of the affordable units shall be designed to be compatible with and as nearly indistinguishable from the market rate units as possible.

(fe) Minimum and maximum floor areas. Affordable housing units shall have a gross floor area not less than the minimum required by the State Department of Housing and Community Development under the regulations created under the authority of MGL Chapter 40B.

(g~~f~~) Period of affordability. Limitations and safeguards shall be imposed to ensure the continued availability of the designated affordable units for a minimum of 99 years or in perpetuity. Such limitations and safeguards may be in the form of deed restrictions, resale monitoring, requirements for income verification of purchasers and/or tenants, rent level controls and the like.

(h~~g~~) Limitation on change in affordability. In no event shall any change in affordability occur if the minimum percentage of affordable units required in the entire City under MGL Chapter 40B has either not been met at that time or such change in affordability would cause the City to fall below that percentage.

(i~~h~~) Staging of affordable and market-rate units. No more than 50% of the building permits for the market-rate units shall be issued until construction has commenced on 30% of the affordable units. No more than 50% of the occupancy permits for the market-rate units shall be issued until 30% of the occupancy permits for the affordable units have been issued. The City Council may modify this provision for developments under 50 units.

~~(i) Alternate site. The City Council may allow the developer to build some or all of the affordable housing required by Subsection A(1)(a) on an alternate site¹ within the City, provided that the City Council determines that this is in the best interest of the City and orders that this specific condition be attached to the special permit. The location of the alternate site shall either be specified at the time of approval for the special permit or selected within six months of said application and shall then be subject to approval by the Housing Partnership Committee or its successor, by the City Council if otherwise required by this Zoning Ordinance and by any other proper authority as may be required by law. The development of the alternate site shall comply with Subsection A(1)(b), (e), (f), (g), (h) and (i) of this section, and the staging of development on the alternate site shall be governed by Subsection A(1)(h) applied to all units on both the main and alternate sites.~~

(j) Guaranty of performance. No final certificate of occupancy shall be issued for any unit within a development subject to this section until all actions necessary to preserve the affordability of the affordable units in compliance with this section and include the affordable units on the subsidized housing inventory, including without limitation, a deed restriction, regulatory agreement and declaration of restrictive covenants, and/or any other restrictive instrument necessary, and all other required documentation, have been executed and registered or recorded by the developer, in a form satisfactory to the City Solicitor. The City Council shall require security in a form satisfactory to the City Council and City Solicitor to guarantee performance, including preservation of affordability, under this subsection, and no building permit shall be issued until and unless said security has been provided.

~~(2) Developments of 19 or fewer units. All provisions of Subsection A(1) above applicable to 20 or more units may also be applied to developments of 19 or fewer units as the City Council finds practical.~~

~~(32) The provisions of this section shall not apply to a special permit for an existing retirement community or the expansion of an existing retirement community as governed by §§ 650-21 and~~

650-22. This subsection will be effective pursuant to the applicable provisions of Chapter 40A of the General Laws.

~~(4) The provisions of this section shall not apply to projects which are granted special permits within the Marlborough Village District.~~

V. By amending Chapter 650 (Zoning), Section 650-34(D)(1), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

D. Design standards.

(1) The purpose of the following design standards is to promote quality development emphasizing the City's sense of history and desire for contextual, pedestrian-scaled projects. Supporting streamlined development review, design standards are integral to the Marlborough Village District regulations and must be met as part of any special permit and/or site plan review and approval.

~~(a) Nonmandatory~~ In addition to the design standards, in connection with a special permit and/or site plan application in the Marlborough Village District, such applications shall be reviewed with respect to the Design Review Guidelines for the Marlborough Village District. The guidelines will complement the design standards of this section and which will provide a guide to the desired appearance and quality of design in the Marlborough Village District. The guidelines are will be available at the Building Department and/or on the official website of the City.

VI. By amending Chapter 650 (Zoning), Section 650-34(D)(2), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

(2) All special permit and/or site plan review and approval applications in the Marlborough Village District shall be subject to the following design standards:

VII. By amending Chapter 650 (Zoning), Section 650-34(D)(2)(d), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

(d) External materials and appearance.

[1] Predominant wall materials for all ground floors shall be brick in traditional New England colors and character, and stone. shall be red brick, stone, or precast concrete panels; wWood siding may be used where the structures are adjacent to residential districts where the intent is to blend the structure more into the existing neighborhood. Thin brick veneer, precast concrete panel finished to look like brick or stone, masonry brick panels, and Flexbrick (or a similar product) can be used on upper floors. Glass Fiber Reinforced Concrete (GFRC) panels (or something similar) can be used for a curtain wall (non-load bearing) exterior wall cladding. If painted, or coated, a nonmetallic finish is to be used. Cladding materials should be consistent on

all facades with the exception of special design elements, such as turrets. Materials designed to imitate brick, e.g., faux brick, are not permitted.

[2] The standards for all acceptable masonry construction are as follows:

[a] Acceptable masonry construction for bricks will be ~~of~~ standard, fired clay, brick units bonded together with mortar. Acceptable applications include building components, such as walls, stairs, columns, arches, planter beds, etc.

[b] ~~Utilize~~ Bricks which are ~~should be~~ sound, hard, well-burnt with uniform color, shape and size.

[c] The bricks should be compact, homogeneous, free from holes, cracks, flaws, air-bubbles, spawls and stone lumps.

[d] Frogged bricks shall be laid with the frogs pointing upwards.

[e] Mortar specifications shall comply with relative ASTM International standards.

[f] The properties of all other masonry units shall comply with the requirements of relevant ASTM International standards. These include concrete masonry, stone masonry and composite masonry. ~~Masonry units are classified into the following types: solid, hollow unit, cellular, perforated and frogged.~~

VII. By amending Chapter 650 (Zoning), Section 650-34(E)(1)(a)[2], to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

[2] Spaces in ~~city-owned~~ public garages and lots within 1,000 feet of the development can be counted to fulfill the required spaces, with payment-in-lieu required.

VIII. By amending Chapter 650 (Zoning), Section 650-34(E)(1)(b)[1], to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

[1] Eliminate parking minimums per the existing off-street parking (§650-48) unless the use is part of a mixed-use development where off-street parking would be determined during the special permit and/or site plan review process.

IX. By amending Chapter 650 (Zoning), Section 650-34(E)(2), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

(2) Payment in lieu of parking. In the Marlborough Village District, any new commercial or mixed use structure that is required to provide parking spaces may request to make payments to the City of Marlborough in lieu of providing for all or part of the on-site required parking, not to exceed twenty percent (20%) of the required on-site parking spaces. If when applying the specified percentage to determine the maximum number of on-site parking spaces which may be subject to payment-in-lieu, the resulting number includes a fraction of a unit, this fraction, if equal to or over one-half, shall be rounded up to the next whole number. ~~;~~

(a) Payment made to the City of Marlborough in lieu of providing some ~~or all~~ of the required off-street parking spaces for a project in the Marlborough Village District (MV) ~~shall~~ may only

be allowed by right, subject to site plan and design review ~~authorized by special permit, in parking spaces designated for overnight parking, and subject to conditions set forth by special permit.~~

(b) A one-time fee to be paid shall be ~~\$25~~10,000 (twenty-five thousand dollars) per parking space, which shall be paid prior to the receipt of an occupancy permit.

X. By deleting Chapter 650 (Zoning), Section 650-34(E)(3), (Additional reduction in parking requirements).

XI. By amending Chapter 650 (Zoning), Section 650-34(F), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

F. Heights of structures.

(1) To encourage redevelopment and reuse of parcels within the Marlborough Village District, minimum and maximum heights are established. Minimum heights shall be 35 feet or 2.5 stories; maximum height is 60 feet or 4 stories. ~~six stories and up to 70 feet except for where a proposed structure is within 50 feet of a residential district boundary, where the height limit shall be 52 feet. By grant of a special permit, maximum building height, including building areas within 50 feet of a residential district boundary, may be increased to seven stories and up to 85 feet.~~ Height limits do not include roof-mounted mechanical appurtenances; however, said appurtenances, and the screening required for them in § 650-34D(2)(b), shall be subject to site plan review and design standards. Rooftop mechanical equipment, including wireless communications equipment, shall be located and screened to minimize impacts on abutters and the general public. No interior space shall be occupied for any purpose above these height limits. This shall not preclude the use of a flat roof for purposes allowed in this section.

(2) Roof decks, providing recreation and amenity areas for residents and businesses on the roof above the top story of a building, shall be encouraged in the Marlborough Village District. Roof decks may include open space areas for sitting and gardens; open air areas covered by permanent roofs (flat or sloped); indoor areas for social gathering, meetings, common kitchens, restrooms, and storage; spaces for mechanical equipment; and enclosures for elevators and stairs. The portions of a building designed as a roof deck shall be subject to maximum height restrictions, as but may be increased by special permit.

XII. By amending Chapter 650 (Zoning), Section 650-41 (Table of Lot Area, Yards, and Height of Structures), District: Marlborough Village District MV, Height, and Notes #12 (as referenced therein) to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

<u>District</u>	<u>Height</u>
Marlborough Village District MV	Minimum: 35 feet <u>or 2.5 stories</u> ; Maximum: 64 stories: not to exceed a maximum of <u>6070</u> feet.

NOTES:

- 12 Within the Marlborough Village District, special permits may allow for an increase in height for a roof deck to 7 stories and up to 85 feet; also, provided that the height ~~of any development within 50 feet of a residential district boundary, shall be stepped down and shall not exceed 52 feet except where allowed by special permit.~~ [See § 650-34F(1).]

XIII. By amending Chapter 650 (Zoning), Section 650-37 (Special Provisions Applicable to the Wayside Zoning District), Subsection H(4)(A), entitled "Mixed Uses", by inserting the following sentence at the end of the existing subsection: Floor usage in a mixed-use development shall conform to subsection (2) of the definition of "Mixed Use" set forth in Section 650-5(B).

XIV. Effective Date. The effective date of these amendments shall be the date of passage. These amendments do not apply to any special permit or site plan approval, for which an application was submitted and/or a special permit or site plan approval was issued before the date of the first publication of notice of the public hearing pursuant to MGL c. 40A, s. 5 on these amendments.

ADOPTED
In City Council
Order No. 23-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



City of Marlborough Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

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CITY OF MARLBOROUGH

2023 AUG 15 AM 11:45

JASON D. GROSSFIELD
CITY SOLICITOR

JEREMY P. MCMANUS
ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
PARALEGAL

August 15, 2023

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

Re: City Council Order No. 23-1008889: Amendment to LED Sign Special Permit – Lincoln Street 431, LLC (Shell Station) – 431 Lincoln Street, Marlborough

Dear Honorable President Ossing and Councilors:

Enclosed please find a proposed Decision on an Amendment to a LED Sign Permit with respect to the above-referenced application, as recommended by the Urban Affairs Committee at its meeting on July 11, 2023. We have reviewed the proposed decision and placed it into proper legal form.

Please contact us if you have any questions or concerns.

Respectfully,

Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Tin Htway, Building Commissioner
Jeremy McManus, Asst. City Solicitor

ORDERED:**IN CITY COUNCIL**

**DECISION ON AN
AMENDMENT TO A LED SIGN SPECIAL PERMIT****ORDER NO. 23-1008889**

Application of:
Lincoln Street 431, LLC

Locus:
431 Lincoln Street, Marlborough, MA
Parcel 96 on Assessors Map 69

The City Council of the City of Marlborough hereby GRANTS the Application for an Amendment to a LED Sign Special Permit to Lincoln Street 431, LLC (the "Applicant") for the property located at 431 Lincoln Street, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is the owner of the property located at 431 Lincoln Street, Marlborough, Massachusetts, being shown as Parcel 96 on Assessors Map 69 (the "Site").
2. The Applicant operates a filling station with a convenience store at the Site.
3. On September 14, 2020, the City Council of the City of Marlborough voted to grant a LED sign special permit (the "Original Sign Special Permit", Order No. 20-1007948H) authorizing the Applicant to operate a digital display sign (the "Sign") at the Site, as shown on the sign specifications attached as **"Attachment A."**
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for an Amended Sign Special Permit (the "Application") to change non-digital panels on both faces of the Sign in order to advertise food options within the Site's convenience store instead of non-digital panels advertising fuel, as shown on the sign specifications attached as **"Attachment B."**
5. The City Council held a public hearing on the Application on Monday, May 22, 2023. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on May 22, 2023.

6. The Applicant, through its representatives, presented testimony at the public hearing detailing the proposed changes to the Sign.

7. At the public hearing, no members of the public spoke in opposition to the proposed changes to the Sign.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

A. The Applicant has complied with all rules and regulations promulgated by the City Council for an application for a digital display sign under the Sign Ordinance.

B. The City Council finds that the proposed changes to the Sign comply with the standards set forth in Section 526-13 of the Code of the City of Marlborough (the "Sign Ordinance").

C. The City Council, pursuant to Section 526-13.B(16) of the Sign Ordinance, finds that: (a) all other signage on the Site is in compliance with zoning requirements, (b) in addition to other signs at the Site, the Sign does not create unnecessary visual clutter or constitute signage overload for the lot or surrounding neighborhood or street, (c) the Sign does not substantially block visibility of signs on abutting lots, (d) the Sign does not substantially block solar access of, or view from, windows of residential dwellings on abutting lots, (e) the proposed illumination is appropriate to the Site and is appropriately located with respect to the character of the surrounding neighborhood, (f) the scale and/or location of the Sign is appropriate, and (g) the dimensions of the Sign comply with the area limitations of the Sign Ordinance.

8. The City Council, pursuant to its authority under Section 526-13 of the Sign Ordinance, hereby GRANTS the applicant an amendment to the Original Sign Special Permit to change non-digital panels on both faces of the Sign in order to advertise food options within the Site's convenience store instead of non-digital panels advertising fuel, as shown on **"Attachment B,"** SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. The Sign shall be operated in accordance with the Sign Ordinance.

2. All plans and/or other documentation provided by the Applicant as part of the Application, and as amended during the Application and hearing process before the City Council are incorporated into and become part of this Amended Special Permit, and become conditions and requirements of the same, unless otherwise altered by the City Council.

3. All other conditions of the Original Sign Special Permit shall continue in full force and effect, and are incorporated by reference as part of this Decision.

Yea: ____ - **Nay:** ____ - **Absent** - ____
Yea:

Nay:
Absent:

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
23-1008889

Attachment A

**NEW RVI Evolution
6' Mod Cabinets between
Existing Poles.**

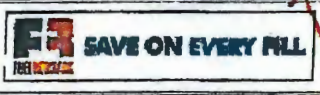


72 15/16"
(1500mm)

EXISTING OAH TO REMAIN UNCHANGED

75 1/4"

75 1/4"



Red LED
Panel
4'-10 1/2" x 2'-1 1/2"
= 10.6 sf.

24" LED

12" LED

Green LED
Panel
2'-10 7/8" x 1'-3 3/4"
= 3.8 sf

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Revisions

1	
2	
3	
4	
5	
6	

Account Rep: Dan Hull

Project Manager: V. Hernandez

Drawn By: Brian Essary

Project / Location:

Shell
RVI Evolution
GLOBAL



Client Approval Date:

Landlord Approval Date:

Project Description:
This sign is for the Shell RVI Evolution sign cabinet for the Shell station located at 1500 North Bolton, Jacksonville, Texas. The sign will be installed on the existing structure. The sign will be illuminated with red and green LEDs. The sign will be made of aluminum and will be weather resistant. The sign will be installed by Federal Health Sign Company. The sign will be installed by 10/01/19. The sign will be installed by 10/01/19. The sign will be installed by 10/01/19.

Job Number: 197105

Date: 10/01/19

File Name: SG197105 e

Sheet Number: 1 of 1

Design Number:

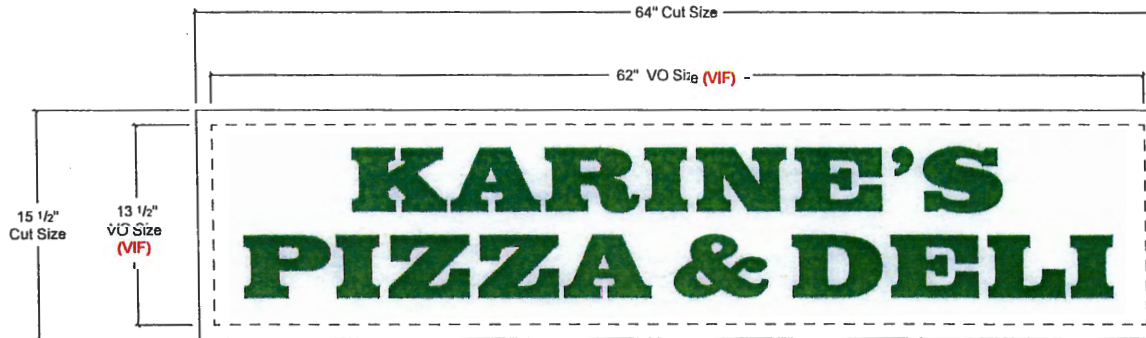
Attachment B

Description:
 (Qty 2) Faces
 - 3/16" White polycarbonate
 - Graphics are surface applied translucent vinyl.

Typeface:
 EgyptienneDBolExt

Colors:
 Faces - White Polycarbonate
 Graphics - Arlon Vivid Green translucent vinyl

Installation:
 By Viewpoint, (TBD)



E1 Elevation: #13335.1 (Qty: 2) Faces
 Scale: 1 1/2" = 1'

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CITY OF MARLBOROUGH

2023 AUG 15 PM 2:02
JASON D. GROSSFIELD
CITY SOLICITOR

JEREMY P. MCMANUS
ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
PARALEGAL



City of Marlborough Legal Department

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

August 15, 2023

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

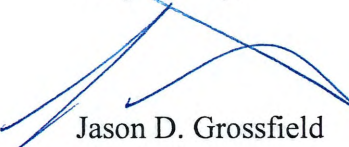
Re: City Council Order No. 23-1008890
Special Permit Decision, 189 Boston Post Road West, Marlborough

Dear Honorable President Ossing and Councilors:

In accordance with Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the above-referenced special permit application. Enclosed is a copy of the proposed decision. I certify that it is in proper legal form.

Please contact me if you have any questions or concerns.

Respectfully,



Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Thomas DiPersio, Jr., City Engineer
Tin Htway, Building Commissioner

_____, 2023

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

In City Council
Order No. #23-1008890

Application of:
JPMorgan Chase Bank, National Association

Locus:
189 Boston Post Road West, Marlborough, MA
Parcel 16 on Assessors Map 78

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of JPMorgan Chase Bank, National Association, with a mailing address of 1111 Polaris Parkway, Mail Code OH1-0274, Columbus, Ohio 43240, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: _____, 2023

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [] day of [], 2023.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

A TRUE COPY
ATTEST:

City Clerk

ORDERED:**IN CITY COUNCIL**

DECISION ON A SPECIAL PERMIT

Application of:
JPMorgan Chase Bank, National Association

Locus:
189 Boston Post Road West, Marlborough, MA
Parcel 16 on Assessors Map 78

**DECISION ON A SPECIAL PERMIT
ORDER NO. 23-1008890**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to JPMorgan Chase Bank, National Association (the "Applicant") to install, operate, and maintain a drive-thru facility for a twenty-four (24) hour per-day drive-up automated teller machine for banking purposes (the "Use") at 189 Boston Post Road West, in the Business B Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, JPMorgan Chase Bank, National Association, is a national banking association with an address of 1111 Polaris Parkway, Mail Code OH1-0274, Columbus, Ohio 43240.
2. The Applicant leases the property located at 189 Boston Post Road West, Marlborough, Massachusetts, being shown as Parcel 16 on Assessors Map 78 (the "Site").
3. In accordance with Article V, Section 650-14.B(2) and 650-17, of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant seeks approval for the Use at the Site, as shown on the Plans referenced in paragraph 5 below.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Site Improvement Plan" by Stonefield Engineering and

Design Limited Liability Company, with the last revision date of May 17, 2023, (the "Plans") attached hereto as "Attachment A."

6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. The Site is located in the Business B Zoning District.

8. The Site has an area of 32,576 square feet +/- as shown on the Plans.

9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, June 5, 2023. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on June 5, 2023.

11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

12. At the public hearing, no members of the public spoke in opposition to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit for the Use at 189 Boston Post Road West, as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.

4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the Use is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

6. Noise. The Use shall comply with the noise ordinance of the City of Marlborough.

7. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties. Exterior lighting at the Site shall be shut off outside of operating hours of the bank on the Site, except for lighting necessary for security and emergency access.

8. Traffic Flow. The Applicant, its successors and/or assigns, shall install and maintain signage that directs drivers exiting the Site to use the signalized intersection at Northboro Road East and Boston Post Road West for purposes of traveling east. Other, on-site directional signs and pavement markings shall be installed to ensure proper traffic flow, to the satisfaction of the Site Plan Review Committee.

9. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.

10. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: ___ - **Nay:** ___ - **Absent:** ___

Yea: _____, _____, _____, _____, _____, _____, _____, _____,

Nay: _____, _____,

Absent: _____, _____,

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
Order No. 23-1008890

Attachment A

[See Attached]

CHASE

SITE IMPROVEMENT PLAN

PARCEL ID: 78-16
 189 BOSTON POST ROAD (US ROUTE 20)
 CITY OF MARLBOROUGH, MIDDLESEX COUNTY, MASSACHUSETTS



AERIAL MAP

SCALE: 1" = 80'±



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PLAN REFERENCE MATERIALS:

- THIS PLAN SET REFERENCES THE FOLLOWING DOCUMENTS INCLUDING, BUT NOT LIMITED TO:
 - PROPERTY PARTIAL TOPOGRAPHIC SURVEY BY CONTROL POINT ASSOCIATES, INC., DATED 12/16/2011
 - AERIAL MAP OBTAINED FROM GOOGLE EARTH PRO
- ALL REFERENCE MATERIAL LISTED ABOVE SHALL BE CONSIDERED A PART OF THIS PLAN SET AND ALL INFORMATION CONTAINED WITHIN THESE MATERIALS SHALL BE UTILIZED IN CONJUNCTION WITH THIS PLAN SET. THE CONTRACTOR IS RESPONSIBLE TO OBTAIN A COPY OF EACH REFERENCE AND REVIEW IT THOROUGHLY PRIOR TO THE START OF CONSTRUCTION.

SHEET INDEX

DRAWING TITLE	SHEET #
COVER SHEET	C-1
EXISTING CONDITIONS & DEMOLITION PLANS	C-2
SITE PLAN & CONSTRUCTION DETAILS	C-3
LIGHTING PLANS	C-4
ATH & LIGHTING DETAILS	C-5
LANDSCAPE DETAILS	C-6

NO.	ISSUE	DATE	BY	DESCRIPTION
1	ISSUED FOR PERMIT			
2	ISSUED FOR PERMIT			
3	ISSUED FOR PERMIT			
4	ISSUED FOR PERMIT			
5	ISSUED FOR PERMIT			

NOT APPROVED FOR CONSTRUCTION

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CHASE
 PROPOSED BANK WITH
 DRIVE-THRU ATM

189 BOSTON POST ROAD (US ROUTE 20)
 CITY OF MARLBOROUGH,
 MIDDLESEX COUNTY, MASSACHUSETTS

JOSHUA H. KLINE, P.E.
 MASSACHUSETTS LICENSE NO. 1276
 LICENSED PROFESSIONAL ENGINEER

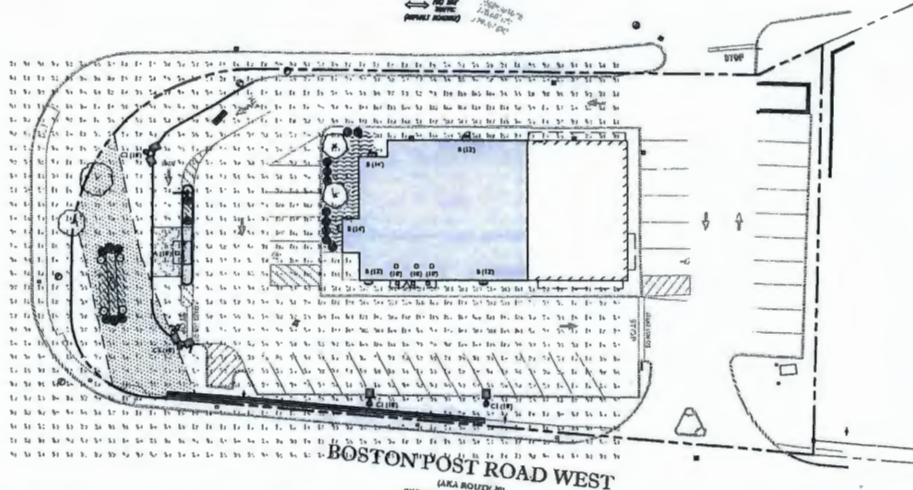


SCALE: AS SHOWN PROJECT NO. 905-23099

TITLE: **COVER SHEET**

DRAWING: **C-1**

NORTHBORO ROAD EAST
(PUBLIC - VARIABLE WIDTH ROW)



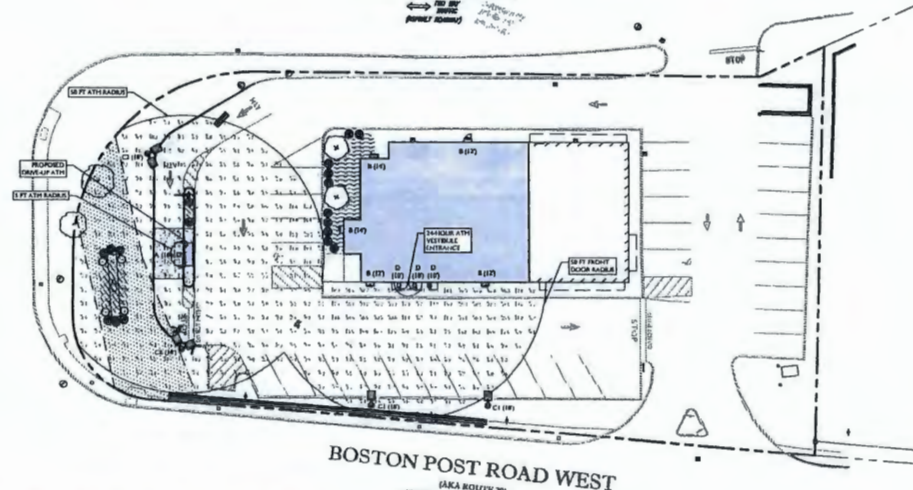
PROPOSED LUMINAIRE SCHEDULE							
SYMBOL	LABEL	QUANTITY	SECURITY LIGHTING	DISTRIBUTION	LF	MANUFACTURER	ES FILE
A		1	C-CFC-AQ SERIES SQUARE LED CANDY LIGHT	VS	0.9	C-LITE	C-CFC-SQ-3L-40E-40-RES
B		5	CAJETS CUTOFF LED WALL PACK (C-WP-B-800C-12L-40C-08-05)	RDC	0.9	C-LITE	C-WP-B-800C-12L-40C-08-05
C1		3	PH1 PHADA SHIELDED POLE MOUNTED AREA LIGHT	FT	0.9	LSI	PH1-LED-12L-5L-FT-40-70-05
C2		2	PH1 PHADA SHIELDED POLE MOUNTED AREA LIGHT (DOUBLE AREA LIGHT @ 90°)	FT	0.9	LSI	PH1-LED-12L-5L-FT-40-70-05
D		3	OUTDOOR RECESSED IPX0 DOWNLIGHT	DL	0.9	BULLET	S811-SAT300804W-ES

* THE SCHEDULE IS FOR NEW LUMINAIRE ONLY



LIGHTING ANALYSIS AT GRADE

NORTHBORO ROAD EAST
(PUBLIC - VARIABLE WIDTH ROW)



STANDARD CHASE BANK ATH / AHD REQUIREMENTS	
REQUIRED	PROPOSED
MINIMUM 1 FOOT CANDLE AT FACE OF ATH EXTENDING 1 FEET OUTWARD IN ALL DIRECTIONS MEASURED BY ABOVE GRADE	13.0
MINIMUM 2 FOOT CANDLE AT FACE OF ATH EXTENDING 30 FEET OUTWARD IN ALL DIRECTIONS MEASURED BY ABOVE GRADE	3.0
MINIMUM 1 FOOT CANDLE AT FACE OF FRONT DOOR EXTENDING 30 FEET OUTWARD IN ALL DIRECTIONS MEASURED BY ABOVE GRADE WITHIN PATH OF ACCESS	3.0

- GENERAL LIGHTING NOTES:**
- THE LIGHTING LEVELS INDICATED WITHIN THE PLAN SET ARE CALCULATED USING DATA OBTAINED FROM THE LISTED MANUFACTURER. ACTUAL ILLUMINATION LEVELS AND PERFORMANCE OF ANY PROPOSED LIGHTING FIXTURES MAY VARY DUE TO UNCONTROLLABLE VARIABLES SUCH AS WEATHER, VOLTAGE SUPPLY, LAMP TOLERANCE, EQUIPMENT SERVICE LIFE AND OTHER VARIABLE FIELD CONDITIONS.
 - WHERE APPLICABLE, THE EXISTING LIGHT LEVELS INDICATED WITHIN THE PLAN SET SHALL BE CONSIDERED APPROPRIATE. THE EXISTING LIGHT LEVELS ARE BASED ON FIELD OBSERVATIONS AND THE MANUFACTURER DATA OF THE EXISTING OR MOST RECENT LIGHTING FIXTURES.
 - UNLESS NOTED OTHERWISE WITHIN THE PLAN SET, THE LIGHT LOSS FACTORS USED IN THE LIGHTING ANALYSIS ARE AS FOLLOWS:
 - LIGHT FIXTURES: 0.80
 - HIGH PRESSURE SODIUM: 0.72
 - RE-ALIGNED: 0.82
 - THE CONTRACTOR SHALL NOTIFY STONEFIELD ENGINEERING & DESIGN, LLC IN WRITING PRIOR TO THE START OF CONSTRUCTION OF ANY PROPOSED LIGHTING LOCATIONS THAT CONTACT WITH EXISTING PROPOSED DRAINAGE UTILITY OR OTHER IMPROVEMENTS.
 - IF THE CONTRACTOR IS RESPONSIBLE TO PREPARE A TRIMMED PLAN AND PROVIDE SERVICE TO ALL PROPOSED LIGHTING FIXTURES, THE CONTRACTOR IS REQUESTED TO PREPARE AN AS-BUILT PLAN OF FIXTURES AND POSITION CORRELS TO THE OWNER AND STONEFIELD ENGINEERING & DESIGN, LLC.

- ATH LIGHTING NOTES:**
- THE CONTRACTOR SHALL REPLACE LAMP COVER, BALLAST AND BALLAST EXISTING LIGHT FIXTURES AS INDICATED WITHIN THE PLAN SET. THE EXISTING EXISTING FIXTURE SHALL BE MAINTAINED UNLESS INDICATED OTHERWISE. THE LIGHTING DESIGN IS SUBJECT TO CHANGE IF THE EXISTING LIGHT FIXTURES ARE NOT EQUAL IN VALUE OR EQUAL TO THE FOLLOWING VARIATION:
 - FIXTURE VARIATION: 10% (MAX)
 - BALLAST VARIATION: 10% (MAX)
 - WHERE THE EXISTING LIGHTING FIXTURES ARE NOT THE SAME AS INDICATED IN THE PLAN SET, THE CONTRACTOR SHALL NOTIFY STONEFIELD ENGINEERING & DESIGN, LLC IN WRITING IF THE EXISTING LIGHT FIXTURES ARE NOT THE SAME AS INDICATED IN THE PLAN SET.
 - THE CONTRACTOR IS RESPONSIBLE TO CORRECT THAT ANY EXISTING LIGHT FIXTURES IDENTIFIED FOR REUSE WITH A PROPOSED LIGHT FIXTURES SHALL BE IN ACCEPTABLE WORKING CONDITION AND HAVE THE CAPACITY TO SUPPORT THE PROPOSED LIGHT FIXTURES. ANY EXISTING LIGHTING EQUIPMENT REQUIRED TO ATTACH TO THE PROPOSED LIGHTING FIXTURES TO THE EXISTING LIGHT FIXTURES SHALL BE PROVIDED BY THE CONTRACTOR.
 - THE CONTRACTOR SHALL CORRECT THAT THE LOCATION OF ANY PROPOSED BUILDING MOUNTED LIGHTING FIXTURES SHALL NOT CONTACT WITH ANY EXISTING OR PROPOSED STRUCTURAL ELEMENT (E.G. CANOPY, SUPPORT BEAM). THE CONTRACTOR SHALL NOTIFY STONEFIELD ENGINEERING & DESIGN, LLC IN WRITING OF ANY EXISTING CONTACT PRIOR TO THE START OF CONSTRUCTION.
 - ALL EXISTING LIGHT FIXTURES WITHIN THE LIGHTING ANALYSIS SHALL BE MAINTAINED UNLESS INDICATED OTHERWISE TO A MINIMUM OF 3" HIGHER ABOVE GRADE. ALL NEW LIGHT FIXTURES SHALL BE MAINTAINED TO A MINIMUM OF 3" HIGHER ABOVE GRADE. ALL NEW LIGHT FIXTURES SHALL BE MAINTAINED TO A MINIMUM OF 3" HIGHER ABOVE GRADE. ALL NEW LIGHT FIXTURES SHALL BE MAINTAINED TO A MINIMUM OF 3" HIGHER ABOVE GRADE. ALL NEW LIGHT FIXTURES SHALL BE MAINTAINED TO A MINIMUM OF 3" HIGHER ABOVE GRADE.
 - PRIOR TO BID CONTRACTOR SHALL VERIFY EXISTING EXISTING LIGHTING CONCEPTS AFTER BID AND NOTIFY THE OWNER/OWNER AND STONEFIELD ENGINEERING & DESIGN, LLC OF DAMAGED OR INOPERABLE LIGHTS. THE CONTRACTOR SHALL REPAIR ALL INOPERABLE LIGHTS UNLESS OTHERWISE NOTIFIED IN THE PLAN SET.
 - THE ILLUMINATION LEVELS INDICATED WITHIN THE PLAN SET ARE BASED ON REGULATORY STATE STANDARDS FOR SAFETY LIGHTING AND ON CURRENT STANDARDS.
 - ALL LIGHTING FIXTURES UNLESS OTHERWISE NOTED WITHIN THE PLAN SET, HAVE THE PHOTOCELL OPTION (AS SHOWN).
 - EXISTING LIGHTING FIXTURES CONTROLLED BY OTHER ENTITIES (E.G. LANDSCAPE) HAVE BEEN EXCLUDED FROM THE LIGHTING ANALYSIS SHOWN WITHIN THE PLAN SET. THE PROPOSED LIGHT LEVELS HAVE BEEN ADJUSTED TO COMPLY WITH ALL APPLICABLE ATH AND SAFETY LIGHTING REQUIREMENTS INDEPENDENT OF ANY UNCONTROLLED LIGHT FIXTURES.



LIGHTING AT 36" ABOVE GRADE

STONEFIELD
engineering & design

120 Washington Street, Salem, MA 01970
Phone: 617-333-2070

CHASEO
PROPOSED BANK WITH DRIVE-THRU ATM


SCALE: 1" = 20' PROJECT NO: 805-18089

TITLE: LIGHTING PLAN

DRAWING: C-4

C-LITE
C-UP-C-SL Series
C-LITE Series
C-LITE Series

ATTENTION: VERIFY DIMENSIONS AND MOUNT TO LIGHT
The C-UP-C-SL Series features a unique design that allows for a wide range of mounting options and allows for a wide range of mounting options and allows for a wide range of mounting options.



PRODUCT INFORMATION


FINISHES

- White
- Black
- Grey
- Aluminum
- Stainless Steel
- Polished Brass
- Brushed Brass
- Oil Rubbed Bronze
- Antique Brass
- Blackened Steel
- Raw Steel
- Galvanized Steel
- Painted Steel
- Enamel
- Marble
- Granite
- Quartz
- Soapstone
- Concrete
- Refractory
- Cast Stone
- Cast Glass
- Cast Resin
- Cast Metal
- Cast Plastic
- Cast Rubber
- Cast Wax
- Cast Oil
- Cast Grease
- Cast Acid
- Cast Alkali
- Cast Salt
- Cast Sugar
- Cast Honey
- Cast Milk
- Cast Juice
- Cast Beer
- Cast Wine
- Cast Spirit
- Cast Liqueur
- Cast Cognac
- Cast Brandy
- Cast Rum
- Cast Whisky
- Cast Vodka
- Cast Gin
- Cast Tequila
- Cast Mezcal
- Cast Amaretto
- Cast Limoncello
- Cast Sambuca
- Cast Fernet-Branca
- Cast Campari
- Cast Aperol
- Cast Negroni
- Cast Martini
- Cast Vermouth
- Cast Benedictine
- Cast Chartreuse
- Cast Dubonnet
- Cast Dubonnet Rouge
- Cast Dubonnet Blanc
- Cast Dubonnet Vert
- Cast Dubonnet Gold
- Cast Dubonnet Silver
- Cast Dubonnet Bronze
- Cast Dubonnet Copper
- Cast Dubonnet Iron
- Cast Dubonnet Steel
- Cast Dubonnet Aluminum
- Cast Dubonnet Stainless Steel
- Cast Dubonnet Polished Brass
- Cast Dubonnet Brushed Brass
- Cast Dubonnet Oil Rubbed Bronze
- Cast Dubonnet Antique Brass
- Cast Dubonnet Blackened Steel
- Cast Dubonnet Raw Steel
- Cast Dubonnet Galvanized Steel
- Cast Dubonnet Painted Steel
- Cast Dubonnet Enamel
- Cast Dubonnet Marble
- Cast Dubonnet Granite
- Cast Dubonnet Quartz
- Cast Dubonnet Soapstone
- Cast Dubonnet Concrete
- Cast Dubonnet Refractory
- Cast Dubonnet Cast Stone
- Cast Dubonnet Cast Glass
- Cast Dubonnet Cast Resin
- Cast Dubonnet Cast Metal
- Cast Dubonnet Cast Plastic
- Cast Dubonnet Cast Rubber
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- Cast Dubonnet Cast Aperol
- Cast Dubonnet Cast Negroni
- Cast Dubonnet Cast Martini
- Cast Dubonnet Cast Vermouth
- Cast Dubonnet Cast Benedictine
- Cast Dubonnet Cast Chartreuse
- Cast Dubonnet Cast Dubonnet

AREA LIGHT FIXTURE 'A' SPECIFICATIONS
NOT TO SCALE

C-LITE
C-UP-C-SL Series
C-LITE Series
C-LITE Series

ATTENTION: VERIFY DIMENSIONS AND MOUNT TO LIGHT
The C-UP-C-SL Series features a unique design that allows for a wide range of mounting options and allows for a wide range of mounting options and allows for a wide range of mounting options.



PRODUCT INFORMATION

FINISHES

- White
- Black
- Grey
- Aluminum
- Stainless Steel
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- Antique Brass
- Blackened Steel
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- Cast Limoncello
- Cast Sambuca
- Cast Fernet-Branca
- Cast Campari
- Cast Aperol
- Cast Negroni
- Cast Martini
- Cast Vermouth
- Cast Benedictine
- Cast Chartreuse
- Cast Dubonnet

AREA LIGHT FIXTURE 'B' SPECIFICATIONS
NOT TO SCALE

Mirada Medium Outdoor LED Area Light

DESCRIPTION

FINISHES

- White
- Black
- Grey
- Aluminum
- Stainless Steel
- Polished Brass
- Brushed Brass
- Oil Rubbed Bronze
- Antique Brass
- Blackened Steel
- Raw Steel
- Galvanized Steel
- Painted Steel
- Enamel
- Marble
- Granite
- Quartz
- Soapstone
- Concrete
- Refractory
- Cast Stone
- Cast Glass
- Cast Resin
- Cast Metal
- Cast Plastic
- Cast Rubber
- Cast Wax
- Cast Oil
- Cast Grease
- Cast Acid
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- Cast Honey
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- Cast Sambuca
- Cast Fernet-Branca
- Cast Campari
- Cast Aperol
- Cast Negroni
- Cast Martini
- Cast Vermouth
- Cast Benedictine
- Cast Chartreuse
- Cast Dubonnet

AREA LIGHT FIXTURE 'C' & 'C2' SPECIFICATIONS
NOT TO SCALE

ILLUMINATION

DETAIL LOCATION - PAGE 11

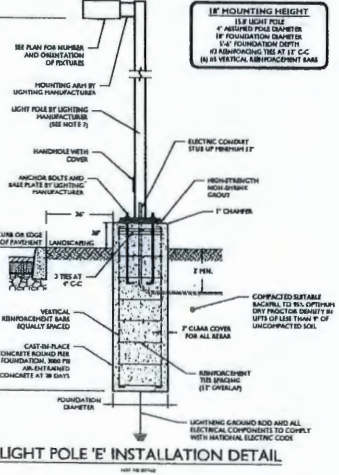
DETAIL LOCATION - PAGE 11



AREA LIGHT FIXTURE 'D' SPECIFICATIONS
NOT TO SCALE

18" MOUNTING HEIGHT

IF LIGHT POLE IS ANCHORED TO CONCRETE
IF FOUNDATION CENTER IS FOUNDATION CENTER
IF FOUNDATION CENTER IS FOUNDATION CENTER
IF FOUNDATION CENTER IS FOUNDATION CENTER



LIGHT POLE 'E' INSTALLATION DETAIL
NOT TO SCALE

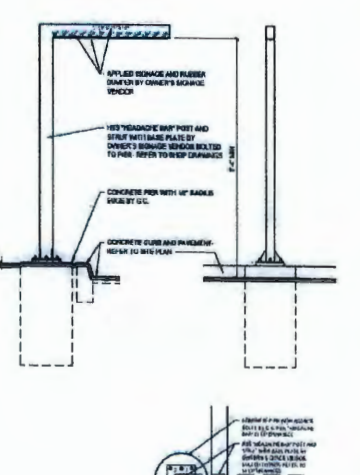
NOTE:

1. VERIFY SOIL BEARING CAPACITY OF 100 PSF. MINIMUM ANGLE OF 30 DEGREES AND SOIL DRY UNIT WEIGHT OF 120 PCF SHALL BE CONFIRMED BY THE FIELD BY A QUALIFIED PROFESSIONAL.
2. CAST-IN-PLACE CONCRETE SHALL BE COMPACTED 150% BELOW THE FINISH GRADE.
3. ALL REBAR TO BE STEEL GRADE 60 STEEL.
4. PRECAST REBAR ACCESSORIES UPON WRITING APPROVAL OF SHOP DRAWINGS BY ENGINEER.
5. CONCRETE TO BE INSTALLED A MINIMUM OF 7 DAYS PRIOR TO INSTALLING LIGHT POLE. POURED CONCRETE PER REQUIRED TO OBTAIN MINIMUM STRENGTH PRIOR TO INSTALLING LIGHT POLE.
6. CONCRETE SHALL HAVE A MINIMUM SLUMP OF 4" (VERTICAL) 7" (HORIZONTAL).
7. POLE SHALL BE BORED FOR 18" (HIGHER THAN FINISHED GROUND) 18" (HIGHER THAN FINISHED GROUND) FOR THE AREA BASED ON AMBIENT SOIL.
8. POLE TO BE TYPED AT A POINT.
9. WORK SHALL CONFORM TO ALL BEST PRACTICES FOR APPROPRIATE TEMPERATURE AND WEATHER CONDITIONS.
10. CONTRACTOR TO TEMPORARILY SUPPORT ADJACENT SOIL AND STRUCTURES DURING EXCAVATION AS REQUIRED.

APPLIED STORAGE AND RUBBER
SHOWN BY OWNER'S RECORD DRAWING

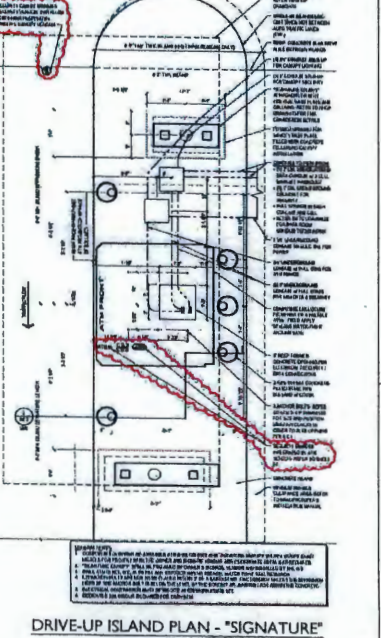
18" MOUNTING HEIGHT

IF LIGHT POLE IS ANCHORED TO CONCRETE
IF FOUNDATION CENTER IS FOUNDATION CENTER
IF FOUNDATION CENTER IS FOUNDATION CENTER
IF FOUNDATION CENTER IS FOUNDATION CENTER



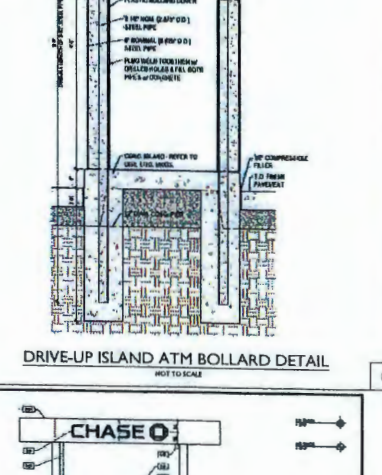
CLEARANCE BAR DETAIL
NOT TO SCALE

DRIVE-UP ISLAND PLAN - "SIGNATURE" CANOPY DETAIL
NOT TO SCALE



DRIVE-UP ISLAND PLAN - "SIGNATURE" CANOPY DETAIL
NOT TO SCALE

DRIVE-UP ISLAND ATM BOLLARD DETAIL
NOT TO SCALE



DRIVE-UP ISLAND ATM BOLLARD DETAIL
NOT TO SCALE

DRIVE-UP ATM ELEVATION
NOT TO SCALE

DETACHED DRIVE-UP CANOPY ELEVATION
NOT TO SCALE

NOT APPROVED FOR CONSTRUCTION

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CHASEO
PROPOSED BANK WITH
DRIVE-THRU ATM

JOSEPH M. KLING P.E.
REGISTERED PROFESSIONAL ENGINEER

STONEFIELD
engineering & design

SCALE: AS SHOWN PROJECT NO: 2023-0009
TITLE: ATM & LIGHTING DETAILS
DRAWING: C-5

NO.	DATE	BY	DESCRIPTION
1			FOR PROFESSIONAL EXAMINATION
2			FOR PROFESSIONAL EXAMINATION
3			FOR PROFESSIONAL EXAMINATION
4			FOR PROFESSIONAL EXAMINATION
5			FOR PROFESSIONAL EXAMINATION
6			FOR PROFESSIONAL EXAMINATION
7			FOR PROFESSIONAL EXAMINATION
8			FOR PROFESSIONAL EXAMINATION
9			FOR PROFESSIONAL EXAMINATION
10			FOR PROFESSIONAL EXAMINATION



City of Marlborough

Legal Department

140 MAIN STREET
 MARLBOROUGH, MASSACHUSETTS 01752
 TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
 CITY CLERK'S OFFICE
 CITY OF MARLBOROUGH
 2023 AUG 15 PM 2:02

JASON D. GROSSFIELD
 CITY SOLICITOR

JEREMY P. MCMANUS
 ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
 PARALEGAL

August 15, 2023

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

Re: City Council Order No. 20/23-1008062
 Amendment to Special Permit Decision, Green Gold Group, Inc.
 910 Boston Post Rd. E., Marlborough

Dear Honorable President Ossing and Councilors:

In accordance with Chapter 650-59C(13) of the Marlborough Zoning Ordinance (MZO), I provide this letter as to the legal form of the City Council's proposed findings on the above-referenced application for an amendment to the existing special permit. The document incorporates revisions referring to the MZO sections applicable to a "Medical Marijuana Treatment Center", and a new Condition #16 as to the continuation of the "Adult Use Marijuana Retail Establishment". Revisions to Finding D address the process by which the applicant may seek to modify signage in the future, consistent with the Urban Affairs Committee recommendation. Enclosed is a copy of the proposed decision. I certify that it is in proper legal form.

Please contact me if you have any questions or concerns.

Respectfully,

Jason D. Grossfield
 City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
 Tin Htway, Building Commissioner

**DECISION FOR SPECIAL PERMIT
IN CITY COUNCIL**

**NOTICE OF DECISION
GRANT OF AMENDMENT TO SPECIAL PERMIT**

Special Permit Application of:
Green Gold Group, Inc.
Order No. 20/23-1008062

Locus:
910 Boston Post Road East, Suite 100
Marlborough, MA 01752
Assessors Map 62, Parcel 21

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application for an Amendment to an existing Special Permit, originally granted by the City Council on November 16, 2020, to Green Gold Group, Inc. with a mailing address of 60 Prospect Street, North Brookfield, MA 01535, as provided in this Decision and subject to the following Findings of Fact and Conditions.

Decision date: _____, **2023.**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the _____ day of _____, **2023.**

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this _____ day of _____, **2023.**

Given under Chapter 40A, Section 17 of the Massachusetts General Laws.

A TRUE COPY
ATTEST

City Clerk

ORDERED:**IN CITY COUNCIL****DECISION ON AN AMENDMENT TO A SPECIAL PERMIT
ORDER NO. 20/23-1008062**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Green Gold Group, Inc. (the "Applicant") to amend an existing special permit to build and operate an Adult Use Marijuana Retail Establishment at 910 Boston Post Road East, Suite 100, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

PROCEDURAL FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation having a business address of 60 Prospect Street, North Brookfield, MA 01535.
2. The Applicant is the tenant of a commercial retail unit located at 910 Boston Post Road East, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 62 as Parcel 21 (the "Site"). The Site's owner is Blackcomb Associates, LLC with a business address of 1 Main Street, Whitinsville, MA 01588.
3. On November 16th, 2020, the City Council of the City of Marlborough voted to grant a special permit authorizing Local Roots NE, Inc, of which the Applicant is the successor in interest, to build and operate an Adult Use Marijuana Retail Establishment at the Site (the "Use") in accordance with Article VI, § 650-17, § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), as further described in a document recorded at the Middlesex South District Registry of Deeds in Book 76417, Page 396 (the "Original Special Permit").
4. On June 1, 2023, the Applicant, by and through its counsel, filed with the City Clerk of the City of Marlborough an application to modify Finding of Fact No. 3 of the Original Special Permit to allow the addition of a co-located Medical Marijuana Treatment Center, change the existing signage to new, internally lit signage, and Condition No. 8 of the Original Special Permit in order to change the maximum hours of operation of the Use, under the provisions of M.G.L. c. 40A, § 9 and the Marlborough Zoning Ordinance (the "Application").
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and existing site plans for the Site.
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, June 26th, 2023. The hearing was closed on that date.

9. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

10. At the public hearing, no members of the public spoke about the Use or submitted written comments about the Use.

11. Councilor Teona C. Brown was absent from the single session of the public hearing on the Application. Prior to the vote on this decision, Councilor Brown filed a written certification as to examination of all the evidence and testimony received at the hearing session, made as part of the record of the hearing, in accordance with Massachusetts General Laws Chapter 39, Section 23D.

12. The Procedural Findings of Fact specified above supplement those made in the Original Special Permit, which are expressly incorporated in this Decision by reference.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed Use of the Site, with the addition of a medical marijuana treatment center and modified operating hours as set forth in the conditions below, is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided in this Decision and in the Original Special Permit. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth in this Decision and in the Original Special Permit.

C. The City Council incorporates by reference Finding C in the Original Special Permit, provided that as to the addition of a medical marijuana treatment center, said Finding C is also made in accordance with § 650-18(45)(a) and (b) of the Zoning Ordinance and the Site's location is also in accordance with § 650-32.F.

D. The City Council incorporates by reference Finding D in the Original Special Permit. To the extent the Application seeks to modify existing signage, the Applicant shall adhere to Finding D(16) in the Original Special Permit and submit proposed rendering of the signage to the City Council, and apply for a sign permit, in accordance with City's Sign Ordinance and the Zoning Ordinance. This Decision does not constitute approval of any change to the existing signage, which shall be reviewed upon a submittal by the Applicant as set forth herein.

E. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant an amendment to modify the Original Special Permit, as follows:

1. By deleting Finding of Fact No. 3 in its entirety and inserting in its place the following:

In accordance with Article VI, § 650-17, § 650-18(45), § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to operate a co-located Medical Marijuana Treatment Center and Adult Use Marijuana Retail Establishment at the Site (the "Use").

2. By amending Condition No. 5 by: (a) inserting after the words "§ 650-18(46)(c)" the following: "and § 650-18(45)(c)"; and (b) inserting after the words "Adult Use Marijuana Retail Establishment" the following: "and a Medical Marijuana Treatment Center".

3. By deleting Condition No. 8 in its entirety and inserting in its place the following:

8. Hours. The maximum hours of operation of the Use shall be Monday through Saturday, 9:00 a.m. to 10:00 p.m., and Sunday from 10:00 a.m. to 8:00 p.m.

4. By inserting the following new Condition as Condition No. 16:

16. Partial Use: The Applicant, its successors and/or assigns, is not required to operate all portions of the Use simultaneously. The Applicant, its successors and/or assigns, may commence the Medical Marijuana Treatment Center portion of the Use upon receipt of all local and state permits and licenses for that portion of the Use, while continuing the current Adult Use Marijuana Retail Establishment portion of the Use. If either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use ceases, either temporarily or permanently, the Applicant, its successors and/or assigns, may operate the other portion of the Use.

All other conditions of the Original Special Permit shall continue in full force and effect, and are incorporated by reference as part of this Decision.

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex County South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: ____ - **Nay:** ____ - **Absent:** ____

Yea:

Nay:

Absent:

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
20/23-1008062

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 JUL 28 PM 1:40

Questions contact – Dana Larson #508-482-1243
PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

To the City Council
Of Marlborough, Massachusetts

Massachusetts Electric Company d/b/a NATIONAL GRID and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

High Street - Install one JO Pole on High Street. Beginning at a point approximately 300' feet East of the centerline of the intersection of High Street and Bolton Street. Install underground facilities on Exchange Street and High Street. Installing new pole 3-5 on High Street. Installing underground conduit on Exchange Street.

Location approximately as shown on plan attached.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – High Street - Marlborough, Massachusetts.

No.# 30784774

Also, for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a
NATIONAL GRID *Helton Lopes*

BY _____
Engineering Department

VERIZON NEW ENGLAND, INC.
BY *Albert C. Bessette Jr.*
Manager / Right of Way

Dated: June 23, 2023

Questions contact – Dana Larson #508-482-1243

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

To the City Council
Marlborough, Massachusetts

Notice having been given and public hearing held, as provided by law,
IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a NATIONAL GRID and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 23rd day of June 2023.

All construction under this order shall be in accordance with the following conditions:
Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – High Street - Marlborough, Massachusetts.

No.# 30784774

Filed with this order:

There may be attached to said poles by Massachusetts Electric Company d/b/a NATIONAL GRID and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

High Street - Install one JO Pole on High Street. Beginning at a point approximately 300' feet East of the centerline of the intersection of High Street and Bolton Street. Install underground facilities on Exchange Street and High Street. Installing new pole 3-5 on High Street. Installing underground conduit on Exchange Street.

Also, for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the
Of the City/Town of _____, Massachusetts held on the _____ day of _____ 20 _____ .

City/Town Clerk.
Massachusetts 20 _____
Received and entered in the records of location orders of the City/Town of
Book _____ Page _____

Attest:
City/Town Clerk

I hereby certify that on _____ 20 _____, at _____ o'clock, M
At _____ a public hearing was held on the petition of
Massachusetts Electric Company d/b/a NATIONAL GRID and VERIZON NEW ENGLAND,
INC. for permission to erect the poles, wires, and fixtures described in the order herewith recorded,
and that we mailed at least seven days before said hearing a written notice of the time and place of
said hearing to each of the owners of real estate (as determined by the last preceding assessment
for taxation) along the ways or parts of ways upon which the Company is permitted to erect
Poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

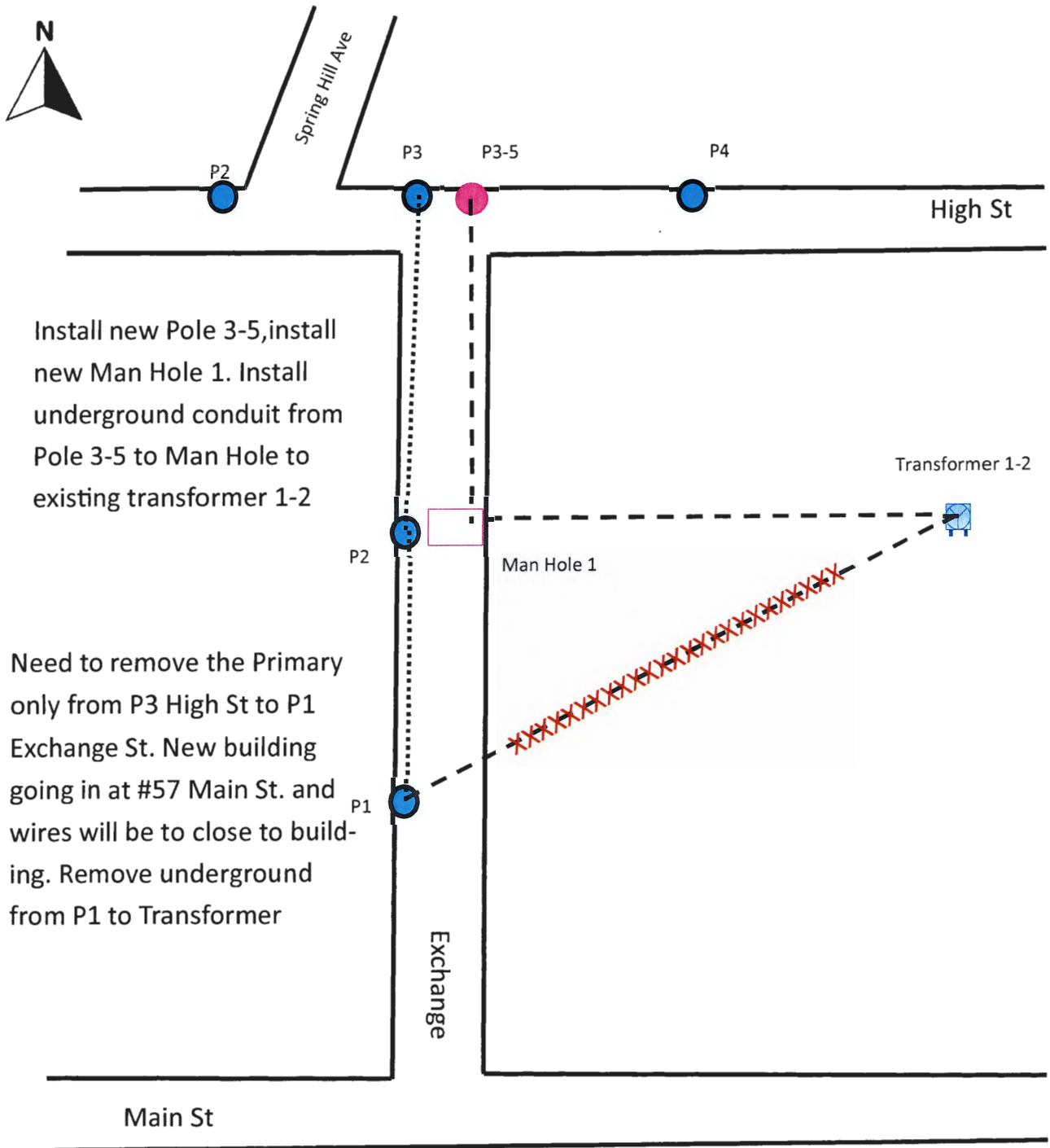
.....
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.....

Board or Council of Town or City, Massachusetts

CERTIFICATE






I hereby certify that the foregoing is a true copy of the location order and certificate of
hearing with notice adopted by the _____ of the City of
Massachusetts, on the _____ day of 20 _____ and recorded with the records of location orders
of the said City, Book _____, and Page _____. This certified copy is made under the
provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:
City/Town Clerk



Install new Pole 3-5, install new Man Hole 1. Install underground conduit from Pole 3-5 to Man Hole to existing transformer 1-2

Need to remove the Primary only from P3 High St to P1 Exchange St. New building going in at #57 Main St. and wires will be to close to building. Remove underground from P1 to Transformer

LEGEND		Petition Sketch		DATE: 8/18/22
	Proposed Manhole	High St / Exchange St Marlborough, Ma		DESIGNER: D.LARSON
	Existing JO Pole / Public Way			WR-30784774
	Existing transformer	Exhibit 'A' not to scale. The said facilities to be established by and upon the installation and erection of the facilities thereof.		
	Proposed underground cable			
	Proposed JO Pole / Public Way			

COSTA ESTEVAO L
23 HIGH ST
MARLBOROUGH, MA 01752

MARLBOROUGH TOTG LLC
206 AYER RD
HARVARD, MA 01451

27 MAIN STREET LLC
27 MAIN ST
MARLBOROUGH, MA 01752

DUMAIS GERALD
DONNA DUMAIS
6 HIGH ST
MARLBOROUGH, MA 01752

RESNICK MARC TR
PAUL MILLTER TR
C/O THE BEANTOWN COMPANIES
100 FELTON ST STE 201
WALTHAM, MA 02453

50 MAIN STREET LLC
50 MAIN ST
MARLBOROUGH, MA 01752

DUMAIS GERALD L
DONNA E DUMAIS
6 HIGH ST
MARLBOROUGH, MA 01752

RODRIGUES JOHN M
35 HIGH ST #8
MARLBOROUGH, MA 01752

AGUADO WALDEMAR P
DULCINEA S SILVA
35 HIGH ST #14
MARLBOROUGH, MA 01752

FARLEY PATRICIA ANN
20 HIGH ST
MARLBOROUGH, MA 01752

SCOTT BALLETT LLC
PO BOX 1534
PROVINCETOWN, MA 02657

BARBATO MICHAEL J
NANCY J BARBATO
16 MILFORD RD #1
SOUTH GRAFTON, MA 01519

GINILHEU NEUZA
TONY ARRUDA
35 GIASSON ST
HUDSON, MA 01749

SCULOS BRYANT W TR
KEVIN W HURLEY IRREVOCABL
36 BEDFORD TERR APT #11
NORTHAMPTON, MA 01060

BOAVENTURA GILMAR M
62 GREENWOOD ST
MARLBOROUGH, MA 01752

GREGERS-HANSEN VILHELM
ANN-VIBEKE GREGERS-HANSEN
7709 MAID MARIAN CT
ALEXANDRIA, VA 22306

SHARISKY JOHN W
PO BOX 16
MARLBOROUGH, MA 01752

BOAVENTURA MARCELO L
35 HIGH ST #13
MARLBOROUGH, MA 01752

JACQUES ELIZABETH A
35 HIGH ST #15
MARLBOROUGH, MA 01752

SINGHAL AMEETA
20 HAMPSHIRE RD
WAYLAND, MA 01778

BOUVIER THOMAS C TR
44-46 MAIN ST MARLBOROUGH
53 MAURICE DR
MARLBOROUGH, MA 01752

MADISON CRAIG J
35 HIGH ST #17
MARLBOROUGH, MA 01752

VAZ KAREN
MICHELLE MARIA MARGARET C
3 LILLIAN RD
FRAMINGHAM, MA 01701

CHENG JOHN
10 LAVELLE LN
FRAMINGHAM, MA 01701

MAGAN ENRIQUE O
MARIA C GUILLEN
24 HIGH ST
MARLBOROUGH, MA 01752

ZADEH ALI M
35 FOREST LN
HOPKINTON, MA 01748-3201

COMITAS LOUCAS
EFSTATHIA COMITAS
2 LENOX ST
WORCESTER, MA 01602-1411

MALVESTI ROSEMARIE B
35 HIGH ST #7
MARLBOROUGH, MA 01752

MIRICK O'CONNELL

ATTORNEYS AT LAW

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2023 AUG 17 AM 9:40

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

August 16, 2023

BY HAND DELIVERY

Councilor Michael Ossing, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: Proposed Zoning Amendment:
Red Spring Road Overlay District

Dear Councilor Ossing:

I represent the Red Spring Road Homeowners Association, Inc. governing body of the Red Spring Shores Condominium, whose residents are unit owners of 50 acres of land located on the southerly side of Fort Meadow Reservoir between Reservoir Street and Cullinane Drive, Assessors Map 30, Parcel 10. On behalf of the owners, and in accordance with M.G.L. c. 40A, Sec. 5, I respectfully request that the City Council consider amending the Zoning Ordinance as specified in the attached Proposed Order, to create a new Red Spring Road Overlay District over the property.

This unique neighborhood consists of 28 single family homes, one boat club, and various accessory structures, all on a single lot. The property was developed through ground leases over several decades. Last year, the tenants purchased the property and created a condominium association. Because the homes are preexisting nonconforming, the types of simple improvements and accessory structures allowed under the Zoning Ordinance by right in other neighborhoods require Section 6 finding special permits from the ZBA or City Council in this neighborhood.

The goals of this ordinance are as follows: (i) render the lot and all existing structures conforming with the Zoning Ordinance; (ii) allow simple changes (additions, reconstructions, accessory structures, etc.) to existing homes by right; and (iii) establish reasonable parameters for changes to the lot consistent with the underlying A-2 zoning. Any modified or new structures in the district would require the approval of the condominium association. While a resident could seek a building permit for an addition or detached garage, they must first present the City with evidence that the condominium association has approved the project. In addition, the overall property cannot exceed 30% lot coverage or contain homes with a floor area in excess of 3,000 square feet.

MIRICK O'CONNELL

Marlborough City Council
August 16, 2023
Page 2

We believe this amendment will clarify and simplify the zoning requirements applicable to this lakeside community, and encourage residents to upgrade and add value to their properties.

Please refer this matter to the Planning Board and take the appropriate steps for review by the City Council.

Thank you for your time and attention to this matter.

Sincerely,



Brian R. Falk

BRF/

Encl.

cc: Client

ORDERED:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as amended, be further amended by adding a new §650-50, Red Spring Road Overlay District, as follows:

§650-50 – RED SPRING ROAD OVERLAY DISTRICT

- A. Purpose and Objectives. The Red Spring Road Overlay District (“RSR”) allows the application of supplemental land use controls within the boundaries of a certain overlay district as an alternative to land use controls that exist in the underlying districts. The establishment goals of the RSR are to encourage improvements to existing structures and regulate modifications to a unique lakeside residential community.
- B. Location of RSR; Underlying Zoning.
1. For the purposes of this Section (§650-50 et. seq.), the RSR is located on the southerly side of Fort Meadow Reservoir along Red Spring Road between Reservoir Street and Cullinane Drive containing approximately 50 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
 2. Except as specifically provided herein, the provisions of the Zoning Ordinance relating to the underlying zoning districts not otherwise impacted by this Section (§650-50 et. seq.) shall continue to remain in full force and effect. In the event of any conflict between the provisions of this Section (§650-50 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-50 et. seq.) shall govern and control.
- C. Authority of Permit Granting Authority.
1. The City Council shall be the special permit granting authority in the RSR.
 2. At the request of an applicant, the City Council may elect to vary the dimensional, parking, design, and landscaping requirements applicable to a use or structure by special permit upon finding that such change shall result in an improved design and will not nullify or substantially derogate from the intent or purpose of this Section (§650-50 et. seq.).
- D. Use Regulations.
1. The following uses are permitted as of right in the RSR:
 - a. Single-family dwellings.
 - b. Up to one (1) boat club.

- c. Uses allowed as of right in the underlying zoning district, as set forth in the Table of Use Regulations.
 - d. Accessory buildings and accessory uses.
 2. Uses allowed by special permit in the underlying zoning district may be allowed by special permit in the RSR.
 3. All uses not specified in Subsection D.1 and Subsection D.2 above shall be deemed prohibited in the RSR.
- E. Dimensional Regulations.
 1. Notwithstanding any provisions of the Zoning Ordinance to the contrary, development in the RSR shall be subject to the following dimensional standards:
 - a. Minimum Lot Area: 18,000 square feet.
 - b. Minimum Lot Frontage: none.
 - c. Minimum Front, Side, and Rear Yards: none (See Section 650-50.E.2).
 - d. Maximum Building Height: 2 ½ stories.
 - e. Maximum Lot Coverage: 30%, over the entire RSR.
 - f. Maximum Gross Floor Area of a Single-Family Dwelling: 3,000 square feet.
 2. With the exception of structures erected prior to July 1, 2023, all structures shall be set back a minimum of 15 feet from the RSR district boundary line, excluding the boundary line adjacent to the Fort Meadow Reservoir.
 3. Within the RSR, multiple principal and accessory buildings and uses may be located on the same lot under a condominium form of ownership with each principal building located within an exclusive use area of at least 8,000 square feet, and there shall be no yard setbacks or landscaped strips required as to exclusive use areas or minimum distances between structures, provided that any building permit application for a new structure or expansion of an existing structure shall be accompanied by evidence that such work is authorized by the governing condominium organization.
- F. Parking Requirements. Parking for single-family dwellings and boat clubs shall be provided as feasible. Parking for other uses within the RSR shall conform with the provisions of §650-48.A of the Zoning Ordinance.
- G. Driveways and Roadways. Driveways and roadways located within the RSR shall be maintained to provide safe access and egress for vehicular and pedestrian traffic and emergency services, but shall not be subject to the design standards set forth in §650-49 of the Zoning Ordinance or subdivision standards.

EXHIBIT A

The Red Spring Road Overlay District shall include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

- Assessors Map 30, Parcel 10

MIRICK O'CONNELL

ATTORNEYS AT LAW

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2023 AUG 17 AM 9:40
 Brian R. Falk
 Mirick O'Connell
 100 Front Street
 Worcester, MA 01608-1477
 bfalk@mirickoconnell.com
 t 508.929.1678
 f 508.983.6256

August 16, 2023

BY HAND DELIVERY

Councilor Michael Ossing, President
 Marlborough City Council
 City Hall
 Marlborough, MA 01752

Re: Special Permit Application: Green District Phases 3 & 4;
 Mixed-Use Development (Multifamily and Commercial)

Dear Councilor Ossing:

Enclosed please find a special permit application package submitted on behalf of my client, Post Road Realty LLC, for a mixed-use development (multifamily and commercial) in the Executive Residential Overlay District at the corner of Simarano Drive and Cedar Hill Street.

Post Road is proud of the Green District, a premier community providing beautiful, modern homes for its residents with unrivaled indoor and outdoor amenities. With Phase 1 (The Burrow) approaching full occupancy and Phase 2 (The Lodge) under construction, Post Road is excited to bring forward plans for Phases 3 and 4 of the Green District community.

This application proposes a mixed-use development with 475 residential units, 4,800 square feet of commercial space at the corner of Simarano and Cedar Hill, 754 parking spaces, walking trails, resident amenities, and landscaped areas. The plans submitted with this application benefit from initial discussions with the City's Site Plan Review Committee, which encouraged Post Road to increase sideline buffers and landscaping, include additional trees along Green District Boulevard, and provide connectivity to the Boroughs Loop Trail system.

Under M.G.L. c. 40A, Sec. 9, a special permit for the project requires a simple majority vote because this is a mixed-use development in a center of commercial activity in Marlborough that will restrict at least 10% of its residential units as affordable.

Thank you for your time and attention to this matter.

Sincerely,



Brian R. Falk

Encl.

**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK**

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Post Road Realty LLC, 11 Unquowa Road, Fairfield, CT 06824

2. Specific Location of property including Assessor's Plate and Parcel Number.

Simarano Drive, Cedar Hill Street, and Green District Boulevard; Parcels 116-5, 116-11, 116-12, and 116-13

3. Name and address of owner of land if other than Petitioner or Applicant:

Marlborough Apartment Partners 2 LLC and Green District Owner LLC, 11 Unquowa Road, Fairfield, CT 06824

4. Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.)

5. Specific Zoning Ordinance under which the Special Permit is sought:

Article VI Section 650 Paragraph 36 Sub-paragraph D(2)

6. Zoning District in which property in question is located:

Executive Residential Overlay District

7. Specific reason(s) for seeking Special Permit

The Applicant proposes a mixed-use, multifamily and commercial (retail/restaurant/other commercial use)

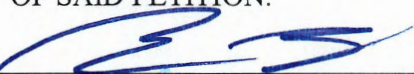
project in the Executive Residential Overlay District as Phase 3 and Phase 4 of the Green District community.

The project will consist of 475 residential units, 4,800 s.f. of commercial space, 754 parking spaces, open space,

landscaping, and walking trails.

8. List of names and addresses of abutter. SEPARATE SHEET ATTACHED

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HEREWITH AND MADE PART OF SAID PETITION.



Signature of Petitioner or Applicant
Attorney Brian R. Falk, Attorney for Applicant

Address: Mirick O'Connell

100 Front Street

Worcester, MA 01608

Telephone No. 508-929-1678

Date: 8/16/2023

LIST OF NAMES AND ADDRESS OF ABUTTERS
AS REQUESTED ON THE APPLICATION FOR SPECIAL PERMIT OF:

Post Road Realty LLC (Green District , Phase 3 and Phase 4)

(Name of Petitioner)

FOR THE ISSUANCE OF SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH UNDER CHAPTER 650, ZONING, OF THE CODE OF THE CITY OF MARLBOROUGH.

(Abutters as defined in §650-59, Section 4H, **Powers and Procedure of Special-Permit Granting Authorities**)



CERTIFIED ABUTTERS LIST

(116-5)(116-11)(116-12)(116-13) SIMARANO DR, CEDAR HILL ST, GREEN DISTRICT BLVD : CITY COUNCIL 400 FT

City of Marlborough
Office of the Assessors
140 Main Street
Marlborough, Massachusetts 01752
TDD (508) 460-3610
Phone: (508) 460-3779

PARCEL_#	GIS NUMBER	CAMA #	PROPERTY ADDRESS	OWNER NAME	CO-OWNER	OWNER ADDRESS	O_CITY	O_STATE	O_ZIP	USE_CODE
112-6A	M_193633_896910	112-6A	400 VALUE WAY	TJX COMPANIES INC		PO BOX 5369	COCHITUATE	MA	01778-6369	3400
116-1	M_193265_896494	116-1	445 SIMARANO DR	METROPOLIS BLOOMFIELD INVESTORS LP		ONE MARKET ST STE 4025	SAN FRANCISCO	CA	94105	4000
116-10	M_193363_896751	116-10	377 SIMARANO DR	IPG PHOTONICS CORPORATION		50 OLD WEBSTER RD	OXFORD	MA	01540	3400
116-3A	M_193862_896487	116-3A	65 CEDAR HILL ST	GS STONEGATE PROJECT OWNER LLC		750 BERING DR SUITE 300	HOUSTON	TX	77057	1120
116-5A	M_193711_896749	116-5A	SIMARANO DR	CITY OF MARLBOROUGH		140 MAIN ST	MARLBOROUGH	MA	01752	9300
116-5B	M_193565_896723	116-5B	SIMARANO DR	CITY OF MARLBOROUGH		140 MAIN ST	MARLBOROUGH	MA	01752	9300
116-6	M_193156_896345	116-6	100 CEDAR HILL ST	SUBURBAN PROPANE LP		240 ROUTE 10 WEST	WHIPPANY	NJ	07981-0206	4020
116-7	M_193451_896185	116-7	40 CEDAR HILL ST	40 CEDAR HILL LLC		PO BOX 836	MARLBOROUGH	MA	01752	4000
116-8	M_193033_896186	116-8	1A DANGELO DR	CROWLEY FRANK A III TR		1 DANGELO DR PO BOX 849	MARLBOROUGH	MA	01752	4000
116-9	M_193353_896251	116-9	72 CEDAR HILL ST	CMJ REALTY TRUST LLC		72 CEDAR HILL ST #C	MARLBOROUGH	MA	01752	4020
118-2	M_193336_896098	118-2	50 DANGELO DR	MARLBOROUGH ROYCE LLC		220 WEST GERMANTOWN PIKE STE 250	PLYMOUTH MEETING	PA	19462	4010
118-2A	M_193425_896038	118-2A	24 ST MARTIN DR	24 ST MARTIN DRIVE LLC		1 DUNDEE PARK STE 3	ANDOVER	MA	01810	4010

This is to certify that the owners listed above are as shown in the latest Assessors records.

John H. Valade
 JOHN VALADE, PRINCIPAL ASSESSOR
 7/26/2023
 Date

SPECIAL PERMIT-SUMMARY IMPACT STATEMENT

Applicant's Name: Post Road Realty LLC Address: 11 Unquowa Road, Fairfield, CT 06824
Simarano Drive, Cedar Hill Street, and
 Project Name: Green District, Phases 3 and 4 Address: Green District Boulevard

1. PROPOSED USE: (describe) _____
Mixed-use, multifamily and commercial (retail/restaurant/other commercial use)
2. EXPANSION OR NEW: New
3. SIZE: floor area sq. ft. 114,710 1st floor 114,710 all floors 533,350
 # buildings 3 # stories 5 lot area (s.f.) 1,873,840 s.f. (entire EROD)
4. LOT COVERAGE: 43.2 % %Landscaped area: 65.8% % (Entire EROD)
5. POPULATION ON SITE: Number of people expected on site at anytime:
 Normal: 713 (1.5 per unit) Peak period: 713 (1.5 per unit)
plus 25 in commercial space plus 25 in commercial space
6. TRAFFIC:
 - (A) Number of vehicles parked on site:
 During regular hours: 566 Peak period: 679
 - (B) How many service vehicles will service the development and on what schedule?
Periodic rubbish and recycling removal, maintenance vehicles, deliveries, move-ins and outs, commensurate with a mixed multifamily and commercial use.
7. LIGHT: How will the development be lit at the exterior? How much light will leave the property and enter the abutting property? Standard downward facing light fixtures.
8. NOISE:
 - (A) Compare the noise levels of the proposed development to those that exist in the area now.
Same as Phase 1 (The Burrow)
 - (B) Described any major sources of noise generation in the proposed development and include their usual times of operation. Resident, customer, and employee vehicles, delivery and service vehicles, use of exterior areas by residents and customers.
9. AIR: What sources of potential air pollution will exist at the development? _____
Vehicles.
10. WATER AND SEWER: Describe any unusual generation of waste. _____
None.
11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will this waste be stored? Where? How much will be in storage on a daily basis? How will it be disposed? None.

***Attach additional sheets if necessary**



**CITY OF MARLBOROUGH
MARLBOROUGH, MASSACHUSETTS 01752**

City Hall

140 Main St.

Marlborough, Massachusetts 01752

Voice (508) 460-3775 Facsimile (508) 460-3723 TTD (508) 460-3610

President and Members City Council

Date: 8/15/2023

**SPECIAL PERMIT APPLICATION
CERTIFICATION BY PLANNING DEPARTMENT**

Project Name: Green District , Phase 3 and Phase 4

Project Use Summary: Mixed-use, multifamily and commercial (retail/restaurant/other commercial use)

Project Street Address: Simarano Drive, Cedar Hill Street, and Green District Boulevard

Plate: _____ Parcel: Parcels 116-5, 116-11, 116-12, and 116-13

Applicant/Developer Name: Post Road Realty LLC

Plan Date: August 16, 2023 Revision Date: _____

Dear President and Members:

In accordance with the City Council's Rules for Special Permit Applications, I hereby certify that the Site Plan filed with the City Clerk has been reviewed by the Building Department within the limits of work shown on the plan, and that said plan meets all prior referenced informational requirements of Section 7; that the plan conforms in all aspects to City Code and to these Rules and Regulations, and that any necessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals, and any applicable appeal period concerning said variances have run.

Very truly yours,


Tin Htway
Acting Director of Planning

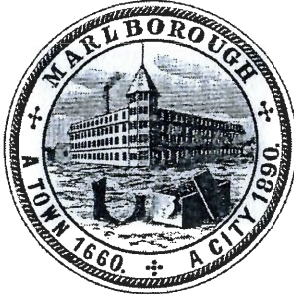
**Application Fee to submit to
City Clerk's office**

\$12,600

Residential Base Fee:	\$300
\$25 per res. unit over 3:	\$11,800 (\$25 X472)
Commercial Base Fee:	<u>\$500</u>
Total:	\$12,600

**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

**Steven W. Kerrigan
City Clerk**

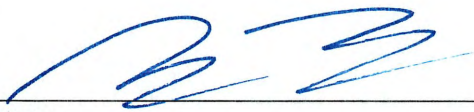


Dear Applicant,

To ensure that each department listed below receives a copy of your completed Special Permit application, please hand-deliver to each department as instructions indicate below.

PLACE A CHECK-MARK AFTER HAND-DELIVERING THE APPLICATION TO THE FOLLOWING DEPARTMENTS AND SIGN YOUR NAME & DATE IT ACCORDINGLY. MAKE SURE THIS PAGE IS SIGNED AND RETURNED TO THE CITY CLERK'S OFFICE WITH THE COMPLETED APPLICATION. THE CITY CLERK'S OFFICE WILL NOT ACCEPT THE APPLICATION WITHOUT THE SIGNATURE OF THE APPLICANT OR PETITIONER AS INDICATED BELOW.

- 1 SET POLICE CHIEF
- 1 SET FIRE CHIEF
- 1 SET CITY ENGINEER
- 1 SET DIRECTOR OF PLANNING
- 1 SET CONSERVATION OFFICER (IF WETLANDS AFFECTED)
- 1 SET BUILDING COMMISSIONER
- 12 SETS OFFICE OF THE CITY COUNCIL
- 3 SETS OFFICE OF THE CITY CLERK (**MUST be Original** & 2 Complete Sets)



Signature

8/17/2023
Date

Thank you for your cooperation in this matter.

Sincerely,

*Steven W. Kerrigan
City Clerk*

**City of Marlborough, Massachusetts
CITY CLERK DEPARTMENT**

**Steven W. Kerrigan
City Clerk**



I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all Municipal tax returns and paid all Municipal taxes required under law.

Company Name

Post Road Realty LLC

Owner Name/Officer Name of LLC or Corporation

Marlborough Apartment Partners 2 LLC; Green District Owner LLC

Owner/Officer Complete Address and Telephone Number

11 Unquowa Road

Fairfield, CT 06824

508-929-1678

Signature of Applicant

Attorney on behalf of Applicant, if applicable

Brian Falk, Esq., on behalf of the Applicant

The Special Permit Package will not be accepted unless this certification clause is signed by the applicant and the Tax Collector.

Tax Collector



GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

MARLBOROUGH AMBROSIO

MAP	LOT
116	11 & 15

PREPARED FOR

POST ROAD REALTY LLC

11 Unsworth Road
Fairfield, Connecticut 06424

HANCOCK ASSOCIATES

- Civil Engineers
- Land Surveyors
- Wetland Scientists

325 FIVE HILL ROAD, MARLBOROUGH, MA 01752
PHONE: (508) 261-1111 FAX: (508) 261-1112
WWW.HANCOCKASSOCIATES.COM



NO.	BY	DATE	DESCRIPTION

BIRD EYE VIEW

DWG:	A01
DATE:	11/16/12
SHEET:	1 OF 1
PROJECT NO.:	22680



LOUIS MAP
SCALE: 1" = 200'

GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

MARLBOROUGH ADDRESS

MAP 124 LOT 11 & 13

PREPARED FOR

POST ROAD REALTY LLC

11 Unquere Road
Fairfield, Connecticut 06824

HANCOCK ASSOCIATES

Civil Engineers
Land Surveyors
Waterland Scientists

315 11th St. Warrenton, OR 97146
PHONE: 503-866-1111 FAX: 503-866-1111
WWW.HANCOCKASSOCIATES.COM



NO. BY	DATE	BY	DATE	BY	DATE

PHASE 3 PERSPECTIVE, VIEWING TO COURTYARD

DWG: **A02**
DATE: 1/28/12
SCALE: 1" = 100'
SHEET: 1 OF 1
PROJECT NO: 27880



GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

MAP 118 LOT 11 & 12

PREPARED FOR
POST ROAD REALTY LLC
11 Unquere Road
Fairfield, Connecticut 06424

HANCOCK ASSOCIATES
Civil Engineers
Land Surveyors
Wetland Scientists

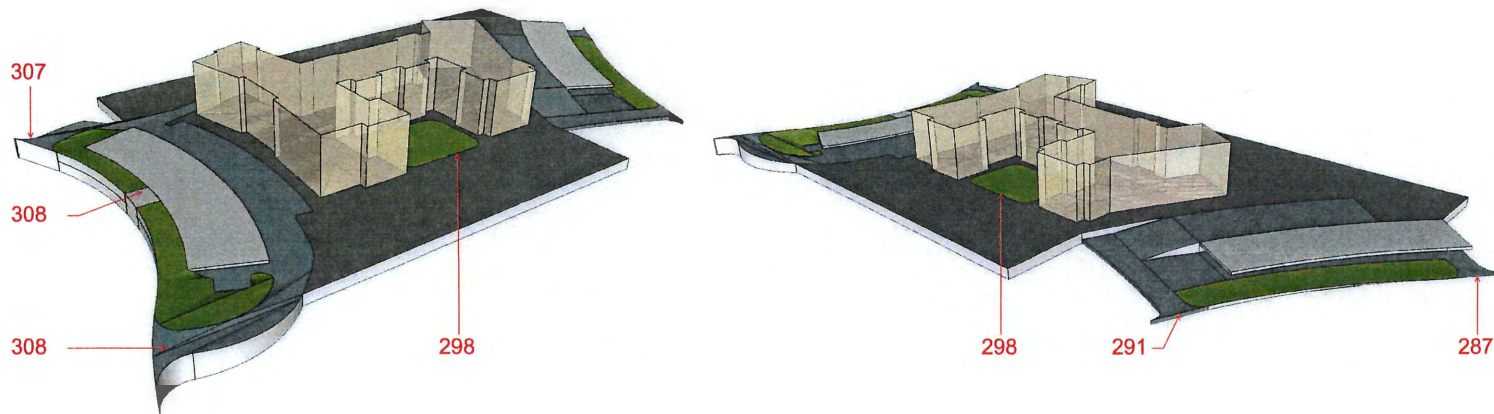
25 DIX ST. WILKINSON, NH 03095
WOOD DERRY RD. WILKINSON, NH 03095
WWW.HANCOCKASSOCIATES.COM



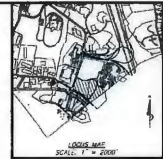
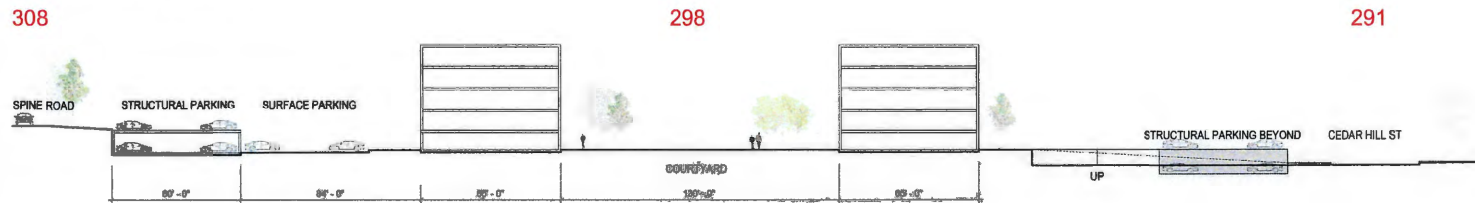
NO.	DATE	BY	DESCRIPTION

PHASE 4 PERSPECTIVES, VIEWING FROM SIMARANO DR.

DWG: A03
DATE: 11/14/12
SHEET: 1 OF 1
PROJECT NO.: 22680



PHASE 4 SITE SECTION



GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

MAPS/PROXY ADDRESS
MAP 116 LOT 11 & 12

PREPARED FOR
POST ROAD REALTY LLC
11 Unsworth Road
Fairfield, Connecticut 06424

HANCOCK ASSOCIATES

Civil Engineers
Lead Surveyors
Wetland Scientists

333 E.W. ST. MARLBOROUGH, MA 01752
PHONE: 508-261-1111 FAX: 508-261-1111
WWW.HANCOCKASSOCIATES.COM



DATE: 11/11/12
SCALE: 1/8" = 1'-0"
PROJECT: 14-12

PHASE 4 SITE SECTION & PARKING DIAGRAMS

DWG: A04
DATE: 11/11/12
SCALE: 1/8" = 1'-0"
PROJECT NO: 14-12

A04

PROJECT NO: 14-12



BUILDING 3 NORTH ELEVATION

- 5th Floor 38'-0"
- 4th Floor 32'-0"
- 3rd Floor 34'-0"
- 2nd Floor 22'-0"
- 1st Floor 12'-0"
- 0th Floor 0'-0"



BUILDING 3 WEST ELEVATION

- 5th Floor 38'-0"
- 4th Floor 45'-0"
- 3rd Floor 34'-0"
- 2nd Floor 22'-0"
- 1st Floor 12'-0"
- 0th Floor 0'-0"



BUILDING 3 EAST ELEVATION

- 5th Floor 38'-0"
- 4th Floor 45'-0"
- 3rd Floor 34'-0"
- 2nd Floor 22'-0"
- 1st Floor 12'-0"
- 0th Floor 0'-0"



GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Methuen, Massachusetts 01752

MAP 118
11 A 13

POST ROAD REALTY LLC
11 Unquere Road
Fairfield, Connecticut 06424

HANCOCK ASSOCIATES

Civil Engineers
Land Surveyors
Wetland Scientists

35 PINE ST. 3RD FLOOR, 06102
WOLF BLDG. 603-551-1111 FAX 603-551-1112
WWW.HANCOCKASSOCIATES.COM



PHASE 3 ELEVATIONS

DATE: 11/13/13
PROJECT: 14-13
PRODUCT NO: 22880

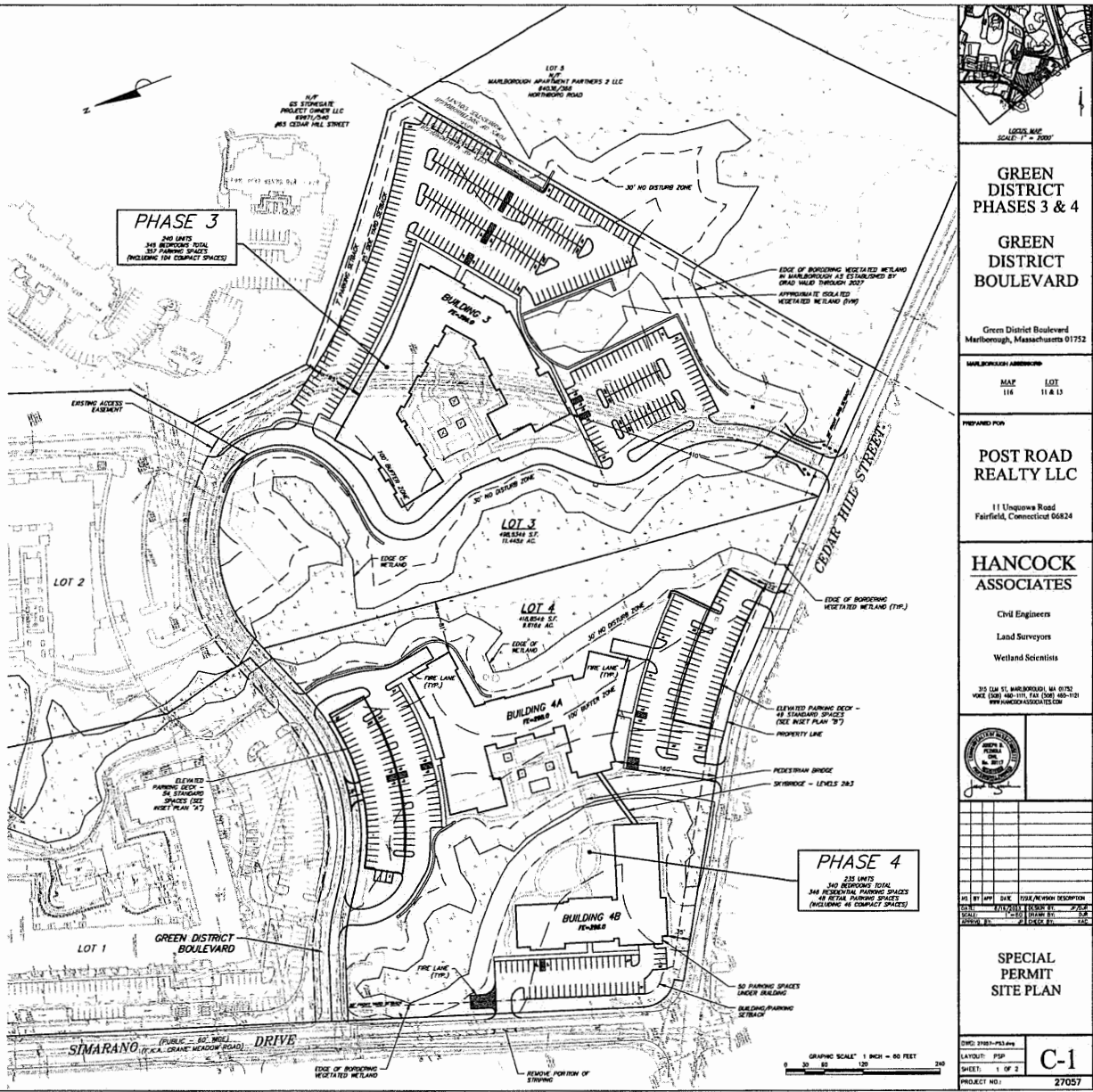
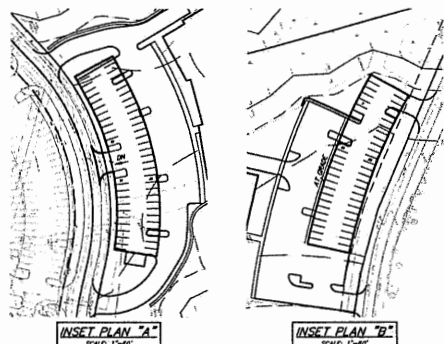
A05

ZONING TABULATION

CURRENT ORDINANCE, CHAPTER 830 OF THE CODE OF MARLBOROUGH, ORDER NUMBER 18-100733 DATED JANUARY 28, 2019 AS AMENDED BY CITY COUNCIL ON JUNE 3, 2018, CREATING A NEW SECTION 830-16, EXECUTIVE RESIDENTIAL OVERLAY DISTRICT.
 ZONING MAP: EXECUTIVE RESIDENTIAL OVERLAY DISTRICT (EROD) PER ZONING MAP DATED MAY 1, 2023.
 OVERLAY DISTRICT: EXECUTIVE RESIDENTIAL OVERLAY DISTRICT (EROD) DESCRIBED AS SHOWN ON A ORDER NUMBER 18-100733.
 PROPOSED USE: MULTI-FAMILY RESIDENTIAL FOR TOTAL OF 475 UNITS.
 • LOT 2: 250 TOTAL UNITS (250 STUDIOS, 120 RM, 85 ZBR, 10 2BR) WITH 348 TOTAL BEDROOMS
 • LOT 4: 230 TOTAL UNITS (230 STUDIOS, 115 1BR, 85 ZBR, 10 2BR) WITH 340 TOTAL BEDROOMS
 * EXACT UNIT BREAKDOWN MAY BE SUBJECT TO CHANGE IN REACTION TO MARKET DEMANDS.
 LOT AREA: LOT 2: 418,824 SF
 LOT 4: 418,824 SF
 ENTIRE EROD: 1,873,840 SF

DIMENSIONAL REQUIREMENTS			
ITEM	REQUIRED	PROPOSED	COMPLIANCE
MINIMUM LOT AREA 8500-26.1(C)(1)	NONE	LOT 2: 418,824 SF LOT 4: 418,824 SF	COMPLIES
MINIMUM FRONTAGE 8500-26.1(C)(2)	NONE	LOT 3: 218.7' LOT 4: 525.8' (SIMARANO DRIVE), 805.84' (CEDAR HILL STREET)	COMPLIES
MINIMUM FRONT YARD SETBACK 8500-26.1(C)(3)	20 FEET (SEE NOTE 2)	LOT 3: 418' LOT 4: 22' (GARAGE)	COMPLIES
MINIMUM SIDE/REAR YARD SETBACK 8500-26.1(C)(4)	25 FEET (SEE NOTE 2)	LOT 3: 85' LOT 4: 0' (BUILDING 4A) 35' (BUILDING 4B)	COMPLIES
MAXIMUM HEIGHT AND STOREYS 8500-26.1(C)(5)	MAXIMUM 80 FEET BUILDING HEIGHT AND NO LIMITATION ON STOREYS	80 FEET BUILDING HEIGHT AND FIVE STOREYS	COMPLIES
MAXIMUM LOT COVERAGE 8500-26.1(C)(6)	60% OVER ENTIRE EROD	43.2% OVER ENTIRE EROD	COMPLIES
PARKING REQUIREMENTS			
MINIMUM PARKING SPACES 8500-26.1(E)	LOT 3 RESIDENTIAL: 17 PARKING SPACES PER BEDROOM + (343 BEDROOMS)=345 LOT 4 RESIDENTIAL: 17 PARKING SPACES PER BEDROOM + (340 BEDROOMS)=340 LOT 4 METAL: (2) PARKING SPACES PER 100 SF OF PUBLIC FLOOR SPACE + 4 800 SF SPACES	LOT 3 RESIDENTIAL: 337 SPACES LOT 4 RESIDENTIAL: 348 SPACES LOT 4 METAL: 48 SPACES	COMPLIES
MINIMUM PARKING SPACE SIZE (OFF PARKING) 8500-26.1(F)(1)	9 FT x 18 FT WITH 24-FOOT AISLE (TWO-WAY)	9 FT x 18 FT WITH 24-FOOT AISLE (TWO-WAY)	COMPLIES
COMPACT SPACES (OFF PARKING) 8500-26.1(F)(2)	32% ALIGNED AT 16'W AND 23-FOOT AISLE	15.8% (TWO SPACES) AT 16'W, 16'W, AND 23-FOOT AISLES	COMPLIES
MIN. FRONT YARD PARKING SETBACK 8500-48.1(C)(1)(a)	10 FEET	25.5 FEET	COMPLIES
MINIMUM SIDE/REAR YARD PARKING SETBACK 8500-48.1(C)(1)(b)	7 FEET	7 FEET	COMPLIES
MINIMUM SIDE/REAR YARD PARKING TO BUILDING SETBACK 8500-48.1(C)(2)	5 FEET	8.8 FEET	COMPLIES
MINIMUM DRIVEWAY PARKING TO BUILDING SETBACK 8500-48.1(C)(3)	800 FEET	<800 FEET	COMPLIES
MINIMUM DRIVEWAY PARKING TO DRIVEWAY AT LANDSCAPED AREAS 8500-48.1(D)	8 INCH HIGH DURABLE CURBING SURROUNDING ALL LANDSCAPE ISLANDS OR PROJECTIONS WITH PARKING LOTS	8 INCH HIGH CURB (60) WITH A PERMITTEE OF PARKING ONLY, 8 INCH HIGH CURBING IN ALL OTHER LOCATIONS	MAINT. REQUIRED
LANDSCAPING REQUIREMENTS			
FRONT YARD PLANTING 8500-47.1(C)(1)(a)	35 FEET	20.5 FEET	COMPLIES
SIDE YARD PLANTING 8500-47.1(C)(1)(b)	7 FEET	7 FEET	COMPLIES
INTERIOR PARKING LOT LANDSCAPING 8500-47.1(C)(2)	3% (PERMETER OF PARKING EXCLUDING INTERIOR PARKING ROWS)	LOT 3: 6.2% LOT 4: 4.8%	COMPLIES
INTERIOR PARKING LOT LANDSCAPING 8500-47.1(C)(3)	SEE NOTE 1	CONFORMS	COMPLIES
MINIMUM ISLAND DIMENSIONS 8500-47.1(C)(4)	7 FEET WIDTH AND 100 SQUARE FEET	7 FEET WIDTH MINIMUM AND MORE THAN 100 SQUARE FEET	COMPLIES
MINIMUM DRIVEWAY PARKING TO DRIVEWAY SIGHT TRIANGLE 8500-47.1(A)	25 FEET ON TWO SIDES AT INTERSECTIONS	25 FEET ON TWO SIDES AT INTERSECTIONS	COMPLIES
DRIVEWAY REQUIREMENTS			
MAXIMUM NUMBER OF DRIVEWAYS 8500-48.1(C)(1)	1 FOR EACH 200 FEET OF FRONTAGE	4 DRIVEWAYS	COMPLIES
MINIMUM SIGHT DISTANCE 8500-48.1(D)	1.84 FEET/200 FEET = 3 DRIVEWAYS	3200 FEET	COMPLIES
MIN. TRAVELED WIDTH 8500-49.0(A)	24 FEET	24 FEET	COMPLIES

ZONING NOTES:
 1. LANDSCAPED ISLAND SHALL BE CONTAINED WITHIN OR PROJECT INTO A PARKING LOT AND BE SO LOCATED THAT SOME PART OF EVERY PARKING SPACE IS NOT MORE THAN 45 FEET FROM A LANDSCAPED AREA ON THE PERIMETER OR INTERIOR OF THE PARKING LOT.
 2. FOR 8500-26.1(E), THERE SHALL BE NO YARD OR SETBACK REQUIREMENTS OR PLANTING STRIPS REQUIRED AS TO INTERNAL LOT LINES WITHIN THE EROD.



GREEN DISTRICT PHASES 3 & 4

GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

HANCOCK ASSOCIATES

MAP 116 LOT 11 & 13

POST ROAD REALTY LLC

11 Utopia Road
Fairfield, Connecticut 06424

HANCOCK ASSOCIATES

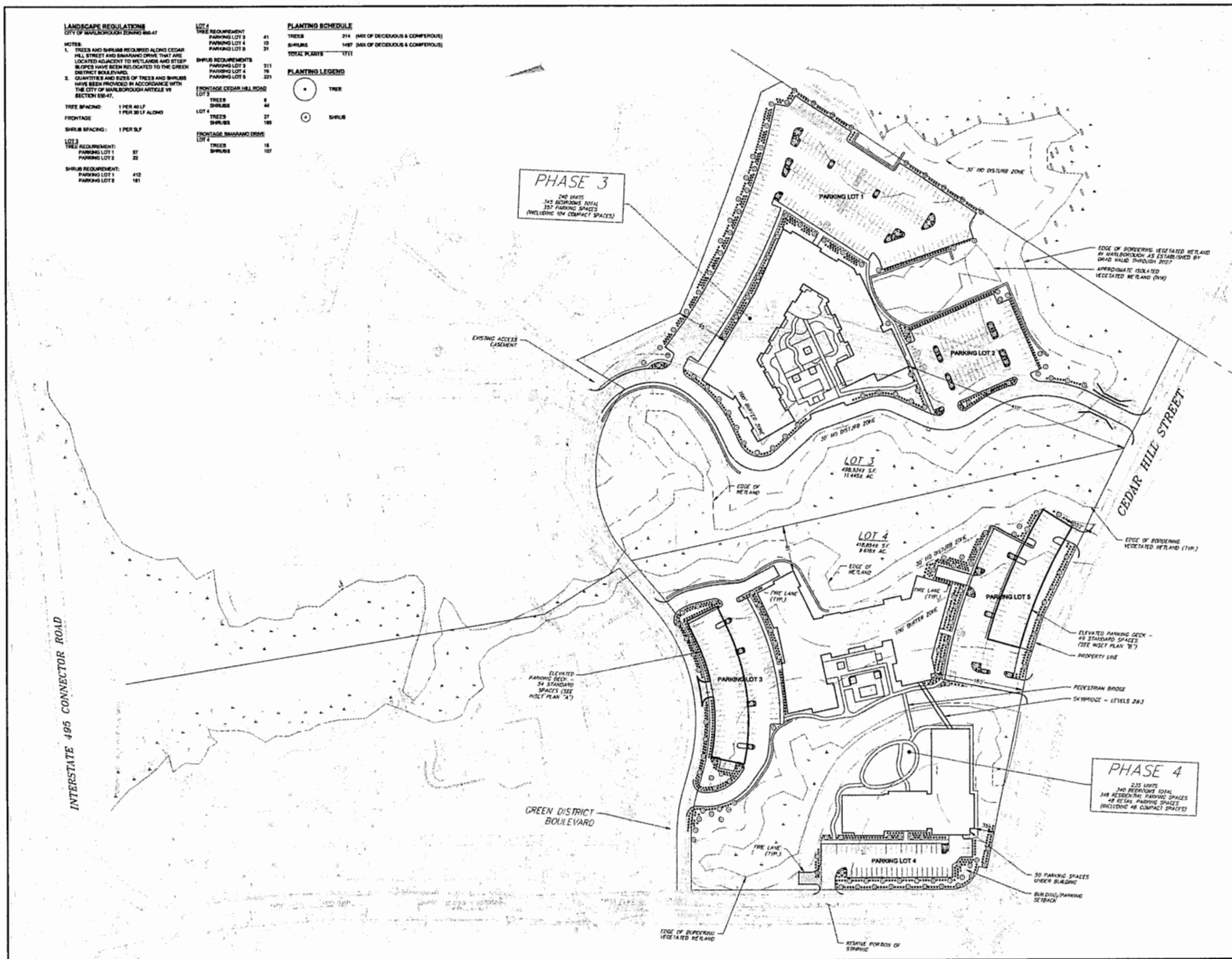
Civil Engineers
Land Surveyors
Wetland Scientists

315 GUN ST., MARLBOROUGH, MA 01752
VOICE: 508-386-1111 FAX: 508-386-7101
WWW.HANCOCKASSOCIATES.COM

SPECIAL PERMIT SITE PLAN

DATE: 08/14/24
 DRAWN: PJP
 CHECKED: PJP
 SCALE: 1/8" = 1'-0"
 SHEET: 1 OF 2
 PROJECT NO.: 27057

C-1



LANDSCAPE REGULATIONS
CITY OF MARLBOROUGH ZONING REGULATIONS

NOTES:
1. TREES AND SHRUBS REQUIRED ALONG CEDAR HILL STREET AND SHANNON DRIVE THAT ARE LOCATED ADJACENT TO WETLANDS AND STEEP SLOPES HAVE BEEN RELOCATED TO THE GREEN DISTRICT BUILDINGS.
2. QUANTITIES AND NOTES OF TREES AND SHRUBS HAVE BEEN PROVIDED IN ACCORDANCE WITH THE CITY OF MARLBOROUGH ARTICLE IV SECTION 16.04T.

TREE SPACING: 1 PER 40 LF
FRONTAGE: 1 PER 20 LF ALONG
SHRUB SPACING: 1 PER 5 LF

LOT 3 REQUIREMENTS:
PARKING LOT 1: 87
PARKING LOT 2: 22

LOT 4 REQUIREMENTS:
PARKING LOT 1: 412
PARKING LOT 2: 161

LOT 3 TREE REQUIREMENT:
PARKING LOT 3: 41
PARKING LOT 4: 32
PARKING LOT 5: 31

LOT 4 TREE REQUIREMENT:
PARKING LOT 3: 311
PARKING LOT 4: 98
PARKING LOT 5: 221

FRONTAGE CEDAR HILL ROAD LOT 3:
TREES: 44
SHRUBS: 44

LOT 4:
TREES: 27
SHRUBS: 160

FRONTAGE SHANNON DRIVE LOT 4:
TREES: 18
SHRUBS: 107

PLANTING SCHEDULE:
TREES: 274 (MIX OF DECIDUOUS & CONIFEROUS)
SHRUBS: 1487 (MIX OF DECIDUOUS & CONIFEROUS)
TOTAL PLANTS: 1761

PLANTING LEGEND:
○ TREE
● SHRUB



GREEN DISTRICT PHASES 3 & 4
GREEN DISTRICT BOULEVARD

Green District Boulevard
Marlborough, Massachusetts 01752

PREPARED FOR:
POST ROAD REALTY LLC
11 Unguerra Road
Fairfield, Connecticut 06824

HANCOCK ASSOCIATES

Civil Engineers
Land Surveyors
Wetland Scientists

315 Elm St., Marlborough, MA 01752
508 (508) 462-1011, FAX (508) 462-1012
WWW.HANCOCKASSOCIATES.COM



NO. BY	DATE	DESCRIPTION

SPECIAL PERMIT SITE PLAN

DWG. NO.: 27057-01
LAYOUT: 1/24/12
SHEET: 2 OF 2
PROJECT NO.: 27057

L-1



THE COMMONWEALTH OF MASSACHUSETTS
STATE RECLAMATION & MOSQUITO CONTROL BOARD

**CENTRAL MASSACHUSETTS
MOSQUITO CONTROL PROJECT**

111 Otis Street, Northborough, MA 01532 - 2414
Telephone (508) 393-3055 • Fax (508) 393-8492
www.cmmcp.org



COMMISSION CHAIRMAN
RICHARD DAY

EXECUTIVE DIRECTOR
TIMOTHY D. DESCHAMPS

July 18, 2023

City of Marlboro
Health Department
Marlboro, MA 01752

Central Massachusetts Mosquito Control Project personnel will be in your community to respond to residents' concerns about mosquitoes in their area on the following dates in August:

August 2, 9, 16, 23, 30

Any of the above dates are tentative, and all dates are subject to change due to weather conditions, mosquito populations, mosquito virus activity and/or special event spraying. This program will shut down when cool night time temperatures become predominant in the area. A detailed notice about our spray schedule is posted on the CMMCP phone system after 3:30 p.m. each day, and it is also listed on our website at <http://www.cmmcp.org>, click the "2023 Spray Schedule" button on the right.

Requests for service may be recorded by calling the CMMCP office at (508) 393-3055 between 7:00 AM - 3:30 PM, Monday through Friday, or logging on to <http://www.cmmcp.org>. Results of these requests may initiate an application of mosquito insecticides to defined, site-specific areas of town. Such an application may be accomplished by using truck mounted equipment depending on the extent of the application.

Per 333CMR13.03(1)(a): "Wide Area Applications of pesticides and mosquito control applications of pesticides approved by the State Reclamation and Mosquito Control Board shall not be made to private property which has been designated for exclusion from such application by a person living on or legally in control of said property." For more information please check: <http://www.cmmcp.org> and click the "No Spray Info" button on the right.

Please list this information in the local newspapers and on the local cable access channels if possible. Thank you for your assistance.

Sincerely,

Timothy D. Deschamps

Executive Director

cc: City/Town Clerk
Police Department

7/25/23

To: Marlboro City Council

My name is Delia Cardinal, life-long resident of Marlboro & have been serviced excellently by Professional Automatic for many years.

I don't know what I would do without them.

They are an asset to the Community & deserving of their proposed expansion.

Respectfully,
Delia Cardinal

P.S. I was at the Council meeting yesterday but had to leave early.

240 Main Street, #223
Marlborough, MA 01752

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 JUL 27 AM 10:10

City Council

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 JUL 25 PM 4: 35

From: George / Ellen
Sent: Friday, July 14, 2023 10:45 PM
To: City Council
Cc:
Subject: Permit application of Professional Automotive - Hearing July 24, 2023

As a long-time and very satisfied customer of Professional Automotive at 19 Mechanic St., I strongly support their application to expand their excellent and valued business to include their new building (which is already classified as "Auto Repair") .

I see this planned expansion as an improvement to the site, and added value to the city of Marlborough.

Responsible businesses such as this should not be hindered in their growth, they should be encouraged and assisted to expand.

Respectfully,

George Fitzpatrick
79 Nashoba Dr.
Marlboro, MA. 01752

MARLBOROUGH COMMISSION ON DISABILITIES

MINUTES FOR MEETING MARCH 6, 2023

MAYOR'S CONFERENCE ROOM 4TH FLOOR

CITY HALL

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 JUL 27 AM 11:57

ATTENDEES: DAVID DOUCETTE, LINDSEY JAWOREK, DAVID LA BOSSIERE, CHERYL SOUCY, WAYNE STANLEY, SR., CATHERINE USINAS, JOHN USINAS (GUEST: STEVE CHASE)

MEETING CALLED TO ORDER AT 4:05PM

MINUTES: NOTION TO APPROVE BY WAYNE STANLEY, SR. SECONDED BY CATHERINE USINAS. APPROVED 7-0.

TREASURER'S REPORT: ATTENDEES DID NOT KNOW WHERE TO ACQUIRE REPORT FROM. NO UPDATED REPORT GIVEN.

OLD BUSINESS:

- DAVID LA BOSSIERE LOOKED THROUGH THE REGULATIONS FOR SENIOR HOUSING SPECIFICATIONS REGARDING POCKET DOORS, OUTLET PLACEMENT AND BRAILLE PLAQUES.
 - SUGGESTIONS WERE MADE TO REACH OUT TO THE AAB (ARCHITECTUAL ACCESS BOARD) AND BRING TO THE ATTENTION OF THE BUILDING INSPECTORS.

- DAVID LA BOSSIERE AGREED TO REACH OUT TO FIND A SOLUTION.

- THE CHILD SIZED MOTORIZED WHEELCHAIR WAS DONATED TO A CHILD IN NEED WITH HELP FROM THE MARLBOROUGH PUBLIC SCHOOLS.

- CARS CONTINUE TO BE PARKED ON SIDEWALKS THROUGHOUT THE CITY.
 - DAVE DOUCETTE SUGGESTED USING THE “SEE-CLICK-FIX” APP TO REPORT OFFENSES.
 - LINDSEY JAWOREK AGREED TO WORK WITH THE MAYOR’S OFFICE AND POLICE DEPARTMENT TO CREATE SOCIAL MEDIA POSTS THAT CAN BE SHARED TO INFORM RESIDENTS ON WHY THIS IS AN ISSUE.

NEW BUSINESS:

- THE ELEVATOR BRAILLE PLAQUES ARE TOO HIGH IN THE CITY HALL ELEVATOR.
- STEVE CHASE SHARED HIS EXPERIENCES WITH THE CITY CLERK’S OFFICE AND THE MARLBOROUGH HOUSING AUTHORITY, HIS SUGGESTIONS FOR IMPROVEMENT INCLUDED:
 - THE COMMISSON ON DISABILITIES SHOULD HAVE A GENERAL EMAIL ADDRESS.

- DAVE DOUCETTE OFFERED TO LOOK INTO A CITY EMAIL ADDRESS THAT CAN FORWARD EMAILS TO MEMBERS OF THE COMMITTEE.
- A TRAINING FOR MUNICIPAL EMPLOYEES TO BE BETTER INFORMED ON HOW TO WORK WITH RESIDENTS WITH DISABILITIES.
 - STEVE CHASE OFFERED TO RESEARCH AND SUGGEST TRAININGS TO EXPLORE FOR ALL TYPES OF DISABILITIES. WILL ALSO LOOK INTO POSSIBLE TRAININGS FOR FIRST RESPONDERS.

MOTION TO ADJOURN: MOTION BY DAVID LA BOSSIERE AND SECONDED BY CHERYL SOUCY. ACCEPTED 7-0.

ADJOURNED AT 5:04 PM.

NEXT MEETING: MONDAY, APRIL 3, 2023 AT 4:00 PM, CITY HALL IN THE MAYOR'S CONFERENCE ROOM ON THE 4TH FLOOR.

**RESPECTFULLY SUBMITTED,
LINDSEY JAWOREK**

Conservation Commission

Minutes

July 20, 2023 - 7:00 PM

140 Main St. – Marlborough City Hall – 3rd Floor (Memorial Hall)

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2023 AUG -7 AM 9: 59

Members Present: Edward Clancy-Chairman, Dave Williams, John Skarin, Allan White, Dennis Demers, William Dunbar, Karin Paquin. **Priscilla Ryder-Conservation officer was also present.**

Members Absent: None

The hearing was recorded using Microsoft Teams

Approval of Minutes: The minutes of July 6, 2023, were reviewed and on a motion by Mr. White and second by Mr. Clancy, the Commission voted unanimously to approved 7-0.

Approval of Minutes:. Motion made by Allan White, seconded by Edward Clancy to approve the July 6, 2023, minutes, the Commission voted unanimously to approve 7-0

Public Hearings:

DEP 212-1228 Request for amended Order of Conditions, 378 Hayes Memorial Dr. (Lot K) Israel Lopez, Dan Dedinsky, from Gutierrez Co., Matt Heil from Sanborn head and Will Park from SMMA were present.

Mr. Lopez noted that this is a formal request to amend the order of conditions to address the contaminated "orchard soils" from Lot L to Lot K which is 378 Hayes Memorial Dr. Based on the informal discussion at the last meeting they have made some changes to the plans. Matt Heil the LSP from Sanborn head presented the changes. The first change was to no longer bury the stumps, but rather grub, clean (shake off soil) and grind them to use for erosion control along the toe of the slope and near the construction entrance. Clean soil from Lot L will be used to create the new construction entrance on Lot K. Because the issue on the site is arsenic and lead which are problematic when airborne dust monitoring and management was also updated to further monitor total dust concentration in air during constructions both for abutters and site workers. was done at Apex and other sites in Marlborough.. Ms. Paquin asked if it were possible that the old orchard trees could have taken up the arsenic and lead and reside in the stumps. Mr. Heil explained that this is not normally an issue. The city GIS map showing the apple orchard in 1960 was reviewed and discussed. The plan notes will be updated to phase the process in a way in which the site will not wash out, the legend will also be updated to no longer say the stumps will be buried. Ms. Ryder was asked to draft conditions for the next meeting. The public hearing was continued to August 3, 2023 at 7:00pm.

Notice of Intent – Continued from July 6, 2023

Russell St. reconstruction - DPW – Tom DiPersio

Tom DiPersio City Engineer was present and noted that he has submitted a stormwater report as requested by DEP and that a DEP number had been assigned to the project. Ms. Ryder noted that therefore the Commission can close the hearing if there aren't any further questions. The Commission reviewed the draft order of conditions and discussed the stream section of the culvert dewatered in order for the culvert to be dry for lining. Drains to be installed in shallow areas will be coordinated with weather and protocols to ensure proper drainage during construction. An additional "Findings of fact" will be added specifying that a stormwater report was provided and will meet stormwater improvements for this There being no further questions from the commission or the audience the hearing was closed. On a motion by Allan White, second by chairman to approve the Order of Conditions as amended, the commission vote of 7-0, to approve.

Notice of Intent – Continued from July 6, 2023

Cedar Hill St. DPW – Tom DiPersio

Tom DiPersio city engineer indicated that he received the DEP # for this project and also has submitted the stormwater report as requested by DEP. There being no further questions from the commission or the audience the hearing was closed. The Commission reviewed a draft set of conditions and made some minor amendments.

On a motion by Mr. White, seconded by Chairman to approve the Order of Conditions as amended, the motion was approved 7-0.

Notice of Intent – Continued from July 6, 2023

402 Hudson St. DPW – Tom DiPersio

Tom DiPersio City Engineer noted that they provided an updated plan showing the areas of the landfill which will be excavated and moved so it will be capped. This area can then be filled with clean fill and planted with trees to replace the trees that will be removed along the bike path. He also noted that additional erosion controls are shown on the revised plans to reflect comments from the last meeting. There was discussion about the depth and removal of waste and the nature of the landfill cap.

Tom DiPersio explained that there is no specific depth is required for removal however, what is most important with the State is that the cap is up to code. They are capping the landfill to meet regulations to allow the capped landfill to be usable as a field. These requirements are quite strict. For example, no fence foundations are allowed. Gas and water sampling will be done quarterly around the perimeter. One large concern was regarding the removal of a large quantity of mature trees along the bike path, this is because of a gas migration trench which is required in that area. Many of the trees which are being taken down are in an area where the trash is being removed which means the new tree plantings will never have to be moved. Digging for trash will not stop until all trash is removed, no set depth is given for a stop point. Fill will be removed from adjacent property as well as shown on the plan. Conservation Officer Priscilla Ryder says DEP has not issued a wetland permit number yet so we don't have any comments from them on this yet therefore the Commission should continue the hearing. Chairman Clancy continued this hearing to August 3, 2023.

Discussion Item

Lake Williams Boardwalk project update and minor modifications. Tom DiPersio City Engineer and Ashley Millar Assistant Civil Engineer noted that in while going out to bid for the boardwalk project approved by the Commission under DEP 212-1256 the bids were very high so they were looking for some alternatives and found that EZ dock does make a floating boardwalk system. In discussions with the manufacturer of the kayak launch, they discovered this may be an equal alternative and wanted to share the idea with the Commission to determine if this was a feasible alternative to pursue. Ms. Miller explained that this system is made of essentially the same material as the kayak launch, it is wider and anchored by deadweight. This boardwalk is strong enough to be driven on with a vehicle. It also is fine in winter as it just floats on the water and rises and falls with the ice. Other new England communities have used it and have not seen ice damage in the 10 years it's been used. EZ Doc is made in Minnesota and a representative is located in New Hampshire. The order of conditions would need to be amended in order to represent new means of transporting materials to the water via small trucks and trailers and using mats as a temporary launch for materials. Funding is available for the project being it will cost under \$2 million. The Commission agreed that the Order will need to be amended to reflect the new plans and a new hearing held with legal notice and abutter notice for a formal amendment. They also requested that a representative of the dock company also come to explain how it works. Mr. DiPersio indicated he'd file when they are ready for a subsequent meeting soon and thanked the Commission for their input.

Abbreviated Notice of Intent – Continued from July 6, 2023

279 South St.- Martin Reilly Real Estate

Ms. Ryder explained that she has retained Art Allan from Eco Tech to do the peer review which will be conducted next week. In hopes that a summary of his findings would be available for the next meeting. Ms. Ryder asked if any other members would like to join the site walk. This hearing was continue to August 3, 2023.

Request for Determination of Applicability

84 Desimone Dr. Cheryl Seymore

The applicant was not able to attend the meeting due to unexpected circumstances, but Ms. Ryder offered to present the plans as she had visited the site and spoken to the owners. She presented a map of the detention basin and wetland adjacent to the property. Proposed deck would be 12'x20' and installed on helical piers, 35' from the wetland. Mr. Demers and Mr. Dunbar had also visited the site they wanted to know how the area below the deck would be stabilized but both agreed as proposed the project shouldn't have an impact. Board members expressed discontent with lack of completeness of the applicant and that drawing of plans did not represent helical piers as discussed with the homeowners on site. However, after further discussion it was agreed that this project would have no impact on the wetland and could be approved. On a motion by Mr. Skarin, second by Chairman to issue a Negative Determination with standard conditions and clarification of materials under deck; the motion was approved by 7-0

Dennis Demers indicated that he has a conflict of interest on this project and abstained from the discussion of the next 4 cases relative to 689 Pleasant St.

Notice of Intent – Continued from July 6, 2023

689 Pleasant St Lot 6: Tim Beauchemin

Dave Crossman from B + C Associates was presents and represented the applicant. He reviewed the plan of Lot 6 which shows a stormwater easement, swale and detention basin as well as a sewer pump. The Commission noted that the box for the house is the largest box and appears they are trying to squeeze a house onto a lot that they cannot fit. Corner of property is 45 feet from wetland, 15 feet from no disturb and without much of any yard. Swale is 4 feet deep and will need an O&M plan for owner to manage. The Commission asked that the sewer connection be moved, and basin adjusted per DEP comments. This hearing was continued to the August 3, 2023, meeting.

Notice of Intent – Continued from July 6, 2023

689 Pleasant St. Subdivision Roadway -Tim Beauchemin

Dave Crossman noted that DEP had made comments which he has addressed in a Letter from the project engineer Daniel Koravos, of DK Engineering Inc. to B&C Associates dated July 20, 2023, which he provided to the Commission. It serves to answer 4 questions raised by DEP as it relates to drainage calculations cover type, stormwater pretreatment TSS removal calculations: moving the infiltration basin more than 50' away from wetland, and grading elevations. The commission asked that Ms. Ryder share this with the City Engineer for review as well. The commission also noted that there is encroachment of the 30 foot wetland buffer zone at flag 16. The roadway could be shifted, or a retaining wall provided, or sidewalk removed. Mr. Crossman will work to see how this can be adjusted to remove this encroachment. After some discussion about the roadway design and force sewer main, this hearing was continued to August 3, 2023.

Request for Determination of Applicability – Continued from July 6, 2023

689 Pleasant St. Lot 1- Tim Beauchemin

David Crossman presented the house plans for lot 1. A small amount of grading will be done within 100-foot buffer zone. The board found nothing of concern about this property. One of the conditions will be that prior to tree clearing, a site visit will be scheduled in order to make sure that the trees which are left standing are not

dead. A motion was made by Mr. White, seconded by Chairman for a negative determination with standard conditions plus tree inspection. Motion was approved 5-1, Yea Clancy, Skarin, Dunbar, Williams, Paquin; Nay White.

Request for Determination of Applicability – Continued from July 6, 2023

689 Pleasant St. Lot 5 - Tim Beauchemin

Ms. Ryder read an e-mail from Mia McDonald from DEP which explains that DEP recommends lot 5 fall under a notice of intent due to its proximity to the resource area. The applicant has the option to withdraw the request for determination of applicability and file a notice of intent which would be a faster process. Ms. Ryder suggested the applicant contact DEP for clarification if needed. The board recommended lot 5 be continued to August 3rd in order to allow Mr. Crossman to contact DEP to resolve this issue. The hearing was continued to August 3, 2023.

Notice of Intent – Continued from July 6, 2023

68 River St. -Louis Frate

Reconstruction of a single-family home within riverfront area.

At the applicants request, prior to this meeting, this hearing was continued to August 3, 2023 to allow them to update the plans.

Discussion:

791 Boston Post Rd. – PRTR Waste Management – Solid Waste Transfer Station request for long-term monitoring plan.

Conservation Officer Priscilla Ryder explained history on problems with property from 2010, particularly regarding water quality. Waste management would like to close the order of conditions DEP 212- 1060 which has an ongoing monitoring requirement. They now have new monitoring requirements by EPA and want to make the two monitoring requirements the same. Ms. Ryder, Mr. Williams and Ms. Paquin visited the site and explained what they had seen and provided pictures. The first inlet is very odorous however, as it goes through the detention basin and settling tank, the order improves. At the outlet to the wetland the water is clean and has not odor . She noted that they clean the system 3 times per year. The mister, used for odor control was not running due to being out of water. Waste management requesting certificate of compliance and has provided an update plan for monitoring. This will be distributed for the next meeting for review along with their request for the Certificate of Compliance.

Adjournment- There being no further business on a motion made by Allan White, seconded by Chairman to adjourn. Motion to adjourn approved 7-0.

Respectfully submitted,

Priscilla Ryder
Conservation Officer

Minutes prepared by:
Alex Grigorov
Secretary



Massachusetts Cultural Council

Marlborough Cultural Council Meeting Minutes

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2023 JUL 21 PM 4:21

Date: Wednesday, May 17, 2023 at 6:30 PM

Location: Marlborough City Hall, Memorial Hall on 3rd floor

After approve, email as Word doc to:

skerrigan@marlborough-ma.gov

wchu@marlborough-ma.gov

Members Present:

Mary Avery	Kathryn B. Weaver
Andrea Bibi	Marcia Waldman
Harmony Larson	Amanda Mayo
Kathy Oliver Jones	

Members Absent:

Beatrice "Bea" Mullony	Jagruti Seemungal

I. Call to Order at 6:44pm.

II. Review of Minutes

- April meeting minutes approved. Andrea made a motion to approve, Mary seconded. Approved unanimously.

III. Reports from Workgroups

- **Mayor's Mural Project** - Shared that we've interviewed two finalists and asking for concept sketches next. Both have strengths and different approaches. Agree that once we get the concept sketches we should bring them back to the council for review and comment, with a MCC recommendation made to the Mayor.
- **Buddy Letter** - Letter went out. No responses yet. Mary will share any responses that come in through the MCC mailbox. Kathryn has volunteered to take the first two that come in.

- **Grantee reception** - Confirmed that we will only invite this year's grantees. Ideas: some kind of award / certificate; slide show (ask grantees for photos); artwork in the room; performances; light snacks (cheese & crackers, cookies, drinks); evening but keep it short - 90 minutes; location = Lost Shoe? Library but not completed until Summer. Amanda will ask Lost Shoe about hosting there in early September.
- **Grantees** - a few events have happened already.
- Amanda suggested a discussion of starting something like **First Fridays** - Open studios, art opening, an "artist crawl" in Marlborough; MCC newsletter & mailing list

IV. Scheduling a Date for Summer Meeting

- Wednesday, June 7 at 6:30

VI. Adjournment. 7:49. Mary Avery made a motion to adjourn. Harmony Larson seconded.

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

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 CITY OF MARLBOROUGH
 2023 AUG -3 PM 3:10

1A

Call to Order

June 5, 2023

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: Sean Fay, Barbara Fenby, James Fortin, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio. Member Absent: William Fowler.

1. Draft Meeting Minutes

A. May 22, 2023

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file the May 22, 2023, meeting minutes with minor typo corrections. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

2. Chair's Business

A. Street Acceptance - **No updates**

3. Approval Not Required (None)

4. Public Hearings

A. **7:00 PM** Council Order No. 23-1008872- Proposed Zoning Amendment to Chapter 650 "Zoning §36 "Executive Residential Overlay District" (EROD) to increase the cap on the number of multifamily dwelling units

- i. Legal Notice
- ii. Presentation

Chairperson Fay opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fay 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 the Board members.

Presentation:

Arthur Bergeron of Mirick O'Connell, DeMallie & Lougee, LLP (100 Front Street, Worcester, MA 01608), Andy Montelli, John Mcfadyen and Tom Montelli of Post Road Residential, Inc. (11 Unquowa Road, Fairfield, CT 06824) and John Shipe, Shipe Consulting, (33 Baker Avenue, Suite 1-11, Concord, MA 01742) spoke on behalf of the proposed zoning amendment for Marlborough Apartment Partners 2, LLC (MAP2).

Mr. Bergeron explained MAP2 is currently constructing phase 2 of a previously approved development and is here proposing the zoning change in hopes of adding phases 3 and 4 to the development. The Proposed Zoning Amendment to Chapter 650 "Zoning §36 "Executive Residential Overlay District" (EROD) to increase the cap on the number of multifamily dwelling units, consists of two changes:

1. Changing the cap on the number of units from 475 to 950
2. Adding mixed used development consisting of combination of by-right / business uses as listed in this section by special permit

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Mr. Bergeron went over the Planning Board standards for proposed zoning amendments and argued the following:

- Is the proposed change in keeping with the character of the neighborhood?
 - Mr. Bergeron explained the neighborhood is mostly business, but the development is directly next to a large multi-family development, and argued it is in keeping with the character of the neighborhood and that their objective is to get people to live as close as possible to the jobs that have been generated in the area.
- Does the proposed change negatively impact the neighbors?
 - Mr. Bergeron explained the closest single-family residential development is over a mile away.
- Does the proposed change benefit the City, or provide a use not permitted elsewhere?
 - Mr. Bergeron discussed the increase in the City's population and tax revenue.
- Is the proposed change in keeping with the intent and purposes of the City's zoning ordinances?
 - Mr. Bergeron said yes, the original proposal was adopted by City Council because they believed it was an appropriate kind of use to be used in this location. He explained there was a cap on the number of the units because of the size of the development and the council wanted reassurance it would work and that developer would stand true to their proposal. Mr. Bergeron explained he believes they have proven their case.

Mr. Andy Montelli, went over the presentation and discussed the following key points:

- Summary of the project
 - Project started in 2017, in 2019, phases 1 and 2 were approved
 - Phase 1, known as the Burrow has 235 units, which is completed
 - 165 units are now leased
 - Phase 2, known as the Loft has 240 units, which is under construction
- Proposed phases 3 and 4, including a retail component
- Traffic
 - No conflict with the businesses in the area
 - Easy access to route 495
- Minimal impact on the neighborhood
 - Mr. Montelli explained they had received one complaint during the blasting phase of Loft build
- Increase in tax income to the City
 - Phase 1 and 2, Estimated yearly tax revenue \$1,750,000.00
 - Phase 1 and 2 paid \$3,700,00.00 in one-time fees to the City
 - Phase 3 and 4, Estimated yearly tax revenue \$1,750,000.00
 - Phase 3 and 4, Estimated to pay \$3,700,00.00 in one-time fees to the City
- Trail system
 - ½ mile trail system currently built
 - .66 mile trail system to be built if phases 2 and 3 are approved

Mr. Fay closed this portion of the public hearing.

Speaking in Favor of the Amendment:

No one spoke in favor.

Mr. Fay closed this portion of the public hearing.

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Speaking in Opposition to the Amendment:

No one spoke in opposition.

Mr. Fay closed this portion of the public hearing.

Comments or questions from the Board:

Dr. Fenby addressed concerns about how this development would be a neighborhood of itself, apart from the City of Marlborough and asked how the development could be integrated with the City. She asked about opening the trails to the City.

Mr. Andy Montelli explained they are for the idea of opening the trails to the public but that it would be at the discretion of their lawyers and argued tenants are providing a lot for the business along Route 20 and because the development is strictly residential, their tenants must travel to restaurants and grocery stores.

Mr. Mcfadyen explained new tenants are given a welcome package directing them to local establishments like the Apex Center and any event that is hosted on site is supplied by locally sourced vendors.

Mr. Russ asked for a demographic of their tenants.

Mr. Andy Montelli explained most of the units are one or two bedrooms. Estimated 50% are singles, 50% are couples/roommates with very few children, ranging from 20's to mid 30's.

Mr. Russ argued the development would generate a lot of tax revenue but also generate a lot of expenses like additional children in the school system.

Mr. Andy Montelli explained there are seven children getting on school buses, four or five of which were existing Marlborough residents prior to moving to the development. He continued to argue these roads are private. The City does not maintain, plow or provide trash pickup.

Mr. Fortin asked what phase the retail commercial space would be done.

Mr. Andy Montelli explained it would likely be completely in between phase 3 and 4, but was unsure if it would be a restaurant, coffee shop or something else and estimated it would be 10,000 sq ft.

Mr. Fortin asked if residents have had any issues with Ken's Foods, Inc. during their cooking phase? He suggested this be monitored as this project continues because the new buildings will be closer to the business.

Mr. Andy Montelli explained no, there has not been any issues and agreed that their goal was to keep their residents happy.

Mr. DiPersio explained Site Plan Review Committee will be reviewing their site plan and explained the Engineering Division hasn't had any issues with the construction that has occurred on site.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to close the public hearing. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

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On a motion by Dr. Fenby seconded by Mr. LaVenture, the Board voted to make a favorable recommendation to the City Council for the amendment to Chapter 650, §36 Executive Residential Overlay District. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

The Board provided the following reasons in reaching its recommendation:

- The developer established that the proposed Zoning Amendment is consistent with the character of the surrounding neighborhood and is isolated from the nearest single-family homes;
- In the Planning Board's opinion, approval of the Zoning Amendment would not be overly burdensome to the neighbors;
- The developer established the proposed Zoning Amendment would be beneficial to the City;
- The developer established the proposed Zoning Amendment would be in keeping with the intent and purposes of the City's Zoning Ordinance.

5. Subdivision Progress Reports

A. 76 Broad Street

Mr. Gary White updated the Board and explained he contacted Attorney Daniel Burger, who has contacted the Assistant City Solicitor, Jeremy McManus. He explained Mr. Burger had submitted a revised covenant today June 5, 2023, to the Administrator.

Mr. Fay, explained to the Board, this covenant would be subject to the old rules and regulations unless Mr. White agreed to the new rules and regulations. Mr. Fay explained this could be gone over in more detail at the next meeting and told Mr. White, the revised covenant would be reviewed by the Board at the next meeting and then referred to the Legal Department for their review.

The Administrator agreed to keep 76 Board Street on the agenda and to include the revised covenant on the June 26, 2023, agenda.

6. Preliminary/Open Space/Limited Development Subdivision

A. Stow Road, Open Space Development Special Permit Application

Map 20, Parcel 4A, Stow Road, Marlborough, MA 01752

Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)

Name of Owner: McCabe Family Irrevocable Trust and Judith McCabe (6 Erie Drive, Hudson, MA 01749)

Name of Engineer: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)

Deed Reference: Book: 66136 Page: 582, Book: 78814 Page: 590

i. Flowchart

ii. Correspondence from Assistant City Solicitor, Jeremy McManus

Mr. LaVenture read the June 2, 2023, correspondence into the record.

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to accept and file the correspondence.

Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

iii. Special Permit

Revised: May 31, 2023

Mr. Fay explained essentially the Board does not have enough eligible member to vote on the special permit and the Board must hold a re-hearing. He confirmed everyone would be able to attend the June 26, 2023, meeting.

Mr. Fay explained the developer has requested an extension through June 26, 2023. – See attached.

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On a motion by Dr. Fenby, seconded by Mr. LaVenture, the Board voted to grant the extension for the decision on the Open Space Special Permit Application for the Preliminary Subdivision on Stow Road (547 Stow Road) through June 26, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

Mr. Fay reminded the Board that language within special permit would change to reflect the re-hearing and the members in attendance.

Time Stamp: 1:18:40

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to set the public hearing date for June 26, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

7. Definitive Subdivision

A. 689 Pleasant Street, Marlborough, MA 01752 - Open Space Development Definitive Subdivision Plan

Owner of Land: Joyce Beauchemin Realty Trust, Timothy L. Beauchemin, Trustee
(P.O. Box 1067, Townsend, MA 01469)

Name of Engineer: Daniel Koravos, P.E., (59 Granite Lane, Chester, NH 03036)

Name of Surveyor: Hugo Findeisen, (P.O. Box 612 Sandown, NH 03873)

Deed Reference: Book: 45210 Page: 560

i. Flowchart

ii. Correspondence from Assistant City Solicitor, Jeremy McManus

Mr. LaVenture read the June 2, 2023, correspondence into the record.

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

The Board discussed the below documents and suggested the following revisions:

iii. Certificate of Vote Dated: June 1, 2023

(1) First paragraph under section E, needs to be repeated before sub paragraph E.2.

iv. Covenant Dated: June 1, 2023

(1) Remove item 10.2

(2) Under item 15, add language "not" (the City of Marlborough shall "not" be responsible)

v. Draft Homeowners Association Dated: May 17, 2023

Make the paragraphs listed below consistent and explicit throughout all three documents and removing the language "establish".

- Certificate of Vote
 - Item D under section "Conditions"
- Covenant
 - Item 14
- HOA Document
 - Item 3 under section "Under Duties of Association"

Mr. Fay and Mr. DiPersio discussed the intent of the HOA document. Which is to memorialize the maintenance of the easement within lot one and the maintenance of the private sewer system.

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MARLBOROUGH, MA 01752**

The Board and Dan Koravos agreed that Jennifer Martin, their attorney would work with the Assistant City Solicitor, Jeremy McManus on making the above reference revisions and getting all three documents in final legal form for the June 26, 2023, meeting.

Mr. Fay asked the Board if anyone had any reservations about voting in favor of approving the plan? No one had any reservations.

Mr. Fay asked the Board if anyone had any reservations on reducing the right-of-way to 40-feet. No one had any reservations.

Mr. Fay asked the Board if anyone is in favor of waiving the portion of the sidewalks. No one spoke in favor.

The administrator suggested including the recorded covenant and certificate of vote as exhibits A and B on the HOA document. Mr. Koravos explained he could put a couple of exhibits together that show what the waivers are for and what the responsibilities are.

The administrator reminded Mr. Koravos that both the certificate of vote and covenant had sheets that needed Tim Beauchemin' signature that are required to be notarized.

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

- A. Working Group – no updates

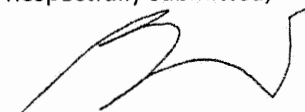
11. Calendar Updates

- A. Stow Road, Open Space Development Special Permit Application – 90 days expires Sunday, March 19, 2023, extension granted to June 11, 2023 - Vote on or before **June 5, 2023**, meeting
 B. Beauchemin Estates, 689 Pleasant Street Definitive Subdivision – 90 days expires Sunday May 14, 2023 – Extension granted to June 26, 2023 - Vote on or before **June 26, 2023**, meeting

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

On a motion by Mr. Fortin, seconded by Mr. Russ, the Board voted to adjourn the meeting. Yea: Fay, Fenby, Fortin, Fowler, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm

May 31, 2023
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2023 JUL 26 AM 11:27



**CITY OF MARLBOROUGH
OFFICE OF TRAFFIC COMMISSION
140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on Wednesday, May 31, 2023, at 10:00 am. (The meeting was also recorded and is available to view online at the City of Marlborough's website (www.marlborough-ma.gov). Members present: Chairman - Police Chief David Giorgi, Fire Chief Kevin Breen, and City Clerk Steve Kerrigan. Also present: City Engineer Tom DiPersio, Assistant Civil Engineer Ashley Miller, Officer Andy Larose from the MPD Traffic Services Unit, City Councilor Katie Robey and local residents Peter and Martha Welsh and Cheryl Kassoy.

Minutes taken by Karen Lambert, MPD - Public Safety Administrative Assistant.

Chief Giorgi started recording the meeting at 10:01 a.m. and began by welcoming everyone and making introductions.

1- Minutes

Review of the minutes of the Traffic Commission meeting of Wednesday, April 26, 2023.

VOTE TO APPROVE. All in Favor - Accept and Place on File.

2 - New Business

2a) Parking/bus stop concerns at Upland Road and Stevens Street

Cheryl Kassoy, resident of Cullinane Drive, was in attendance for this issue. She had previously spoken to Karen Boule, City Council Secretary, regarding her concerns. She explained that parents park at the end of Upland Road to pick up and drop children off at the bus stop. This then makes a 2-way street a 1-way street, with children coming from all directions. She is concerned about safety and advocating for the kids and the people who live there. She said that people fly by Lodi Road, down the hill on Stevens Street,

and the school bus stop is right there. She is asking if this area of Upland Road can be posted with No Parking signs on either side.

Officer Larose pulled up a photo of the area for reference. She said that cars park on both sides, all the way up the street. It would be safer if cars at least parked further back, and the kids could walk up the street a bit to the parents. People are parked at the end of Upland Road, not on Stevens Street. Traffic is at a halt if someone is trying to go down the street and turn onto Stevens Street or from Stevens Street onto Upland Road.

Chief Giorgi said there is already a City Ordinance for no parking within 20 feet on an intersection. You can see in the photo that 20 feet only goes up to the mailbox and doesn't solve the problem, it just pushes it back. Ms. Kassoy said that you can see cars at the end when you are coming around the corner. It's happened to her on several occasions. The kids get on at 7:00 am and off at 3:00 pm. The buses don't go anywhere into the neighborhood. This is the main bus stop for the area.

Chief Giorgi and Tom DiPersio asked if there is a better location for the bus stop. Mr. DiPersio doesn't think marking it as No Parking will work because people will park there anyways because it is for such a short time. A 15-minute window is the issue. Another option for the bus stop could be at Algosi Road. It was noted that there is no blind turn at this location. Ms. Kassoy said that she believes the next stop is at Cortland Street. Chief Giorgi said that maybe one combined stop might be safer further down.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT to speak with the bus company. Maybe they can move the stop to a safer location.

3-Old Business

3a) TT parking issues on Northboro Road

Update: Ashley Miller sent the required wording to Chief Giorgi. The Chief created the time limit parking regulation and presented it at the meeting for a vote. ALL IN FAVOR.

Steve Kerrigan will advertise the regulation and then the DPW will install the specific signage.

3b) Chestnut Street No Parking Sign

Update: Chief Giorgi said that he spoke to the family on Chestnut Street regarding the handicapped parking spot. They advised that the spot is no longer needed as their elderly mother passed away during Covid. The sign has now been removed. Chief Giorgi sent an email to Councilor Irish to update him on this issue and review the fact that vehicles should not be parking within 20 feet of the intersection. This is an enforcement issue that would be handled by the Police Department. It appears that the cars that are parking here either live on Mechanic Street or come from the driveways across the street. Chief Giorgi said we might be able to add a sign stating, "No Parking from Here to Corner". Councilor Irish would advocate for this type of sign.

Officer Larose pulled up a photo of the area for reference. The Chief thought there was already a No Parking sign on the other side. Yes, the sign can be seen in the photo. We would just need to add something about No Parking within 20 feet of the intersection.

Steve Kerrigan made a motion to repeal the handicapped sign regulation that was still in place. Chief Giorgi had created the appropriate regulation to do so and it was presented for a vote. ALL IN FAVOR.

Officer Larose pulled up the regulations and the new interactive dashboard. There is no regulation for No Parking on the opposite side of the street, but no regulation is needed for “No Parking Here to Corner”, if it is within 20 feet of the intersection. The signs can just be adjusted and/or added.

3c) Request for speed limit signs on Hager Street

Update: The electronic speed signs were set up on Hager Street to gather data. Officer Larose pulled up the Extended Speed Summary reports for review. The signs were out on the northbound side from 5/21/23 to 5/27/23 and on the southbound side from 5/23/23 to 5/31/23. The sign was out for a shorter time (6 days) on the NB side as the battery died. The average speed on the NB side was 26.58 mph, with the 85th percentile traveling at 30.47 mph. The average volume per day was 961.5. There was a max speed registering at 51 mph, but Officer Larose noted that this was “ridiculous”. The report also shows the maximum speed for specific times of the day and those who slowed down for the speed signs.

The sign was out on the other side (SB), heading toward Framingham, for 9 days. There were more cars going in this direction than the other. The average speed was 21.94 mph, with the 85th percentile traveling at 27.82 mph. Officer Larose also noted that the 50th percentile was traveling at 23.14 mph. The average speed was 21.94 mph. The volume is definitely higher in this direction, with an average of 1,560.9 per day.

Chief Giorgi said the question is whether we make a change here and adopt the “Thickly Settled - 25 mph” or post the existing “Thickly Settled – 30 mph”. It was discussed that the faster side is traveling from Framingham into Marlborough. Cars could be going faster to get through the light at Rte. 20. Engineering said that Framingham has adopted the 25-mph speed limit for all “Thickly Settled” areas. The Marlborough section is a very short distance. Do we stay consistent with Framingham and post this area as 25 mph? Tom DiPersio noted that the data really doesn’t support this, but it does make sense to keep it the same as the Framingham section. Mr. Welsh also added that when coming from Framingham into Marlborough there is a downhill. Officer Larose pulled up a photo of the area. The Welsh’s home is the first house on the left. In the photo, you can just see the traffic light.

Chief Giorgi said that vehicles are not doing 25 mph in Framingham but are doing under 30 mph in Marlborough. Does posting this area as 25 mph really make people slow down? Chief Breen asked where the first speed limit sign is in Framingham. Ashley Miller said it is .8 miles to the first speed limit sign. He does feel the speed limit should be communicated sooner.

It was agreed to stay consistent with the data and post the area, in both directions, as “Thickly Settled – 30 mph”. It would be the yellow advisory sign. There is no regulation needed as this is already the speed limit.

3d) Review of unwarranted stop sign locations

Update: Ongoing -nothing new to add at this time.

Chief Giorgi asked if anyone had any other questions or concerns.

- 1) Councilor Robey has received complaints about diesel trucks parking behind the gas station at 342 Boston Post Road East, with their engines running. This area is across from the McGee Farm and close to the over 55 housing on Village Drive. There is a dirt lot out back near Touchdown Carpet. It appears that trucks are using this area as a rest stop.

Officer Larose said that years ago, when he was on the midnight shift, he had this same problem. Chief Giorgi advised that he would have the Midnight Shift take a look.

- 2) Tom DiPersio advised that he received a call from the Post Office requesting a stop sign from their property onto Granger Blvd. It was discussed that this should be treated as a sign on a private lot rather than a stop sign that would need to be regulated by the City. Chief Giorgi said they could also just paint a stop line at the entrance to Granger. This would not be an issue and would not need to be regulated. Mr. DiPersio will let them know.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 10:33 am.

Respectfully submitted,

Karen L. Lambert
Public Safety Administrative Assistant
Marlborough Police Department

List of documents and other exhibits used at the meeting:

- City of Marlborough Meeting Posting for the Traffic Commission Meeting on May 31, 2023, including meeting agenda.
- Draft of Traffic Commission Minutes from Wednesday, April 26, 2023.
- Email from Karen Boule to Chief Giorgi, dated 5/17/23, re: Request from Cheryl Kasso, 172 Cullinane Drive, Bus Stop Concerns, Cars Parked at Upland Road at Stevens.
- Amended regulation to add a specific section of Northboro Road East, South Side – 2-hour parking, to Schedule XII “Time Limit Parking”.

-Email chain between Chief Giorgi and Councilor Irish, dated 5/5/23, re: Chestnut St. No Parking Sign.

-Amended regulation to REPEAL the "Handicapped parking only" area in front of No. 5 Chestnut Street.

Additional Handouts

-Extended Speed Summary Report for Hager Street, Northbound.

-Extended Speed Summary Report for Hager Street, Southbound.



City of Marlborough
Zoning Board of Appeals
140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768

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Minutes

May 2, 2023

Two hearings were held: ZBA 1496-23 for 13-15 Mechanic St. and ZBA 1497-23 for 785-795 Boston Post Rd.

Zoning Board Of Appeals Case # ZBA-1496-23

Applicant: Rick Marino – Represented by Atty. David Click

Date of Appeal: March 27, 2023

Location of Subject Property – 13-15 Mechanic Street

Petition: To appeal the zoning denial of the Building Commissioner including his misclassification of the previous use as Consumer Services Establishment where such use is not clearly defined, and further appealing Building Commissioner's determination that the "new improvement project use" is "in a manner substantially different from the previous use or to a substantially greater extent." City Code section 650-5 Definitions: word usage and 650-12B, Nonconforming Uses.

Meeting Date & Time: May 2, 2023, 7:00PM

Members Present: On a roll call vote present were: Ralph Loftin-Chairman, Thomas Golden, Thomas Pope, Robert Levine.

Also Present Were:

- Priscilla Ryder, Acting ZBA Secretary
- Atty David Click, Applicants attorney
- Rick Marino, owner
- Tin Htway, Building Commissioner
- Dennis Demers, resident
- Atty, Jason Grossfield, City Solicitor

Board Chairman Ralph Loftin disclosed that he is a customer of Rick's establishment and has been for many years, although he has not discussed this case in any way.

Atty. David Click Presented as follows.

- He stated that the February 9, 2023, Zoning Denial Letter includes misclassification of historic use of 13-15 Mechanic Street. The property has a long-standing use already as auto repair. Therefore, he is not in agreement that this proposed use is substantially different from previous use.
- He provided a summary of the property and explained that the proposed plan is for 2 overhead doors, replace front garage door and modify façade. The western side entrance

door would also be moved closer to new garage door and a restroom would be installed. None of these changes would alter the structural footprint of the building.

- He provided a supplemental packet which showed what had been filed in March 1990 as a sign application. The sign would state auto-commercial-residential. Also, the City property cards were provided from 1987-2023. The use code, building year and descriptions for all is listed on these cards. The property description was auto repair/service shop. The descriptions changed over the years. In 2009-2011, service garage class s; 2013, commercial land building; 2014, commercial movement building; 2016, building use: auto repair. He read the definition of auto repair according to 650-5; "The business of maintaining, servicing, repairing, or painting the vehicles. Excluding the sale of dispensing fuels, including sale of installing lubricants, tires, batteries." Therefore, the property should be categorized as auto repair and falls within category 650-18 (25) since the 1980's.
- He noted that the zoning denial letter identifies glass works as minor glass repair falling under consumer service establishment, which has no definition. 650-17- auto repair not allowed in MV district. Consumer service is wrong definition.
- He noted the proposal would fall within the 4 corners of the current structure. Modifications to building would fall under 650-12, Nonconforming use, which they don't believe this is. He asked the ZBA to please overturn decision and determine that the proposed use is not more detrimental.

Rick Marino Presented as follows.

- Minor repair is a chip in glass repaired with epoxy. Smashed windshield is major repair. He expressed his opinion that the definition of glass repair is incorrect.
- The former owner, Alan Glass, did major windshield repair as well as installing sunroofs in cars which did not originally have sunroofs, which is major body work.
- The determination made by the Building Commissioner was incorrect, needs to be in auto repair zone even for auto glass.
- Every mechanic works differently. Property has been taxed and recognized as auto repair; building built to be used for auto repair. Just because it has lifts does not mean it is substantially different
- Intended use is to service vehicles as a full-service facility. At minimum, the tier 2 auto repair which is listed in the city regulations. It is taxed as auto repair use, so he felt comfortable buying the property.
- The denial document is written in a way in which no auto repair is allowed.

Tin Htway Presented as follows.

- New non-conformity or expanding explained that Allan did not only do auto work but other services. Auto glass, windows, storm doors, shower doors etc. Only 2 items related to auto repair.
- Mr. Marino wants to expand greater than what was already there. Therefore, a section 6 finding is needed from the City Council to determine if this is okay in this neighborhood.

- Therefore, his determination was correct, Alan Glass has not done much auto repair work and it was not an exclusive use.

Bob Levine noted

- If most of work was glasswork, the 3 proposed auto lifts not used for glasswork thus in his opinion this is a substantial difference and doesn't meet "Powers test." He asked if the intended use is still auto glass or if any other use would be included. He is unsure if glass replacement can be reconciled as auto repair.

Tin Htway explained.

- The Zoning ordinance 650-12 Non-conforming uses was misinterpreted. It is through the Special permit issued by City Council that provides the finding which determines whether the proposed plan is not detrimental to the neighborhood. If this is determined, then the City Council can grant a special permit with conditions that allows you to continue the operation being pre-existing/non-conforming.
- His denial letter written in a way to provide the applicant with the best opportunity to apply for special permit.
- As far as he can tell, for the past 2 years it has been auto glass repair.
- To address the assessors' cards "categorization." He is not sure how assessors define auto repair. However, in this case the Zoning Code definitions are what matters.

Ralph Loftin.

- Asks Atty Grossfield about the application of code.

Atty Jason Grossfield.

- He suggested continuing hearing so the Building Commissioner and applicant can engage in conversation and possibly discuss zoning relief. It is up to the applicant to prove what was on site and when via documentation or testimonial which has not been provided yet.

Ralph Loftin.

- Proposes to continue the meeting to allow parties to get together in order to search for a path forward. But first asked if there were any comments from the public.

Robert Levine

- He read a letter into the record: To the ZBA from David Depietri RE: 13-15 Mechanic Street, Marlborough MA ---dated 4/19/2023.
- The letter explained that Mr. Depietri, has been a manager of 40 Mechanic St. He states that he agrees with building commissioner in which 13-15 Mechanic St cannot operate as an automotive repair business. A lot of money was invested into 40 Mechanic St in the promise that the city was going to re-zone the neighborhood so that auto repair businesses could no longer operate in this area of the city, which they did.

Dennis Demers 49 North Rd Marlborough

- He explained that he was a mechanic in early life, moved on to construction business. Did work at 13-15. Filled in wooden floor with cement for the purpose of working on cars, and put up metal structure as business grew.
- He explains that he has had minor repairs and glass replacement done by Allan in the past and that Allan did more than glass. He also explains that back in the day, a pit and jack stands were used to work on cars. As time has moved on, lifts are now used instead.
- Dennis clarifies that he is speaking in support of the full-service mechanic shop expansion.

Ralph Loftin.

- Asks if any other member of the public would like to speak and there being none, closed that public portion of this meeting.
- The board further discussed what is currently done in the shop and if it includes floor drains. Mr. Marino explained that he does Maintenance, repairs, tires, alignment, diagnostic, oil change, extensive maintenance, and electrical troubleshooting. He has 1900 Clients. He does not have a floor drain.
- The Board members noted that they are still unsure if property has been auto repair or commercial service and would like clarification on that.

Attorney David Click stated that he is requesting a continuance at this time. On a motion by Robert Levine second by Ralph Loftin to continue to May 23, 2023, at 7:00pm. Motion to continue 4-0 approved by roll call vote.

Documents Reviewed:

- Letter to the ZBA from David Depeitri. RE: 13-15 Mechanic Street, Marlborough MA. Dated 4/19/2023

Zoning Board Of Appeals Case # 1497-2023

Applicant: Alice Wright & Jean E. Rabelo. Represented by Attorney Robert Dionisi

Date of Appeal: April 4, 2023

Members Present: Ralph Loftin-Chairman, Thomas Golden, Thomas Pope, Robert Levine.

Also Present Were:

- Priscilla Ryder, acting ZBA Secretary
- Tin Htway, Building Commissioner
- Atty, Jason Grossfield, City Solicitor
- Atty Robert Dionisi, Applicant's Attorney
- Alice Wright, Applicant

Location of Subject Property – 785-795 Boston Post Rd.

Robert Levine read the hearing notice into the record.

Petition: Appeal taken under M.G.L. Ch 40A § 8, 13 and 14 to the Zoning Determination of the City's Building Commissioner dated March 15, 2023, as said determination affects premises at 785 thru 795 Boston Post Road East (Parcel Id # 61-22, #61- 22A, #61-31). The applicants requested an opinion of the Building Commissioner as to whether the premises as constituted is zoned for the sale of used motor vehicles pursuant to a "Class 2 License" as said license is defined in M.G.L. Ch 140 § 58 (c); that is to conduct the purchase and sale of secondhand motor vehicles.

Attorney Dionisi explained:

- In Sept 2022 owner submitted letter to Building Commissioner to determine if property held a valid class 2 license for sales of used motor vehicles. Property currently has a class 3 license. Class 3 is for the sale of junk vehicles with no guarantee. Class 2 is for the sale of used vehicles which include guarantees and involve bonds. Purpose of today's meeting is whether the lot is validly zoned for a class 2 license.
- In _____ he wrote another letter which Mr. Htway responded to and issued a new decision in March 2023 which is the subject of this current appeal.
- This appeal is specifically regarding Ch 40 A – Section 6,7,8-13 and 14, and the statement in Mr. Htway' s letter which states "new use in a manner substantially different from current use."
- He showed photos of crushed cars as well as salvage cars listed for sale in operable and presentable condition (class 3). He presented aerial photo showing site from 7 years ago showing the state and use of the site which has not changed since 1940 and has never been challenged in regard to this use.
- The proposed use is for class 2 sale on ½ of the property. The Zoning determination which was received in March determined that proposed use is substantially different from existing use. Since they are still proposing to sell vehicles, they are unclear why this is different from current use. In fact, he stated that the public benefits by class 2 and this service will clean up the property. An abutter at previous meeting expressed concern regarding crushing in back lot which would be done away with if class 2 was approved.
- He posed two questions, 1) Whether use of property as proposed Class 2 is the same as class 3. 2) Whether there is difference in quality/character or degree of use.
- Existing use is: , Class 3 with 1000 stacked cars, 38 display spaces. They propose to have Class 3 with 400 cars that are junk available on right side of property and Class 2 with 326 used auto cars. He argues that class 2 is not a substantial change and references building code 65-12. Reinforces that he wants the board to find that a change from class 3-2 is not a substantial change in use. The entire 8+ acres was junk vehicles. Owner now proposes to put in parking for a clean and upscale car sales area.

Ralph Loftin.

- Explains that appeals to ZBA validate or invalidate decision. He is unclear of what decision is being appealed.

Attorney Dionisi explained this is an appeal because owner is aggrieved by decision and paragraph 4 of zoning letter. New use substantially different from previous use. Feels as though an attempt to get class 2 license is futile.

Tin Htway provided the following comments

- The Sketch 2 shows a dramatic increase in vehicle sales. Goes from 36 cars to nearly 400 used cars. Therefore, the Intensity increase would require them to see city council for change or expansion of use. They also cannot hold a class 2 & Class 3 license on the same property.
- Explained that more vehicles would be for sale than before, there are concerns regarding fire access/drainage/access. This change of use, therefore, needs to go through a special permit process with City Council. This would be one of the largest used cars lots in the city, from 36 cars to 400 cars.

ZBA members discussed and noted the following:

- Part 1 of powers test is ordinarily and reasonably adaptive to use. Part 2 is quality character or degree differ in character from original use. Part 3 is Impact on neighborhood which is different in severity.
- The site is currently in the Wayside District which is not zoned for class 2 or 3.
- This proposal does dramatically increase the number of "drivable cars" for sale and could have an impact on the neighborhood.

Attorney Dionisi.

- Only asking for whether or not the owner can apply for a class 2 license without being told they are not zoned for it.

Ralph Loftin asks if any member of public would like to speak up in favor or in opposed. There being none, the public portion of the meeting was closed.

The ZBA members noted that the proposed use as presented does constitute a substantial change and therefore were in general agreement with the Building Commissioners decision in his March 2023 letter.

On a motion by Mr. Loftin second by Mr. Levine to uphold the Building Commissioners determination, the roll call vote was 3-1. Thomas Golden **Yes**; Ralph Loftin **Yes**; Robert Levine **Yes**; Thomas Pope **No**

There being no further business on a motion by Mr. Loftin second by Mr. Levine to adjourn, the board voted 4-0 to adjourn.

Documents Reviewed:

- Zoning Board of Appeals Application Form. Submitted 4/4/2023

- Zoning Determination Letter from Tin Htway, Building Commissioner. Dated 3/15/2023
- Exhibit Plan prepared for Post Road Auto Parts including: Existing Capacity Sketch 1, Proposed Capacity Sketch 2, Proposed Approx Layout Sketch 3.
- Photos of junk car yard over the years.

Minutes prepared by:
Alex Grigorov, Secretary
Zoning Board of Appeals

Respectfully submitted,

Ralph Loftin, Chairman,
Zoning Board of Appeals



City of Marlborough
Zoning Board of Appeals
140 Main Street
Marlborough, Massachusetts 01752

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2023 JUL 25 PM 1:30

Meeting Minutes

For Meeting Held: May 23, 2023, 7:00 PM, at 3rd Floor, Memorial Hall, City Hall, 140 Main Street, Marlborough.

Members Present: Ralph Loftin-Chairman, Robert Levine, Thomas Pope, and Thomas Golden.

Members Absent: None.

Items Discussed:

1. Zoning Board of Appeals Case # 1496

Applicant: Rick Marino – Represented by David Click

Date of Appeal: March 27, 2023

Location of Subject Property – 13-15 Mechanic St.

Petition: To appeal the zoning denial of the Building Commissioner including his misclassification of the previous use as Consumer Services Establishment where such use is not clearly defined, and further appealing Building Commissioner's determination that the "new improvement project use" is "in a manner substantially different from the previous use or to a substantially greater extent." City Code section 650-5 Definitions: word usage and 650-12B, Nonconforming Uses.

Also present were:

Priscilla Ryder – Conservation Officer,

Richard Marino – Owner,

Representative: Atty. David Click 85 Main Street, Suite 101, Hopkinton, MA 01748,

Abutters with questions

Board member, Ralph Loftin called the meeting to order and asked Atty. David Click to begin.

Atty. David Click made his presentation as follows:

- In attendance this evening requesting a continuance.
- Gained possession of new materials which have not been fully gone over.
- Needs time to meet with the building commissioner.
- Met with Priscilla Ryder about filling out the time limit extension form.
- Proposes to meet either June 20th or June 27th.

The Board discussed members availability and determined June 20th all 4 members could attend.

A motion was made by Robert Loftin to continue the meeting to June 20, 2023 at 7pm, Seconded by Thomas Golden. By a vote of 4-0, the public hearing was continued to June 20, 2023 at 7:00pm.

Chairman Loftin noted that a time extension was also needed and suggested June 27, 2023 as presented by Mr. Click. Ms. Ryder explains that this is not enough time and the extension should last until sometime in July.

Ralph Loftin asks Atty. David Click if he wouldn't mind picking a new date for the time extension.

- Time extension date is changed to July 11, 2023.

A motion was made by Ralph Loftin and seconded by Robert Levine to approve the time extension to July 11, 2023. By a vote of 4-0, the extension to July 11, 2023 is approved.

2. Adjournment

A motion was made by Ralph Loftin and seconded by Robert Levine to adjourn the public meeting. By a vote of 4-0, the public meeting was adjourned.

Documents Used by ZBA:

- Time Limit Extension Agreement dated May 23, 2023.

Minutes prepared by
Alex Grigorov, Secretary
Zoning Board of Appeals

Respectfully submitted:

Ralph Loftin, Chairman
Zoning Board of Appeals



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2023 JUL 25 PM 1:30

Meeting Minutes

June 20, 2023

June 20, 2023, 7:00PM, at 3rd Floor, Memorial Hall, City Hall, 140 Main Street, Marlborough. (The start of the meeting was delayed by 20 minutes to accommodate a late-arriving board member).

Members present: Ralph Loftin-Chairman, Robert Levine, Thomas Pope, and Thomas Golden.

Members Absent: None.

Also present were:

Alex Grigorov – ZBA Secretary,
 Richard Marino – Owner, Representative:
 Atty. David Click 85 Main Street., Suite 101, Hopkinton, MA 01748,
 Alice Wertheimer – Customer of Richard Marino

Items Discussed:

1. Zoning Board of Appeals Case # 1496

Applicant: Richard Marino - represented by Atty. David Click

Date of Appeal: March 27, 2023

Location of Subject Property – 13-15 Mechanic Street

Petition: To appeal the zoning denial of the building commissioner including his misclassification of the previous use as Consumer Services Establishment where such use is not clearly defined, and further appealing building commissioner's determination that the "new improvement project use" is "in a manner substantially different from the previous use or to a substantially greater extent." City Code section 650-5 Definitions: word usage and 650-12B, Nonconforming Use.

Board member, Robert Levine read the petition into the file.

Ralph Loftin explained that this was the third meeting for this case and that this evening would address the applicant's request to Withdraw without Prejudice.

Atty David Click introduced himself and explained the request to Withdraw without Prejudice.

- He felt the property was misclassified. A meeting was held with the Building Commissioner to determine what Zoning would allow. This confirmed that use for auto repair has not been abandoned. Modifications are garage doors, 3 lifts, bathroom and office space which are not structural. This case will be brought forward to City Council and the letter is to explain and clarify the Building Commissioner's position. The Building Commissioner feels the proposal is increased intensity of use, He and Atty. Click agreed to disagree. The next step is to seek a Special Permit from the City Council. The request at this time is to withdraw the applicant's petition from the Zoning Board of Appeals without Prejudice.

Ralph Loftin asked if anyone in attendance would like to speak.

Alice Wertheimer introduced herself as a customer of Richard Marino.

- This business should be allowed to continue to expand as it is loved. 13-15 Mechanic St. is located in a business area and the shop is kept very clean; so clean that the floors could be eaten off of. Why is the code not auto repair if it once was in the past? Vehicles are not being scrapped at this location.

A motion was made by Ralph Loftin to approve the request to Withdraw without Prejudice and seconded by Thomas Pope. The motion was approved 4-0.

2. Adjournment

A motion was made by Robert Levine to adjourn. Motion to adjourn approved 4-0.

Documents Reviewed:

- Letter from Attorney David M. Click dated June 15, 2023 titled Re: 13-15 Mechanic Street – Parcel ID #69-378 ZBA-1496 Requesting to Withdraw Without Prejudice.
- Request to Withdraw Without Prejudice dated 6/20/2023.

Minutes prepared by:

Alex Grigorov, Secretary

Zoning Board of Appeals

Respectfully submitted:

Ralph Loftin, Chairman

Zoning Board of Appeals