

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: July 29, 2019

Time: 6:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 JUL 24 A 9:05

1. 07-22-2019 – **Order No. 19-1007735 (X 99-8201)**: Communication from the Mayor, regarding Request for Revocation of License to Encroach, 26 Monument Avenue.
-Refer to Legislative and Legal Affairs Committee
2. 07-22-2019 – **Order No. 19-1007737**: Communication from David Richardson of Flying Dreams Brewing Co., 277 Main Street, to add outdoor seating on Rawlins Avenue for their establishment.
-Refer to Legislative and Legal Affairs Committee
3. 07-22-2019 – **Order No. 19-1007736**: Communication from City Solicitor, Jason Grossfield, regarding Proposed Grant of Easement to MA Electric for service to Marlborough High School, 431 Bolton Street.
-Refer to Legislative and Legal Affairs Committee

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

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

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.



IN CITY COUNCIL

Marlborough, Mass., JULY 22, 2019

PAGE 1

ORDERED:

That the Communication from the Mayor, re: Request for Revocation of License to Encroach, 26 Monument Avenue, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 19-1007735
X 99-8201



10

City of Marlborough
Office of the Mayor

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 JUL 10 A 11:16

Arthur G. Vigeant
MAYOR

Kate Flanagan
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

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

July 10, 2019

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

RE: Revocation of License to Encroach – 26 Monument Avenue

Dear President Clancy and Councilors:

I write to respectfully request the City Council vote to revoke the enclosed "License to Encroach" dated June 14, 1999. The enclosed letter from Pamela A. Wilderman, Code Enforcement Officer describes recent conditions concerning the use of the subject city property, and how the City intends to make use of the area. Further, the City Solicitor has advised that the License is void as the license was never timely recorded at the registry of deeds, and for purposes of clarity recommends a vote to revoke the license.

A proposed order is enclosed for consideration. City staff and I are available to answer any questions.

Sincerely,



Arthur G. Vigeant
Mayor

Enclosure

LTK

ORDERED:

That the City Council for the City of Marlborough hereby revokes the License to Encroach, dated June 14, 1999 (Adopted by Order No. 99-8201), and any and all permission to use real property pursuant to said license, effective immediately.

ADOPTED
In City Council
Order No. 19-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



IN CITY COUNCIL

Marlborough, Mass., JUNE 14, 1999 19

ORDERED:

LICENSE TO ENCROACH

The record owner of 26 Monument Avenue, Marlborough, Massachusetts, identified as parcel Map 69, Parcel 213 of the City's Assessor's Maps, is hereby authorized to encroach in perpetuity on and into the layout of the access to the municipal parking lot access off New Street immediately adjacent to said 26 Monument Avenue as indicated on a "Sketch of Land For License at #26 Monument Ave., Scale 1"=20', Date: 6-9-99" for the purpose of parking motor vehicles and landscaping only. No changes to the existing surface conditions and use thereof shall take place unless approved through formal site plan approval and written authorization from the Commissioner of Public Works, and the license to park and landscape is subservient to all other uses which the City may from time to time make of these areas.

The Licensee, its heirs and assigns hereby agrees to indemnify and save harmless the City of Marlborough, Massachusetts. Licensee shall, within 30 days of receipt of this license, record same at Licensee's expense.

ADOPTED

In City Council

Order No. 99-8201

Adopted June 14, 1999

Approved by Mayor

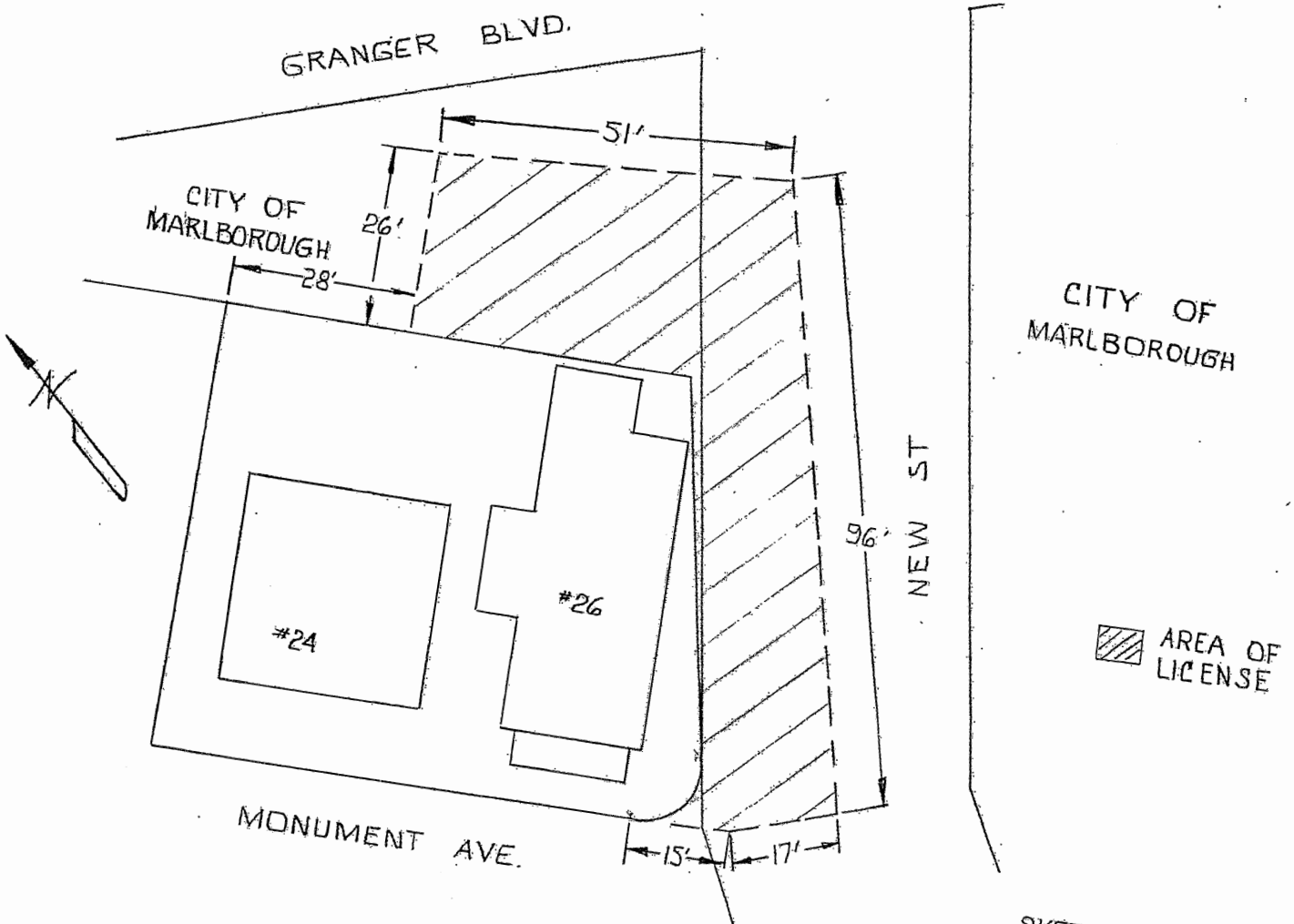
William J. Mauro, Jr.

Date:

A TRUE COPY

ATTEST:

City Clerk



CITY OF
MARLBOROUGH

NEW ST

 AREA OF
LICENSE

SKETCH OF LAND
FOR LICENSE
AT
#26 MONUMENT AVE.
SCALE: 1=20' DATE: 6-9-99

City of Marlborough
Commonwealth of Massachusetts



Pamela A. Wilderman
Ethan Lippitt
Code Enforcement
140 Main Street
Marlborough, MA 01752
Phone: (508) 460-3776 (x30201)
Fax: (508) 460-3736
Email: pwilderman@marlborough-ma.gov
elippitt@marlborough-ma.gov

July 9, 2019

Edward J. Clancy, President
Marlborough City Council
140 Main Street
Marlborough, MA 01752

RE: License to Encroach
26 Monument Avenue

Dear President Clancy and Members:

The enclosed "License to Encroach" dated June 14, 1999 allowed the owner of 26 Monument Avenue to utilize a portion of city property adjacent to Granger Boulevard and New Street for motor vehicle parking and landscaping. There was a requirement that the agreement be filed with the Registry of Deeds, which there is no evidence same was completed.

Additionally, this office has found the property in non-compliance over the years, for unregistered vehicles, trash and debris, and boats parked on the city land in violation of the agreement. For that reason, this office, in cooperation with the DPW, issued a letter to the property owner on May 8, 2019 (attachment #2), giving him 30 days to remove all his belongings from the city property. This letter was the result of numerous attempts by both my office and the DPW to advise him to correct the violations.

At this time, at the recommendation of City Solicitor Jason Grossfield, we wish to have the City Council vote to confirm revocation of the agreement to ensure that we have taken all necessary steps to rescind permission for private use of this city property. Once this vote has been taken we will have the property cleared (it's already by marked by the Engineering Department), a fence will be erected, and the property will be returned to greenspace.

Thank you for your consideration to this matter. As always, please feel free to contact me if you have any questions or if we can be of any further assistance to you.

Sincerely,

Pamela A. Wilderman
Code Enforcement Officer

Cc: Mayors' Office
Legal
File

City of Marlborough
Commonwealth of Massachusetts



Pamela A. Wilderman
Ethan Lippitt
Code Enforcement
140 Main Street
Marlborough, MA 01752
Phone: (508) 460-3776 (x30201)
Fax: (508) 460-3736
Email: pwilderman@marlborough-ma.gov
elippitt@marlborough-ma.gov

May 8, 2019

Mr. Oscar Barrera
26 Monument Avenue
Marlborough, MA 01752

Via First Class and Hand delivery

RE: License to Encroach – Use of City-Owned Property

Dear Mr. Barrera:

On November 7, 2018, you were put on notice that you were in violation of a "License to Encroach" on City-owned property located next to and behind your property at #26 Monument Avenue.

Specifically, that boats and trailers were not to be parked on the property and there is a further restriction of the License that "the Licensee, its heirs and assigns hereby agrees to indemnify and save harmless the City of Marlborough, Massachusetts" for the licensee's use of the City-owned property.

Whereas the updated Insurance Certificate was not delivered to the City's Legal Department, as requested and with a boat and trailer still parked on the City owned property, and whereas the original License was never recorded at the South Middlesex Registry of Deeds, as was required by the original License, you are hereby put on notice that the License to Encroach has been voided.

You are hereby directed to remove all your personal property from the City owned property within thirty days of the date of this letter and discontinue the use of this property. Any personal property remaining after 30 days of the date of this letter will be removed by the City of Marlborough – Department of Public Works and barriers will be placed on the property line of the City Owned property to ensure that there is no encroachment onto this property.

Sincerely,

Pamela A. Wilderman
Code Enforcement Officer

cc: Councilor Dumais
DPW
Legal Department
File



IN CITY COUNCIL

Marlborough, Mass., JUNE 14, 1999 19

ORDERED:

LICENSE TO ENCROACH

The record owner of 26 Monument Avenue, Marlborough, Massachusetts, identified as parcel Map 69, Parcel 213 of the City's Assessor's Maps, is hereby authorized to encroach in perpetuity on and into the layout of the access to the municipal parking lot access off New Street immediately adjacent to said 26 Monument Avenue as indicated on a "Sketch of Land For License at #26 Monument Ave., Scale 1"=20', Date: 6-9-99" for the purpose of parking motor vehicles and landscaping only. No changes to the existing surface conditions and use thereof shall take place unless approved through formal site plan approval and written authorization from the Commissioner of Public Works, and the license to park and landscape is subservient to all other uses which the City may from time to time make of these areas.

The Licensee, its heirs and assigns hereby agrees to indemnify and save harmless the City of Marlborough, Massachusetts. Licensee shall, within 30 days of receipt of this license, record same at Licensee's expense.

ADOPTED

In City Council

Order No. 99-8201

Adopted June 14, 1999

Approved by Mayor
William J. Mauro, Jr.

Date:

A TRUE COPY

ATTEST:

City Clerk



IN CITY COUNCIL

Marlborough, Mass., JULY 22, 2019

ORDERED:

That the Communication from David Richardson of Flying Dreams Brewing Co., 277 Main Street, to add outdoor seating on Rawlins Avenue for their establishment, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 19-1007737

July 5, 2019

18
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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 JUL 11 A 9:50

City Council

140 Main Street

Marlborough, MA 01752

LTK

Dear Marlborough City Council,

It has been wonderful for Flying Dreams Brewing Co. to be part of the new growth of downtown Marlborough. We are hoping to make it even better with seating outside of our brewery and taproom on the sidewalk of Rawlins Ave. We will utilize almost the whole sidewalk (leaving 30 inches to the curbstone for passers-by) that abuts the Rawlins Ave side of the Victoria Building located at 277 Main St.

We plan on having 56 seats in a combination of 2-tops and 4-tops as shown in the included diagram, which will be serviced by bartenders/waiters using non-glass cups. We plan to allow customers to bring their dogs to this area.

It is a perfect ambiance to enjoy the weather. It is on the east side of the Victoria building, which means it's always in the shade after noon, and there are healthy shrubbery and shade trees which contribute to a cool and calm outdoor atmosphere.

We are already in the process of amending our Mass Pouring Permit to include the sidewalk, and will not seat or serve customers outside until approved both by the state, and by Marlborough's City Council.

We are looking forward to making Marlborough an even more attractive place for people to frequent and enjoy.

Sincerely,



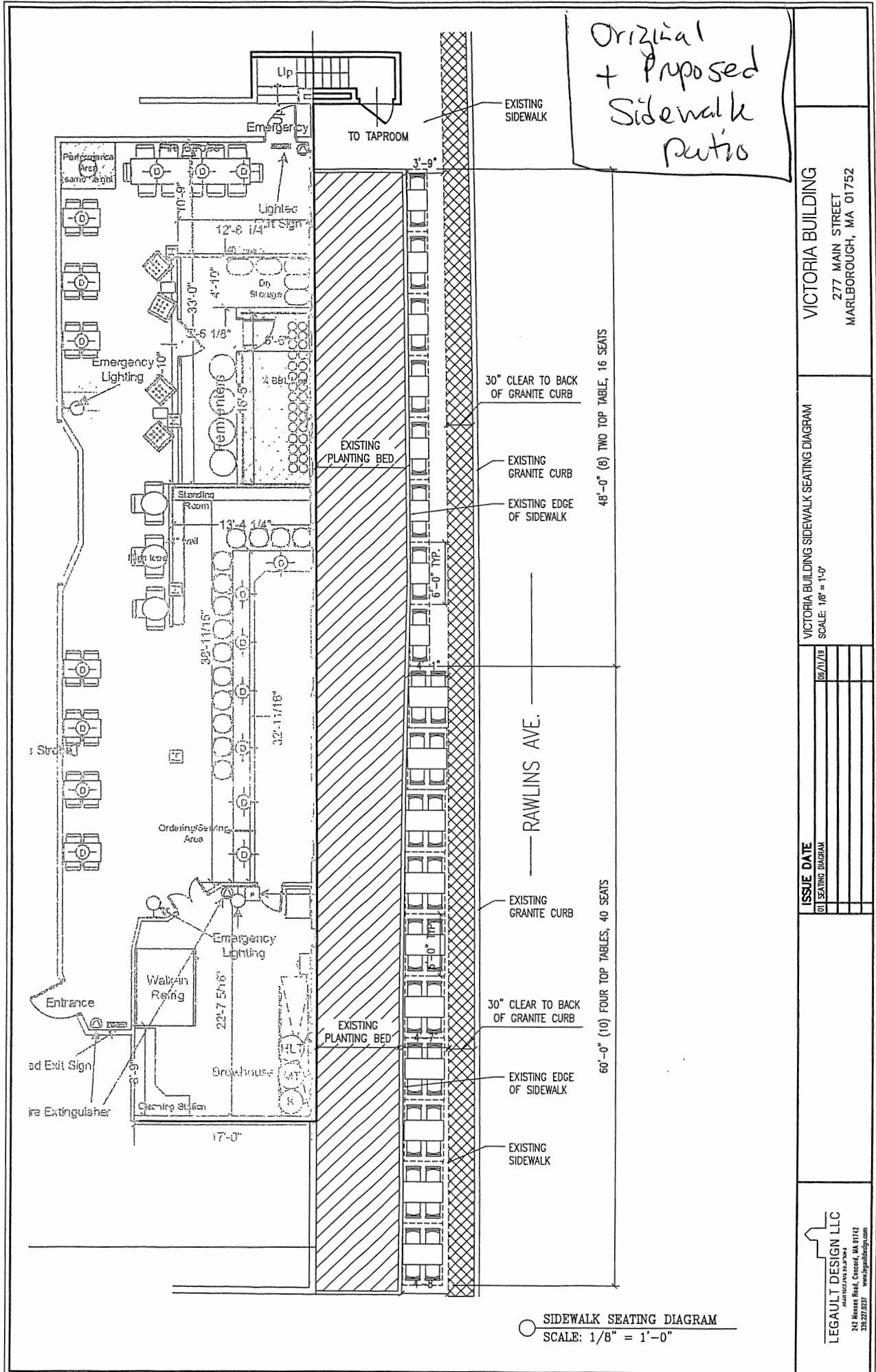
David L. Richardson

Flying Dreams Brewing Co.

277 Main St.

Marlborough, MA 01752

Original
+ Proposed
Sidewalk
Seating



VICTORIA BUILDING
277 MAIN STREET
MARLBOROUGH, MA 01752

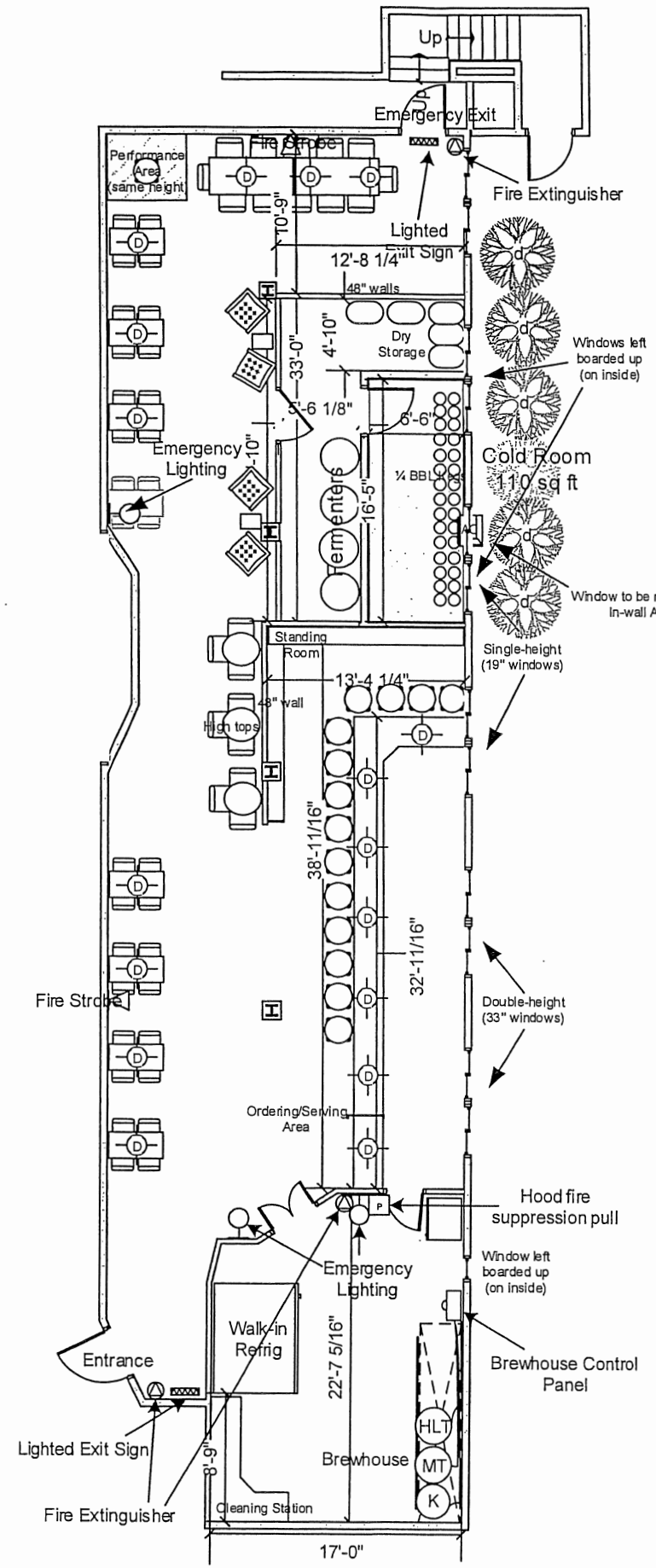
VICTORIA BUILDING SIDEWALK SEATING DIAGRAM
SCALE: 1/8" = 1'-0"

ISSUE DATE	DESCRIPTION
09/11/13	01 SEATING DIAGRAM

○ SIDEWALK SEATING DIAGRAM
SCALE: 1/8" = 1'-0"

LEGALTY DESIGN LLC
ARCHITECTS/INTERIORS
242 Boston Road, Concord, MA 01742
339.227.0037 www.legalitydesign.com

Original Plans



**Flying Dreams
Brewery Co., LLC
Taproom**
Victoria Building
Marlborough,
Mass.
v006j

Scale: 1' = 3/32"

Seating:
Bar: 14
Front area: 25
Back area: 32

Approx. Square Footage
Flooring (not including behind the bar or kitchen):
1,450 sq ft
1,310 sq ft (- cold room)
955 sq ft (front only)

Ceiling tiles (2x2) (not including kitchen):
1,550 sq ft
1,410 sq ft (- cold room)
1,055 (front only)

Kitchen area: 390 sq ft
Behind bar: 100 sq ft



IN CITY COUNCIL

Marlborough, Mass., JULY 22, 2019

ORDERED:

That pursuant to Massachusetts General Laws c. 40, § 3, the City of Marlborough grants a permanent utility easement, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a "National Grid") as enclosed, constituting a Grant of Easement to Massachusetts Electric Company for electrical service to Marlborough High School at 431 Bolton Street, said grant of easement having been approved on _____ by vote of the Marlborough School Committee, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**.

ADOPTED

ORDER NO. 19-1007736
X 18-1007480A

14



City of Marlborough Legal Department

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 JUL 17 10 16 08
JASON D. GROSSFIELD
CITY SOLICITOR

L+L

July 17, 2019

Edward J. Clancy, President
Marlborough City Council
City Hall
140 Main Street
Marlborough, MA 01752

RE: Proposed Grant of Easement to Massachusetts Electric Company for Electrical Service to Marlborough High School

Dear Honorable President Clancy and Councilors:

Enclosed please find a proposed order concerning a grant of a deed of easement to the Massachusetts Electric Company for the purposes of providing service to Marlborough High School, and a copy of the Grant of Easement and plan.

Approval of both the City Council and the School Committee is required and being sought simultaneously.

DPW Commissioner John Ghiloni is available to answer any questions concerning this matter. Please contact me as well if you have any questions or concerns.

Very truly yours,

Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
John Ghiloni, DPW Commissioner

ORDERED:

That pursuant to Mass. Gen. Laws c. 40, § 3, the City of Marlborough grants a permanent utility easement, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a "National Grid") as enclosed, constituting a Grant of Easement to Massachusetts Electric Company for electrical service to Marlborough High School at 431 Bolton Street, said grant of easement having been approved on _____ by vote of the Marlborough School Committee.

ADOPTED

In City Council
Order No. 19-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

Property Address: 431 Bolton Street, Marlborough, MA Middlesex
South County

GRANT OF EASEMENT

CITY OF MARLBOROUGH, a body politic duly organized under the laws of the Commonwealth of Massachusetts, of Marlborough, Massachusetts 01752 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) Dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, two (2) poles, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Marlborough, Middlesex South County, Massachusetts consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon a certain parcel of land situated on the easterly side of Bolton Street, being more particularly shown as Parcel 3 on a Plan of Land recorded with the Middlesex South District Registry of Deeds as Plan No. 1033 of 1973.

WR# 28134878

Address of Grantee:
Mass El. - 40 Sylvan Road, Waltham, Massachusetts 02451

After recording return to:
Carol Barrows
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451

05 MARLMA GEN

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "NationalGrid, Owner: City of Marlborough 431 Bolton St Marlborough, MA 01752," Date: October 23, 2018, Drawn By: D. Larson, Actrix Drawing Number: 28134878, a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are specifically located, as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantee, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns, then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the Overhead System and Underground System may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent may be withheld by the Grantee in its sole discretion.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's land an "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" for the transmission of intelligence and for the purpose of supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

It is agreed that the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon. Grantor agrees that the rights and easement herein granted are for the purpose of providing service to Grantor's property and the further right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

For Grantor's title, see Order of Taking dated August 22, 1973 recorded with the Middlesex South County Registry of Deeds in Book 12507, Page 396.

IN WITNESS WHEREOF, City of Marlborough has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Arthur G. Vigeant, Mayor being thereto duly authorized this _____ day of _____, 2019.

CITY OF MARLBOROUGH

By: ARTHUR G. VIGEANT
Its: Mayor

Commonwealth of Massachusetts

County of Middlesex } ss.

On this the _____ day of _____, 2019, before me, the undersigned
Day Month Year

Notary Public, personally appeared Arthur G. Vigeant, proved to me through satisfactory evidence of identity, which was

_____,
to be the person whose name is signed on the preceding Grant of Easement, and acknowledged to me that he signed it voluntarily for its stated purpose, as Mayor for City of Marlborough.

Signature of Notary Public

Printed Name of Notary

My Commission Expires _____

Place Notary Seal and/or Any Stamp Above

WR# 28134878

05 MARLMA GEN

CITY OF MARLBOROUGH

TO

MASSACHUSETTS
ELECTRIC COMPANY

GRANT OF EASEMENT

AFTER RECORDING RETURN TO:

CAROL BARROWS
NATIONAL GRID USA
SERVICE COMPANY, INC.
40 SYLVAN ROAD
WALTHAM, MA 02451

Approved By: _____

Customer to Install primary underground from PB2 to T-1
 Install Transformer pad for a 75KVA padmount Transformer
 44-113 (ref-44-113/UF8A) 81"x64"

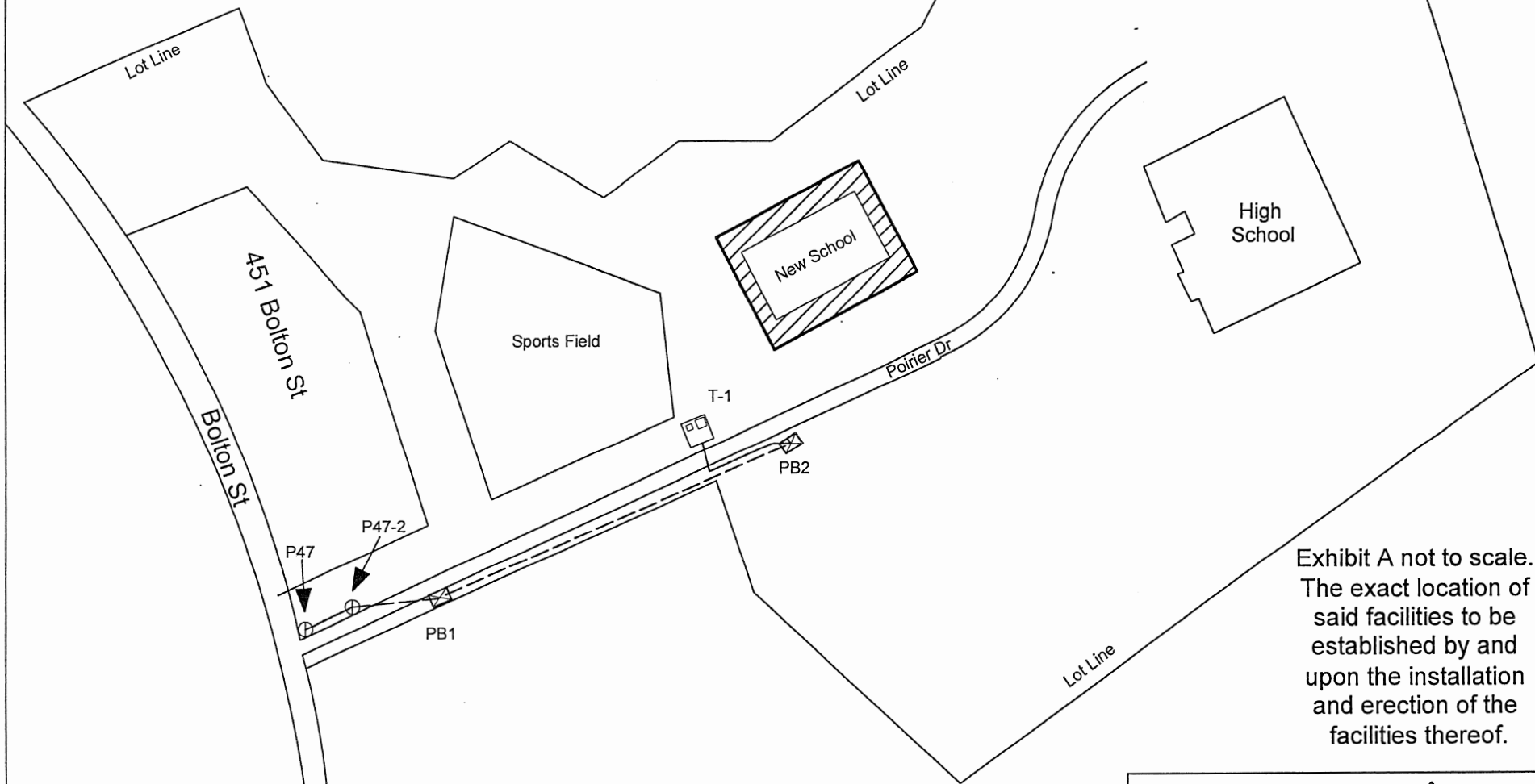


Exhibit A not to scale.
 The exact location of
 said facilities to be
 established by and
 upon the installation
 and erection of the
 facilities thereof.

Legend	
	Transformer
	Underground Primary
	Pull Box
	Utility Pole

nationalgrid	
City of Marlborough 431 Bolton St Marlboro, Ma 01752	
Scale: NONE Date: 10-23-18 Drawn By: D. Larson	Actrix Drawing Number 28134878