

# CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: July 25, 2018

Time: 5:30 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2018 JUL 20 A 9 30

## New Business:

04-23-2018 – **Order No. 18-1007244:** Application for Special Permit from Sandra Colligan, to demo existing house and build a new two-story home at 21 Patten Drive.

-REFER TO URBAN AFFAIRS

-PUBLIC HEARING: JUNE 18, 2018

04-23-2018 – **Order No. 18-1007245:** Application for Special Permit from Attorney Falk, on behalf of Jefferson Street Residences, 27 Jefferson LLC, to build an eleven unit two story, multifamily condominium building at 27 Jefferson Street.

-REFER TO URBAN AFFAIRS

-PUBLIC HEARING: JUNE 18, 2018

## Continued Review:

01-08-2018 – **Order No. 18-1007135 (X16-1006668):** Modified Site Plan Application from Attorney Falk, on behalf of Vincenza Sambataro, Marlborough on Main Development LLC, for a mixed-use project at 163-175 Main St. in the Marlborough Village District.

-REFER TO URBAN AFFAIRS

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., APRIL 23, 2018

**ORDERED:**

That there being no objection thereto set **MONDAY, JUNE 18, 2018** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Sandra Colligan, to demo existing house and build a new two story home at 21 Patten Drive, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE.**

**Ninety days after public hearing is 09/16/18 which falls on a Sunday, therefore 09/17/18 would be considered the 90<sup>th</sup> day.**

ADOPTED

ORDER NO. 18-1007244



## IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 1

### ORDERED:

That the PUBLIC HEARING On the Application for Special Permit from Sandra Colligan, to demo existing house and build a new two story home at 21 Patten Drive, Order No. 18-1007244, all were heard who wish to be heard, hearing closed at 8:17 PM.

**Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Oram, Ossing & Robey.**

### PUBLIC SPEAKING IN FAVOR

Sandra Colligan, the property owner of 21 Patten Drive, plans to remove the existing structure and build a new house on the lot.

There is no one else speaking in favor. That part of the Public Hearing is closed.

### QUESTIONS FROM THE PUBLIC

Barbara Allen has lived at 124 Second Road since 1989, and the property on Patten Drive is behind her house. She thought a new home being developed was nice since the current home is in bad shape. Her concern is the nature of the neighborhood and the spacing between the homes so the room between the houses remain. The houses are all shapes and sizes, but a house being built should fit the size of the existing lot. If it cannot fit the existing lot, the owner should purchase surrounding land to make it big enough to fit or just build a smaller home to fit in the existing zoning. Her concern is once the exception is made for a house being built so big, it encroaches on the boundaries of the other homes. Eventually a precedent would be set and the neighborhood would be overcrowded with larger houses that are oversized for the nature of the neighborhood. Her question is if this exception is made for this house to not fit the lot and be too big, will there be other exceptions made in the neighborhood for houses to be torn down and upsized and how often could that continue to happen.

Paul Goldman of 137 Second Road has been a Marlborough resident for the past thirty-five years. They live in a wonderful community and agreed that having a new house on that lot would be a plus to the neighborhood in a general sense. In his thirty-five years in the City, he has never received a letter like this asking for a variance in the zoning. His concern was regarding space and the tendency to modify the existing cottages. He is concerned if a permit is given this time that some years in the future someone could do the same to him and want to build within a few feet of his house. He suggested the owners figure a way to build within the existing zoning and not open a Pandora's Box on zoning issues. His preference would be to keep the house within the current zoning regulations.



## IN CITY COUNCIL

Marlborough, Mass.,

JUNE 18, 2018

PAGE 2

**ORDERED:**

Ms. Colligan responded to the concerns of the neighbors about elbow room. The existing structure is very old and appears to have had several additions over the years. The current home is twenty-nine feet wide. She stated they are asking for a twenty-six foot wide home be approved. If they were to build off the existing twenty-nine foot foundation, they would not have the need for a special permit however the current foundation is a very old unstable rock foundation and needs replacement. They have decreased the width of the house so there will be more space on the sides and they are within the required setbacks for the front and back and within required height limits. They are shrinking the footprint on the sides of the house and that may alleviate the concern of the neighbors.

There are no further questions from the public. That part of the Public Hearing is closed.

### PUBLIC SPEAKING IN OPPOSITION

Andre Robichaud, 15 Patten Drive, is a direct abutter to the applicant. He asked petitioner if the twenty-nine foot measurement included the deck. Ms. Colligan stated the measurement did not include the deck— only the addition and the original home's foundation which totals twenty-nine feet.

Arthur and Laurie Zouharis of 140 Second Road submitted a letter of opposition to the City Council dated June 6, 2018 noting that their house directly abuts the rear yard of 21 Patten Drive. They oppose the disproportionate size of the proposed new home on this sub-par lot and support the construction of a single story or even a Cape style home as it would be proportional to the lot and preserve the quaintness and unique setting of this property in their lake-front neighborhood.

There is no one else speaking in opposition. That part of the Public Hearing is closed.

### QUESTIONS FROM THE CITY COUNCIL

There are no questions from members of City Council. That part of the Public Hearing is closed.

That ends the entire Public Hearing. This is currently in the Urban Affairs Committee.

**ADOPTED**

ORDER NO. 18-1007244A

**From:** City Council  
**Sent:** Monday, July 9, 2018 12:59 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juairé; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy; Donald Landers  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** TO CITY COUNCILORS: From Tom Coder: Required Draft Decision for Special Permit, 21 Patten Drive, Marlborough, MA  
**Attachments:** LETTER TO CITY COUNCIL FOR SPECIAL PERMIT.docx; DECISION ON AN APPLICATION FOR SPECIAL PERMIT.docx

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**From:** Cabinet Depot - Southborough [<mailto:cabinetdepotoutlet@gmail.com>]  
**Sent:** Monday, July 9, 2018 10:45 AM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Cc:** Tom Coder <[thomascoder5@gmail.com](mailto:thomascoder5@gmail.com)>; Sandra <[sandy@yourcreditcardlady.com](mailto:sandy@yourcreditcardlady.com)>  
**Subject:** Re: Required Draft Decision for Special Permit, 21 Patten Drive, Marlborough, MA

Here are the corrected versions.



## Cabinet Depot - Southborough

*Design & Sales*

**p:** (508) 485-7777

**a:** 206 Turnpike Road  
Southborough, MA 01772

**w:** [www.cabinetdepotoutlet.com](http://www.cabinetdepotoutlet.com)



## LETTER TO CITY COUNCIL FOR SPECIAL PERMIT

Sandra L Colligan  
21 Patten Drive, Marlborough, MA

*To whom it may concern; I would like to take this as an opportunity to explain the positive impact that the proposed new dwelling will have on the property and the surrounding community at 21 Patten Drive.*

*I attended the public meeting and the only objections that were raised were by neighbors that were concerned with the house reducing the "elbow room" side to side on the property as was their exact words that they used in the public meeting and in the hall after the meeting when I showed them our proposed dwelling plans.*

*The neighbors told us that they did not realize that the actual footprint of the home was reducing the side to side "elbow room" considering that the existing dwelling currently is 29' wide with the deck off the side actually sitting on the property line of the neighboring home. The neighbors were pleased with the appearance of the home and agreed that it will be beneficial to have a new dwelling on the property and get rid of the current dwelling which is an eye sore and is in disrepair.*

*The neighbors however also told us that it would not matter to them what the home looked like and what the actual impact of this particular property was and that they were not opposed to our project as they are opposed overall period to any Special Permits being allowed in the Town of Marlborough. Their reasoning had more to do with their displeasure of large homes built up along Lakeside Drive which they told us they cannot control since they are too far away but they can complain about what is within their control which our property happens to fall into that category.*

*For this reason we feel that the neighbors are being very unreasonable and unfair with their objections since they have no merit based on the dwelling we are proposing and they seemed genuinely happy that a new dwelling would add appeal and appreciation to the neighborhood, their concern is more of an overall concern with the Town in General and told us they would object regardless.*

*The home is going to be built 2 stories which is within the Zoning regulations of the City of Marlborough, and without a Special Permit we would be able to build a 2 story home that is 20' wide which will be unsightly in our opinion and look like you have built a Trailer on the property which is why we are requesting a 26' wide home reducing the footprint from 29' currently, this allows for a proper garage and entrance door and the ability to build an attractive home that is appropriate for the neighborhood rather than something that appears to be a trailer located sideways on a narrow lot.*

*The neighbor behind my property at 21 Patten Drive has been complaining to us for years about his "view" from his property and tried to "blackmail" us so to speak, that if we agreed to remove the trees in the back of the property he would not "object" to the construction*

*of our new dwelling. This neighbor has written an objection letter to the City Council's Office complaining about the dwelling and suggesting that we build a dwelling of his liking such as a Cape Style home, this is not his call and he is being extremely abusive and unreasonable toward me and our construction project simply based on his desire to have an unimpeded view of the lake and force the removal of trees in the back of the property.*

*It is our intentions to be a good and courteous neighbor, since Tom my life partner is a builder "General Contractor" we have always improved our properties we have lived in to the happiness of our neighbors and provided an increased property value since the home would be beautiful rather than in disrepair.*

*The neighbor in opposition in the rear of 21 Patten will have to deal with a 2 story home on the property regardless of width and the height of the home is a mere 5' difference which does not impeded his view, his other complaint was windows in the home facing his home which is an extremely unreasonable complaint, I am of the assumption nothing will make this neighbor happy about this project as we have done all we can to address his concerns.*

*Prior to the Town Meeting we sent a letter to all 40+ abutters inviting them to our home on 21 Patten to view the proposed project and provide us with any input that they might have and all but 1 neighbor who came to our coffee and donut invite welcomed us to the neighborhood and stated that they were very happy to get the eye sore on the property demolished, a new attractive dwelling build and form a new relationship with a new neighbor and we are excited to become a part of the community on Patten Drive.*

*We want to emphasize that we are working with a very tight lot, only 50' wide and we are reducing the side to side footprint by 3', however due to the new ordinance a special permit will be required to build a 26' home vs. 20' home if we do not use the existing foundation which is falling down and unable to be built up on.*

*We have also spoken in length with the Marlborough Fire Department and when it is time for the home to be demolished we will work with the Fire Department to allow them to use the dwelling for training purposes prior to demo for added benefit to the community of Marlborough.*

*We are looking forward to living in the City of Marlborough and the Community on Patten Drive and I am sure once the home is built that anyone with reservations will understand that they were not warranted and that the new dwelling will be the most positive result of development for this property.*

*Thank you very much for taking the time to read my letter.*

*Sandra L Colligan and Thomas P. Coder "Applicant's"*

## DECISION ON AN APPLICATION FOR SPECIAL PERMIT

Sandra L Colligan  
21 Patten Drive, Marlborough, MA

CITY OF MARLBOROUGH  
CITY COUNCIL ORDER No. 18-1007244

The City Council of the City of Marlborough hereby Grants the Application for Special Permit of Applicant (the Application), as provided in the Decision and subject to the following findings of fact and conditions:

### EVIDENCE

1. The Applicant, Sandra L Colligan has owned the home since March 23<sup>rd</sup>, 2017, with a mailing address of 3 Atwood Road, Southborough, AM. 01772 (the Applicant); Sandra Colligan purchased the home on Patten from her son in law for the purpose of downsizing and retiring in the lake community with life partner Thomas Coder.
2. The location of the proposed project is 21 Patten Drive, Marlborough, MA. And more particularly identified on the City of Marlborough Assessor's Maps as Parcel 80 on Plate 5, and furthermore particularly described in deeds recorded with the Middlesex South District Registry of Deeds, Book 69052, Page 435 (the "Site").
3. The owner of the "Site" is the "Applicant".
4. The single-family dwelling located on the "Site" was constructed in 1956, when the "Site" was situated within a residential A-3 zoning district and thus satisfied the provisions of the then-applicable zoning ordinance as to use. The single-family dwelling later went out of compliance as to use when the zoning district in which it is situated was changed.
5. The changes in the zoning requires 100' of road frontage for a single-family dwelling, however this lot only has 50' of road frontage which requires the "Applicant" to apply for a Special Permit to Demolish the existing structure and rebuild a more suitable and stable home on the property.
6. The existing structure is 733 square feet (SF) on the property and is 29' wide and has a deck that is built onto the neighboring lot property line. The proposed new home is 2496 (SF) only 26' wide which reduces the footprint side to side and removes the deck that is encroaching on the neighboring property currently. The new building will increase from one story to two stories which is within the allowed ordinance for the property. The proposed project does not request special permission for front of backyard setbacks, we are merely requesting approval for a 26' wide home that is 3' on each side of the home closer to the property line than is currently allowed with the zoning changes, however, please bear in mind that the current house is 29' wide and encroaches on the neighboring property far worse than the proposed new dwelling.
7. The Applicant proposes demolition of an unsightly and unlivable cottage dwelling and the construction of a dwelling less than double the size and it has been determined by the Building Commissioner that the proposed new dwelling requires a special permit due to the non-conforming side set-backs that are unable to be met.



8. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for permission to construct a new single dwelling residence on the "Site". Specifically the Application filed on March 5, 2018 with the City Clerk's office consisted of an original and two copies of the following: (a) Application to the City Council for the Issuance of the Special Permit; (b). Special Permit-Summary Impact Statement; (c) filing fee check; (d) plan delivery certification; € tax payment certification; (f) abutters list; (g) the proposed site plan and architectural plans, further described hereinbelow; (h) and the certification of the Building Commissioner on behalf of the Planning Director as to the Application's having complied with the provisions of the City's Zoning Ordinance.
9. A public hearing was held on June 18, 2018, in compliance with the requirements of the City's Zoning Ordinances and the provisions of MGL Chapter 40A, as amended. All necessary abutters were provided notice as required by law, as certified by the Office of the Marlborough Assessors office. The Applicant presented oral testimony and rebutted concerns of the neighbors who appeared and addressed their concerns and represented that the Project meets the applicable special permit criteria provided by MGL Chapter 40A, as amended, and the City's Zoning Ordinance. The Applicant also met with the neighbors in the hallway after the meeting to go over the house plans and further address the concerns that they may have. I feel it very important to note that all the neighbors that has reservations about the special permit told us that they do not object to the construction of the new home and that they will be happy that a new more attractive dwelling will bring added value to the neighborhood, they were more concerned with the presedent that they feel may be set and seem much more concerned with the large homes built along Lakeside Drive and the frustration they feel in having no "say" in the size of the homes on Lakeside, they stressed that they have a say on Patten which is why they are speaking out. The neighbors also expressed that they were concerned about elbow room distance side to side and did not realize that we were reducing the side to side set backs that currently exist at 29' and asking for a permit for 26'. This reduction in size seemed to please them however they told us that they would object to any special permit period because they are unsure of how the City Council Members will use their discretion in providing it, not necessarily the home we propose just an overall objection regardless of the allowing special permits period. The abutters seemed pleased that the new dwelling offers more elbow room for abutters than the existing dwelling.
- 10.
11. The Site Plan submitted with the Application is enclosed. The Site Plan was provided by Connorstone Engineering, Northborough, MA
12. The Architectural Plans submitted with the Application were designed by Daniel J. Wezniak, Architect, from the firm Silver Street Architects, Northborough, MA.

**BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDING OF FACT AND TAKES THE FOLLOWING ACTIONS:**

- A. The City Council finds that it may grant a Special Permit (Special Permit) subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").

- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough (also referenced herein as the “City”)
- C. The City Council finds that the legally nonconforming residential use of the Site, as increased or intensified by the proposed new construction of the dwelling, is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The construction of the dwelling will complement the nature of the abutting properties and the surrounding neighborhood.
- D. In accordance with the provisions of MGL c. 40A \* 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council’s office, to the Building Department and to the City Solicitor’s office.

ADOPTED

In City Council

Order No. \_\_\_\_\_

A TRUE COPY

ATTEST:

**From:** City Council  
**Sent:** Thursday, July 12, 2018 3:37 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juare; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment from Police Chief Giorgi: For Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

**From:** David Giorgi  
**Sent:** Thursday, July 12, 2018 8:41 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Good morning,

The Police Dept. does not have an issue with either project.

Thank you,  
D. Giorgi

**From:** City Council  
**Sent:** Thursday, July 12, 2018 3:57 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Peter Juairé; Mark Oram; Mike Ossing; Kathleen Robey; Mike Ossing; Ed Clancy  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment from Board of Health Director: For Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

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**From:** Cathleen Liberty  
**Sent:** Thursday, July 12, 2018 10:28 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Subject:** RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Hi Karen,  
The BOH has no comments.

Cathleen

**From:** Thomas DiPersio  
**Sent:** Tuesday, July 17, 2018 2:14 PM  
**To:** City Council; Priscilla Ryder; Jeffrey Cooke; Kevin Breen; David Giorgi; Cathleen Liberty; John Ghiloni; Donald Rider; Cynthia Panagore Griffin  
**Cc:** Sara Corbin; Karen Boule; Joe Delano  
**Subject:** RE: TO MANAGERS: From Tom Coder: Required Draft Decision for Special Permit, 21 Patten Drive, Marlborough, MA

The site plan that was included in this application should show the location of the houses and driveways on the abutting properties. This information is needed to assist the City Council and Site Plan Committee in assessing the potential impact on the abutters. I will request from the owner and their engineers that they provide an updated plan.

**Thomas DiPersio, Jr., PE, PLS**

City Engineer  
Department of Public Works  
135 Neil Street  
Marlborough, MA 01752  
Phone:(508)624-6910x33200  
[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)



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**From:** City Council  
**Sent:** Monday, July 9, 2018 1:03 PM  
**To:** Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Donald Rider <[drider@marlborough-ma.gov](mailto:drider@marlborough-ma.gov)>; Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>  
**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>  
**Subject:** TO MANAGERS: From Tom Coder: Required Draft Decision for Special Permit, 21 Patten Drive, Marlborough, MA

---

**From:** Cabinet Depot - Southborough [<mailto:cabinetdepotoutlet@gmail.com>]  
**Sent:** Monday, July 9, 2018 10:45 AM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

**Cc:** Tom Coder <[thomascoder5@gmail.com](mailto:thomascoder5@gmail.com)>; Sandra <[sandy@yourcreditcardlady.com](mailto:sandy@yourcreditcardlady.com)>

**Subject:** Re: Required Draft Decision for Special Permit, 21 Patten Drive, Marlborough, MA

Here are the corrected versions.



## Cabinet Depot - Southborough

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**a:** 206 Turnpike Road  
Southborough, MA 01772

**w:** [www.cabinetdepotoutlet.com](http://www.cabinetdepotoutlet.com)



**From:** City Council  
**Sent:** Monday, July 23, 2018 12:56 PM  
**To:** Thomas DiPersio  
**Cc:** Sara Corbin; Karen Boule; Ed Clancy; Joe Delano  
**Subject:** From Tom Coder: July 23 Update re: Site Plan for Special Permit, 21 Patten Drive, Marlborough, MA  
**Attachments:** 21 Patten Drive.pdf; ATT00001.htm

**From:** Cabinet Depot - Southborough <[cabinetdepotoutlet@gmail.com](mailto:cabinetdepotoutlet@gmail.com)>  
**Date:** July 23, 2018 at 12:23:42 PM EDT  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Subject:** Re: July 23 Update re: Site Plan for Special Permit, 21 Patten Drive, Marlborough, MA

Hi Karen,

We have just received the revised plan just a little while ago. This is what was sent to us from Connorstone Engineering.

Let us know if everything checks out on your end.

Thank you,

Tom Coder



**Cabinet Depot - Southborough**

*Design & Sales*

**p:** (508) 485-7777

**a:** 206 Turnpike Road  
Southborough, MA 01772

**w:** [www.cabinetdepotoutlet.com](http://www.cabinetdepotoutlet.com)



THE TIES TO THE LOT LINES SHOWN HEREON ARE NOT TO BE USED IN THE SETTING OF FENCES, HEDGES, ETC.

THE PROPOSED DWELLING SHOWN HEREON WILL REQUIRE A VARIANCE FROM THE CITY OF MARLBOROUGH ZONING BOARD OF APPEALS.

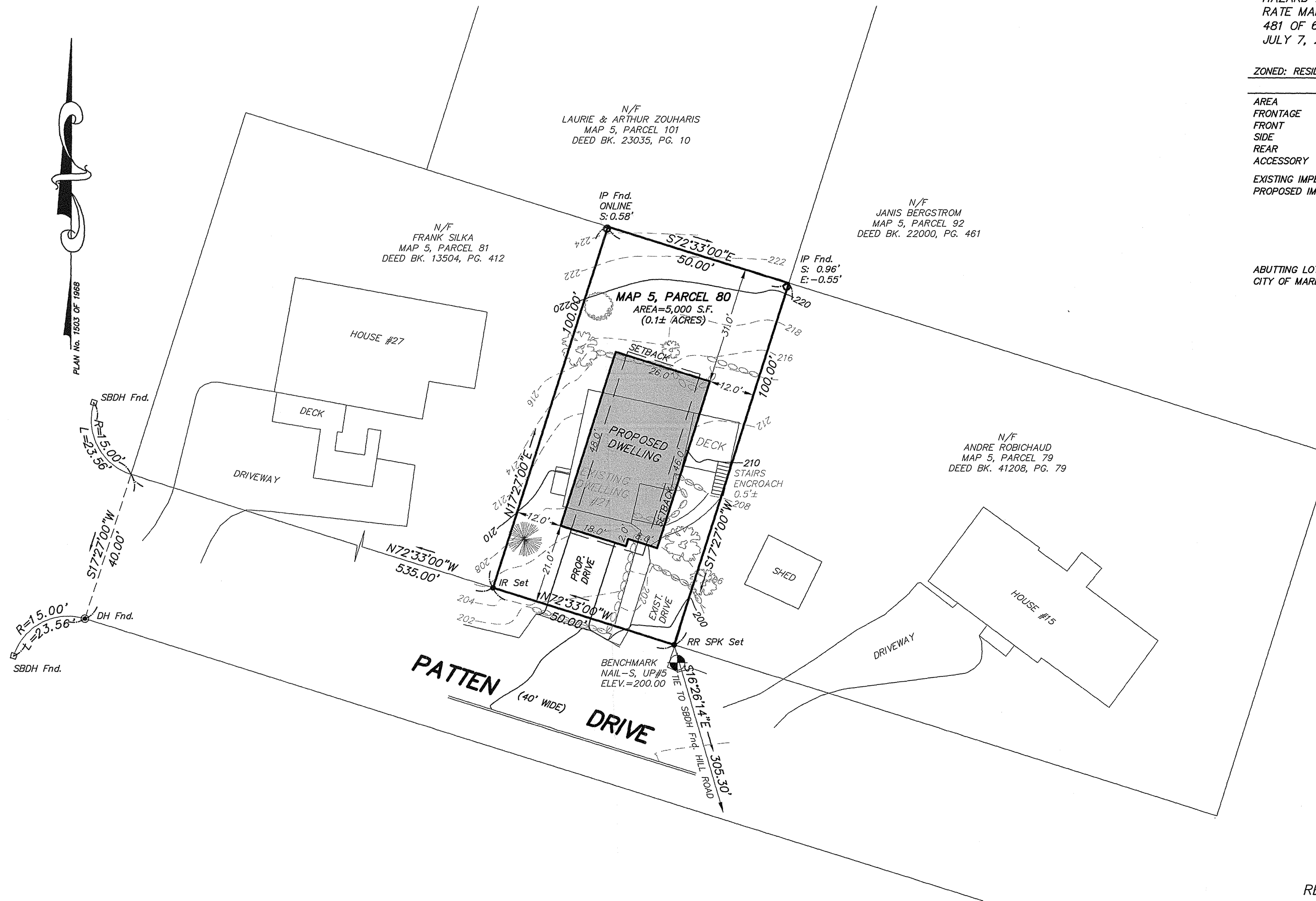
THE LOT SHOWN AND THE DWELLING THEREON ARE NOT LOCATED WITHIN THE 100 YEAR FEDERAL FLOOD HAZARD AREA AS SHOWN ON THE FLOOD INSURANCE RATE MAPS FOR THE CITY OF MARLBOROUGH, PANEL 481 OF 656, MAP NUMBER 25017C0481F, DATED JULY 7, 2014.

ZONED: RESIDENCE A3 - PROPOSED DWELLING

	REQUIRED	EXISTING HOUSE	PROPOSED HOUSE
AREA	12,500 sf	5,000 sf	5,000 sf
FRONTAGE	100 feet	50 feet	50 feet
FRONT	20 feet	26.0'	21.0'
SIDE	15 feet	8.2'	12.0' (VARIANCE)
REAR	30 feet	40.1'	31.0'
ACCESSORY	5 feet	N/A	N/A

EXISTING IMPERVIOUS LOT COVERAGE = 1,211 S.F.± (24.2%)  
 PROPOSED IMPERVIOUS LOT COVERAGE = 1,484 S.F.± (29.6%): 30% MAX

ABUTTING LOT INFORMATION; HOUSES, DRIVEWAYS, ETC. TAKEN FROM CITY OF MARLBOROUGH GIS DATA.



PREPARED FOR:  
 SANDY COLLIGAN  
 206 TURNPIKE ROAD  
 SOUTHBOROUGH, MA 01772

REVISED: JULY 19, 2018  
 DATE: AUGUST 2, 2017 SCALE: 1"=20'



Handwritten initials and date: BC 7/19/18

**ZBA PETITION PLAN**  
**21 PATTEN DRIVE**  
**MARLBOROUGH, MA**  
**CONNORSTONE ENGINEERING**  
 CONSULTING CIVIL ENGINEERS  
 AND LAND SURVEYORS  
 10 SOUTHWEST CUTOFF, SUITE 7  
 NORTHBOROUGH, MASSACHUSETTS 01532



**From:** Cynthia Panagore Griffin  
**Sent:** Wednesday, July 18, 2018 3:18 PM  
**To:** City Council  
**Cc:** Sara Corbin; Jeffrey Cooke; Thomas DiPersio  
**Subject:** REV. DRAFT 7.13.2018 21 Patten Dr. Special Permit Decision  
**Attachments:** REV. DRAFT 7.13.2018 21 Patten Dr. Special Permit Decision.docx

KB:

As mentioned, please see the attached revised draft Special Permit for 21 Patten Drive. I worked off of the draft submitted by the Applicant, and consulted with Jeff Cooke.

Cynthia

IN CITY COUNCIL

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Marlborough, MA September , 2018

Formatted: c2, Left, Line spacing: single, Tab stops: 2.86", Left + Not at 0.5"

DECISION FOR SPECIAL PERMIT

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IN CITY COUNCIL

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Special Permit  
Sandra L. Colligan  
3 Atwood Road  
Southborough, MA 01772

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Order No. 18-1007244

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DECISION ON AN APPLICATION FOR SPECIAL PERMIT

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Sandra L. Colligan  
21 Patten Drive, Marlborough, MA

CITY OF MARLBOROUGH  
CITY COUNCIL ORDER No. 18-1007244

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The City Council of the City of Marlborough hereby ~~Grants~~ GRANTS the ~~a~~ Application for ~~a~~ Special Permit of Applicant (the Application) to Sandra L. Colligan of 3 Atwood Road, Southborough, MA 01772, as provided in ~~this~~ Decision and subject to the following ~~F~~ Findings of Fact and C onditions:

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EVIDENCE PROCEDURAL FINDINGS

- ~~1. The Applicant, Sandra L Colligan, with an address of 3 Atwood Road, Southborough, MA 01772, is the owner of real property located at 21 Patten Drive, Marlborough, MA 01752 has owned the home since March 23<sup>rd</sup>, 2017, with a mailing address of 3 Atwood Road, Southborough, AM. 01772 (the "Applicant").~~
- ~~1. The Applicant is the owner of said real property which is described in a deed recorded with the Middlesex South District Registry of Deeds at Book 69052, Page 435, and, Sandra Colligan purchased the home on Patten from her son in law for the purpose of downsizing and retiring in the lake community with life partner Thomas Coder.~~
- ~~2. The location of the proposed project is 21 Patten Drive, Marlborough, MA. And more particularly identified on the City of Marlborough Assessor's Maps as Map 5 Parcel 80, Parcel on Plate 805, and furthermore particularly described in deeds recorded with the Middlesex South District Registry of Deeds, Book 69052, Page 435 (the "Site").~~

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~~2.~~  
3. The owner of the "Site" is the "Applicant". The Applicant, on or about April 17, 2018 filed with the City Clerk of the City of Marlborough an Application to City Council for Issuance of Special Permit (the "Application") under Section 12, Paragraph B, of Chapter 650 (Zoning) of the Code of the City of Marlborough to demolish the existing single-family dwelling located on the Site and to construct a new single-family dwelling (the "Project").

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4. The Application consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement, (c) Filing Fee check in the amount of \$300.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Preliminary Site Plan, (h) Architectural Drawings, (i) Certificate of Completeness of Application, and (j) Zoning Denial Letter (dated April 5, 2018), (collectively the "Documents"), which Documents are incorporated herein and become a part of this Decision. Eleven sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer, and the Conservation Officer, all in accordance with Section 59 of Chapter 650 of the Zoning Code of the City of Marlborough.

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5. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A, Sections 9 and 11, the City Council established a date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the Main Street Journal. All necessary abutters, as certified by the Office of the Marlborough Assessors, were provided notice as required by law.

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6. The Marlborough City Council held a public hearing on the Application on June 18, 2018 in accordance with the published notice (the "Public Hearing"). The time for the City Council to take final action on the Application is September 16, 2018.

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7. The Applicant presented testimony at the Public Hearing detailing the Project, its impact upon the neighborhood, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the Public Hearing. Subjects of concern were the condition of the existing single-family dwelling, and the potential of the Project to establish a precedent for future construction which would diminish the spacing between the neighborhood dwellings and allow for oversized homes. A direct abutter to the side of the Site spoke in opposition in order to question the width of the proposed dwelling. The Applicant explained that the existing dwelling is 29' wide, while the proposed dwelling would be 26' wide. Direct abutters to the rear of the Site could not be present at the Public Hearing but provided a letter to the City which outlined their appreciation for a new home to replace the existing derelict structure, but also their concern that the proposed two-story height would be overwhelming and obtrusive.

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8. The Applicant also submitted to the City Council an undated letter which addresses some of the concerns of abutters to the Site concerning the proposed Project, including the rear abutters' concern regarding the proposed two-story height which, in the opinion of the Applicant, is unreasonable.

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~~3. The Applicant also provided written and oral documentation and testimony to the City Council's Urban Affairs Committee regarding the condition of the existing single-family dwelling and regarding the Project.~~

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~~9.~~

**Commented [CPG1]:** Has not yet to be placed on a UA agenda.

~~10. The Site, located in the A-3 zoning district, has approximately 50' of frontage on Patten Drive and is comprised of approximately 5,000 SF of land. Chapter 650-41 of the Zoning Code of the City of Marlborough requires 100' frontage and a lot size of 12,500 SF.~~

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~~11. The Building Commissioner has determined that the existing single-family dwelling is a pre-existing nonconforming structure with respect to lot size and setbacks, and that the proposed single-family dwelling would increase or intensify the nonconformities of said structure. Thus, the proposed increase or intensification of the pre-existing nonconforming structure requires a special permit from the City Council. The Zoning Denial Letter of the Building Commissioner, dated April 5, 2018, is attached hereto as "Attachment A."~~

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~~4. The single family dwelling located on the "Site" was constructed in 1956, when the "Site" was situated within a residential A-3 zoning district and thus satisfied the provisions of the then applicable zoning ordinance as to use. The single family dwelling later went out of compliance as to use when the zoning district in which it is situated was changed.~~

~~5. The changes in the zoning requires 100' of road frontage for a single family dwelling, however this lot only has 50' of road frontage which requires the "Applicant" to apply for a Special Permit to Demolish the existing structure and rebuild a more suitable and stable home on the property.~~

~~12. The existing structure is 733 square feet. The preliminary site plan submitted with the Application is entitled, "ZBA Petition Plan, 21 Patten Drive, Marlborough, Massachusetts; Prepared for Sandy Colligan, 206 Turnpike Road, Southborough, MA;" Connorstone Engineering, 10 Southwest Cutoff, Suite 7, Northborough, MA 01532, scale 1" = 20', dated August 2, 2017 (the "Site Plan"), attached hereto as "Attachment B."~~

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~~13. The architectural drawings submitted with the Application are entitled "Young Residence, 21 Patten Drive, Marlborough, MA," by Daniel J. Wezniak, AIA, dated August 8, 2017 (the "Architectural Drawings") and are attached hereto as "Attachment C."~~

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~~6. (SF) on the property and is 29' wide and has a deck that is built onto the neighboring lot property line. The proposed new home is 2496 (SF) only 26' wide which reduces the footprint side to side and removes the deck that is encroaching on the neighboring property currently. The new building will increase from one story to two stories which is within the allowed ordinance for the property. The proposed project does not request special permission for front of backyard setbacks, we are merely requesting approval for a 26' wide home that is 3' on each side of the home closer to the property line than is currently allowed with the zoning changes, however, please bear in mind that the current house is 29' wide and encroaches on the neighboring property far worse than the proposed new dwelling.~~

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~~7. The Applicant proposes demolition of an unsightly and unlivable cottage dwelling and the construction of a dwelling less than double the size and it has been determined by the~~

Building Commissioner that the proposed new dwelling requires a special permit due to the non-conforming side set backs that are unable to be met.

- ~~8. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for permission to construct a new single dwelling residence on the "Site". Specifically the Application filed on March 5, 2018 with the City Clerk's office consisted of an original and two copies of the following: (a) Application to the City Council for the Issuance of the Special Permit; (b) Special Permit Summary Impact Statement; (c) filing fee check; (d) plan delivery certification; (e) tax payment certification; (f) abutters list; (g) the proposed site plan and architectural plans, further described hereinbelow; (h) and the certification of the Building Commissioner on behalf of the Planning Director as to the Application's having complied with the provisions of the City's Zoning Ordinance.~~
- ~~9. A public hearing was held on June 18, 2018, in compliance with the requirements of the City's Zoning Ordinances and the provisions of MGL Chapter 40A, as amended. All necessary abutters were provided notice as required by law, as certified by the Office of the Marlborough Assessors office. The Applicant presented oral testimony and rebutted concerns of the neighbors who appeared and addressed their concerns and represented that the Project meets the applicable special permit criteria provided by MGL Chapter 40A, as amended, and the City's Zoning Ordinance. The Applicant also met with the neighbors in the hallway after the meeting to go over the house plans and further address the concerns that they may have. I feel it very important to note that all the neighbors that has reservations about the special permit told us that they do not object to the construction of the new home and that they will be happy that a new more attractive dwelling will bring added value to the neighborhood, they were more concerned with the presedent that they feel may be set and seem much more concerned with the large homes built along Lakeside Drive and the frustration they feel in having no "say" in the size of the homes on Lakeside, they stressed that they have a say on Patten which is why they are speaking out. The neighbors also expressed that they were concerned about elbow room distance side to side and did not realize that we were reducing the side to side set backs that currently exist at 29' and asking for a permit for 26'. This reduction in size seemed to please them however they told us that they would object to any special permit period because they are unsure of how the City Council Members will use their discretion in providing it, not necessarily the home we propose just an overall objection regardless of the allowing special permits period. The abutters seemed pleased that the new dwelling offers more elbow room for abutters than the existing dwelling.~~
- ~~10. \_\_\_\_\_~~
- ~~11. The Site Plan submitted with the Application is enclosed. The Site Plan was provided by Connorstone Engineering, Northborough, MA~~
- ~~12. The Architectural Plans submitted with the Application were designed by Daniel J. Wezniak, Architect, from the firm Silver Street Architects, Northborough, MA.~~

**BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDING OF FACT AND TAKES THE FOLLOWING ACTIONS:**

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~~A.~~ The City Council finds that it may grant a Special Permit (~~Special Permit~~) subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").

~~A.~~  
~~B.~~ The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough (~~also referenced herein as the "City"~~).

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

~~D.~~ The City Council makes these findings subject to the completion and adherence by the Applicant, her successors and/or assigns to the conditions more fully set forth herein.

~~E.~~ The City Council finds that the expansion or alteration of the existing ~~the legally nonconforming residential single-family use structure~~, by demolition thereof and construction of the proposed new single-family dwelling, is not substantially more detrimental to the neighborhood than the existing non-conforming structure, that it is ~~of the Site, as increased of intensified by the proposed new construction of the dwelling, is an appropriate use, and that is 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 construction of the dwelling will complement the nature of the abutting properties and the surrounding neighborhood.~~

~~F.~~ 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 to build a single-family dwelling as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, her 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 Site Plan and Architectural Drawings as may be subject to minor modifications with approval of the Building Commissioner.

~~B.~~  
~~C.~~ The City Council finds that the legally nonconforming residential use of the Site, as increased of intensified by the proposed new construction of the dwelling, is an appropriate use, and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The construction of the dwelling will complement the nature of the abutting properties and the surrounding neighborhood.

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2. Recording of Special Permit. In accordance with the provisions of Massachusetts General Laws, MGL c. 40A, Section 11, the Applicant at ~~its~~ her expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the City Council's office, to the Building Department and to the City Solicitor's office.  
~~D:~~

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Yea: \_\_\_\_\_ Nay: \_\_\_\_\_ Absent: \_\_\_\_\_

ADOPTED \_\_\_\_\_  
In City Council \_\_\_\_\_ Edward Clancy  
Order No. 18-1007244 \_\_\_\_\_ City Council President

A TRUE COPY  
ATTEST:

**From:** City Council  
**Sent:** Wednesday, July 18, 2018 5:54 PM  
**To:** Sara Corbin; Karen Boule  
**Subject:** Comment from Building Commissioner: 21 Patten Drive - Residential Special Permit

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**From:** Jeffrey Cooke  
**Sent:** Monday, July 16, 2018 5:44 PM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** 21 Patten RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

To:Urban Affairs Committee

RE: Special Permit for 21 Patten Drive, Marlborough, MA

Building Commissioner has no additional comments on the Decision being written by The Legal Department.

However, I do Have comments on the "Letter to City Council for Special Permit" submitted by applicant Sandra Colligan.

Paragraph 11

Ms. Colligan writes "We want to emphasize that we are working with a very tight lot, only 50' wide and we are reducing the side to side footprint by 3', however due to the new ordinance a special permit will be required to build a 26' home vs. 20' home if we do not use the existing foundation which is falling down and unable to be built up on." End of quote.

The Special Permit that is required for this structure has nothing to do with the existing foundation. The issue is that the addition of a second story to the dwelling, that is located within the required setbacks increases or intensifies the non-conformity of the dwelling. This is the reason that zoning relief needs to be obtained.

Jeffrey Cooke, C.B.O.  
Building Commissioner  
City of Marlborough, MA  
508-460-3776

### **Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances



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**From:** Karen Boule

**Sent:** Tuesday, July 10, 2018 2:31 PM

**To:** Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>

**Subject:** Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

By way of information and per the zoning ordinance, your individual comments will assist the Urban Affairs Committee in its review of the special permit applications. We are looking at next Tuesday evening to meet although it has not been confirmed.

Thank you.

*Karen Boule*  
*City Council Office*  
*140 Main Street*  
*Marlborough, MA 01752*  
*508-460-3711*

**From:** City Council  
**Sent:** Thursday, July 19, 2018 1:33 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juare; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy; Donald Landers  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment from Priscilla Ryder - Residential Special Permits, Jefferson Street and Patten Drive

**From:** Priscilla Ryder  
**Sent:** Thursday, July 19, 2018 10:05 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Cc:** Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>  
**Subject:** RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Hi Karen,

I don't think I ever responded to you on these two projects 27 Jefferson St. and 21 Patten Dr. There are no conservation related items on these properties so I have no conservation related comments.

I will look at the landscaping and drainage in more detail when they come to Site Plan Review. At this stage I have nothing to add.  
Thanks!

*Priscilla Ryder*  
*Conservation Officer*  
*140 Main St. City Hall; Marlborough, MA 01752*  
*Ph: 508-460-3768 ; [pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)*

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**From:** Karen Boule  
**Sent:** Tuesday, July 10, 2018 2:31 PM  
**To:** Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

By way of information and per the zoning ordinance, your individual comments will assist the Urban Affairs Committee in its review of the special permit applications. We are looking at next Tuesday evening to meet although it has not been confirmed.  
Thank you.

*Karen Boule*

*City Council Office*  
*140 Main Street*  
*Marlborough, MA 01752*  
*508-460-3711*



## IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ APRIL 23, 2018

**ORDERED:**

That there being no objection thereto set **MONDAY, JUNE 18, 2018** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Attorney Falk, on behalf of Jefferson Street Residences, 27 Jefferson LLC, to build an 11 unit 2 story, multifamily condominium building at 27 Jefferson Street, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE.**

**Ninety days after public hearing is 09/16/18 which falls on a Sunday, therefore 09/17/18 would be considered the 90<sup>th</sup> day.**

ADOPTED

ORDER NO. 18-1007245



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 1

ORDERED:

That the PUBLIC HEARING On the Application for Special Permit from Attorney Falk, on behalf of Jefferson Street Residences, 27 Jefferson LLC, to build an 11 unit 2 story, multifamily condominium building at 27 Jefferson Street, Order No. 18-1007245, all were heard who wish to be heard, hearing closed at 8:42 PM.

**Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.**

## PUBLIC SPEAKING IN FAVOR

Attorney Arthur Bergeron introduced himself and explained he represented Alt.Re and Stas Burdan, the principal proposing this project. Mr. Bergeron reminded Councilors of their previous interactions with Mr. Burdan when he redeveloped the Howe Shoe Factory and St. Mary's Church and its related properties. Mr. Burdan has a track record of doing what he says he will do on his projects.

Mr. Bergeron stated the land involved in this project is zoned Residence B (RB). In a RB district, the proposed use is legal with a special permit and the number of units being proposed are allowed in a RB zone. No variances are required nor requested for this project. In the City of Marlborough, a special permit is required to build any multifamily residence of more than two units whether it is three or three-hundred. The purpose of that requirement is to allow the City Council to decide whether a project fits in with its surrounding neighborhood. The neighborhood for this proposed project was designed for multifamily residences.

Stas Burdan proceeded to review the Jefferson Street Residences project to be located at 27 Jefferson Street with a slideshow presentation. The following slides were part of his presentation:

- **Jefferson Street Residences**  
This slide was a rendering of the proposed building superimposed over the street and site view.
- **Neighborhood Zoning Map**  
This slide gave an idea of what the neighborhood looks like. Jefferson Street is a short street, about 1,000 feet long connecting Hudson Street to Highland Street and it runs parallel to the Rail Trail. There are only about ten parcels on this street. The side with the Rail Trail is zoned Commercial Automotive (CA) with seven parcels and the opposite side, the North side, is zoned RB with three parcels.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 2

ORDERED:

On the side with the Rail Trail, the largest parcel was an old shoe sole factory built in the 1890's currently being used as a commercial building. The next two parcels combined are used as municipal parking. The remaining four parcels are residential single- and two-family homes. On the North side, there is Kelleher field, the object site, and 23 Jefferson Street.

- **Photos & Views of Old House on Site**  
This slide had a Historical Society Picture showing the residences at 23 & 27 Jefferson Street as well as a photo of 27 Jefferson Street from the Assessor's Database. The proposed building is two-stories high versus the two-and-a-half-stories height of the original house.
- **Site Plan – Existing Conditions**  
The site itself is quite challenging with 118-feet of street frontage and it runs deep at almost 300-feet. There is a hill which changes its elevation about thirty-feet from one side to the other. Jefferson Street itself changes elevation fourteen-feet and the only opportunity to enter the site is from the driveway that is still present from the previous house.
- **Site Plan – Proposed**  
The proposed project meets all zoning criteria and requires no variances. It meets requirements with regards to lot setback, building height, and number of units. Eleven-units are allowed with a special permit and the lot coverage is twenty-eight percent, two-percent below allowed lot coverage. The design is such because the building is located as close to Jefferson Street as allowed by zoning and parking is underground.
- **Garage Plan**  
The cars enter an aisle twenty-four feet wide, with spaces that are eighteen-feet long by nine-feet wide per zoning requirements. There are twenty-four spaces, two more than required by the zoning. The entry to the building is close to Jefferson Street with an elevator in the lobby to allow accessibility to the first and second floors.

The dumpster enclosure required sixty-foot access which will have two oversized dumpsters, one for recycling and the other for trash which the residents can access without leaving the building. They are hidden behind overhead garage doors.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 3

## ORDERED:

- **First Floor**  
There are six-units, 1,300 square feet, two-bedroom, two-bath units with a central hallway.
- **Second Floor**  
Five-units, most of them are 1,300 square feet, except for Mr. Burden's unit which has an office. The second floor has a common area with a kitchenette, living area, and deck for residents.
- **Elevation. View from Kelleher Field**  
The building appears to be three-stories due to the exposed garage area but the building is cut into the hill. The garage will have open air ventilation window openings covered by a wire mesh or some other similar material.
- **Municipal Parking on Jefferson Street**  
Mr. Burdan discussed the guest parking situation. Mr. Bergeron at one time calculated that 1.61 parking spaces are used at the busiest of times so theoretically six spaces are going to be free at any given time. The residents can access the building by proximity access and the garage door will open for them. For guests, there would be an intercom device for them to contact the resident and the owner can use their phone to open the gate to access the six open spaces. In the case of larger parties, guests can park across the street in the municipal parking lot as it is not often used except for games. Last year there were seven games at Kelleher field.
- **View from Kelleher Field**  
The proposed building is neatly tucked away in the corner of its parcel and there is still much greenery and trees onsite.
- **Satellite View**  
Most of the trees are on the edge of the site and are hardwoods. He planned to keep as many as possible.
- **Kelleher Field & Marlborough Sports History to be featured**  
Mr. Burdan is a photography enthusiast and planned to feature photographs such as these in the common areas of the building.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 4

ORDERED:

- **Athletic Director MHS Opinion**  
Mr. Burdan met with Jeff Rudzinsky, Marlborough High School Athletic Director, and he did not see this project interfering with the school's use of the field and its construction of two retaining walls as well as closing off the fence would prevent students from sneaking into games at the field.
- **Elevation. View from Kelleher Field**  
Mr. Burdan used this slide to show the view from Highland Street would show a building of only about one-and-a-half-stories.
- **Landscape Plan**  
Mr. Burdan met with Highland Street residents and everyone had specific issues he addressed with his landscape plan. He has an agreement in writing with the residents at 23 Jefferson Street.
- **Supported by Neighbors**  
Mr. Burdan met with all the neighbors and held a neighborhood meeting to discuss his plans. Only one neighbor did not wish to speak with him and did not attend the neighborhood meeting.
- **Site Plan – Proposed**

Mr. Bergeron made some comments to close their presentation. He stated Mr. Burdan is a wonderful developer who made the effort to speak with all the neighbors and he presented a petition to the City Clerk signed by nine of the neighbors in support of the project. He also noted they were to be for-sale units, Mr. Burdan reserved a unit for himself and the price point was \$400,000 per unit. The target market was urban young people. Mr. Bergeron also explained with the underground parking lot and the short driveway will be heated so the snow will melt and they can provide examples of how it works for Urban Affairs Committee. The project engineer, Joe Peznola of Hancock Associates was present to answer any engineering questions.

Attorney Sandra Austin, representing Linda Kettle, the owner of 23 Jefferson Street, spoke on behalf of her client. Ms. Kettle was originally against this plan due to some concerns but they contacted Mr. Bergeron and Mr. Burdan who were extremely responsive in a very neighborly fashion. Ms. Austin explained her client had three requests and all three were agreed to by Mr. Burdan. They were as follows:





# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 5

ORDERED:

1. The stone wall in front of 23 Jefferson Street would be cared for during the project.
2. Given the storms that occurred during the year, quite a few tall trees came down and provisions were made for bushes that were to be mutually agreed upon which would grow no larger than five to six feet.
3. Ms. Kettle's last and final concern was the location of the common boundary line which is against the Ms. Kettle's house. The Kettles were unaware this was the boundary line and were surprised to see it marked on the plan as such. Mr. Burdan agreed to provide a permanent easement after construction from the bushes to the Kettle's house. They sat down and put together an agreement signed by all parties and Ms. Austin asked for that agreement to be a condition of the special permit should it be approved by the City Council.

Ms. Austin concluded by stating they thought the project was a fantastic addition to the neighborhood.

Dan Johnson, resident at 30 Highland Street, spoke with Mr. Burdan and supported this project.

There is no one else speaking in favor. That part of the Public Hearing is closed.

## QUESTIONS FROM THE PUBLIC

There are no questions from the public. That part of the Public Hearing is closed.

## PUBLIC SPEAKING IN OPPOSITION

There is no one speaking in opposition. That part of the Public Hearing is closed.

## QUESTIONS FROM THE CITY COUNCIL

- ✓ Councilor Irish had two questions:
  1. Would the project have a clear title without easements? Mr. Bergeron stated that was correct, there are two easements, one for the neighbor at 23 Jefferson Street and one for a resident on Highland Street, but there will be a clear title.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ JUNE 18, 2018

PAGE 6

ORDERED:

2. Could there be a consideration of reducing the number of units for this project. Mr. Burdan responded by stating eleven units are allowable by the zoning and there were challenges with the site. Since it is in the side of a hill, there is no way to access it without an elevator. An elevator is an expensive item for such a small building. In normal circumstances, a small building would not have an elevator and by dividing the cost of the elevator among a smaller number of units, it would be economically unfeasible. Also, maintenance of an elevator is an expensive proposition and it would not be an option with fewer units.

Mr. Bergeron explained reducing the units from eleven to ten would not shrink the size of the building especially with the parking garage underneath the building.

✓ Councilor Juairé stated when he was the Ward Four Councilor, he found Mr. Burdan very responsive to any concerns he brought to him regarding the St. Mary's Church redevelopment project. Councilor Juairé had two items he wished to be discussed at the Urban Affairs Committee:

1. He requested information on the heated driveway and details on how it will drain to not affect Jefferson Street.
2. He wanted to see the site plan approval by the Fire Chief on how the Fire Department will access the site.

There are no further questions from members of City Council. That part of the Public Hearing is closed.

That ends the entire Public Hearing. This is currently in the Urban Affairs Committee.

That ends the entire Public Hearing. This is currently in the Urban Affairs Committee.

ADOPTED

ORDER NO. 18-1007245A

**From:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Date:** June 28, 2018 at 5:34:41 PM EDT  
**To:** Donald Rider <[drider@marlborough-ma.gov](mailto:drider@marlborough-ma.gov)>, Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>, David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>, Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>, Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>, Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>, Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>, John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>, Charles Thebado <[Cthebado@marlborough-ma.gov](mailto:Cthebado@marlborough-ma.gov)>, Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>, Michael Bergeron <[mbergeron@mps-edu.org](mailto:mbergeron@mps-edu.org)>  
**Cc:** Mayor <[mayor@marlborough-ma.gov](mailto:mayor@marlborough-ma.gov)>, Nicholas Milano <[nmilano@marlborough-ma.gov](mailto:nmilano@marlborough-ma.gov)>  
**Subject:** DEPARTMENT MANAGERS: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

Dear Department Heads and Managers:

I am forwarding for your review and comment the special permit draft decision from Atty. Falk in connection with an application for a multifamily housing project on Jefferson Street next to Kelleher Field.

The Urban Affairs Committee will meet with the proponent in the near future to review the plans and draft decision. Your comments will assist the committee in its deliberations prior to making a recommendation to the full City Council.

Feel free to email or call me if you have any questions.

Karen

508-460-3711 W

508-808-9578 C

*Karen Boule*

*City Council Office*

*140 Main Street*

*Marlborough, MA 01752*

*508-460-3711*

**From:** Falk, Brian R. [<mailto:bfalk@MirickOConnell.com>]

**Sent:** Thursday, June 28, 2018 4:48 PM

**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>; 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>

**Subject:** RE: Draft decision for Special Permitâ€”Jefferson Street Proposed Housing Project

Hi Karen,

Attached is a draft decision. Please let us know when we may be scheduled before Urban Affairs.

Thanks,

Brian



**BRIAN R. FALK**

Of Counsel

Mirick, O'Connell, DeMallie & Lougee, LLP

100 Front Street | Worcester | MA | 01608-1477

t 508.929.1678 | f 508.983.6256

[bfalk@mirickoconnell.com](mailto:bfalk@mirickoconnell.com) | Bio



Please visit our website: [www.mirickoconnell.com](http://www.mirickoconnell.com)

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**From:** Falk, Brian R.

**Sent:** Tuesday, June 19, 2018 11:52 AM

**To:** Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>; 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>

**Subject:** RE: Draft decision for Special Permit—Jefferson Street Proposed Housing Project  
I am indeed. I'll have a draft circulated soon.



Brian R. Falk | X 678 | t 508.929.1678 | m 617.417.5509

Of Counsel

Worcester Office

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**From:** Bergeron, Arthur P.

**Sent:** Tuesday, June 19, 2018 10:16 AM

**To:** 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>; Falk, Brian R. <[bfalk@MirickOConnell.com](mailto:bfalk@MirickOConnell.com)>

**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>

**Subject:** RE: Draft decision for Special Permit—Jefferson Street Proposed Housing Project  
Actually Brian is working on it I believe.



Arthur P. Bergeron | X 740 | t 508.860.1470 | m 508.596.5526

Of Counsel

Westborough Office

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**From:** Stas Burdan <[stas@altre.co](mailto:stas@altre.co)>

**Sent:** Tuesday, June 19, 2018 10:04 AM

**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

**Cc:** [stas@altre.co](mailto:stas@altre.co); Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>; Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>

**Subject:** Re: Draft decision for Special Permit—Jefferson Street Proposed Housing Project  
This Message originated outside of Mirick O'Connell.

Thank you Karen,

I believe Arthur is already working on a draft decision,  
and I will make sure he does.

Stas Burdan

[Alt.Re](#) Real Estate / Brokerage / Development / Opportunities

email: [stas@altre.co](mailto:stas@altre.co)

cell : 857.991.9111

main : 844.ALT.RE00

web : [www.altre.co](http://www.altre.co)

> ---- Original Message ----  
> From: City Council [[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)]  
> Sent: Tuesday, June 19, 2018 13:37  
> To: [stas@altre.co](mailto:stas@altre.co), Sara Corbin, Joe Delano  
> Subject: Draft decision for Special Permit—Jefferson Street Proposed Housing Project  
>  
> With last night's public hearing in mind, a draft decision is required under the special permit regulations. I will send you a sample in word that will be helpful. Email me if you have any questions.  
> KB  
>  
> Karen Boule  
> City Council Office  
--

The information contained in this electronic message is legally privileged and confidential under applicable law, and is intended only for the use of the individual or entity named above. This electronic message and any attachments may also contain information that is protected by federal and state law, including the HIPAA Privacy Rule. If you are not the intended recipient, you are hereby notified that any dissemination, copying or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify Mirick O'Connell at (508)791-8500 and delete this communication immediately without copying or distributing it.

\_\_\_\_\_, 2018

**NOTICE OF DECISION  
GRANT OF SPECIAL PERMIT**

In City Council  
Order No. #18-1007245

Application of:  
27 Jefferson LLC

Locus:  
27 Jefferson Street, Marlborough, MA  
Map 56, Parcels 160 & 173

**DECISION**

The City Council of the City of Marlborough hereby **GRANTS** the Application of 27 Jefferson, LLC, with a mailing address of 110 Pleasant Street, Unit 100, Marlborough, MA 01752, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: \_\_\_\_\_, 2018

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the [ ] day of [ ], 2018.

**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**

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**DECISION ON A SPECIAL PERMIT**

Application of:  
27 Jefferson, LLC

Locus:  
27 Jefferson Street, Marlborough, MA  
Map 56, Parcels 160 & 173

**DECISION ON A SPECIAL PERMIT  
ORDER NO. 18-1007245**

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to 27 Jefferson, LLC (the “Applicant”) to build and operate a multifamily building at 27 Jefferson Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

**FINDINGS OF FACT**

1. The Applicant, 27 Jefferson, LLC, is a duly organized and existing Limited Liability Company having a business address of 110 Pleasant Street, Unit 100, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 27 Jefferson Street, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 56 as Parcels 160 and 173 (the “Site”). The Site’s current owner is the Donald C. Morris Trust, with a business address of 1047 Pikes Falls Road, Jamaica, VT 05343.
3. In accordance with Article VI, Section 650-17 and Section 650-18(4), of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to build and operate an 11-unit, 18,694 square foot +/- multifamily building with 24 underground parking spaces (the “Use”).
4. The Site is located in the Residence B Zoning District with frontage on Jefferson Street.
5. The Site has an area of 44,613 square feet +/-.

6. 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, as provided in this Decision.

7. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and a detailed site plan entitled “City Council Special Permit Site Plan” prepared for 27 Jefferson LLC by Hancock Associates and dated February 8, 2018 (the “Plans”).

8. The Plans were certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

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 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 18, 2018. The hearing was closed on that date.

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, two members of the public spoke in favor of the Use. No members of the public spoke in opposition to the Use. Further, the Applicant submitted a petition signed by nine residents of the neighborhood near the Site in favor of 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 finds that the Plans comply with the site development provisions set forth in Section 650-22(C)(14).



D. 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 to build and operate a multifamily building 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. 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.

3. 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.

4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the City Council or the Site Plan Review Committee may make 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, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.

5. 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.

6. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project 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. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control

plan. 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.

7. Owner-Occupancy. It shall be a condition of the by-laws of the condominium association governing the Use that all units that are sold will be purchased by a person or persons who intend to reside in the units. The condominium documents shall provide for appropriate daily fines for the violation of this section of the condominium by-laws, and will provide that this section may not be amended. No occupancy permit regarding the Use shall be issued unless and until the City Solicitor has certified to the Building Commissioner that the condominium by-laws, along with the condominium master deed, have been recorded. The Applicant, including its successors and assigns, may, following the issuance of the occupancy permit for a particular unit but prior to the conveyance thereof to the purchaser of the unit, rent said units to tenants; provided, however, that:

- a. No said unit shall be or continue to be rented after the fifth anniversary of the date of issuance of the occupancy permit of said unit;
- b. No unit shall be rented or continue to be rented after the seventh anniversary of the date of issuance of the first occupancy permit for the site;
- c. An executed “rent to own” contract shall qualify the subject unit as owner-occupied, so long as transfer of title for that unit occurs within 36 months of the starting date of the rental agreement for that unit;
- d. The Applicant, including its successors and assigns, shall continue to market the units as condominiums;
- e. No sign at the Site shall market any units as being for rent; however “rent to own” signs are permissible so long as they are in compliance with City’s sign ordinance without variance; and
- f. No unit shall be rented to any person or persons for more than three years unless, prior to the expiration of those three years, said person or persons execute(s) a purchase and sale agreement.

The term “Applicant, its successors and assigns,” as used herein and for purposes of this Condition 7, shall include Applicant, its successors and assigns, and any entity controlled by said entities, or controlled by the principal and/or principals of said entities.

8. Conditions Relating to Neighboring Properties. The following conditions are based upon the Applicant’s discussions and agreements with the owners of properties located in the neighborhood of the Site:

- a. 68 Highland Street (Parcel 56-168): The Applicant shall preserve the existing trees on Parcel 56-173 located directly behind 68 Highland Street. The Applicant shall make good faith efforts to grant access upon Parcel 56-173 to the owner of 68 Highland Street for the installation, maintenance, and use of a bocci court or similar small, passive recreational area located close to the property line.

- b. 60 Highland Street (Parcel 56-166): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 60 Highland Street. This new fence shall be connected to the existing chain link fence located near the boundary line with 64 Highland Street.
- c. 50 Highland Street (Parcel 56-165): The Applicant shall install a berm of up to 2 feet, if/where possible, and install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 50 Highland Street.
- d. 44 Highland Street (Parcel 56-164): The Applicant shall install a 6-foot high black chain link fence with evergreen-colored plastic slats along the boundary line of the Site adjacent to 44 Highland Street. The Applicant, or the successor condominium association, shall maintain the Site in good order and, except as may be specifically authorized herein, shall not grant an easement over the Site to abutting properties.
- e. 23 Jefferson Street (Parcel 56-161):
  - i. The Applicant shall plant and maintain a hedge along and at a reasonable distance from the retaining wall that will be located above the new driveway connecting Jefferson Street to the new building garage, said reasonable distance to be sufficient to allow for the convenient maintenance of the hedge when it has grown to its mature height. The hedge location and plant type shall be mutually agreeable to the Applicant and the owner of 23 Jefferson Street, and shall at the time of planting be approximately three (3) feet in height and shall be maintained so as to not exceed five to six (5-6) feet in height at mature growth, said hedge to be located in substantially the same location as identified on the Plans. During the course of construction, the grade of the area on which the hedge will be constructed will be raised, but not to a grade that is higher than the current grade of the property at 23 Jefferson Street. The area in question will be planted after the completion of construction, but prior to the conveyance to owner of 23 Jefferson Street of an easement (described below).
  - ii. The Applicant shall, within 30 days after the issuance of an occupancy permit for the Use, grant an exclusive use permanent easement extending from the side of the hedge fronting 23 Jefferson Street to the mutual property line with the Site, in a form acceptable to the Applicant and the owner of 23 Jefferson Street. Said easement shall be recorded at the Middlesex South District Registry of Deeds, with the cost of the easement preparation to be at the expense of the Applicant and the cost of recording to be at the expense of the owner of 23 Jefferson Street.

- iii. The Applicant shall take care not to disturb and damage the wall located in front of and on the 23 Jefferson Street property during the construction process, and to assure that, to the extent that any portion of said wall that is on the Site is moved or removed as part of the driveway construction, the corner of the wall on the 23 Jefferson Street property will be rebuilt so as to be aesthetically appropriate. If any portion of the wall in front of or on the 23 Jefferson Street property is disturbed or damaged by the Applicant during construction, the Applicant shall restore the wall to its prior condition.

9. 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: \_\_\_\_\_

ADOPTED  
In City Council  
Order No. 18-1007245

Adopted: \_\_\_\_\_ 2018

Approved by Mayor  
Arthur Vigeant  
Date: \_\_\_\_\_ 2018

A TRUE COPY  
ATTEST: \_\_\_\_\_ City Clerk

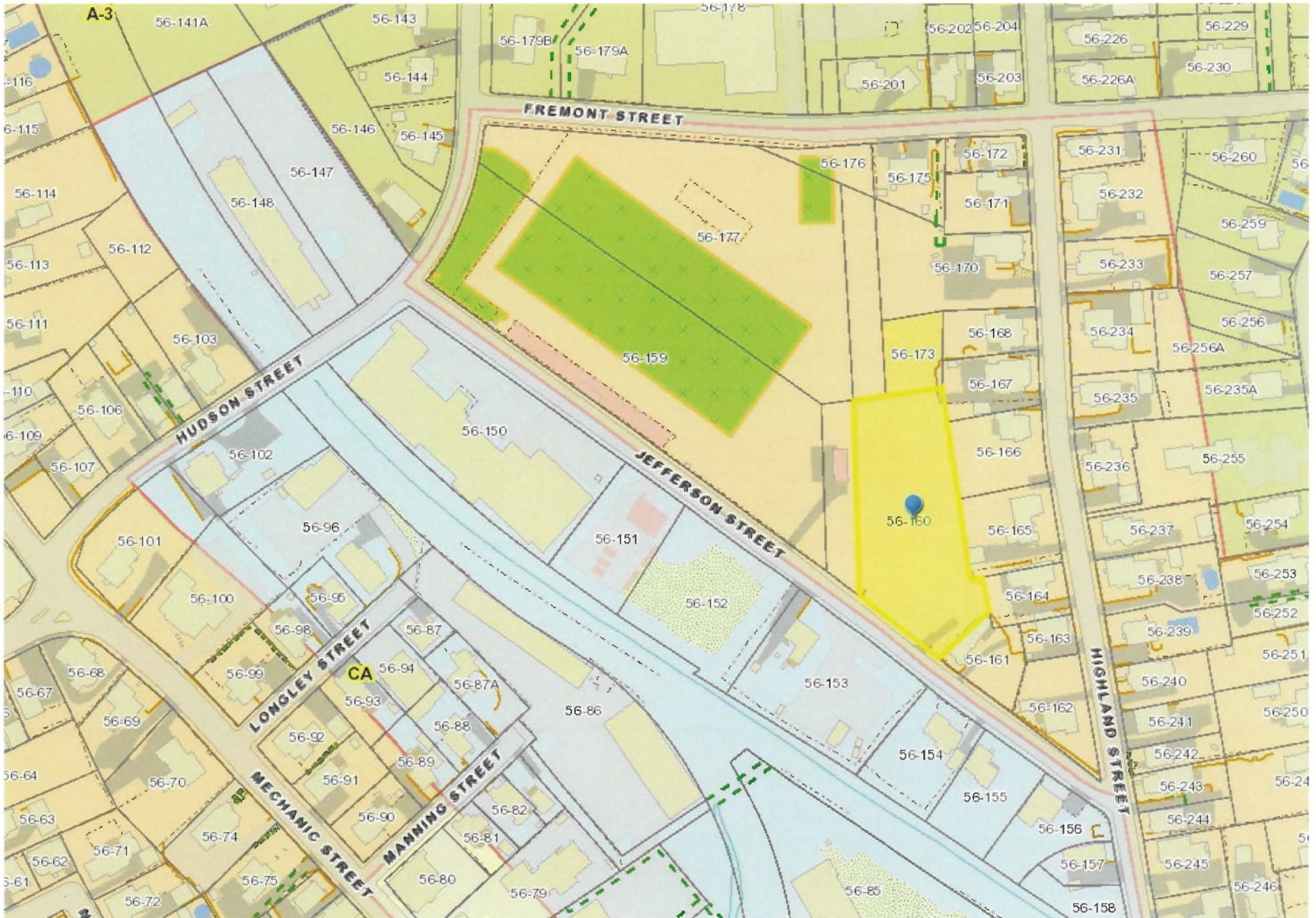
# Jefferson Street Residences

27 Jefferson Street Marlborough Mass

# Jefferson Street Residences



# Neighborhood Zoning Map



# Photos & Views of Old House on Site



23 and 27  
Jefferson St:  
north side

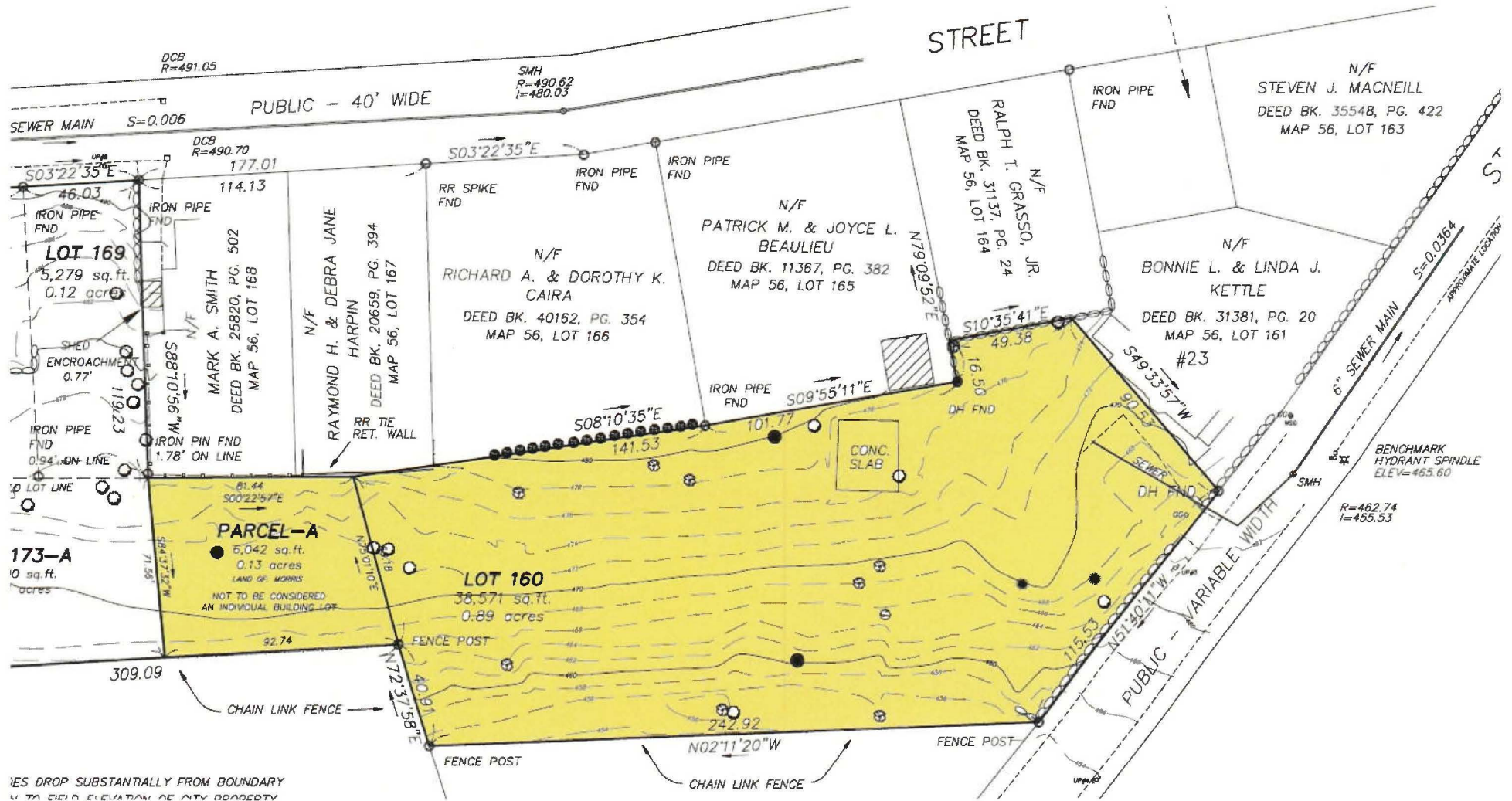
Assessor's Database Picture

Historical  
Society Picture

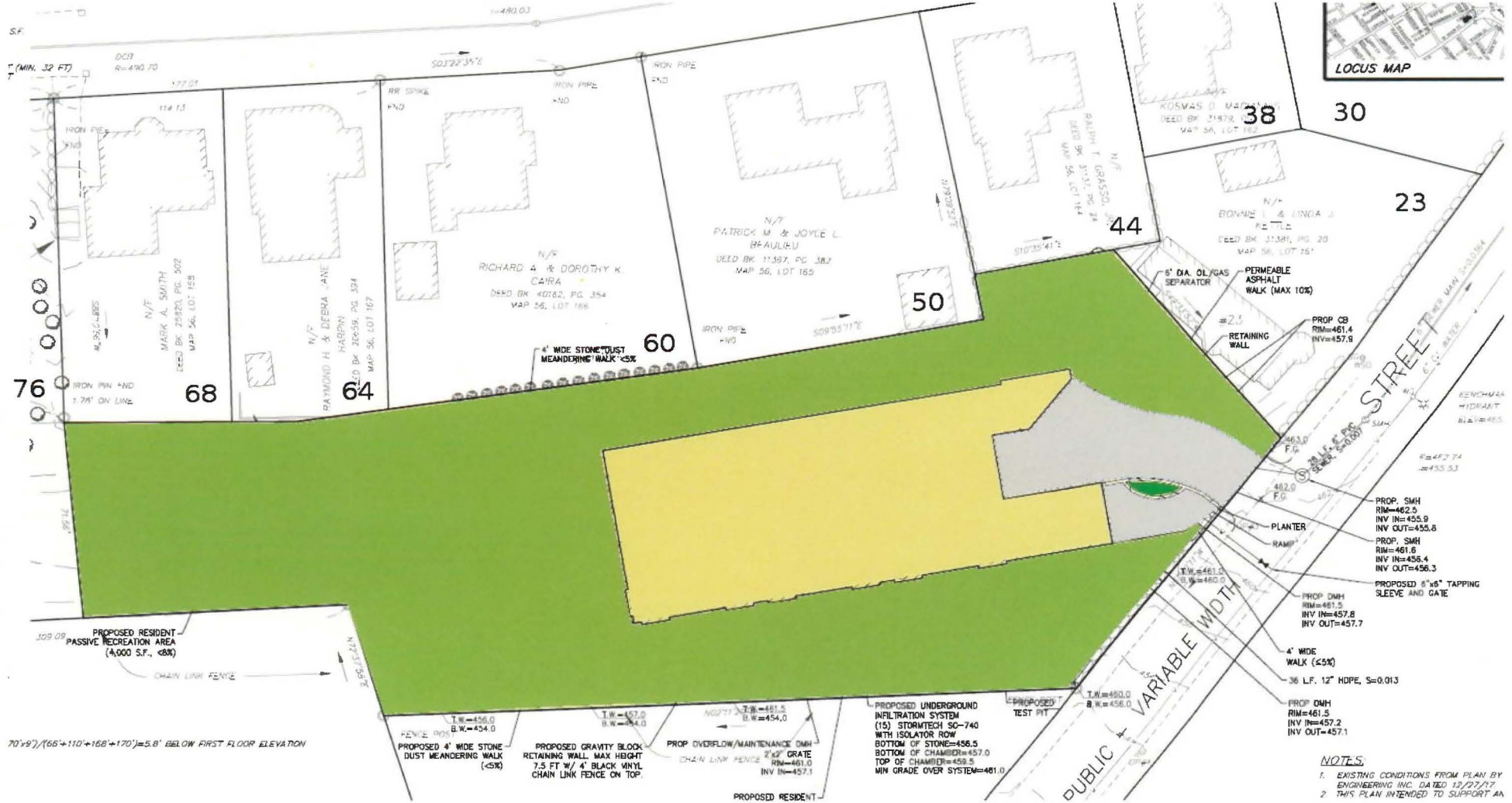




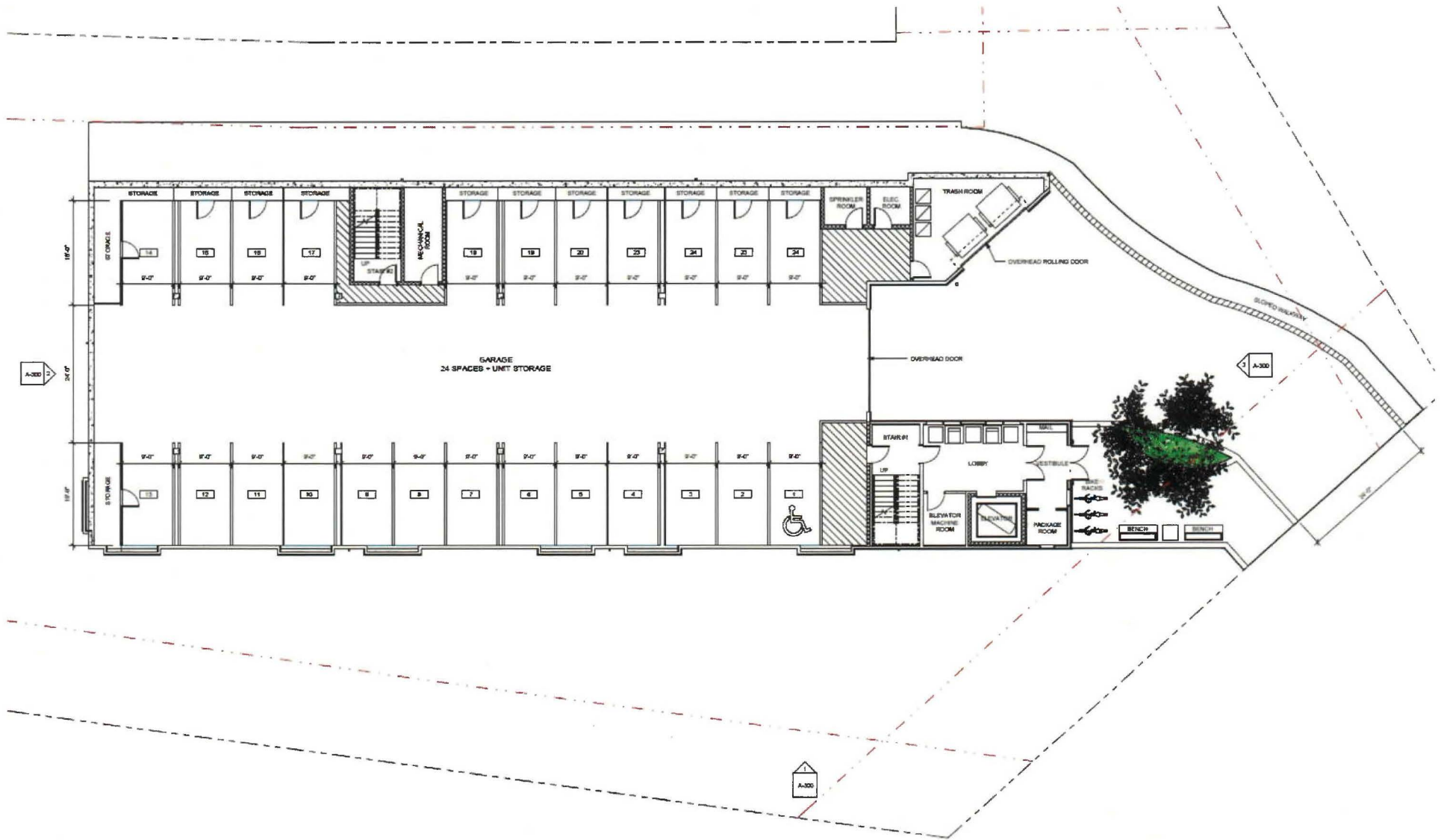
# Site Plan - Existing Conditions



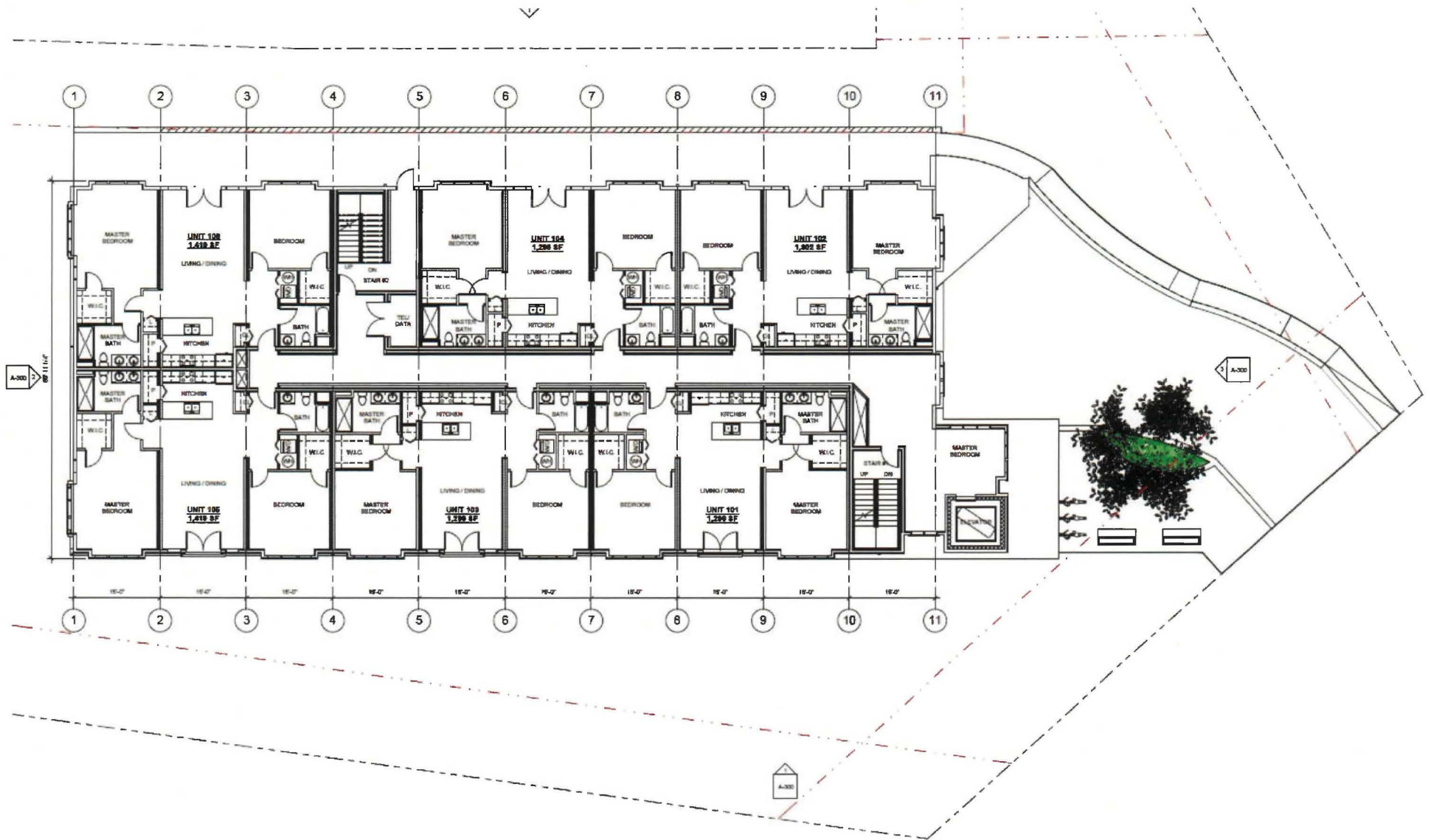
# Site Plan - Proposed



# Garage Plan



# First Floor



# Second Floor



# Elevation. View From Kelleher Field



# Municipal Parking on Jefferson Street



# View from Kelleher Field





# Satellite View



# Kelleher Field & Marlborough Sports History to be featured



# Athletic Director MHS Opinion

**From:** Jeff Rudzinsky <jrudzinsky@mps-edu.org>

**To:** "stas@altre.co" <stas@altre.co>

**Subject:** RE: meeting about a project near Kelleher field

**Date:** Wed, 25 Apr 2018 15:11:18 +0000

**Stas, Pleasure meeting you as well. Your project looks interesting and I don't see it as causing any problems with our use of Kelleher Field. I actually think it could benefit with the addition of the 2 retaining walls and 'buttoning up' the fence where kids have been known to sneak into games could benefit our use. And of course, your possible willingness to assist with a new scoreboard would be something I'd love to pursue as things progress.**

**Take care,**

**Jeff Rudzinsky**

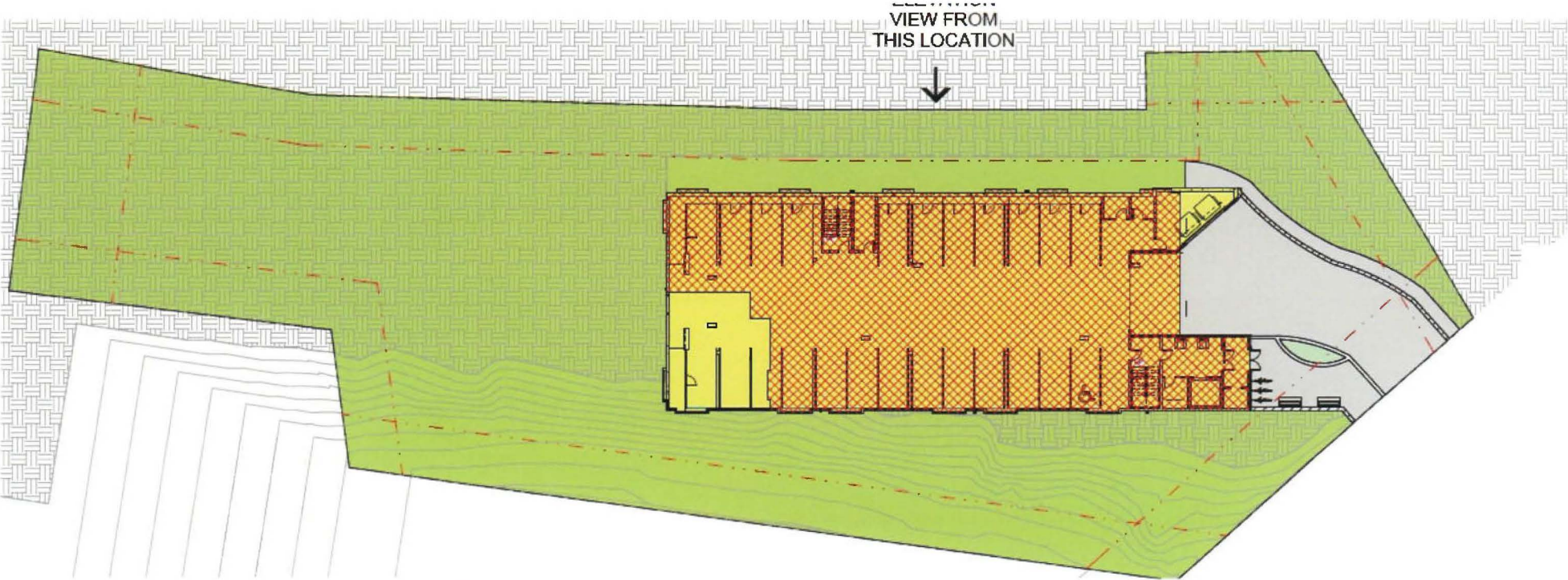
**Athletic Director**

**Marlboro High School**

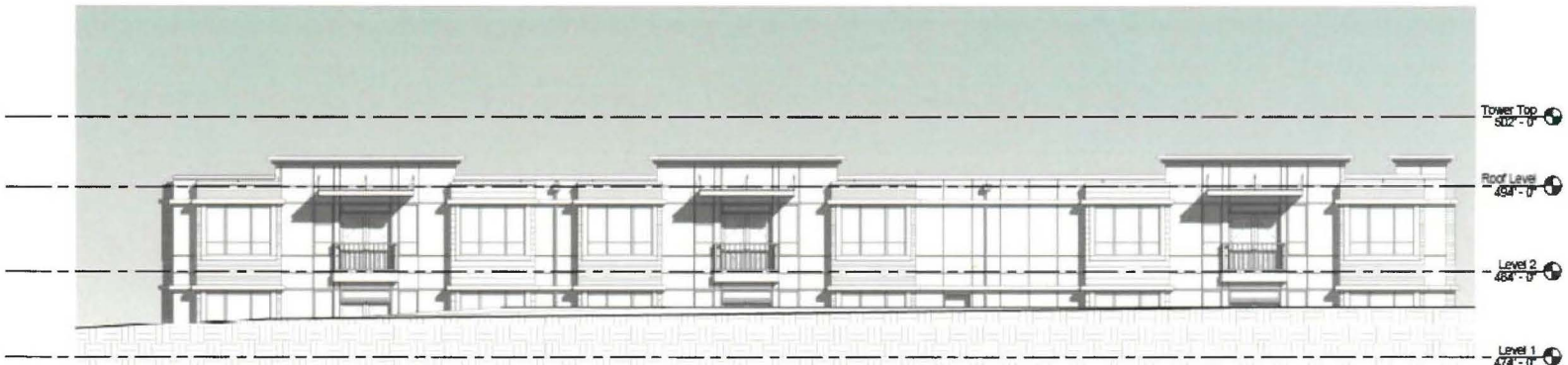
**508-460-3500 x7410**

**jrudzinsky@mps-edu.org**

# Elevation. View From Kelleher Field



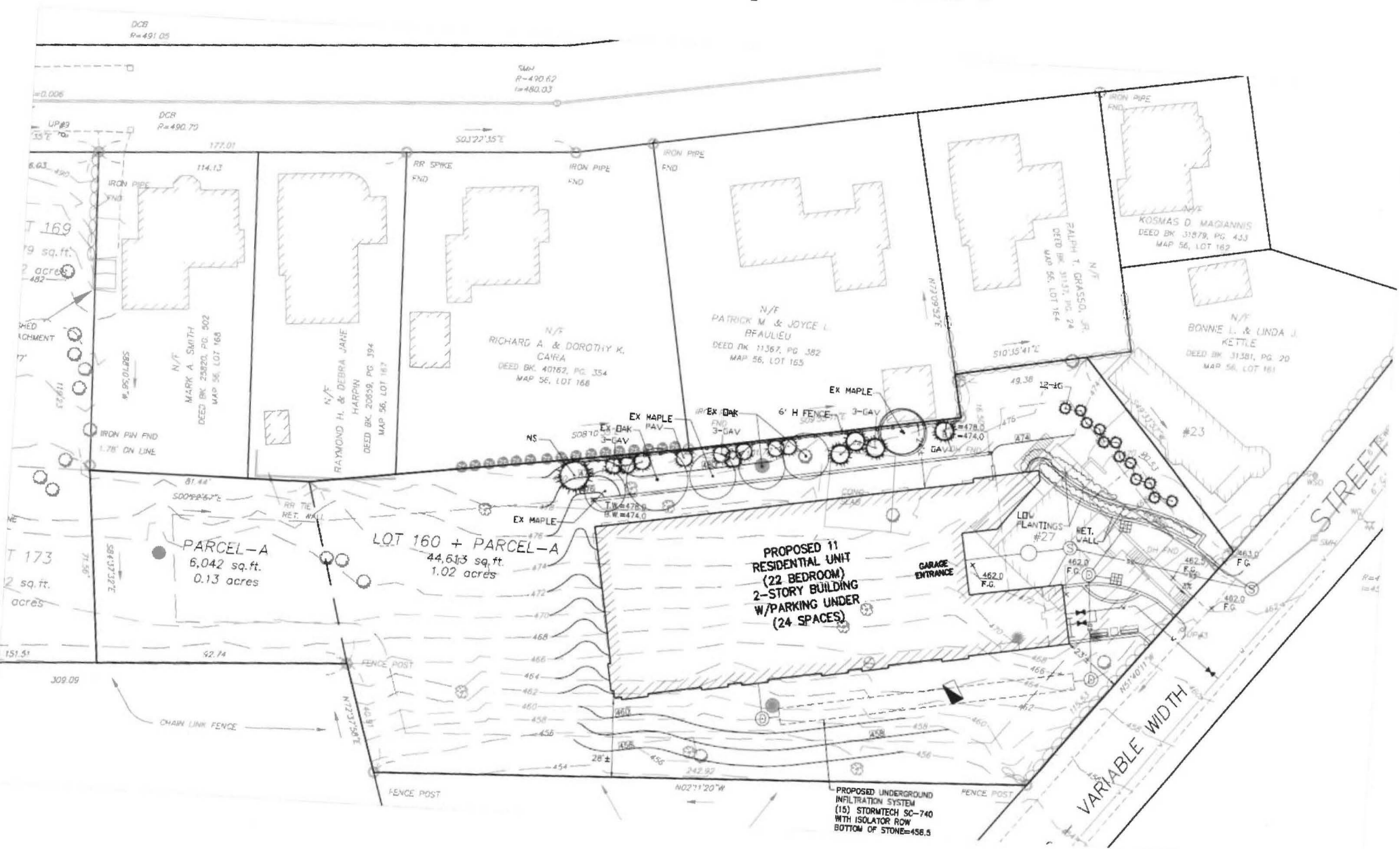
② Elevation Reference Plan  
1/16" = 1'-0"



① Rear Property Line Elevation  
1/8" = 1'-0"

- Tower Top 302'-0"
- Roof Level 284'-0"
- Level 2 464'-0"
- Level 1 474'-0"

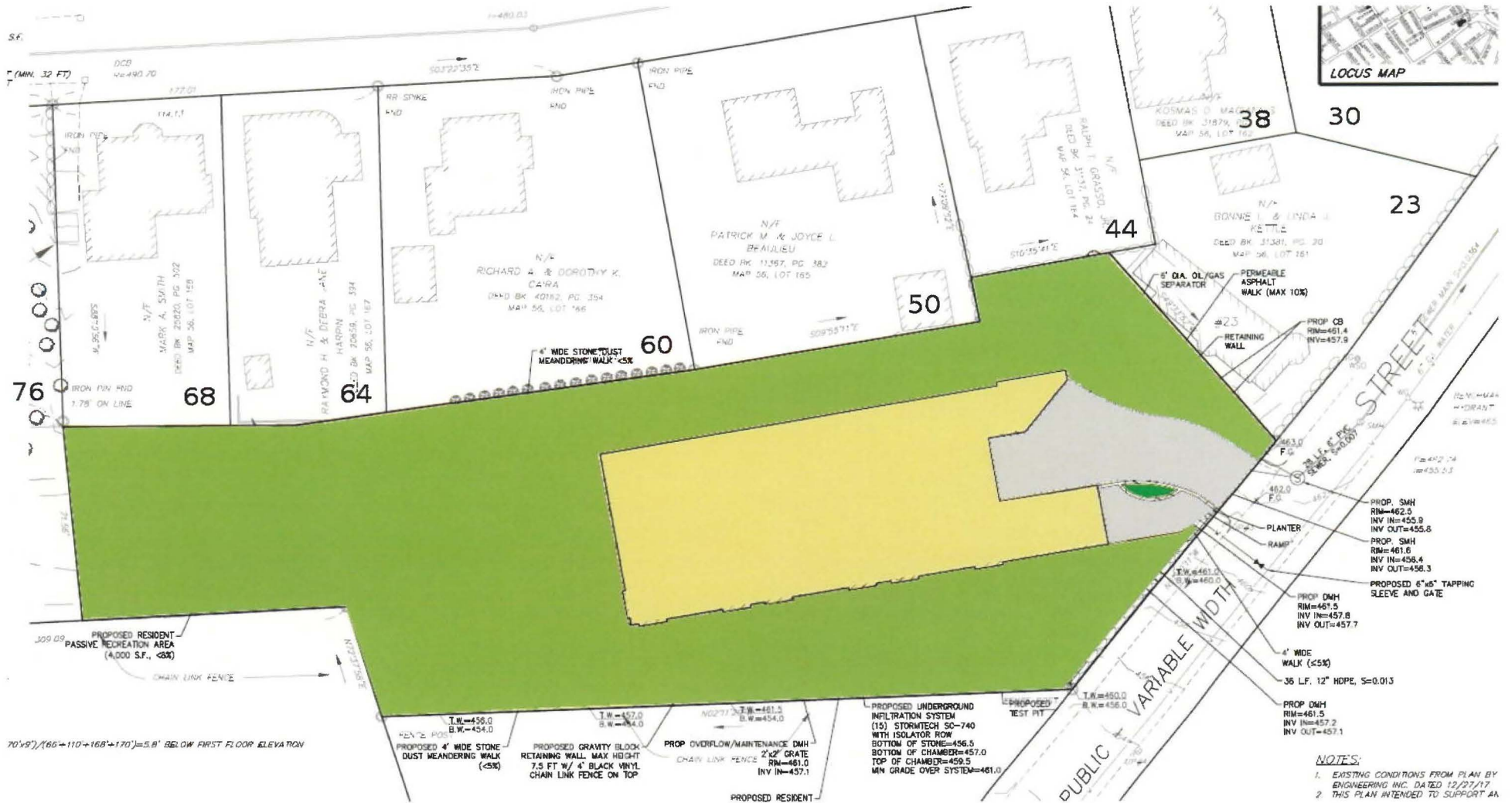
# Landscape Plan



# Supported by Neighbors



# Site Plan - Proposed



**NOTES:**  
 1. EXISTING CONDITIONS FROM PLAN BY ENGINEERING INC. DATED 12/27/17.  
 2. THIS PLAN INTENDED TO SUPPORT AN

We the undersigned have reviewed the plans for the proposed 11-unit condominium building to be built at 27 Jefferson Street. We think the development would improve our neighborhood and so we support it.

 Joseph X Grenier 5-6-18 20 Jefferson St.

 Lillian O'Connell 5/14/2018 60 Highland St.

Dorothy Cavia 60 Highland St. 5-16-2018

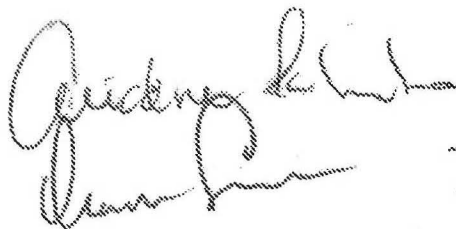
S. J. M. M. Star Mucklad 44 Highland Mar 16  
150 Fairbanks W. Bay

~~RAIMUNDO NETO~~ RAIMUNDO NETO 36 JEFFERSON ST

30 Highland St.

 Patrick Beaulieu

50 Highland St



Diane Smith

38 Highland St

68 Highland St



**From:** City Council  
**Sent:** Wednesday, July 11, 2018 12:10 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juaire; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy; Donald Landers  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** To City Councilors: Comment From Fire Chief Breen: Special Permit Application, Housing Project, 27 Jefferson Street Comments

**From:** Kevin Breen  
**Sent:** Wednesday, July 11, 2018 10:56 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Cc:** Nicholas Milano <[nmilano@marlborough-ma.gov](mailto:nmilano@marlborough-ma.gov)>; Frederick Flynn <[fflynn@marlborough-ma.gov](mailto:fflynn@marlborough-ma.gov)>; Jeffrey Gogan <[jgogan@marlborough-ma.gov](mailto:jgogan@marlborough-ma.gov)>  
**Subject:** 27 Jefferson Street Comments

Good Morning Karen and City Councilors:

I have reviewed the information forwarded concerning a special permit application for the multi-family housing project on Jefferson Street. Additionally, I have met with the applicant and discussed details associated with this project. Specifically, we discussed fire department/EMS access to and egress from this building given the slope, elevations and limited space along the sides of the building as situated on this lot. On behalf of Marlborough Fire Department, I write to share concerns we have regarding access to the building for firefighting operations. As proposed, the site does not support 360 degree vehicular access to this multi-story building. While this is never ideal, we also recognize it is not realistic to expect 360 degree access to every structure within the city. While the site, as proposed, does provide fire department access to the front side facing Jefferson Street, it is configured in a manner that will serve as the access driveway for residential traffic in and out of the proposed underground parking garage. This may be problematic for positioning one (1) fire department engine and/or ladder truck given the width. It can work, as long as access to this area is maintained in terms of insuring there are no live standing or parked cars allowed and a high-level of vigilance concerning snow/ice removal. All other responding units would assemble on Jefferson Street. Further, the applicant and I discussed the various retaining walls. These include those proposed near the front and along the sides. The applicant is keenly aware these walls may require modifications as we (MFD) would expect there to be easy walking access to and egress from the exit/entry points. We also expressed the need to consider ground ladder access/positioning and space requirements given the heights on various sides. I would also stress the inside travel distances require further review but acknowledge this project is proposed as a fully-sprinklered building. We expect the structure to have and maintain a fully automatic fire alarm system and fire suppression standpipe coverage and perhaps, even hose cabinets. Lastly, the applicant was amenable to adding additional egress from the structure, as we may require, to insure a high level of safety for both occupants and emergency responders. This can be reviewed in greater detail with the Building Commissioner. I remain available to answer questions and provide feedback about this unique residential project.

Thank you,

KJB

**KEVIN J. BREEN, FIRE CHIEF**  
**MARLBOROUGH FIRE DEPARTMENT**  
**215 MAPLE STREET**  
**MARLBOROUGH, MA 01752**  
**(508) 624-6986**

**From:** City Council  
**Sent:** Thursday, July 12, 2018 3:37 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juare; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment from Police Chief Giorgi: For Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

**From:** David Giorgi  
**Sent:** Thursday, July 12, 2018 8:41 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Good morning,

The Police Dept. does not have an issue with either project.

Thank you,  
D. Giorgi

**From:** City Council  
**Sent:** Thursday, July 12, 2018 3:53 PM  
**To:** Joe Delano; David Doucette; David Doucette; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juare; Mark Oram; Mike Ossing; Kathleen Robey; Ed Clancy; Michael Ossing  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment From Board of Health Director: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

**From:** Cathleen Liberty  
**Sent:** Thursday, July 12, 2018 10:28 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Subject:** RE: DEPARTMENT MANAGERS: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

Karen,  
The BOH has no comment.

Cathleen

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**From:** Karen Boule  
**Sent:** Thursday, June 28, 2018 5:35 PM  
**To:** Donald Rider <[drider@marlborough-ma.gov](mailto:drider@marlborough-ma.gov)>; Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Charles Thebado <[Cthebado@marlborough-ma.gov](mailto:Cthebado@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; Michael Bergeron <[mbergeron@mps-edu.org](mailto:mbergeron@mps-edu.org)>  
**Cc:** Mayor <[mayor@marlborough-ma.gov](mailto:mayor@marlborough-ma.gov)>; Nicholas Milano <[nmilano@marlborough-ma.gov](mailto:nmilano@marlborough-ma.gov)>  
**Subject:** DEPARTMENT MANAGERS: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

Dear Department Heads and Managers:

I am forwarding for your review and comment the special permit draft decision from Atty. Falk in connection with an application for a multifamily housing project on Jefferson Street next to Kelleher Field.

The Urban Affairs Committee will meet with the proponent in the near future to review the plans and draft decision. Your comments will assist the committee in its deliberations prior to making a recommendation to the full City Council.

Feel free to email or call me if you have any questions.

Karen  
508-460-3711 W  
508-808-9578 C

*Karen Boule*  
*City Council Office*  
140 Main Street  
Marlborough, MA 01752  
508-460-3711

**From:** Falk, Brian R. [<mailto:bfalk@MirickOConnell.com>]  
**Sent:** Thursday, June 28, 2018 4:48 PM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>; 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>  
**Subject:** RE: Draft decision for Special Permitâ€™ Jefferson Street Proposed Housing Project

Hi Karen,

Attached is a draft decision. Please let us know when we may be scheduled before Urban Affairs.

Thanks,  
Brian



**BRIAN R. FALK**  
Of Counsel  
Mirick, O'Connell, DeMallie & Lougee, LLP  
100 Front Street | Worcester | MA | 01608-1477  
t 508.929.1678 | f 508.983.6256  
[bfalk@mirickoconnell.com](mailto:bfalk@mirickoconnell.com) | Bio



Please visit our website: [www.mirickoconnell.com](http://www.mirickoconnell.com)

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**From:** Falk, Brian R.  
**Sent:** Tuesday, June 19, 2018 11:52 AM  
**To:** Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>; 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>  
**Subject:** RE: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

I am indeed. I'll have a draft circulated soon.



Brian R. Falk | X 678 | t 508.929.1678 | m 617.417.5509  
Of Counsel  
Worcester Office

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**From:** Bergeron, Arthur P.  
**Sent:** Tuesday, June 19, 2018 10:16 AM  
**To:** 'stas@altre.co' <[stas@altre.co](mailto:stas@altre.co)>; City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>; Falk, Brian R. <[bfalk@MirickOConnell.com](mailto:bfalk@MirickOConnell.com)>  
**Cc:** Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>  
**Subject:** RE: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

Actually Brian is working on it I believe.



Arthur P. Bergeron | X 740 | t 508.860.1470 | m 508.596.5526  
Of Counsel  
Westborough Office

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**From:** Stas Burdan <[stas@altre.co](mailto:stas@altre.co)>  
**Sent:** Tuesday, June 19, 2018 10:04 AM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Cc:** [stas@altre.co](mailto:stas@altre.co); Sara Corbin <[scorbin@marlborough-ma.gov](mailto:scorbin@marlborough-ma.gov)>; Joe Delano <[ward\\_1@marlborough-ma.gov](mailto:ward_1@marlborough-ma.gov)>; Bergeron, Arthur P. <[abergeron@mirickoconnell.com](mailto:abergeron@mirickoconnell.com)>  
**Subject:** Re: Draft decision for Special Permit—Jefferson Street Proposed Housing Project

This Message originated outside of Mirick O'Connell.

Thank you Karen,

I believe Arthur is already working on a draft decision,  
and I will make sure he does.

Stas Burdan

[Alt.Re](#) Real Estate / Brokerage / Development / Opportunities  
email: [stas@altre.co](mailto:stas@altre.co)  
cell : 857.991.9111  
main : 844.ALT.RE00  
web : [www.altre.co](http://www.altre.co)

> ---- Original Message ----  
> From: City Council [[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)]  
> Sent: Tuesday, June 19, 2018 13:37  
> To: [stas@altre.co](mailto:stas@altre.co), Sara Corbin, Joe Delano  
> Subject: Draft decision for Special Permit—Jefferson Street Proposed Housing Project  
>  
> With last night's public hearing in mind, a draft decision is required under the special permit regulations. I will send you a sample in word that will be helpful. Email me if you have any questions.  
> KB  
>  
> Karen Boule  
> City Council Office  
--

The information contained in this electronic message is legally privileged and confidential under applicable law, and is intended only for the use of the individual or entity named above. This electronic message and any attachments may also contain information that is protected by federal and state law, including the HIPAA Privacy Rule. If you are not the intended recipient, you are hereby notified that any dissemination, copying or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify Mirick O'Connell at (508)791-8500 and delete this communication immediately without copying or distributing it.

**From:** City Council  
**Sent:** Wednesday, July 18, 2018 5:51 PM  
**To:** Sara Corbin; Karen Boule  
**Subject:** Comment from Building Commissioner: 27 Jefferson St RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

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**From:** Jeffrey Cooke  
**Sent:** Monday, July 16, 2018 6:03 PM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** 27 Jefferson St RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Other than the following I have no additional comments.

I offer the following question (Please see **bold print below**)

If this requirement is to happen 30 days after the issuance of an occupancy permit for use, who enforces this to gain compliance?

Once the Building Commissioner issues an occupancy certificate, I lose effective control for enforcement/compliance

#8 of conditions

e. 23 Jefferson Street (Parcel 56-161):

- i. The Applicant shall plant and maintain a hedge along and at a reasonable distance from the retaining wall that will be located above the new driveway connecting Jefferson Street to the new building garage, said reasonable distance to be sufficient to allow for the convenient maintenance of the hedge when is has grown to its mature height. The hedge location and plant type shall be mutually agreeable to the Applicant and the owner of 23 Jefferson Street, and shall at the time of planting be approximately three (3) feet in height and shall be maintained so as to not exceed five to six (5-6) feet in height at mature growth, said hedge to be located in substantially the same location as identified on the Plans. During the course of construction, the grade of the area on which the hedge will be constructed will be raised, but not to a grade that is higher than the current grade of the property at 23 Jefferson Street. The area in question will be planted after the completion of construction, but prior to the conveyance to owner of 23 Jefferson Street of an easement (described below).

**The Applicant shall, within 30 days after the issuance of an occupancy permit for the Use, grant an exclusive use permanent easement extending from the side of the hedge fronting 23 Jefferson Street to the mutual property line with**



**the Site, in a form acceptable to the Applicant and the owner of 23 Jefferson Street.**

Jeffrey Cooke, C.B.O.  
Building Commissioner  
City of Marlborough, MA  
508-460-3776

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

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**From:** Karen Boule

**Sent:** Tuesday, July 10, 2018 2:31 PM

**To:** Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>

**Subject:** Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

By way of information and per the zoning ordinance, your individual comments will assist the Urban Affairs Committee in its review of the special permit applications. We are looking at next Tuesday evening to meet although it has not been confirmed.  
Thank you.

*Karen Boule*  
*City Council Office*  
*140 Main Street*  
*Marlborough, MA 01752*  
*508-460-3711*

**From:** City Council  
**Sent:** Thursday, July 19, 2018 1:33 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juaire; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy; Donald Landers  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** Comment from Priscilla Ryder - Residential Special Permits, Jefferson Street and Patten Drive

**From:** Priscilla Ryder  
**Sent:** Thursday, July 19, 2018 10:05 AM  
**To:** Karen Boule <[kboule@marlborough-ma.gov](mailto:kboule@marlborough-ma.gov)>  
**Cc:** Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>  
**Subject:** RE: Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

Hi Karen,

I don't think I ever responded to you on these two projects 27 Jefferson St. and 21 Patten Dr. There are no conservation related items on these properties so I have no conservation related comments.

I will look at the landscaping and drainage in more detail when they come to Site Plan Review. At this stage I have nothing to add.  
Thanks!

*Priscilla Ryder*  
*Conservation Officer*  
*140 Main St. City Hall; Marlborough, MA 01752*  
*Ph: 508-460-3768 ; [pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)*

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**From:** Karen Boule  
**Sent:** Tuesday, July 10, 2018 2:31 PM  
**To:** Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; John Ghiloni <[jghiloni@marlborough-ma.gov](mailto:jghiloni@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** Reminder: Comments for Urban Affairs - Residential Special Permits, Jefferson Street and Patten Drive

By way of information and per the zoning ordinance, your individual comments will assist the Urban Affairs Committee in its review of the special permit applications. We are looking at next Tuesday evening to meet although it has not been confirmed.  
Thank you.

*Karen Boule*

*City Council Office*  
*140 Main Street*  
*Marlborough, MA 01752*  
*508-460-3711*



## IN CITY COUNCIL

Marlborough, Mass., JANUARY 8, 2018

**ORDERED:**

That the Communication from Attorney Falk on behalf of Vincenza Sambataro, re: Proposed Amendment to Site Plan Approval, Marlborough on Main, 163-175 Main Street, X16-1006668, attached, be and is herewith refer to **URBAN AFFAIRS COMMITTEE**.

**ADOPTED**

**ORDER NO. 18-1007135  
X17-1006668**

For Urban Affairs Committee  
July 25, 2018

Site Plan Approval with Conditions

Marlborough on Main, 163-175 Main Street

Order No. 18-1007135

Version dated July 17, 2018 – Applicant

**Site Plan Permit # \_\_\_\_\_**  
**Site Plan Approval with Conditions**

**Applicant:** Vincenza Sambataro

**Property Owner:** Vincenza Sambataro

**Location:** 163-175 Main Street (the "Site") being shown as Parcels 77, 78 and 79 on Assessors Map 70, currently owned by the Property Owner, and portions of Parcels 33A, 34, and 77A on Assessors Map 70 and portions of the adjacent stair property currently owned by the City of Marlborough.

**Zoning District:** Marlborough Village District (MV)

**Plans:** The following Site Plan Approval Final Conditions are based on a set of plans entitled "E On Main, 165-175 Main Street, Marlborough, MA, Site Plan - Amended," by Bruce Saluk and Assoc. Inc., said plans being comprised of sheets EX, C1, C2, C3, C4, C5, C6, and C7, with the last revision date of 7-11-18 (said set of plans hereinafter, collectively, the "Site Plans"); and a set of fifteen (15) architectural drawings entitled "E on Main Retail and Residential" by JD LaGrasse & Associates, with the last revision date of 7-11-18.

**SITE PLAN APPROVAL FINAL CONDITIONS:**

**A. Site Conformance:**

1. Construction of the Site shall be in conformance with the approved Site Plans, the provisions of Chapter 270 of the Code of the City of Marlborough, and the conditions stated herein.
2. All construction on the Site shall conform to the appropriate National, State and City of Marlborough codes and regulations in force for each respective discipline and be in accordance with the approved plans and permits. Codes and regulations shall include but are not limited to State Building, Plumbing, Wiring, NFPA, Zoning, DPW utility and roads, Noise and Signs.

**B. Prior to Issuance of a Building Permit:**

1. Construction Staging and Safety Plan:
  - a. The Applicant shall complete the project in accordance with a Construction Staging and Safety Plan (the "Construction Plan") to be approved by the Building Commissioner, Fire Chief, Police Chief, and City Engineer. Given the proximity of the Site to Main Street and abutting buildings, said Construction Plan shall include, but not be limited to, the building demolition phase of the project, which may take place in advance of the construction phase and under a separate demolition permit.

- b. The Construction Plan shall provide detailed information concerning: (i.) areas of the Site and adjacent property that will be marked off for the staging of construction vehicles, etc.; (ii.) traffic management, detour routes if necessary, construction signage, pedestrian protection, blocked sidewalks, streets, etc.; (iii.) construction fencing to enclose material and equipment; (v.) fencing and/or barricades to provide limits within the construction site for the separation of construction, pedestrian and vehicular traffic; and (vi.) dedicated illuminated and covered pedestrian walkways adjacent to the structure at egress paths in accordance with 780 CMR Massachusetts State Building Code and related Mass. Amendments, including but not limited to Chapters 31, 32, 33, and 34, in effect at the time the building permit application is submitted.
  - c. As part of the Construction Plan, the Applicant shall minimize the use of Devens Street and McEnelly Street for construction vehicles and construction activity.
2. Green Building: The building plans shall show compliance with Section 650-34.D.2.(m), concerning sustainable building design, of the Zoning Code of the City of Marlborough. Prior to the issuance of Building Permits, the Building Commissioner shall review the building plans to ensure that the design incorporates green building techniques.
  3. Rooftop Mechanicals: On the building plans, the elevation drawings shall show areas reserved for rooftop mechanicals and the elevator penthouse. Detail drawings illustrating the type, location, and dimensions of fencing/screening must be provided to the Building Commissioner. The Building Commissioner shall confirm that the building drawings conform to the requirements of Section 650-34.D.2.(b) regarding screening of rooftop mechanical equipment.
  4. Footings: If the footings for the proposed building will be located within the City of Marlborough public way layout, the Applicant must request and receive from the City Council an easement prior to the issuance of any building permits.
  5. Main Street Sidewalk, Street and Curb: Prior to the issuance of a building permit for the construction of the building, the Applicant shall acquire from the City of Marlborough a street opening permit authorizing access to those portions of Main Street on, to, or beneath which it intends to perform demolition and/or construction work as shown on the Site Plans (including, without limitation, drainage, the sidewalk, street, and curbs).
  6. Performance Security Bond: Prior to the issuance of a building permit, the Applicant shall provide to the Building Commissioner a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the cost of the work which

Applicant proposes for Main Street, including but not limited to construction or reconstruction of the public sidewalk, crosswalk, two (2) parking spaces, underground pipes, structures and appurtenances.

7. Insurance Certificate: Prior to the issuance of a building permit, the Applicant shall provide to the Chief Procurement Officer of the City of Marlborough a Certificate of Insurance, naming the City of Marlborough Department of Public Works, City Engineer, 135 Neil Street Marlborough, MA 01752 as an additional insured, in such amounts as are required by said Chief Procurement Officer for a liability policy concerning the Applicant's work on Main Street, including but not limited to demolition, construction and/or reconstruction of the public sidewalk, crosswalk, two (2) parking spaces, underground pipes, structures and appurtenances.

### **C. Construction:**

1. Preconstruction Meeting: Prior to the commencement of construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, Fire Chief, Police Chief, and the site contractor responsible for doing the work. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls. A similar meeting shall be held prior to the commencement of demolition, which may take place under a separate demolition permit.
2. Use of Ways During Construction: Consistent with the Construction Plan, all areas for construction staging and offloading of building materials, as well as any excavations, long-term construction scaffolding, or other obstructions, shall be coordinated to maximize public safety and to minimize interference with the customary use of public ways by vehicles and pedestrians. Permits are required for any street or sidewalk excavations or obstructions. The Police Chief shall have the discretion and authority to require additional protection and/or details as needed. The Applicant shall pay to the City the cost for every police detail which is provided by the Marlborough Police Department for the project.
3. OSHA: All Contractors shall abide by OSHA regulations as appropriate, including but not limited to OSHA-29 CFR, Section 1926.
4. Safety Official: The Applicant/ site contractor shall have on the Site at all times during construction a qualified Construction Safety Official. Prior to the commencement of construction, Applicant shall provide to the Building Commissioner the name and contact information of said Construction Safety Official.
5. Hours of Operation: In accordance with Section 431-3B. of the Code of the City of Marlborough, excavation machinery may be operated only during the normal



workweek, from Monday through Saturday, except holidays, between the hours of 7:00 a.m. to 7:00 p.m., except Sunday when all use is prohibited except with variance by the Board of Health or as emergency work.

**D. Storm Water:**

1. Siltation Control: The Applicant, Property Owner, and site contractor shall be responsible for protecting the City drainage system with erosion controls at all times during construction, and for notifying the Conservation Officer and the City Engineer in an expeditious manner if there is any visible siltation to the existing drainage system. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.

**E. Landscaping:**

1. Modifications: All modifications to the approved Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
2. Site Visit: Prior to the final signoff, the Landscape Architect shall provide an as-built planting plan and a letter of confirmation that the plan conforms to the approved plans. The Conservation Officer shall confirm by a site visit that the planting has been installed according to the approved Landscape Plans, or according to a revision thereto previously approved by the Conservation Officer.
3. Replacement of Plantings: Following 18 months of the date of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Property Owner with a species of the same kind and size.
4. Mulch Placement: Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan.
5. Maintenance: Landscaping will be properly maintained, replaced if necessary, and kept in good condition and in compliance with the Landscape Plans at all times. This shall be an ongoing condition.

**F. Parking Garage:**

1. The design of the parking garage access shall be such that entering and exiting from the garage is controlled by the Site's residents, the Property Owner, the Property Owner's agents, and those providing maintenance and other services to the Site. The building design shall provide for adequate sight distances for vehicles exiting the garage to provide for pedestrian safety. The Applicant shall use a combination of doors, gates, speed bumps and audio/visual alerts at the

garage entrance and exit to ensure pedestrian safety.

2. The parking garage is to be for the sole use of the residents of the Site. The parking garage is not intended for public use.
3. The final design of the garage has not been completed and is therefore not included in the Site Plans reviewed. Once complete, details such as the locations of columns, dumpster(s), drains, grease trap, lighting and ventilation, final parking layout, and other items shall be reviewed and approved by the Building Commissioner and other City officials as appropriate.

**G. Main Street Parking Spaces:**

1. The Site Plans indicate that two (2) existing parking spaces on the north side of Main Street will be eliminated (see Section H.2 below). Prior to the issuance of a Building Permit, the Applicant shall appear before the Traffic Commission to request a vote to change the existing parking plan accordingly.

**H. Private Open Space:**

1. Through this decision and in accordance with Section 650-34.H(4) of the Zoning Ordinance, the City Council acknowledges that the Site will provide more than the required "private open space" and hereby waves strict adherence to the private open space requirement that the exterior ground level portion of the open space must be usable for sitting or recreation, based upon the unique slope conditions found at the Site and the fact that the building will have a large roof deck to provide outdoor sitting and recreation space.

**I. Prior to Issuance of a Certificate of Occupancy:**

1. Payment in Lieu of Parking: The project contains 47 residential units, and therefore must either (i.) comply with parking space requirements, or (ii.) make a "payment in lieu of parking" for each space not provided, per Section 650-34E. of the Zoning Ordinance. Required parking for the project is as follows:

1 bedroom units:	15 @ .75 spaces per unit=	11.25 spaces
2 bedroom units:	32 @ 1.25 spaces per unit =	40 spaces
Total Spaces Required =		52 spaces

The difference between the parking spaces provided on the Site Plans (35) and the parking spaces required (52), which is 17 spaces, will be addressed in strict accordance with Section 650-34.E.(2)(b) of the Zoning Ordinance of the City of Marlborough. Per the Ordinance, a payment-in-lieu-of-parking equal to \$170,000 (\$10,000 for each of the 17 spaces required but not provided on the Site) shall be paid to the City of Marlborough prior to the issuance of the first Certificate of

Occupancy for the project. In addition, prior to the issuance of the first Certificate of Occupancy for the project, the Applicant shall pay to the City of Marlborough \$20,000 for the two (2) parking spaces (\$10,000 per space) eliminated on Main Street as part of the project.

2. Work Within Public Way: All work within the public way layout, including but not limited to the street landscaped islands, planting, repaving, catch basin replacement, pavement milling and overlay, pavement markings, etc., as shown on the approved plans, shall be completed prior to the issuance of the first Certificate of Occupancy.
3. As-Built Plan: An as-built plan(s) must be submitted to the City Engineer for review prior to the issuance of the first Certificate of Occupancy or any Temporary Certificate of Occupancy. The as-built plan(s) shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website for the City of Marlborough.
4. Time for Completion: Work as provided for on the Site Plans shall be carried into effect and completed within three (3) years following the date of issuance of the Building Permit, unless the City Council has, in writing, granted an extension of time for completion of the work.
5. Signage. Pursuant to Section 650-34.I. of the Code of the City of Marlborough, the City Council hereby retains jurisdiction over all signage of the project to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council which must meet the requirements of Section 650-34.I. of the Code of the City of Marlborough.

#### **J. Stair Case Property:**

1. Prior to the issuance of a building permit for the construction of the building, the Applicant shall acquire rights to the portions of the property owned by the City of Marlborough as shown on the Site Plans
2. Performance Security Bond: Prior to the issuance of a building permit, the Applicant shall provide to the City Engineer a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the cost to construct or reconstruct the existing City stairs in their entirety from Main Street to Devens Street, and for the construction or reconstruction and relocation of drain and sewer lines located below said existing stairs.
3. Certificate of Insurance: Prior to the issuance of a building permit, the Applicant shall provide to the Chief Procurement Officer of the City of Marlborough a

Certificate of Insurance, naming the City of Marlborough as an additional insured, naming the City of Marlborough Department of Public Works, City Engineer, 135 Neil Street Marlborough, MA 01752 as an additional insured, in such amounts as are required by said Chief Procurement Officer for a liability policy concerning the Applicant's demolition and reconstruction of the subject stairs in their entirety from Main Street to Devens Street, and for the reconstruction and relocation of drain and sewer lines located below said existing stairs.

4. Prior to the issuance of a building permit for the construction of the building, the Applicant shall submit plans, deemed acceptable to the City Engineer, for the reconstruction of the City stairs in their entirety from Main Street to Devens Street and the reconstruction and relocation of drain and sewer lines located below the existing stairs. The stairs shall be designed to accommodate snow and ice removal.
5. Prior to the issuance of a Certificate of Occupancy for the project, the Applicant shall construct, at the Applicant's expense new City stairs providing a connection between Main Street and Devens Street and shall reconstruct and relocate drain and sewer lines located below the existing stairs.

**K. General Provisions:**

1. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Ordinance enacted by the City Council.
2. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.
3. Deliveries: In order to mitigate the impact on traffic flow on Main Street and the impact of noise to the residents of and abutters to the Site, deliveries to the business on the Site by semi-trailers shall occur between 8:00 a.m. and 8:30 p.m. Daily deliveries to business on the Site by a small box truck, van or similar sized vehicle may occur between the hours of 7:00 a.m. and 9:00 p.m. On-site trash collection shall occur twice a week, or as required by management or the Board of Health to facilitate disposal demand, between the hours of 7:00 a.m. and 9:30 a.m. All possible measures shall be taken to avoid noise and disturbances to residents and neighboring businesses.
4. Snow Removal: To ensure safe access for fire and emergency services, the Applicant shall keep clear of snow and ice the second floor patio area, the stairs from Devens Street to Main Street, the public sidewalk on Main Street which abuts the Site, and the driveway to the parking garage.

**From:** City Council  
**Sent:** Thursday, July 19, 2018 2:50 PM  
**To:** Joe Delano; David Doucette; Christian Dumais; Robert Tunnera; John Irish; Ed Clancy; Don Landers; Peter Juare; Mark Oram; Mike Ossing; Kathleen Robey; Michael Ossing; Ed Clancy; Donald Landers  
**Cc:** Sara Corbin; Karen Boule  
**Subject:** From Site Plan Review Committee To Urban Affairs Committee: Proposed E on Main Site Plan Approval Decision  
**Attachments:** rev. 7.19.2018 CPG E on Main Site Plan Approval Decision.doc  
**Importance:** High

**To Councilors:**

*For review at the next meeting of the Urban Affairs Committee on July 25, 2018 at 5:30PM – In Chamber*

**KB**

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**From:** Priscilla Ryder  
**Sent:** Thursday, July 19, 2018 2:03 PM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Cc:** Nicholas Milano <[nmilano@marlborough-ma.gov](mailto:nmilano@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; Cathleen Liberty <[cliberty@marlborough-ma.gov](mailto:cliberty@marlborough-ma.gov)>; Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>; Falk, Brian R. <[bfalk@MirickOConnell.com](mailto:bfalk@MirickOConnell.com)>  
**Subject:** FW: E on Main Site Plan Approval Decision  
**Importance:** High

Dear Councilor Delano,

The site plan review committee has finished its review of the E on Main project. Attached please find the draft site plan review conditions for this project located at 163-175 Main St. The Site Plan Review committee working with Cynthia Panagore Griffin reviewed and edited these conditions and we submit them to you for your review and consideration.

Let me know if you have any questions,

*Priscilla Ryder*  
*Conservation Officer*  
*140 Main St. City Hall; Marlborough, MA 01752*  
*Ph: 508-460-3768 ; [pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)*

**From:** City Council  
**Sent:** Thursday, July 19, 2018 1:26 PM  
**To:** Joe Delano  
**Cc:** Ed Clancy; Ed Clancy; Sara Corbin  
**Subject:** From CPG TO ATTY. FALK: Revised 7.19.2018 CPG E on Main Site Plan Approval Decision  
**Attachments:** rev. 7.19.2018 CPG E on Main Site Plan Approval Decision.DOC

**From:** Cynthia Panagore Griffin  
**Sent:** Thursday, July 19, 2018 12:05 PM  
**To:** 'bfalk@MirickOConnell.com' <[bfalk@MirickOConnell.com](mailto:bfalk@MirickOConnell.com)>  
**Cc:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** Revised 7.19.2018 CPG E on Main Site Plan Approval Decision

Hi Brian:

For your review and comment, we have one edit to the proposed Site Plan Permit. In paragraph H.1. the City Council waiver would be conditioned on approval by the Building Commissioner on calculations concerning the proposed open space. Ideally, it would be preferable if the Commissioner had the calculations before the Site Plan Permit went to Urban Affairs (thus avoiding the need for “conditional” terms). But the Council wants the draft Permit by Friday, I will be away for the next few days starting this afternoon, and you will not be available on Monday. If the Commissioner receives the calculations before Wednesday’s UA meeting (7/.25), and has time to review them, assuming they meet with his approval we can delete the “conditional” language during the Urban Affairs meeting.

Cynthia

*Cynthia Panagore Griffin, Esq.*

Assistant City Solicitor  
Legal Department  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752  
tel: 508-460-3771  
fax: 508-460-3698

This email is a public record. In addition, the information contained in this electronic transmission (“e-mail”), including any attachment (the “Information”), may be confidential or otherwise exempt from disclosure. It is for the addressee only. ***This Information may be privileged and confidential attorney work-product or a privileged and confidential attorney-client communication.*** The Information may also be deliberative and pre-decisional in nature. As such, it is for internal use only. The Information may not be disclosed without the prior written consent of the Legal Department of the City of Marlborough. If you have received this e-mail by mistake, please notify the sender and delete it from your system. Please do not copy or forward it. Thank you for your cooperation.

For Urban Affairs Committee  
July 25, 2018

Site Plan Approval with Conditions

Marlborough on Main, 163-175 Main Street

Order No. 18-1007135

Version dated July 19, 2018 – Assistant City Solicitor

**Site Plan Permit # \_\_\_\_\_**  
**Site Plan Approval with Conditions**

**Applicant:** Vincenza Sambataro

**Property Owner:** Vincenza Sambataro

**Location:** 163-175 Main Street (the "Site") being shown as Parcels 77, 78 and 79 on Assessors Map 70, currently owned by the Property Owner, and portions of Parcels 33A, 34, and 77A on Assessors Map 70 and portions of the adjacent stair property currently owned by the City of Marlborough.

**Zoning District:** Marlborough Village District (MV)

**Plans:** The following Site Plan Approval Final Conditions are based on a set of plans entitled "E On Main, 165-175 Main Street, Marlborough, MA, Site Plan - Amended," by Bruce Saluk and Assoc. Inc., said plans being comprised of sheets EX, C1, C2, C3, C4, C5, C6, and C7, with the last revision date of 7-11-18 (said set of plans hereinafter, collectively, the "Site Plans"); and a set of fifteen (15) architectural drawings entitled "E on Main Retail and Residential" by JD LaGrasse & Associates, with the last revision date of 7-11-18.

**SITE PLAN APPROVAL FINAL CONDITIONS:**

**A. Site Conformance:**

1. Construction of the Site shall be in conformance with the approved Site Plans, the provisions of Chapter 270 of the Code of the City of Marlborough, and the conditions stated herein.
2. All construction on the Site shall conform to the appropriate National, State and City of Marlborough codes and regulations in force for each respective discipline and be in accordance with the approved plans and permits. Codes and regulations shall include but are not limited to State Building, Plumbing, Wiring, NFPA, Zoning, DPW utility and roads, Noise and Signs.

**B. Prior to Issuance of a Building Permit:**

1. Construction Staging and Safety Plan:
  - a. The Applicant shall complete the project in accordance with a Construction Staging and Safety Plan (the "Construction Plan") to be approved by the Building Commissioner, Fire Chief, Police Chief, and City Engineer. Given the proximity of the Site to Main Street and abutting buildings, said Construction Plan shall include, but not be limited to, the building demolition phase of the project, which may take place in advance of the construction phase and under a separate demolition permit.



- b. The Construction Plan shall provide detailed information concerning: (i.) areas of the Site and adjacent property that will be marked off for the staging of construction vehicles, etc.; (ii.) traffic management, detour routes if necessary, construction signage, pedestrian protection, blocked sidewalks, streets, etc.; (iii.) construction fencing to enclose material and equipment; (v.) fencing and/or barricades to provide limits within the construction site for the separation of construction, pedestrian and vehicular traffic; and (vi.) dedicated illuminated and covered pedestrian walkways adjacent to the structure at egress paths in accordance with 780 CMR Massachusetts State Building Code and related Mass. Amendments, including but not limited to Chapters 31, 32, 33, and 34, in effect at the time the building permit application is submitted.
  - c. As part of the Construction Plan, the Applicant shall minimize the use of Devens Street and McEnelly Street for construction vehicles and construction activity.
2. Green Building: The building plans shall show compliance with Section 650-34.D.2.(m), concerning sustainable building design, of the Zoning Code of the City of Marlborough. Prior to the issuance of Building Permits, the Building Commissioner shall review the building plans to ensure that the design incorporates green building techniques.
  3. Rooftop Mechanicals: On the building plans, the elevation drawings shall show areas reserved for rooftop mechanicals and the elevator penthouse. Detail drawings illustrating the type, location, and dimensions of fencing/screening must be provided to the Building Commissioner. The Building Commissioner shall confirm that the building drawings conform to the requirements of Section 650-34.D.2.(b) regarding screening of rooftop mechanical equipment.
  4. Footings: If the footings for the proposed building will be located within the City of Marlborough public way layout, the Applicant must request and receive from the City Council an easement prior to the issuance of any building permits.
  5. Main Street Sidewalk, Street and Curb: Prior to the issuance of a building permit for the construction of the building, the Applicant shall acquire from the City of Marlborough a street opening permit authorizing access to those portions of Main Street on, to, or beneath which it intends to perform demolition and/or construction work as shown on the Site Plans (including, without limitation, drainage, the sidewalk, street, and curbs).
  6. Performance Security Bond: Prior to the issuance of a building permit, the Applicant shall provide to the Building Commissioner a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the cost of the work which

Applicant proposes for Main Street, including but not limited to construction or reconstruction of the public sidewalk, crosswalk, two (2) parking spaces, underground pipes, structures and appurtenances.

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### **C. Construction:**

1. Preconstruction Meeting: Prior to the commencement of construction, a preconstruction meeting shall be held on-site with the Building Commissioner, City Engineer, Conservation Officer, Fire Chief, Police Chief, and the site contractor responsible for doing the work. At this meeting said City officials will review the plans and conditions, exchange contact information including emergency contact numbers, and inspect erosion controls. A similar meeting shall be held prior to the commencement of demolition, which may take place under a separate demolition permit.
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5. Hours of Operation: In accordance with Section 431-3B. of the Code of the City of Marlborough, excavation machinery may be operated only during the normal

workweek, from Monday through Saturday, except holidays, between the hours of 7:00 a.m. to 7:00 p.m., except Sunday when all use is prohibited except with variance by the Board of Health or as emergency work.

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1. Modifications: All modifications to the approved Landscape Plans related to changes to the kind, size and placement of plant material shall receive the prior written approval of the Conservation Officer and shall be considered a minor change.
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3. Replacement of Plantings: Following 18 months of the date of the final signoff of the site work, any plant material that has died or is dying shall be replaced by the Property Owner with a species of the same kind and size.
4. Mulch Placement: Installation of mulch at the time of planting and thereafter shall be placed so that the mulch is not in contact with the trunk of newly planted trees and shrubs as shown on the details on the Landscaping Plan.
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1. The design of the parking garage access shall be such that entering and exiting from the garage is controlled by the Site's residents, the Property Owner, the Property Owner's agents, and those providing maintenance and other services to the Site. The building design shall provide for adequate sight distances for vehicles exiting the garage to provide for pedestrian safety. The Applicant shall use a combination of doors, gates, speed bumps and audio/visual alerts at the

garage entrance and exit to ensure pedestrian safety.

2. The parking garage is to be for the sole use of the residents of the Site. The parking garage is not intended for public use.
3. The final design of the garage has not been completed and is therefore not included in the Site Plans reviewed. Once complete, details such as the locations of columns, dumpster(s), drains, grease trap, lighting and ventilation, final parking layout, and other items shall be reviewed and approved by the Building Commissioner and other City officials as appropriate.

**G. Main Street Parking Spaces:**

1. The Site Plans indicate that two (2) existing parking spaces on the north side of Main Street will be eliminated (see Section H.2 below). Prior to the issuance of a Building Permit, the Applicant shall appear before the Traffic Commission to request a vote to change the existing parking plan accordingly.

**H. Private Open Space:**

1. Through this decision and in accordance with Section 650-34.H(4) of the Zoning Ordinance, the City Council acknowledges that the Site will provide the required “private open space” and hereby waves strict adherence to the private open space requirement that the exterior ground level portion of the open space must be usable for sitting or recreation, based on the unique slope conditions found at the Site and the fact that the building will have a roof deck to provide the requisite outdoor sitting and recreation space. Said waiver from the City Council is conditioned upon approval by the Building Commissioner of calculations provided by the Applicant, which calculations are incorporated by reference and shall be a part of this Site Plan Permit.

**I. Prior to Issuance of a Certificate of Occupancy:**

1. Payment in Lieu of Parking: The project contains 47 residential units, and therefore must either (i.) comply with parking space requirements, or (ii.) make a "payment in lieu of parking" for each space not provided, per Section 650-34E. of the Zoning Ordinance. Required parking for the project is as follows:

1 bedroom units:	15 @ .75 spaces per unit=	11.25 spaces
2 bedroom units:	32 @ 1.25 spaces per unit =	40 spaces
	<u>Total Spaces Required =</u>	52 spaces

The difference between the parking spaces provided on the Site Plans (35) and the parking spaces required (52), which is 17 spaces, will be addressed in strict accordance with Section 650-34.E.(2)(b) of the Zoning Ordinance of the City of

Marlborough. Per the Ordinance, a payment-in-lieu-of-parking equal to \$170,000 (\$10,000 for each of the 17 spaces required but not provided on the Site) shall be paid to the City of Marlborough prior to the issuance of the first Certificate of Occupancy for the project. In addition, prior to the issuance of the first Certificate of Occupancy for the project, the Applicant shall pay to the City of Marlborough \$20,000 for the two (2) parking spaces (\$10,000 per space) eliminated on Main Street as part of the project.

2. Work Within Public Way: All work within the public way layout, including but not limited to the street landscaped islands, planting, repaving, catch basin replacement, pavement milling and overlay, pavement markings, etc., as shown on the approved plans, shall be completed prior to the issuance of the first Certificate of Occupancy.
3. As-Built Plan: An as-built plan(s) must be submitted to the City Engineer for review prior to the issuance of the first Certificate of Occupancy or any Temporary Certificate of Occupancy. The as-built plan(s) shall be prepared in accordance with the As-Built Plan Standards established by the City Engineer, which standards may be found on the website for the City of Marlborough.
4. Time for Completion: Work as provided for on the Site Plans shall be carried into effect and completed within three (3) years following the date of issuance of the Building Permit, unless the City Council has, in writing, granted an extension of time for completion of the work.
5. Signage. Pursuant to Section 650-34.I. of the Code of the City of Marlborough, the City Council hereby retains jurisdiction over all signage of the project to the extent such signage requires a sign permit under the Sign Ordinance. The final design, material, dimensions, content, and location of all such signage, including any freestanding entry signs and the project's internal signage, shall be subject to further review and sign permit approval from the City Council which must meet the requirements of Section 650-34.I. of the Code of the City of Marlborough.

#### **J. Stair Case Property:**

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2. Performance Security Bond: Prior to the issuance of a building permit, the Applicant shall provide to the City Engineer a performance security bond, issued by a surety licensed for surety business in the Commonwealth of Massachusetts, in an amount equal to 100% of the cost to construct or reconstruct the existing City stairs in their entirety from Main Street to Devens Street, and for the construction or reconstruction and relocation of drain and sewer lines located below said existing stairs.

3. Certificate of Insurance: Prior to the issuance of a building permit, the Applicant shall provide to the Chief Procurement Officer of the City of Marlborough a Certificate of Insurance, naming the City of Marlborough as an additional insured, naming the City of Marlborough Department of Public Works, City Engineer, 135 Neil Street Marlborough, MA 01752 as an additional insured, in such amounts as are required by said Chief Procurement Officer for a liability policy concerning the Applicant's demolition and reconstruction of the subject stairs in their entirety from Main Street to Devens Street, and for the reconstruction and relocation of drain and sewer lines located below said existing stairs.
4. Prior to the issuance of a building permit for the construction of the building, the Applicant shall submit plans, deemed acceptable to the City Engineer, for the reconstruction of the City stairs in their entirety from Main Street to Devens Street and the reconstruction and relocation of drain and sewer lines located below the existing stairs. The stairs shall be designed to accommodate snow and ice removal.
5. Prior to the issuance of a Certificate of Occupancy for the project, the Applicant shall construct, at the Applicant's expense new City stairs providing a connection between Main Street and Devens Street and shall reconstruct and relocate drain and sewer lines located below the existing stairs.

**K. General Provisions:**

1. Minor Changes: The City Council delegates to the Building Commissioner the authority to approve minor changes to the approved Site Plans. The City Council delegates to the Building Commissioner the authority to approve changes to the approved Site Plans consistent with future amendments to the Zoning Ordinance enacted by the City Council.
2. Enforcement: The City Council designates the Building Commissioner as the enforcing authority to bring enforcement actions for violations of this permit.
3. Deliveries: In order to mitigate the impact on traffic flow on Main Street and the impact of noise to the residents of and abutters to the Site, deliveries to the business on the Site by semi-trailers shall occur between 8:00 a.m. and 8:30 p.m. Daily deliveries to business on the Site by a small box truck, van or similar sized vehicle may occur between the hours of 7:00 a.m. and 9:00 p.m. On-site trash collection shall occur twice a week, or as required by management or the Board of Health to facilitate disposal demand, between the hours of 7:00 a.m. and 9:30 a.m. All possible measures shall be taken to avoid noise and disturbances to residents and neighboring businesses.
4. Snow Removal: To ensure safe access for fire and emergency services, the Applicant shall keep clear of snow and ice the second floor patio area, the stairs

from Devens Street to Main Street, the public sidewalk on Main Street which abuts the Site, and the driveway to the parking garage.

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**From:** Falk, Brian R. [<mailto:bfalk@MirickOConnell.com>]  
**Sent:** Thursday, July 19, 2018 12:15 PM  
**To:** Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>  
**Cc:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** RE: Revised 7.19.2018 CPG E on Main Site Plan Approval Decision

Thanks, Cynthia.

Our open space calculations are provided in the Zoning Chart on Bruce Saluk's stamped Site Plan (attached). The Ordinance requires 100 sf of private open space per unit (4,700 sf due to our 47 units) with at least 50% being exterior to the building (2,350 sf). The Zoning Chart provides these requirements and confirms that we exceed the requirements.

Please let me know if this is sufficient to avoid the conditional language.

Thanks,  
Brian



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**From:** Cynthia Panagore Griffin <[cpanagoregriffin@marlborough-ma.gov](mailto:cpanagoregriffin@marlborough-ma.gov)>  
**Sent:** Thursday, July 19, 2018 12:05 PM  
**To:** Falk, Brian R. <[bfalk@MirickOConnell.com](mailto:bfalk@MirickOConnell.com)>  
**Cc:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>; Jeffrey Cooke <[jcooke@marlborough-ma.gov](mailto:jcooke@marlborough-ma.gov)>; Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>  
**Subject:** Revised 7.19.2018 CPG E on Main Site Plan Approval Decision

This Message originated outside of Mirick O'Connell.

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Hi Brian:

For your review and comment, we have one edit to the proposed Site Plan Permit. In paragraph H.1. the City Council waiver would be conditioned on approval by the Building Commissioner on calculations



concerning the proposed open space. Ideally, it would be preferable if the Commissioner had the calculations before the Site Plan Permit went to Urban Affairs (thus avoiding the need for “conditional” terms). But the Council wants the draft Permit by Friday, I will be away for the next few days starting this afternoon, and you will not be available on Monday. If the Commissioner receives the calculations before Wednesday’s UA meeting (7/.25), and has time to review them, assuming they meet with his approval we can delete the “conditional” language during the Urban Affairs meeting.

Cynthia

*Cynthia Panagore Griffin, Esq.*

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