

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2018 DEC 13 P 2:12

1. Minutes, City Council Meeting, December 3, 2018.
2. PUBLIC HEARING On the Proposed Zoning Amendment to Chapter 650, §12, §58 & §159 – Lawful Pre-Existing Nonconforming Single and Two-Family Residential Structures, Order No. 18-1007460.
3. PUBLIC HEARING On the Application for Special Permit from Melynda Gallagher on behalf of Lost Shoe Brewing and Roasting Company to allow for coffee roasting at their establishment within the Marlborough Village District, 19 Weed Street, Order No. 18-1007462.
4. Communication from the Mayor, re: Tax Increment Financing Agreement – Candela Corporation.
5. Communication from the Mayor, re: City Clerk transfer request in the amount of \$6,000.00 which moves funds from Pollworkers account (Election Budget) to Advertising account (City Clerk Budget) to fund future legal advertisements through FY19.
6. Communication from the City Solicitor, Donald Rider, re: Walker Brook Estates Subdivision-Acceptance of Allis Road & Bemis Road as Public Ways.
7. Communication from the City Solicitor, Donald Rider, on behalf of Councilor Delano, re: Proposed Zoning Amendment to Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards.
8. Communication from the Assistant City Solicitor, Cynthia Panagore Griffin, re: Proposed Grant of Easement to Massachusetts Electric Co. for Electric Distribution System at Marlborough High School, 431 Bolton Street and Proposed Grant of Easement to Massachusetts Electric Co. for Electric Distribution System at New Elementary School, 441 Bolton Street, Order No. 18-1007480.
9. Communication from the Assistant City Solicitor, Cynthia Panagore Griffin, re: Proposed Zoning Amendment to Chapter 650, §34 & §41 – Marlborough Village District in proper legal for, Order No. 18-1007404C.
10. Communication from the Planning Board re: Favorable Recommendation of Mauro Farms Subdivision, Acceptance of Nolan Way, Spenser Circle & Reagin Lane as Public Ways, Order No. 18-1007444A.
11. Communication from the Planning Board re: Favorable Recommendation of Proposed Zoning Amendment to Chapter 650, §34 & §41 to amend certain provisions of the Marlborough Village District, Order No. 18-1007404C.
12. Communication from Joseph Deneen re: traffic and public safety concerns pertinent to Special Permit Garden Remedies, Inc., Order No. 18-1007318E.
13. Communication from State Representative, Carmine Gentile, re: response to Joseph Deneen's traffic and public safety concerns pertinent to Special Permit Garden Remedies, Inc., Order No. 18-1007318E.
14. Communication from Scott Dale on behalf of Avalon Marlborough II, re: Request to Extend Time Limitations on application for Special Permit to increase the number of units from 350 to 473 on a portion of 200 Forest Street within the Results Way Mixed Use Overlay District (RWMUOD), until 10:00 PM on February 27, 2019, Order No. 18-1007314D.

**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.**

15. Minutes, Planning Board, November 5, 2018.
16. Minutes, Board of Health, September 10, & October 15, 2018.
17. Minutes, License Board, October 24 & November 15, 2018.
18. CLAIMS:
  - a) Mike Ryan, 36 Grove Street, other property damage.
  - b) Anne English, 20 Upland Road, other property damage.
  - c) Jacqueline Pilot, 125 Elm Street, Upton, MA, pothole or other road defect.
  - d) Linda Bombard, 799 Farm Road, #19, pothole or other road defect.
  - e) Dan Robinson, 40 Ethel Avenue, other property damage.
  - f) Patricia Laier, 562 Elm St., other property damage.

## REPORTS OF COMMITTEES:

## UNFINISHED BUSINESS:

From Wireless Communications Committee

19. **Order No. 18-1007321**: Petition of AT & T to grant a location for Telecommunication Wires and Wireless Attachments and Appurtenances, Francis Street & East Main Street, Utility Pole #11-50.
- Order No. 18-1007322**: Petition of AT & T to grant a location for Telecommunication Wires and Wireless Attachments and Appurtenances, 10 Neil Street Utility Pole 1.
- Order No. 17-1007034**: Petition of AT & T to deploy one small cell site which will be mounted on existing utility pole at 319 East Main Street.

**Motion by Councilor Oram, seconded by the Chair, and approved 3-0 to recommend approval of grant locations by AT&T for small cell locations for Telecommunication Wires and Wireless Attachments and Appurtenances for the following three sites, subject to the following eight (8) conditions and to forward to the City Solicitor to be drawn in proper legal form.**

**Order No. 18-1007321** (Francis and East Main Streets);

**Order No. 17-1007034** (319 East Main Street);

**Order No. 18-1007322** (10 Neil Street). This site is further subject to removal of all double poles on Neil Street.

- 1) Double pole installations are prohibited;
- 2) Cutting and digging into streets and/or sidewalks is prohibited;
- 3) The facility shall be color coordinated;
- 4) All equipment shall be aimed away from the street on the sidewalk side;
- 5) Modification of the facility shall require further City Council approval;
- 6) The Petitioner shall submit a construction schedule satisfactory to the City Engineer;
- 7) The Petitioner shall submit a performance bond satisfactory to the City Engineer;
- 8) The installation shall specify the pole number for identification purposes.

**RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH**

**2018 DEC 13 A 11: 50**



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas  
140 Main St.**

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**DECEMBER 3, 2018**

Regular meeting of the City Council held on Monday, December 3, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Delano, Juairé, Oram, Ossing, Robey, Doucette, Dumais, Tunnera, Irish and Landers. Meeting adjourned at 10:07 PM.

City Council President Clancy recognized Police Officer Nicholas Lesard who recently joined the Marlborough Police Department.

**ORDERED:** That the Minutes of the City Council meeting NOVEMBER 5, 2018, **FILE**; adopted.

**ORDERED:** That the Minutes of the City Council meeting NOVEMBER 19, 2018, **FILE**; adopted.

**ORDERED:** That the PUBLIC HEARING On the Petition from Massachusetts Electric and Verizon New England, Inc., to install new joint owned Pole #47-5, Bolton Street, to service new school at 441 Bolton Street, Order No. 18-1007463, all were heard who wish to be heard, hearing closed at 8:05 PM.

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

**ORDERED:** That the **JOINT TAX CLASSIFICATION PUBLIC HEARING** with the Board of Assessors on Monday, DECEMBER 03, 2018 at 8:00 p.m. in Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street, Marlborough, MA, to determine the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2019. Massachusetts General Laws Chapter 40, Section 56 sets forth the procedures and responsibilities under the law, all were heard who wish to be heard, hearing closed at 8:45 PM.

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

**ORDERED:** That the PUBLIC HEARING On the Application for Special Permit from Marlborough TOTG, LLC d/b/a MCO & Associates, Inc., to increase lot coverage area of 80% to 84% for patio area of proposed restaurant at 57 Main Street, Order No. 18-1003r7424A, all were heard who wish to be heard, hearing closed at 9:17 PM.

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

**Councilor Dumais recused.**

ORDERED: That the transfer of \$34,725.00 (thirty-four thousand, seven hundred twenty-five dollars) from Sale of Graves to Reduce the FY2019 Tax Levy, **APPROVED**; adopted.

CITY OF MARLBOROUGH  
BUDGET TRANSFERS -

DEPT:		Mayor's Office				FISCAL YEAR:		2019	
FROM ACCOUNT:						TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$34,725.00	\$34,725.00	27000	33020	Sale of Graves	\$34,725.00			To reduce FY19 Tax Levy	\$0.00
Reason:		Sale of Graves revenue from FY18 to reduce FY19 tax levy							
\$34,725.00	Total					\$34,725.00	Total		

ORDERED: That the transfer of \$1,362,409.90 (one million, three hundred sixty-two thousand, four hundred nine dollars & ninety cents) from Overlay Reserve to reduce the FY2019 Tax Levy, **APPROVED**; adopted.

CITY OF MARLBOROUGH  
BUDGET TRANSFERS -

DEPT:		Mayor's Office				FISCAL YEAR:		2019	
FROM ACCOUNT:						TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$1,362,409.90	\$1,362,409.90	10000	32200	Overlay Reserve	\$1,362,409.90			To reduce FY19 Tax Levy	\$0.00
Reason:		Excess overlay from FY15 to reduce FY19 tax levy							
\$1,362,409.90	Total					\$1,362,409.90	Total		

ORDERED: The Marlborough City Council votes in accordance with M.G.L., Ch. 40, Sec. 56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2019 tax rates and set the Residential Factor at 0.8063 with a corresponding CIP shift of 1.43 pending approval of the City's annual tax recap by the Massachusetts Department of Revenue, **APPROVED**; adopted.

ORDERED: That the OPEB and Stabilization transfer requests in the amount of \$887,745.00 which moves funds from Undesignated Fund ("Free Cash") to Undesignated Stabilization and to the OPEB Trust for stabilization and OPEB accounts, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH  
BUDGET TRANSFERS -

DEPT:		Mayor				FISCAL YEAR:		2019	
Available Balance		FROM ACCOUNT:				TO ACCOUNT:			
Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$8,877,451.00	\$887,745.00	10000	35900	Undesignated Fund	\$887,745.00	87500	35900	OPEB Trust	\$9,154,936.35
Reason:		Transfer funds to OPEB trust							
\$887,745.00	Total					\$887,745.00	Total		

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Emergency Performance grant in the amount of \$8,900.00 awarded to the Fire Department which will be utilized to install a security access system at the Central Fire Station; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Massachusetts Cultural Council grant in the amount of \$5,000.00 awarded to the Department of Public Works to fund the Museum in the Streets project for the downtown area; adopted.

ORDERED: That the Appointment of Matt Elder to the Planning Board for a 5-year term to expire the first Monday in February, 2024, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: request for Executive Session to discuss litigation strategy involving property off Williams Street, **MOVE TO END OF AGENDA**; adopted.

ORDERED: That pursuant to Mass. Gen. Laws c. 40, § 3, the City of Marlborough grant permanent utility easements, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a "NGrid"), as described on Exhibits "A" and "B" hereto concerning, respectively, a Grant of Easement to Massachusetts Electric Company for electrical service to Marlborough High School at 431 Bolton Street, and a Grant of Easement to Massachusetts Electric Company for electrical service to the new elementary school at 441 Bolton Street, said grants of easement having been approved by the Marlborough School Committee on \_\_\_\_\_, 2018, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY THE FOLLOWING AMENDMENT TO ARTICLE II OF CHAPTER 270:

1. Section 8.1 of Chapter 270 (§ 270-8.1), entitled "In-building Fire Department and Police Department radio coverage," is hereby amended by striking paragraph A. therefrom and inserting place thereof the following:
  - A. The Marlborough Fire Department requires that, in accordance with 780 CMR 915.1, et seq., of the Code of Massachusetts Regulations, as amended, all new buildings and new additions to existing buildings provide reliable radio communications for emergency responders within the building based upon the existing coverage levels of the Marlborough Fire Department and the Marlborough Police Department communication systems at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.
2. The effective date of this amendment shall be the date of its passage.

Refer to **PUBLIC SAFETY COMMITTEE**; adopted.

ORDERED: That the Department of Public Works-be authorized to plow and remove snow from the following way during the 2018-2019 snow season, in accordance with the provisions of Massachusetts General Law, Chapter 40, Section 6-C, provided that said way be of such construction and condition that, in the opinion of the Commissioner of Public Works, said plowing can be safely and conveniently accomplished, **APPROVED**; adopted.

Gikas Lane - Howes Landing, off Hudson Street

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING AND ADDING THERETO AS FOLLOWS:

1. Section 650-5, entitled Definitions; word usage, is hereby amended to read:

**RETIREMENT COMMUNITY – DETACHED AND TOWNHOMES**

A community consisting of detached or attached (only alongside walls in so-called "townhouse" style) structures, constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

[Amended 1-6-2003 by Ord. No. 03-9821B; 1-6-2003 by Ord. No. 03-9821-1B; 1-6-2003 by Ord. No. 03-9821-2B]

**RETIREMENT COMMUNITY – MULTIFAMILY**

A community consisting of a single multiple unit structure constructed expressly for use as housing for persons aged 55 or over, on one parcel or on contiguous parcels of land, subject to the provisions of MGL c. 151B, § 4, as amended.

1. Section 650-22.A, entitled “Purpose” is hereby amended to read: Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community
2. Section 650-22.C, entitled “Permitted uses” is hereby amended to read: Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a Retirement Community - Detached and Townhomes, or a Retirement Community – Multifamily, as defined in § 650-5, consistent with the following provisions:
  - (i) Retirement Community – Detached and Townhomes (RCO-D/T)
    - (1) No building in a RCO-D/T community shall be more than 2 1/2 stories in height.
    - (2) Each building in a RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by air line distance between the nearest points of the buildings.
    - (3) No dwelling in a RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.
    - (4) All dwelling units in a RCO-D/T community shall be detached from the others or attached only alongside walls in the so-called "townhouse" style.
    - (5) The lot or lots on which a RCO-D/T community and any approved ancillary residential community are located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.
    - (6) No part of any principal building in a RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.
    - (7) Each dwelling unit in a RCO-D/T community shall have its own attached yard area.

- (8) Required off-street parking for each dwelling unit in a RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in a RCO-D/T community, either entirely or except in designated locations, of boats, boat trailers, campers, or other recreational vehicles.
- (9) Maximum combined lot coverage in a RCO-D/T community and in any permitted ancillary residential community shall not exceed 40% of the total lot size.
- (10) Each lot or contiguous lots upon which a RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.
- (11) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (12) The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (13) No unit in a RCO-D/T community shall have more than three bedrooms.



## (ii) Retirement Community – Multifamily (RCO-MF)

- (1) The total area of the tract of contiguous parcels to be developed as a RCO-MF shall not be less than ten (10) acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Rte. 85/290 Connector Road; then west along the Rte. 85/290 Connector Road to the intersection of Rte. 495; then south along Rte. 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with Pleasant Street; then north along Pleasant Street to the intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Rte. 85/290 Connector Road. All of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Rte. 495 and Rte. 290.
- (2) A RCO-MF may contain one (1) and two (2) bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barber shop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.
- (3) No building in a RCO-MF shall be more than 3 stories in height.
- (4) The total number of dwelling units in a RCO-MF shall be limited to 12 units per acre.
- (5) No part of any principal building in a RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any public way.
- (6) Maximum combined lot coverage in a RCO-MF, including any permitted accessory structures shall not exceed 40% of the tract or contiguous parcels.
- (7) The tract or contiguous parcels upon which a RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.
- (8) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (9) The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.

- (10) A minimum of 1.0 parking space per dwelling unit shall be provided in a RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (11) No dwelling unit in a RCO-MF shall contain less than 500 square feet of living area or more than 1300 square feet of living area.
- (12) No building in a RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.
- (13) In a RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas such as vegetated areas, woodlands, wetlands and floodplain areas.

**REMOVE FROM TABLE UNDER SUSPENSION OF RULES-CARRIES & refer to URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019; adopted.**

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

That, upon the petition of Lacombe Business Center, LLC, the Zoning Map established under Chapter 650, the City of Marlborough's Zoning Ordinance, in Article III, entitled "Establishment of Districts" is hereby amended in subsection 8 thereof, entitled "Boundaries Established; Zoning Map," by rezoning, from the Industrial (I) zoning district to the Commercial Automotive (CA) zoning district, the parcels shown on the Marlborough Assessors Map as Map 82, Parcel 42 and Map 82, Parcel 42E.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019; adopted.**

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

That, upon the petition of Stephen Vigeant, Trustee of the 22 Englewood Trust, the Zoning Map established under Chapter 650, the City of Marlborough's Zoning Ordinance, in Article III, entitled "Establishment of Districts" is hereby amended in subsection 8 thereof, entitled "Boundaries Established; Zoning Map," by rezoning, from the Industrial (I) zoning district to the Commercial Automotive (CA) zoning district, the parcels shown on the Marlborough Assessors Map as Map 104, Parcel 29 and Map 104, Parcel 29A.

Refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019;** adopted.

ORDERED: That the Communication from the Public Employee Retirement Administration Commission (PERAC) re: Required FY20 Appropriation, **FILE;** adopted.

ORDERED: That the Communication from Central Massachusetts Mosquito Control Project re: 2019 Commission Meeting Dates, **FILE;** adopted.

ORDERED: That the Minutes, Conservation Commission, September 6, 2018, September 20, 2018 & October 4, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Commission on Disabilities, September 4 2018 & October 9, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Retirement Board, October 30, 2018, **FILE;** adopted.

ORDERED: That the Minutes, School Committee, October 9, 2018, October 23, 2018 & November 13, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Board of Assessors, August 28, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Traffic Commission, August 29 2018 & October 31, 2018, **FILE;** adopted.

ORDERED: That the Minutes, Council on Aging, September 11, 2018, **FILE;** adopted.

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

- a) Bolton Street Tavern, 587 Bolton Street, other property damage.
- b) Rev. Kazimierz Bem, 406 Lincoln Street, Apt 208, pothole or other road defect.
- c) Nam Kim Huynh, 301 Cook Lane, pothole or other road defect.
- d) Sanjay Ahuja, 30 Danjou Drive, pothole or other road defect.
- e) Geeta Bihari, 14 Fox Court, Stow, pothole or other road defect

Councilor Doucette reported the following out of the Wireless Communications Committee:

Meeting Name: City Council Wireless Communications Committee  
Date: November 27, 2018 Convened: 7:11 PM – Adjourned: 8:24 PM  
Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Present: Chairman Doucette; Wireless Communications Committee Members  
Councilors Oram and Juaire; Councilors Clancy, Landers, and Ossing;  
**Donald Rider, Jr. (City Solicitor, City of Marlborough); Mayor Arthur  
Vigeant; Michael Dolan (Attorney, Brown Rudnick for AT&T)**

**Order No. 18-1007321: Petition of AT & T to grant a location for  
Telecommunication Wires and Wireless Attachments and Appurtenances,  
Francis Street & East Main Street, Utility Pole #11-50.**

**Order No. 18-1007322: Petition of AT & T to grant a location for  
Telecommunication Wires and Wireless Attachments and Appurtenances, 10  
Neil Street Utility Pole 1.**

**Order No. 17-1007055: Petition of AT & T to deploy a small cell site which will  
be mounted on existing utility pole at 28 Concord Road.**

**Order No. 17-1007034: Petition of AT & T to deploy one small cell site which will  
be mounted on existing utility pole at 319 East Main Street.**

The Wireless Communication Committee met with Attorney Michael Dolan of Brown Rudnick on behalf of AT&T for a review of their requests for grant of locations for Telecommunication Wires and Wireless Attachments and Appurtenances for small cell wireless units which would relieve the use at the nearest macro sites and allow for more capacity for AT&T customers. The four sites are located at Francis and East Main Streets, 10 Neil Street, 28 Concord Road, and 319 East Main Street.

Councilors Clancy, Landers, and Juaire expressed concerns about these petitions. Their concerns included the height location of the units on the poles, the integrity of the pole at 28 Concord Road as it leans, and the 10 Neil Street location due to multiple double poles on the street. Atty. Dolan was to provide a structural analysis of the site at 28 Concord Road to the City Engineer and Building Commissioner. Councilors were opposed to any AT&T small cell installation at a site where there is a double pole. Councilors discussed color coordination of the units to their respective sites. Atty. Dolan confirmed there would be no digging in the street to bring fiber to the sites, and Councilor Clancy requested that language in the petitions be amended by AT&T to remove all reference to underground installation. Solicitor Rider reminded councilors of previously discussed conditions.

Reports of Committee Continued:

**Motion by Councilor Oram, seconded by the Chair, and approved 3-0 to recommend approval of grant locations by AT&T for small cell locations for Telecommunication Wires and Wireless Attachments and Appurtenances for the following three sites, subject to the following eight (8) conditions and to forward to the City Solicitor to be drawn in proper legal form.**

**Order No. 18-1007321 (Francis and East Main Streets);**

**Order No. 17-1007034 (319 East Main Street);**

**Order No. 18-1007322 (10 Neil Street). This site is further subject to removal of all double poles on Neil Street.**

- 1) Double pole installations are prohibited;
- 2) Cutting and digging into streets and/or sidewalks is prohibited;
- 3) The facility shall be color coordinated;
- 4) All equipment shall be aimed away from the street on the sidewalk side;
- 5) Modification of the facility shall require further City Council approval;
- 6) The Petitioner shall submit a construction schedule satisfactory to the City Engineer;
- 7) The Petitioner shall submit a performance bond satisfactory to the City Engineer;
- 8) The installation shall specify the pole number for identification purposes.

Councilor Juaire questioned notification to the City in case of damage to AT&T small cell equipment. Atty. Dolan stated that he provided the 24-hour contact information to Solicitor Rider.

The Committee discussed the proposed facility at 28 Concord Road. As discussed at the first meeting, there remains concerns about the angle of the lean to the pole. The present condition of the pole is leaning at an angle that appears unsafe. Councilor Landers suggested that the site be moved to the other side of the street where it is being supported by the crooked pole. Atty. Dolan stated that National Grid has informed AT&T on which poles they can locate their equipment. Councilor Landers stated that it appears we are dealing with the wrong utility, further stating that this is the City's opportunity to make sure the site is not only safe but improved aesthetically. He stated that the City should be able to have a site that is safe and that looks good. Councilor Juaire stated that the City Council should not approve the site until the pole is straightened.

Motion by Councilor Oram, seconded by the Chair, to table the petition of AT&T for the proposed small cell site at 28 Concord Road. The motion carried 3-0. This matter remains in committee.

**Motion made and seconded to adjourn.**

**Motion carried 3-0. The meeting adjourned at 8:24 PM.**

ORDERED:

**LIBRARY CONSTRUCTION BOND**

That the City of Marlborough, Massachusetts (“the City”) appropriate the amount of \$23,780,902.00 (twenty-three million seven hundred eighty thousand nine hundred and two dollars) for the purpose of paying the costs of the renovation and construction project at the Marlborough Public Library located at 35 West Main Street. Costs shall include demolition, landscaping, paving, utility, and other site improvements incidental or directly related to such construction, renovation and expansion, architectural, engineering or other professional and legal expenses and fees associated with this project, temporary library operational space, storage and moving expenses, furnishings and equipment, and all other costs incidental or related to the Marlborough Public Library building.

To meet this appropriation, the Comptroller/Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, as amended and supplemented, or pursuant to any other enabling authority, and that the Mayor is authorized to contract for and expend any grants, aid, or gifts available for this project; and that the Mayor is authorized to take any other action necessary or convenient to carry out this project.

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

**TABLED UNTIL THE JANUARY 7, 2019 CITY COUNCIL MEETING;**  
adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES WITH CONDITIONS** the Workplace Charging Program grant in the amount of \$6,219.00 awarded to DPW to fund 50% of the cost to purchase two Level 2 Electric Vehicle Charging Stations; adopted.

MOTION made by Councilor Juairé and seconded by Councilor Delano to amend the conditions to read as follows – **CARRIES**.

- 1) The two charging stations will be set up to require patrons to pay for charging their electric vehicles.
- 2) The parking spaces for the charging stations will have a 4-hour charging limit for non-municipal vehicles.
- 3) The charging stations will be placed at the Department of Public Works and on the top floor (roof deck) of the Carl Rowe Municipal Garage located behind City Hall.

ORDERED: That the request from Peter Graham, PG Realty Trust, to extend the reconstruction of the building at 182 West Main Street for one year to November 19, 2019, **APPROVED**; adopted.

ORDERED: That the City Council of the City of Marlborough, having, by Order No. 18-1007245C voted on October 15, 2018, approved a special permit to 27 Jefferson LLC to build and operate an 11-unit, 2-story multifamily condominium building to be located at 27 Jefferson Street in Marlborough; and

Having conditioned that approval on, in part, condition no. 16, which anticipates that the City Council consider assigning to the LLC, its successors and/or assigns, the easement rights granted to the City in 1940, as recorded at the Middlesex (South District) Registry of Deeds in Book 6397, Page 83, to construct and maintain a retaining wall on a 3'-wide strip of land located at 27 Jefferson Street, 23 Jefferson Street, and 30 Highland Street (respectively, Marlborough Assessors Map 56, Parcels 160, 161, and 162); and

Having received notification from the Commissioner of the Department of Public Works that said retaining wall easement is no longer needed by the City of Marlborough for the purpose for construction and maintenance;

NOW, THEREFORE:

1. the City Council, acting pursuant to MG. c. 40, § 15A, hereby transfers said easement from the DPW to the City Council for another specific municipal purpose, namely, assignment of said easement to 27 Jefferson LLC, its successors and/or assigns, such that the LLC, its successors and/or assigns, at their sole expense, shall:
  - a. perform any and all work in the future for the purposes of reconstructing, relocating, maintaining and/or repairing the retaining wall; and
  - b. record the City's assignment at the Registry, with a copy of the recorded assignment provided to the City Council's office, the Engineering Division of the Department of Public Works, and the Legal Department; and

**APPROVED;** adopted.

**Yea: 10 – Nay: 0 – Abstain: 1**

**Yea: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juair, Oram, Ossing & Robey.**

**Councilor Dumais recused.**

ORDERED: That the City Council, acting pursuant to MGL c. 40, § 3, hereby authorizes the assignment of said easement, for nominal consideration, to 27 Jefferson LLC, its successors and/or assigns, and hereby authorizes the Mayor to execute the assignment of easement and to do all things as may be necessary to carry out this order, **APPROVED.**

**Councilor Dumais recused.**

ORDERED: That the City Council of the City of Marlborough, pursuant to the provisions and conditions of MGL c. 40, § 8C, does hereby accept from Mauro Farms LLC, a Massachusetts limited liability company, the attached deed of land in Marlborough, Middlesex County, Massachusetts shown and/or identified as Parcels 20, 21, 30, 31 and 32 on a plan entitled, "Definitive Subdivision Plan for Mauro Farm, Marlborough, Massachusetts," prepared by Tunison Smith, P.O. Box 73, 115 Main St., Suite 2B, Easton, Massachusetts 02356, dated April 20, 2007, last revised October 15, 2007, which plan is recorded in the Middlesex South District Registry of Deeds as Plan No. 75 of 2008 (the "Subdivision Plan") and to which Subdivision Plan reference is made for a more particular description of said Parcels 20, 21 and 30.

As only portions of Parcel 31 and Parcel 32 are shown on the Subdivision Plan, reference for a more particular description of said Parcels 31 and 32 is made to a plan entitled, "Plan of Land, Capital Group Properties, Lot 282 & 283, Map 71, City of Marlborough, Middlesex County, Commonwealth of Massachusetts, prepared by Control Point Associates, Inc., 352 Turnpike Road Southborough, MA 01772, dated October 26, 2017" (the "Land Plan").

Collectively, the Subdivision Plan and the Land Plan are referred to herein as the "Plans."

According to the Plans:

- Parcel 20 contains 42,296 square feet;
- Parcel 21 contains 46,129 square feet and a detention basin and a level spreader to be maintained by the Marlborough Department of Public Works;
- Parcel 30 contains 57,264 square feet and two detention basins to be maintained by the Marlborough Department of Public Works;
- Parcel 31 contains 22,974 square feet; and
- Parcel 32 contains 10,919 square feet.

These open space parcels are to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation and conservation.

**APPROVED;** adopted.

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that NOLAN WAY be accepted as a public way

from COOK LANE to Terminus at Station 8+31.42,

that SPENSER CIRCLE be accepted as a public way

from NOLAN WAY to Terminus at Station 2+83.07, and

that REAGIN LANE be accepted as a public way

from COOK LANE to Terminus at Station 2+87.28,

and that their appurtenant easements be accepted as municipal easements,

as shown on plans thereof and as hereinafter described:



DESCRIPTION

Plan entitled, "Street Acceptance Plan of 'Nolan Way,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (2 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith;

Plan entitled, "Street Acceptance Plan of 'Spenser Circle,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (1 sheet), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith;

Plan entitled, "Street Acceptance Plan of 'Nolan Way & Spenser Circle,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (2 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith; and

Plan entitled, "Street Acceptance Plan of 'Reagin Lane,' Mauro Farms, Marlborough, MA, prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, Massachusetts (3 sheets), Dated: October 26, 2015, Scale: 1" = 20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, Massachusetts, which plan is to be recorded herewith.

Title to the roadways shown as NOLAN WAY, SPENSER CIRCLE and REAGIN LANE on said plans, and title to all the municipal easements shown on said plans as:

## Utility Easements:

- Utility Easement A, over Lot 13, containing 1,022 square feet
- Utility Easement B, over Parcel 21, containing 30,320 square feet
- Utility Easement C, over Lot 27, containing 0.04 acres
- Utility Easement D, over Lot 29, containing 0.03 acres
- Utility Easement E, over Parcel 30, containing 0.46 acres

## Drain Easements:

- Drain Easement F, over Lot 29, containing 0.01 acres
- Drain Easement J, over Lot 29, containing 0.02 acres
- Drain Easement K, over Lot 28, containing 0.06 acres
- Drain Easement L, over Parcel 30, containing 0.19 acres
- Drain Easement N, over Lot 12, containing 1,782 square feet
- Drain Easement O, over Lot 10, containing 1,784 square feet

## Sewer Easements:

- Sewer Easement G, over Lot 25, containing 0.03 acres
- Sewer Easement H, over Lot 28, containing 0.06 acres
- Sewer Easement I, over Lot 23, containing 0.05 acres

## Water Easements:

- Water Easement P, over Lot 16, containing 2,195 square feet
- Water Easement Q, over Lot 18, containing 860 square feet

## Landscape Easements:

- L-2, over Lot 2, containing 1,211 square feet
- L-3, over Lot 3, containing 1,227 square feet
- L-4, over Lot 4, containing 1,035 square feet
- L-5, over Lot 5, containing 1,085 square feet
- L-6, over Lot 6, containing 1,513 square feet
- L-7, over Lot 7, containing 1,401 square feet
- L-8, over Lot 8, containing 1,024 square feet
- L-9, over Lot 9, containing 1,570 square feet
- L-10, over Lot 10, containing 1,021 square feet
- L-11, over Lot 11, containing 1,358 square feet
- L-12, over Lot 12, containing 1,008 square feet
- L-13, over Lot 13, containing 1,395 square feet
- L-14, over Lot 14, containing 1,145 square feet
- L-15, over Lot 15, containing 1,963 square feet
- L-16, over Lot 16, containing 1,182 square feet
- L-17, over Lot 17, containing 1,151 square feet
- L-18, over Lot 18, containing 1,054 square feet
- L-19, over Lot 19, containing 1,028 square feet
- L-22, over Lot 22, containing 894 square feet
- L-25, over Lot 25, containing 1,661 square feet
- L-26, over Lot 26, containing 1,018 square feet
- L-27, over Lot 27, containing 1,026 square feet
- L-28, over Lot 28, containing 1,115 square feet
- L-29, over Lot 29, containing 1,086 square feet.

has been granted to the City of Marlborough in a quitclaim deed from Mauro Farms LLC, a Massachusetts limited liability company with a principal place of business at 259 Turnpike Road, Southborough, Massachusetts, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

NOLAN WAY, SPENSER CIRCLE and REAGIN LANE be accepted as public ways, and their appurtenant easements be accepted as municipal easements, in the City of Marlborough.

**TABLED;** adopted.

**ORDERED:** It is moved, in conformance with MGL c. 30A, § 21(a)(3), that the Marlborough City Council conduct an executive session for the purpose of discussing strategy in litigation involving property off Williams Street, as an open meeting may have a detrimental effect on the litigating position of the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session.

**APPROVED;** adopted.

**Yea: 11 – Nay: 0**

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

IN CITY COUNCIL

17

DECEMBER 3, 2018

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:07 PM; adopted.

# IN CITY COUNCIL



Marlborough, Mass., NOVEMBER 19, 2018

PAGE 1

## ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-12, entitled "Nonconforming uses," is hereby amended by deleting the words
 

"except that no special permit is needed if the alteration or expansion is to a nonconforming single- or two-family dwelling and said alteration or expansion does not increase the nonconforming nature of the dwelling," and inserting in place thereof the following words: -

except that an alteration, reconstruction, extension or structural change of or to a lawful pre-existing nonconforming single-family dwelling or two-family house shall be governed by Section 650-58B(3).
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection B thereof, entitled "Powers and duties," after sub-subsection (2), entitled "Variances," the following new sub-subsection (3), entitled "Lawful pre-existing nonconforming single-family dwellings and two-family houses":
  - (3) Lawful pre-existing nonconforming single-family dwellings and two-family houses.
    - (a) As of right. Lawful pre-existing nonconforming single-family dwellings and two-family houses may be altered, reconstructed, extended or structurally changed as a matter of right upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or change would not increase or intensify the existing nonconforming nature of the dwelling or house in question. Upon such a determination, an application to the Board of Appeals for a special permit need not be made, and the owner may apply to the Building Commissioner for a building permit.



## IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 19, 2018

PAGE 2

ORDERED:

- (b) By special permit. Upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would increase or intensify the existing nonconforming nature thereof, the owner of such dwelling or house shall be required to apply to the Board of Appeals for a special permit to allow such alteration, reconstruction, extension or structural change. The Board may grant a special permit to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board determines, by a finding under M.G.L. c. 40A, § 6, that the proposed alteration, reconstruction, extension or structural change shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use; and provided, further, that any such special permit shall comply with the requirements of the Zoning Ordinance of the City of Marlborough, as may be amended from time to time, including but not limited to Section 650-12, entitled "Nonconforming uses," as well as Section 650-59.A(1) pertaining to the powers and duties of special permit granting authorities. Application for a special permit to allow such alteration, reconstruction, extension or structural change shall be made to the Board pursuant to the procedures set forth in Subsection C(5) of this Section 650-58.
- (c) By variance. Upon the determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would create a new nonconformity(ies), the owner of such dwelling or house shall be required to apply to the Board of Appeals for a variance to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board shall decide upon a variance petition pursuant to the Board's powers and duties set forth in Subsection B(2), and pursuant to the procedure set forth in Subsection C(1)-(4), of this Section 650-58.
3. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection C thereof, entitled "Procedure," after sub-subsection (4), the following new sub-subsection (5), entitled "Special permit procedure":

# IN CITY COUNCIL



Marlborough, Mass., \_\_\_\_\_ NOVEMBER 19, 2018

PAGE 3

ORDERED:

(5) Special permit procedure. Except as set forth below, the provisions set forth in Section 650-59.B and C, pertaining to the procedures and rules applicable to special permit granting authorities, as such provisions may be amended from time to time, shall, so far as apt, be applicable to the Board of Appeals acting upon an application for a special permit proposing an alteration, reconstruction, extension or structural change which, per the determination of the Building Commissioner, would increase or intensify the existing nonconforming nature of a lawful pre-existing nonconforming single-family dwelling or two-family house. In particular, each special permit application to the Board of Appeals filed under this subsection shall contain the information as itemized in Section 650-59.C(4), and shall be accompanied by a preliminary site plan which shall contain the information as itemized in Section 650-59.C(5).

Each application filed under this subsection shall be filed with the Office of the City Clerk in accordance with MGL Chapter 40A, on a form provided by that Office, and shall be accompanied by a filing fee in the amount calculated to be the same as for special permit applications submitted to the City Council under Section 650-59.C(3). The application for the special permit shall be made in writing by the applicant or its duly authorized agent, who shall file the following number of sets of application materials at the Office of the City Clerk, which shall keep the original and forward all copies to the Board of Appeals, which shall distribute those copies as follows:

<b>Number of Sets</b>	<b>Office</b>
8	Board of Appeals
1	Building Department
1	Office of the City Council
1	City Engineer
1	Legal Department
1	Conservation Officer (if wetlands are affected)

# IN CITY COUNCIL



Marlborough, Mass., NOVEMBER 19, 2018

PAGE 4

## ORDERED:

The Board of Appeals shall hold a public hearing on each special permit application filed under this subsection. The procedures for the public hearing and for the notice thereof to parties in interest shall be in conformance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time; provided, however, that the Board shall hold the public hearing on a special permit application on the same evening as it would be holding the public hearing on any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house.

Within 90 days after the close of the public hearing on the special permit application filed under this subsection, the Board of Appeals shall take final action on a decision to grant or deny the requested special permit; provided, however, that no special permit shall be granted by the Board under this subsection if any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house is denied by the Board.

The Board may adopt rules and regulations for the issuance of special permits under this subsection in accordance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, DECEMBER 17, 2018.**

ADOPTED

ORDER NO. 18-1007460



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ NOVEMBER 19, 2018

## ORDERED:

That there being no objection thereto set **MONDAY, DECEMBER 17, 2018** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit from Melynda Gallagher on behalf of Lost Shoe Brewing and Roasting Company to allow for coffee roasting at their establishment within the Marlborough Village District, 19 Weed Street, be and is herewith refer to **URBAN AFFAIRS COMMITTEE & ADVERTISE**.

**Ninety days after public hearing is 03/17/19 which falls on a Sunday, therefore 03/18/19 would be considered the 90<sup>th</sup> day.**

ADOPTED

ORDER NO. 18-1007462





RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

DEC 13 A 11:02

*City of Marlborough*  
*Office of the Mayor*

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Nicholas F. Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

December 13, 2018

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

**Re: Tax Increment Financing Agreement – Candela Corporation**

Honorable President Clancy and Councilors:

Please find enclosed for your review a tax-increment financing (or "TIF") agreement with Candela Corporation.

Candela is leasing 50,000 square feet at 251 Locke Drive in Marlborough and will bring 200 jobs, and expand to 250 jobs in the first year, eventually growing to 300 jobs. By leasing space at 251 Locke Drive, Candela Corporation will be the first tenant in that facility for many years; the facility has long been vacant, and the building owners have been working hard to upgrade the facility and attract new tenants. Candela will invest approximately \$5 million in capital expenditures on the facility and bring in capital equipment. They are also applying for Certified Project status from the Economic Assistance Coordinating Council.

Marlborough's economy has continued to grow in recent years, with nearly \$3.4 million in new growth over the past year. Investment in Marlborough means new job opportunities for our residents and additional tax revenue to ensure that the tax burden does not fall solely on our residents.

This lease for 251 Locke Drive signals that Marlborough remains an attractive location for companies to invest and bring new employees and job opportunities. We have long identified Locke Drive and 251 Locke, in particular, as a location for revitalization.

I look forward to discussing with you further. Please do not hesitate to contact me with any questions in the meantime.

Sincerely,

**Arthur G. Vigeant**  
Mayor

**RESOLUTION:**

**WHEREAS**, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents, expanding business within the City, and developing a healthy robust economy and stronger tax base for Map 53, Parcel 81 on the Marlborough Assessor's Map; and

**WHEREAS**, the City Council of the City of Marlborough intends to use tax increment financing as an economic development tool created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that the following activities which are necessary to pursue a Certified Project designation be authorized:

1. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Assistance Coordinating Council approve Candela Corporation's application for an EDIP Certified Project; and further, that:
  - a. The project is consistent with the City of Marlborough's economic development objectives and is likely to increase employment opportunities for residents of Marlborough;
  - b. The project will not overburden the City of Marlborough's infrastructure and utilities;
  - c. The project as described in the proposal has a strong likelihood that it will cause a significant influx or growth in business activity, will create a significant number of new jobs and not merely replace or relocate current jobs within the Commonwealth, and will contribute significantly to the resiliency of the Marlborough economy; and
  - d. The City Council approves Candela Corporation's request that the project be designated by the Massachusetts Economic Assistance Coordinating Council as an EDIP Certified Project for seven (7) years.
  
2. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing and the submission to the Massachusetts Economic Assistance Coordinating Council of the tax increment financing agreement (attached hereto as Exhibit 1).

ADOPTED  
In City Council  
Order No 18-  
Adopted

Approved by Mayor

Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:

Science.  
Results.  
Trust.



11 December 2018

The Honorable Mayor Arthur Vigeant  
Municipal Chief Executive  
City of Marlborough, MA  
140 Main St  
Marlborough, MA 01752

***Intent to Apply for Massachusetts Economic Development Program (EDIP) in Marlborough***

Dear Mayor Vigeant:

Candela Corporation's is issuing this letter of intent that is required pursuant to the Massachusetts Economic Development Incentive Program (EDIP).

On 6 December 2018 our company met with you, Mayor Arthur Vigeant, and Meredith Harris to discuss the EDIP Program and various Massachusetts / local incentives available for companies relocating to Marlborough.

As previously mentioned, Candela is a global medical device company that intends to relocate its corporate headquarters, operations, and R&D from Wayland to Marlborough Massachusetts during 2019. We have now identified 251 Locke Drive as our intended headquarters, operations, and R&D site. We plan on leasing 50,000 square feet of space for the next seven years with an option to increase this footprint to support our business growth.

We anticipate 200 employees relocating from Wayland to Marlborough during 2019. An additional 50 employees will be hired by 30 June 2020 plus another 50 employees hired by 30 June 2022 as required under the proposed Tax Increment Financing Agreement. We anticipate that these 300 employees will remain employed in Marlborough through 30 June 2024.

We plan on spending approximately \$5 million in capital expenditures on this new facility "build out" plus moving approximately \$1.5 million in R&D related capital equipment from Wayland to Marlborough.

Candela Corporation is therefore asking you to accept this formal letter of intent. As always, please do not hesitate to contact us for any questions you may have or for further clarification.

Sincerely yours,

Michael Johnson  
Chief Financial Officer

Andrew Shact  
Global Tax and Treasury Leader

cc: Peter Milano, Senior Director, Business Development, MOBD  
Matthew Saucier, Director, Global Facilities & EHS

530 Boston Post Road  
Wayland, Massachusetts 01778



## Memorandum

TO: Mayor Vigeant  
 FROM: Meredith Harris, Executive Director  
 DATE: November 26, 2018  
 SUBJECT: EDIP/TIF Compliance Report

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### Purpose:

To provide an update and information regarding the City of Marlborough's Tax Incentive Financing (TIF) agreements.

### Background

The Massachusetts Economic Development Incentive Program (EDIP) was established in 1993 to stimulate job creation in distressed areas, attract new businesses, encourage existing businesses to expand, and increase overall economic development readiness. Eligibility under EDIP provides access to a variety of tools to help stimulate economic growth and job creation.

Tax Incentive Financing is an exemption granted to certified EDIP projects by means of an Agreement entered into between the City or Town and the "Certified Project" candidate. A TIF Agreement provides a percentage exemption based on the value added through new construction or substantial rehabilitation for a period of no less than 5 years and up to 20 years. The assessed valuation of the property as of the fiscal year prior to the certification of a TIF Agreement by the Commonwealth serves as the base valuation.

All taxes attributable to the base valuation are paid to the municipality and are not subject to exemption under the Agreement. The base valuation is adjusted year to year by an adjustment factor which reflects increased property values in the municipality. The construction of the project creates new, additional value above the base valuation; this increased valuation or "increment" is eligible for exemption from property taxation. The TIF Agreement must be approved by the Economic Assistance Coordinating Council (EACC).

- To date, the City of Marlborough has 13 active TIF Agreements, 7 expired Agreements, and 5 decertified Agreements.
- At this time, one TIF recipient have been flagged for further review.
  - **SanDisk Corporation**, according to calculation tables stipulated in their TIF agreement, has fallen 13 jobs short of their 140-job commitment in this calendar year.

Active TIFs

Company/Project Name	Property Address	Job Creation	Retained Job	CY17/FY18 Total		Total FTE's at		Expiration		
		Commitment	Commitment	Commitment	Proj. Location	FY/CY Reporting	Date	Compliance	Reason for Flag	
Marlborough Savings Bank	81 Granger Boulevard	13	40	48	81	FY	6/30/2022	In compliance	N/A	
CYTYC Corporation (2004)	445 Simarano Drive	39	348		652	FY	6/30/2018	In compliance	N/A	
CYTYC Corporation (2006) - Hologic	445 Simarano Drive/250 Campus Drive	30	424		241	FY	6/30/2020	In compliance	N/A	
Hines Global REIT Marlborough Campus 1, LLC (3COM)	250 Campus Drive	0	1000	1000	1083	FY	6/30/2018	In compliance	N/A	
Boston Scientific Corporation - Phase II	50, 100, 200 Boston Scientific Way	331	669	1000	1713	FY	6/30/2026	In compliance	N/A	
Christopher Heights of Marlborough	84 Chestnut Street	40	0	40	42	FY	6/30/2024	In compliance	N/A	
Ken's Foods Inc. / MIP Realty Trust	1 D'Angelo Drive	30	438	468	521	CY	6/30/2017	In compliance	N/A	
SanDisk	200 Donald Lynch Boulevard	60	80	140	127	CY	6/30/2019	Flagged	13 jobs short	
IPG Photonics	257 + 259 Cedar Hill Street	100	24	100	111	CY	6/30/2021	In compliance	N/A	
The TJX Companies, Inc.	400 Puritan Way	75	1513	1581	1930	CY	6/30/2034	In compliance	N/A	
Quest Diagnostics	200 Forest Street	246	957	1203	1445	CY	6/30/2029	In compliance	N/A	
GE Healthcare Life Sciences	200 Forest Street	220	110	330	513	CY	6/30/2025	In compliance	N/A	
LFB	92 Crowley Drive	50	0	0	0	CY	6/30/2023	In compliance	N/A	

Expired TIFs

Company/Project Name	Program	Category	EACC Date
Automation Specialists	Old	TIF Only	7/1/1997
Diamond Maching Technology	Old	TIF Only	6/1/1998
Duke Engineering & Service, Inc.	Old	TIF Only	6/1/1999
Realty Associates Fund VII	Old	TIF Only	9/1/1998
Shiple Company, LLC	Old	TIF Only	6/1/1997
Ken's Foods, Inc. and MIP Realty Trust	Old	TIF Only	12/29/1998
Ken's Foods, Inc. and MIP Realty Trust	Old	TIF Only	5/31/2005

Decertified TIFs

Company/Project Name	Program	Category	Date of Decertification
First Colony Construction, Inc.	Old	TIF Only	6/24/2004
The Butcher Company	Old	TIF Only	6/24/2004
Vestas Technology R & D Americas, Inc.	New	Expansion Project	12/15/2012
Sunovian/ Sepracor	Old	TIF Only	6/26/2013
OYO Sportstoy, Inc.	New	TIF Only	7/1/2017



**TAX INCREMENT FINANCING AGREEMENT BETWEEN  
THE CITY OF MARLBOROUGH, CANDELA CORPORATION  
AND  
BAC LOCKE, LLC**

This **TAX INCREMENT FINANCING AGREEMENT** (the "**TIF Agreement**" or the "**Agreement**") is made by and between the City of Marlborough (the "**City**"), Candela Corporation (the "**Company**"), and BAC Locke, LLC (the "**Owner**").

**WHEREAS**, the City is a Massachusetts municipal corporation acting through its City Council and Mayor, having its principal office located at City Hall, 140 Main Street, Marlborough, MA 01752; and

**WHEREAS**, the Company is a for-profit corporation having its global and U.S. headquarters located at 530 Boston Post Road, Wayland, MA, 01778, and is authorized to do business in Massachusetts; and

**WHEREAS**, the Owner is a domestic limited liability company and the fee owner of the parcel of land located at 251 Locke Drive, Marlborough, Massachusetts 01752, as further depicted on Marlborough City Assessor's Map 53, Parcel 81 (the "**Property**"); and

**WHEREAS**, the Company intends:

- 1) to lease from the Owner approximately 50,000 square feet of space of the approximately 159,703 square foot building, located at 251 Locke Drive, Marlborough together with parking facilities and other improvements located thereon (hereinafter, the leased space is defined as the "**Project Area**"); and
- 2) to make improvements to the Project Area by developing the site into a state-of-the-art research and development lab and office site and

**WHEREAS**, the Project Area is to be located within the boundaries of the Framingham - Marlborough Regional Economic Target Area (ETA) (as that term is used in Massachusetts General Laws, Chapter 23A, Section 3D, as amended, and referred to below as the "**ETA**"); and

**WHEREAS**, the Company expects to have based in the Project Area approximately 200 permanent, full-time jobs presently located throughout Massachusetts and beginning on the effective date of this agreement, to create and, over the term of the TIF Agreement, to maintain at the Project Area 100 new, permanent, full-time jobs open to qualified residents of Marlborough and the ETA; and

**WHEREAS**, the improvements to the Project Area are estimated to result in an initial capital investment by the Company of \$5 million in combined soft, real property and personal property costs (the "**Project**"); and

**WHEREAS**, the Owner shall make additional improvements to the Project Area in accordance with the terms of the lease agreement; and

**WHEREAS**, the parties to the Agreement are desirous of entering into a TIF Agreement which shall pertain solely to the Project Area and not to any other portion of the Property, and which shall be in

accordance with the Massachusetts Economic Development Incentive Program (EDIP) and Chapter 23A of the Massachusetts General Laws; and

**WHEREAS**, the City strongly supports increased economic development to provide additional jobs for residents of Marlborough and the ETA, to expand business within the City, and to develop a healthy robust economy and stronger tax base; and

**WHEREAS**, the Project and its related job creation will further the economic development goals and criteria established for the ETA and EOA; and

**WHEREAS**, by letter dated December 13, 2018, the Mayor recommended the TIF Plan and the TIF Agreement to the Marlborough City Council;

**NOW, THEREFORE**, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and contingent upon receipt of authorization from the City Council and in accordance with applicable law, the parties hereby agree as follows:

**A. THE CITY'S OBLIGATIONS,**

1. The City Council approved the provisions of this TIF Agreement on \_\_\_\_\_, 2019 pursuant to the Resolution attached hereto. The City Council hereby authorizes the Mayor to execute this TIF Agreement on the City's behalf, and to monitor and enforce compliance by the Company and the Owner with this TIF Agreement's terms. The Mayor is authorized to act for and on behalf of the City in proceedings relating to the approval of this Agreement by the Massachusetts Economic Assistance Coordinating Council (the "EACC").
2. A Tax Increment Financing exemption (the "Exemption") for the Project Area is hereby granted to the Company and the Owner by the City in accordance with Chapter 23A, Section 3E, as amended; Chapter 40, Section 59, as amended; and Chapter 59, Section 5, Cl. Fifty-first, of the Massachusetts General Laws. The Exemption shall be for a period of seven (7) years (the "Exemption Term"), commencing on July 1, 2019 (the beginning of fiscal year 2020) and ending on June 30, 2026 (the end of fiscal year 2026). The Exemption shall pertain to real and personal property taxes for the Project Area, according to the following schedule:

**PROJECT AREA'S REAL AND PERSONAL PROPERTY  
TAX EXEMPTION SCHEDULE**

Fiscal Year	Real Property Exemption Percentage	Personal Property Exemption Percentage
2020	100%	100%
2021	80%	80%
2022	75%	75%
2023	60%	60%
2024	55%	55%
2025	40%	40%
2026	20%	20%



3. The base valuation for the Project Area shall be the Project Area's assessed valuation in the base year. The base year is the most recent fiscal year immediately preceding the fiscal year in which the property becomes eligible for the TIF exemption. As provided in 760 C.M.R. 22.05(4)(d), see 402 C.M.R. 2.22, the Project shall become eligible for the Exemption on the July 1st following the date on which the EACC approves the TIF Plan which is expected to be March 20, 2019. Therefore, the exemption is expected to commence on July 1, 2019, which is the beginning of fiscal year 2020. Accordingly, the base year for this TIF Agreement will be fiscal year 2019.
4. The base valuation shall be adjusted annually by an adjustment factor, which reflects increased commercial and industrial property values within the community, as provided in Chapter 40, Section 59 of the Massachusetts General Laws and in 760 C.M.R. 22.05(4)(b), see 402 C.M.R. 2.22. This adjusted base valuation will remain fully taxable (i.e., the Tax Increment Financing Exemption shall not apply to or be calculated with respect to the adjusted base valuation and no portion of the adjusted base valuation shall be eligible for exemption from Chapter 59 property taxation) throughout the term of this TIF Agreement. Only the increased value or "increment" created by improvements will be the amount eligible for exemption from taxation.

**B. THE COMPANY'S OBLIGATIONS AND THE OWNER'S OBLIGATIONS.**

1. The City is granting the Tax Increment Financing Exemption for the Project Area in consideration of the following commitments:
  - (a) In anticipation of the receipt of the TIF benefits described in this Agreement, the Company agrees that it will lease the Project Area from the Owner and develop the site into a state-of-the-art research and development lab and office site;
  - (b) As part of leasing the Project Area, the Company agrees that it will make capital improvements which are currently estimated to be approximately \$5 million in combined soft, real property and personal property costs, and that it will timely pay all municipal permit fees required in connection with such improvements and investment;
  - (c) The Company and the Owner agree to timely pay all of the taxes owed to the City by the Company and the Owner, respectively, over the term of this TIF Agreement; and
  - (d) The Company agrees to relocate to the Project Area 200 permanent full-time jobs existing as of December 11, 2018 that are presently located throughout Massachusetts and following December 11, 2018 to hire and over the Agreement term maintain a minimum of 100 new permanent full-time employees (as "permanent full-time employee" is defined in 402 C.M.R. 2.03), to be employed at the Project Area as of the beginning of Fiscal Year 2020 (i.e., July 1, 2019) and whose employment by the Company commences on or after December 11, 2018 ("New Permanent Full-Time Employees"). The following schedule details the Company's schedule of job creation:

<b>SCHEDULE OF JOB CREATION</b>	
End of Fiscal Year(s)	Minimum Cumulative New Permanent Full-Time Employee Requirement
June 30, 2020	50
June 30, 2021	50

June 30, 2022	100
June 30, 2023	100
June 30, 2024	100
June 30, 2025	100
June 30, 2026	100

The Company shall work in good faith in accordance with Section B.1(e) below and shall maintain a base employment figure of 200 permanent full-time jobs and create net new 100 full-time jobs to the Commonwealth of Massachusetts over the period starting on December 11, 2018, and maintain said employment job creation, in accordance with the Schedule of Job Creation referenced above, during the life of the Agreement.

- (e) Such New Permanent Full-Time Employees shall be exclusive of the Company's 200 permanent, full-time jobs located throughout Massachusetts as of December 11, 2018 and to be relocated to the Project Area. In meeting its cumulative New Permanent Full-Time Employee commitment above, and consistent with all federal, state and local laws and regulations, the Company may use commercially reasonable efforts to make available application opportunities for the New Permanent Full-Time Employee positions to qualified residents of Marlborough and then the regional ETA. Determination of whether any individual is qualified for any specific job or position shall be in the Company's sole discretion, and nothing herein shall be deemed to create any obligation of the Company to hire any of said residents. The Company will meet its obligation to make such application opportunities available to such residents if, in conjunction with the Mayor's office and the Marlborough Economic Development Corporation, the Company conducts a job fair in Marlborough for staffing its Project Area.
2. The Company shall submit annual written reports on job creation and maintenance at, job relocation to, and new investments at, the Project Area to the City of Marlborough Board of Assessors and Mayor and to the EACC by the end of December of each calendar year with respect to the immediately preceding fiscal year during which this TIF Agreement is in effect. Reports shall be submitted for fiscal year 2020 and for every fiscal year thereafter falling within the term of this TIF Agreement; thus, the report for fiscal year 2020, ending on June 30, 2020, shall be submitted by the end of December 2020. In addition to information that may be required by the EACC pursuant to 402 C.M.R. 2.14, the annual report shall be comprised of the following information:
- (a) Employment levels at the Project Area at the beginning and end of the reporting period, with a designation of the number of employees that are net new employees as of the effective date of this Agreement and the number of employees that were employed by the Company in Massachusetts prior to the effective date of this Agreement;
  - (b) The specific number of ETA and Marlborough residents respectively employed at the Project Area at the beginning and at the end of the reporting period;
  - (c) An accounting of the commercially reasonable efforts made by the Company to make New Permanent Full-Time Employee positions available to qualified residents of Marlborough and then to the regional ETA;
  - (d) A narrative of the reasonable efforts made by the Company to solicit Marlborough businesses, vendors and suppliers to participate in requests for quotations for goods and

services to be purchased by the Company as part of the Project, including but not limited to the improvements to the Project Area, as well as the purchase of new machinery and equipment as part of the Project (collectively, "Engage Local Businesses");

- (e) The Company's financial contribution to the City (including property taxes, motor vehicle excise taxes, and water and sewer fees) for the fiscal year; and
- (f) A description of any private investment, including but not limited to donations and/or perpetual maintenance of land for recreational purposes, made by the Company for the benefit of the community during the reporting period.

During the term of this TIF Agreement, the Company and the Owner shall provide the City with any and all information related to the Project Area including the Company's and the Owner's improvements to the Project Area which the parties mutually agree should be provided.

3. The Tax Increment Financing Exemption percentage applicable to the tax exemption schedule above will automatically be adjusted downward in any particular fiscal year that the Company does not meet its minimum cumulative New Permanent Full-Time Employee requirements described in the Schedule of Job Creation above. Under this Paragraph 3, the exemption percentage applicable to the exemption schedule above will be adjusted for the fiscal year beginning after the job requirement date, utilizing the following formula:

(Actual Cumulative New Permanent Full-Time Employee Level / Minimum Cumulative New Permanent Full-Time Employee Requirement) x Scheduled Exemption Percentage = Actual Exemption Percentage.

For example, if the actual cumulative New Permanent Full-Time Employee level at the end of FY 2022 is 25 instead of 50, then the real and personal property tax exemption percentage otherwise applicable for FY 2023 would be  $(25/50) \times 60\%$ , or 30%.

The exemption percentages applicable to the tax exemption schedule above will, for later fiscal years, revert back to the original exemption schedule if the Company restores the job level based on the minimum cumulative New Permanent Full-Time Employee requirement for that later year. If the Company meets or exceeds its minimum cumulative New Permanent Full-Time Employee requirements, the exemption schedule will not be adjusted.

4. The Company will be in default of its respective obligations under this TIF Agreement if the City determines that the Company fails to meet or comply with any of the requirements specified in Paragraphs 1 or 2 of this Section B or Paragraph 5 or 6 of this Section B below, and the City further determines that such failure continues or remains uncured for one hundred twenty (120) days (or such longer time as the City may deem appropriate under the circumstances) after the date of written notice, provided by the City to the Company, explaining in reasonable detail the grounds for or nature of such failure. Upon the City's determination that any default by the Company has continued or remained uncured for such period after the date of such written notice, the City may take such action as it deems appropriate to enforce the Company's obligations under this TIF Agreement, including but not limited to a request that EACC revoke its certification of the Project for eligibility for a Tax Increment Financing Exemption; any such request would be in addition to the automatic downward adjustment of the exemption schedules, as described in Section B.3 above. Upon any such decertification, the City shall have the right, upon written notice to the Company, to

terminate the Tax Incremental Financing Exemption benefits described in Paragraph 2 of Section A, commencing as of the fiscal year in which the City has determined the Company to be in default or, if such benefits have already been received by the Company, for the fiscal year in which the City has determined the Company to be in default, commencing as of the fiscal year immediately following that fiscal year. Any notice required hereunder shall be sent, certified mail, return receipt requested, or delivered in hand, to the Company at the Project Area's address and simultaneously to 530 Boston Post Road, Wayland, MA 01778, Attn: Robert Blood, General Counsel and with a copy. Said notice shall be effective upon receipt.

5. If, at any time prior to the expiration of the term on this Agreement, the Company moves from, vacates, abandons, or otherwise fails to maintain operations in the Project Area, the City shall be entitled to be paid back forthwith by the Company a sum equal to a proportionate share of the amount of tax savings, as to both real and personal property, that had been received by the Company under this Agreement in the fiscal year immediately prior to the fiscal year when the Company moves from, vacates, abandons, or otherwise fails to maintain operations at the Project Area, according to the following schedule:

**COMPANY'S PAY-BACK SCHEDULE**

FY that the Company Moves From, Vacates, Abandons, or Otherwise Fails to Maintain Operations at Project Area	Percentage of Tax Savings from Prior Fiscal Year to be Paid Back to City
2020	n/a
2021	80%
2022	70%
2023	60%
2024	50%
2025	40%
2026	30%

Such pay-back amounts shall be paid back by the Company in full within thirty (30) days of a written demand by the City. If payment is not timely made, interest shall accrue at the rate of one percent (1%) per month until such time as full repayment has been received by the City.

The City shall be given sixty (60) days' written notice prior to any Company announcement to the general public (specifically excluding any communications to the Owner or the Company's employees) of a proposed move from, vacation of, abandonment of, or other failure to maintain operations at, the Project Area during the term of this Agreement, unless such notice would be in violation of any law, regulation or contractual obligation of the Company. Said notice shall identify the prospective new tenant, if any; may include information about such prospective new tenant which is not otherwise subject to a confidentiality agreement; and shall be given to: Mayor's Office and to the Board of Assessor's Office, City Hall, 140 Main Street, Marlborough, MA 01752. Said notice will be the confidential information of Company, and the City shall not, except as required by law, disclose any information provided by the Company regarding any proposed disposition of the Project Area or any portion thereof by the Company or the Owner.

6. The Company shall use reasonable efforts to Engage Local Businesses to participate in requests for quotations for goods and services to be purchased by the Company as part of the Project, including but not limited to the improvements to the Project Area, as well as the purchase of new machinery and equipment as part of the Project. So long as the Company

contacts the Marlborough Economic Development Corporation at the later of: (i) the beginning of the Project, or (ii) within a reasonable amount of time after the Agreement has been executed by all parties, with a description of the qualifications of the local businesses, vendors and suppliers from whom, at that time, the Company is seeking requests for quotations, the Company shall be deemed to have made reasonable efforts to Engage Local Businesses under this Section 6. However, the extent to which the Company shall hire or purchase from local businesses, vendors and suppliers under this Section 6 shall be in the Company's sole discretion, and nothing herein shall be deemed to require the Company to hire or purchase from local businesses, vendors and suppliers.

**C. OTHER CONSIDERATIONS.**

1. Pursuant to 760 C.M.R. 22.05(8)(d), *see* 402 C.M.R. 2.22, this Agreement shall be binding upon the Company and its successors and assigns, and upon the Owner and its successors and assigns, so long as the Project's certification has not been revoked by EACC.
2. This Agreement is subject to M.G.L. Chapter 23A, Sections 3A-3F inclusive; M.G.L. Chapter 40, Section 59; and M.G.L. Chapter 59, Section 5, Cl. Fifty-first.
3. The Owner shall pass along to the Company all real and personal property tax savings resulting from this Agreement.
4. Should any part, term or provision of this Agreement be determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms, and provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.
5. The effective date of this Agreement shall be March 20, 2019, the (presumptive) date of the Economic Assistance Coordinating Council's approval of the EDIP Preliminary Application and TIF Agreement.
6. All notices, reports or other communications required or permitted under this TIF Agreement must be in writing signed by a duly authorized representative of the City, Company, or Owner, as the case may be, and shall be (i) hand delivered, (ii) delivered by a nationally recognized overnight delivery service, or (iii) mailed by certified or registered mail, return receipt requested, postage prepaid, to the parties at the following addresses or such other addresses as each may have specified to the other by such a notice:

CITY: City of Marlborough  
 City Hall, 4<sup>th</sup> Floor  
 Attention: Mayor's Office  
 140 Main Street  
 Marlborough, MA 01752

COMPANY: Candela Corporation  
 Attention: Robert Blood, General Counsel  
 530 Boston Post Road  
 Wayland, MA 01778

cc: Michael Johnson, Chief Financial Officer  
 Matthew Saucier, Facilities Director

OWNER: BAC Locke, LLC  
Attention: Stephen Faber  
Related Beal  
177 Milk Street, Suite 200  
Boston, MA 02109

WITNESSETH, the execution and delivery of this Agreement by the Company, the Owner and the City as an instrument under seal as of the date last written below by the signatories hereto.

AGREED TO:

**CANDELA CORPORATION**

By: \_\_\_\_\_

Dated: \_\_\_\_\_, 2019

Michael Johnson  
Chief Financial Officer  
Candela Corporation

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared Michael Johnson, as Chief Financial Officer of Candela Corporation, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, that s/he is the person whose name is signed on the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**BAC LOCKE, LLC**

By Its Manager:

Boston Andes Capital LLC  
By its Manager:

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
James Hughes  
Manager

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared \_\_\_\_\_, as manager of BAC Locke, LLC, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, that s/he is the person whose name is signed on the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CITY OF MARLBOROUGH**

By: \_\_\_\_\_  
Arthur G. Vigeant  
Mayor  
City of Marlborough

Dated: \_\_\_\_\_, 2019

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared Arthur G. Vigeant, as Mayor of the City of Marlborough, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, that he is the person whose name is signed on the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CERTIFICATE OF VOTE**

I, Geoffrey Crouse, Chief Executive Officer of Candela Corporation (the "Company"), hereby certify that, at a meeting of the Board of Directors of the Company duly held on \_\_\_\_\_, 2019, which date is earlier than the effective date of the Tax Increment Financing Agreement between the City of Marlborough, Candela Corporation, and BAC Locke, LLC (the "Agreement"), at which a quorum was present and voting throughout, the following vote was duly passed and is now in full force and effect:

"Voted: That Michael Johnson be and hereby is authorized, directed and empowered for, in the name of and on behalf of Candela Corporation (the "Company"), to sign, seal, execute, acknowledge and deliver the Tax Increment Financing Agreement between the City of Marlborough, Candela Corporation, and BAC Locke, LLC by said \_\_\_\_\_ to be valid and binding upon the Company for all purposes; that a certificate of the Clerk of the Company setting forth this vote shall be delivered to the Mayor for the City of Marlborough; and that this vote shall remain in full force and effect unless and until the same has been altered, amended or revoked by a subsequent vote of such directors and a certificate of such later vote attested to by the Clerk of the Company is delivered to the Mayor for the City of Marlborough."



I further certify that Michael Johnson is the duly-elected Chief Financial Officer of the Company.

Signed: \_\_\_\_\_

Geoffrey Crouse  
Chief Executive Officer  
Candela Corporation

Dated: \_\_\_\_\_, 2019

Place of Business: 530 Boston Post Road, Wayland, MA 01778

AFFIX SEAL

In the event that the Clerk or Secretary is the same person as the Officer authorized to sign the said Agreement for the Company, this Certificate must be counter-signed by another officer of the Company.

Countersignature:





COMMONWEALTH OF MASSACHUSETTS  
ECONOMIC ASSISTANCE COORDINATING COUNCIL  
MASSACHUSETTS OFFICE OF BUSINESS DEVELOPMENT

**Economic Development Incentive Program (EDIP)**  
**PRELIMINARY APPLICATION**

The following information is required by the Massachusetts Office of Business Development (MOBD) and the Economic Assistance Coordinating Council (EACC) to make a preliminary determination on the eligibility of a project under the Economic Development Incentive Program. This application must be returned in electronic form to your MOBD Regional Director and a hardcopy with original signature(s) mailed to: EDIP Manager, MOBD, 136 Blackstone Street, 5<sup>th</sup> Floor, Boston, MA 02109. Please refer to the EDIP Guidelines, [www.mass.gov/hed/edip](http://www.mass.gov/hed/edip) and your MOBD Regional Director for assistance with this application.

PART I. COMPANY OVERVIEW					
1. COMPANY INFORMATION					
Company Name:	Candela Corporation				
Project Location Address:	Street Address:	251 Locke Drive			
	City:	Marlborough	MA	Zip Code:	01752
Company Headquarters Location:	City:	Wayland	State:	MA	
FEIN (Federal Employer Identification Number):	98-0338327				
DUA # (Dept. of Unemployment Assistance #):	31286553				
Type of Organization:	<b>(a) Type of Organization:</b> Corporation				
Company's Taxable Year End:	31 December				
NAICS Code:	339110				
Is the applicant classified as a MA Department of Revenue Manufacturer?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				
Company's outside of Massachusetts sales as a percentage of total sales: (a) currently (b) projected upon completion of proposed project:	<b>(a) Current Outside of MA sales as of 12/13/2018 : 95%</b> <b>(b) Projected Outside of MA sales upon completion of project: 95%</b> <b>Additional Information (if necessary):</b>				
2. COMPANY CONTACT					
Executive Officer/ Company Designee:	Full Name:	Michael Johnson	Title:	Chief Financial Officer	
Contact (if different from above):	Full Name:	Andrew Shact	Title:	Global Tax and Treasury Leader	
Contact Address:	Street Address:	530 Boston Post Road			

	City: Wayland	State: MA	Zip Code: 01778
Telephone Number:	508-358-7400		
Email Address:	ashact@syneron-candela.com and msaucier@syneron-candela.com		

### 3. COMPANY DESCRIPTION & HISTORY

**Please provide a brief description and history of the company.**

Syneron Candela is a leading global non-surgical aesthetic medical device company with a comprehensive product portfolio and a global distribution footprint. The Company's technology enables physicians to provide advanced solutions for a broad range of medical-aesthetic applications including body contouring, hair removal, wrinkle reduction, tattoo removal, women's intimate health, improving the skin's appearance through the treatment of superficial benign vascular and pigmented lesions, and the treatment of acne, leg veins and cellulite.

The Company has a wide portfolio of trusted, leading products including UltraShape Power, VelaShape, CO2RE, CO2RE Intima, GentleLase, VBeam Perfecta, PicoWay, Profound and elōs Plus.

Founded in 2000, Syneron Candela has its global and North American headquarter in Wayland, MA. The company markets, services and supports its products in nearly 100 countries. It has offices throughout North America, France, Germany, Italy, Portugal, Spain, UK, Australia, China, Japan, Hong Kong, Korea, Denmark and distributors worldwide.

## PART II. ECONOMIC DEVELOPMENT PROJECT

### 1. PROPOSED BUSINESS EXPANSION PROJECT

**Please provide a description of the proposed expansion project.**

Candela intends to relocate its corporate headquarters, operations, and R&D from Wayland to Marlborough in 2019. The company has identified 251 Locke Drive as the intended headquarters and plans on leasing 50,000 square feet for the next seven years with an option to increase the footprint to support future business growth. The company intends to move 200 employees to the project location site in 2019, create an additional 100 jobs by the end of 2022 and maintain a headcount of 300 cumulative employees throughout the term of the agreement. The company intends to spend approximately \$5 million in capital expenditures on the new facility "build out" in addition to moving approximately \$1.5 million in R&D related capital equipment from Wayland to Marlborough.

**(a) Do you plan to use MA-based contractors and suppliers for this project? Please list names and locations of contractors/suppliers already identified.**

Yes - To Be Determined

### 2. PROJECT TIMELINE

(a) Please indicate the date a Letter of Intent was sent to the municipality and cc: MOBD Regional Director:	(b) Date the applicant expects to begin the project:	(c) Date the applicant expects to complete the project:	(d) Date the applicant expects to open the facility:
12/13/2018	12/11/2018	6/30/2019	7/1/2019

**Additional Information (if necessary) on Project Timeline:**

**3. INCENTIVE NEED**

**Please provide a description of your project’s need for this incentive.**  
The company is applying for a Local Real Estate Tax Incentive, State Investment Tax Credits and a State Abandoned Building Renovation Deduction.

**4. INVESTMENT BREAKDOWN**

**Please provide a breakdown of the expected investment required and associated costs.**

Land: \$0  
 Construction: \$5,000,000  
 Machinery & Equipment: \$1,500,000  
 Other : \_\_\_\_\_ \$0  
 Total Projected Investment: \$6,500,000

**Additional Information (if necessary) on Investment:**

**5. MASSACHUSETTS EMPLOYMENT**

<b>(a)</b> Is the applicant new to Massachusetts?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>(i)</b> If no, where are the existing Massachusetts facilities?	Wayland	N/A <input type="checkbox"/>
<b>(ii)</b> If no, what is the applicant’s full-time, permanent employment in Massachusetts (total of all MA facilities)?	200 full-time permanent MA employees as of 12/11/2018	N/A <input type="checkbox"/>

**6. PROJECT LOCATION EMPLOYMENT, JOB CREATION & WORKFORCE ANALYSIS**

**Please complete the below sections providing current employment information, a job creation timeline and an analysis of the jobs to be created.** See: “[Definition of a Permanent Full-Time Employee](#)”.

**Please note:** If project is approved, these job retention and creation numbers and dates will become part of the executed EDIP Tax Incentive contract, and will be used to measure the applicant’s future program compliance.

(a) MASSACHUSETTS & FACILITY EMPLOYMENT			
(i) Company-wide Permanent Full-Time Employment in Massachusetts (Total of all MA Facilities) at Date of Application:	(ii) Permanent Full-Time Employment at Project Location at Date of Application:	(iii) Permanent Full-Time Employees to be transferred from other Massachusetts Locations to Project Site (if any):	(iv) Total Permanent Full-Time Existing Jobs to be Retained at Project Location (Sum of questions 6. (a) ii & iii):
200	0	200	200

Please complete the Permanent Full-Time Employee 3-Year History below.

Calendar Year End	Permanent Full-Time Employee Headcount in Massachusetts	Permanent Full-Time Headcount at Facility
2015	128	131
2016	129	132
2017	168	174

Please explain any fluctuation in employment: Continued increase in employment over time to support business growth.

**(b) JOB CREATION SCHEDULE AT PROJECT LOCATION**

Please indicate the number of Permanent Full-Time Jobs to be created in total and by year. If job creation timeline exceeds five years, please complete the "Extended Job Creation Schedule" and attach as an addendum.

Permanent Full-Time Jobs to be Created (net new to facility and Massachusetts):	2020	2021	2022	2023	2024
100	50	0	50	0	0

**(c) WORKFORCE ANALYSIS**

For the full-time permanent jobs to be created, please fill-in the chart below:

Category of Job:	Number of Jobs	Average Annual Salary of Each Job	Does the Employer provide healthcare benefits?		Does the employer provide a pension, IRA, and/or 401K?	
			Yes	No	Yes	No
Management	25	\$200,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Professional	45	\$150,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Skilled-labor	30	\$110,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Unskilled-labor	0	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other		\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Notes on Employment: Best estimates at this time

7. FACILITY		
<b>(a)</b> Will the applicant own or lease/rent the facility where the business expansion/relocation will occur?	Lease <input checked="" type="checkbox"/> Own <input type="checkbox"/>	
<b>(i)</b> If leasing/renting, identify the developer/landlord and state who will be the taxpayer of record for purpose of paying local real estate taxes?	251 BAC Locke, LLC	N/A <input type="checkbox"/>
8. INCENTIVES & FINANCING		
<b>(a)</b> Please indicate which incentives the applicant is seeking in relation to the expansion project.	<b>State Investment Tax Credit</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	<b>Local Real Estate Tax Incentive</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	<b>State Abandoned Building Renovation Deduction</b> *Building must be 75% or more vacant and have been vacant for a minimum of 2 years and be located in an Economic Opportunity Area.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>(b)</b> Is the applicant seeking tax incentives from the Massachusetts Life Science Center?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  <b>If, yes please explain:</b>	
<b>(c)</b> Please provide detailed information on any other sources of public or quasi-public funding that has been received or will be sought to contribute towards the financing of the proposed expansion.	N/A	
<b>(d)</b> Has the applicant or related businesses or any shareholder of applying entity previously been approved as a “Certified Project” by the Economic Assistance Coordinating Council (EACC)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>If yes, what is the Project (i) name; (ii) municipality; (iii) approval date?</b>	<b>(i) Project Name:</b>  <b>(ii) Project Municipality:</b>  <b>(iii) Project Approval Date: <i>Select mm/dd/yyyy</i></b>	N/A <input checked="" type="checkbox"/>
<b>(e)</b> Please indicate whether the applicant has utilized other sources of public or quasi-public funding in the past.  <b>If applicable, please explain specific uses of funding and amount. If other, please give details on the funding source.</b>	<i>Select Funding Source</i>	N/A <input checked="" type="checkbox"/>
	<i>Select Funding Source</i>	N/A <input checked="" type="checkbox"/>
	<i>Select Funding Source</i>	N/A <input checked="" type="checkbox"/>
	<b>If applicable or other, please explain:</b>	N/A <input checked="" type="checkbox"/>

<b>PART III. LABOR AFFIRMATION</b>	
<b>1. CERTIFICATION OF STATE &amp; FEDERAL EMPLOYMENT LAWS</b>	
<input checked="" type="checkbox"/>	As an applicant requesting Certified Project approval, <u>Candela Corporation</u> , affirms ( <b>check box</b> ) that this business will not unlawfully misclassify workers as self-employed or as independent contractors, and certifies compliance with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
<input checked="" type="checkbox"/>	As an applicant requesting Certified Project approval, <u>Candela Corporation</u> , affirms ( <b>check box</b> ) that this business will not knowingly employ developers, subcontractors, or other third parties that unlawfully misclassify workers as self-employed or as independent contractors, or that fail to comply with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
<b>2. COMPANY DISCLOSURE</b>	
<b>Within the past five years, has the applicant or any of its officers, directors, employees, agents, or subcontractors of which the applicant has knowledge, been the subject of (if yes, please provide details):</b>	
(a) an indictment, judgment, conviction, or grant of immunity, including pending actions, for any business-related conduct constituting a crime under state or federal law;	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>Details:</b>
(b) a government suspension or debarment, rejection of any bid or disapproval of any proposed contract subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement; or	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>Details:</b>
(c) any governmental determination of a violation of any public works law or regulation, or labor law or regulation or any OSHA violation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>Details:</b>



**IV. AUTHORIZATION & CERTIFICATIONS**

**1. CERTIFICATE OF GOOD STANDING**

Provide proof of good tax standing in the Commonwealth of Massachusetts via a Massachusetts Department of Revenue Certificate of Good Standing for each of the businesses intending to take advantage of the state tax incentives.

\*Applications will not advance to the supplemental round until a Certificate of Good Standing is received. The certificate must be dated within 6 months of the anticipated EACC meeting that the project is coming forth for review.

To obtain a Certificate of Good Standing visit: <https://www.mass.gov/how-to/request-a-certificate-of-good-standing-tax-compliance-or-a-corporate-tax-lien-waiver>

Attached

**Date of DOR Application for Certificate of Good Standing: *Select mm/dd/yyyy***

Notes:

**2. CERTIFICATE OF COMPLIANCE**

Provide proof of good standing with the Massachusetts Department of Unemployment Assistance by obtaining a Certificate of Compliance for each of the businesses intending to take advantage of the state tax incentives.

\*Applications will not advance to the supplemental round until a Certificate of Compliance is received.

To obtain a Certificate of Compliance visit:  
<http://www.mass.gov/lwd/unemployment-insur/employers/>

From here, log into your DUA account and click on “Payment Information” and then you will see a link for “Request Employer Certificate of Compliance.”

Attached

**Date of DUA Application for Certificate of Compliance: *Select mm/dd/yyyy***

Notes:

**3. APPLICATION AUTHORIZATION, CERTIFICATION & ACKNOWLEDGEMENT**

*I/We, \_\_\_\_\_ (names and titles) of the applicant business applying for "Certified Project" status from the Commonwealth of Massachusetts, Economic Assistance Coordinating Council hereby certify that I/we have been authorized to file this application and to provide the information within and accompanying this application and that the information provided herein is true and complete and that it reflects the applicant's intentions for investment, job creation and sales to the best of my/our knowledge after having conducted reasonable inquiry. I/We understand that the information provided with this application will be relied upon by the Commonwealth in deciding whether to approve "Certified Project" status and that the Commonwealth reserves the right to take action against the applicant or any other beneficiary of the Certified Project if the Commonwealth discovers that the applicant intentionally provided misleading, inaccurate, or false information. I/We make this certification under the pains and penalties of perjury.*

*The signatories also hereby acknowledge that, under the Public Records law of the Commonwealth of Massachusetts, this application and all documents submitted in support thereof are public records under the provisions of Massachusetts G. L., Ch. 4, sec. 7 (26).*

**Signed:**

Chief Financial Officer

Select Date of Approval

Name

Title

Date

Global Tax and Treasury Leader

Select Date of

Approval

Name

Title

Date



RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH  
 2018 DEC 13 AM 11:02  
*City of Marlborough*  
*Office of the Mayor*

140 Main Street  
 Marlborough, Massachusetts 01752  
 Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
 MAYOR

*Nicholas J. Milano*  
 EXECUTIVE AIDE

*Patricia Bernard*  
 EXECUTIVE SECRETARY

December 13, 2018

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

**Re: Transfer Request – City Clerk**

Honorable President Clancy and Councilors:

Please find enclosed for your review a transfer request for the City Clerk in the amount of \$6,000.00 to move funds from the Poll Workers account to the City Clerk's Advertising account to fund future legal advertisements. There has been a considerable number of advertisements to date this fiscal year.

If you have any questions, please do not hesitate to contact me or City Clerk Lisa Thomas.

Sincerely,

Arthur G. Vigeant  
 Mayor

Enclosure

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



**Lisa M. Thomas**  
**City Clerk**

December 3, 2018

Mayor Arthur G. Vigeant  
President Edward J. Clancy  
140 Main St.  
Marlborough, MA 01752

Dear Mayor and Council President:

I respectfully request an interdepartmental transfer of \$6,000.00 from PollWorkers account 11620006-53871 to Advertising account 11610004-53150. The attached spreadsheet details FY19 account expenditures for the Advertising line item thus far. The expenses noted in bold and in red are line items for which we have not yet been billed. The current balance after payment would be \$1,560.98.

As you know I cannot predict advertising fund cycles. A great body of work has been transacted by City Council and the Mayor's office, of which some, necessitated lengthy advertisements.

If possible, I would appreciate approval in a timely manner so that I may pay the advertising bills accordingly.

Thank you in advance for your cooperation. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Lisa M. Thomas  
City Clerk

11610004 53150 ADVERTISING		
Expense Item	Expense Amount	Transfers
07/05/18 - Gatehouse Media/MWDN #2791 (Order No. 18-10072621-B; 2-B; 3-B, AFTER passage - Bond Advertisements)	\$ 83.16	
07/12/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007311, Coffee Roastaries)	\$ 154.44	
07/12/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007195B, AFTER passage - Zoning Chage MV District )	\$ 106.92	
08/16/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007311, Coffee Roastaries for Planning Board)	\$ 118.80	
08/30/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007337, creation of Neighborhood Business District)	\$ 328.68	
08/30/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007338, creation of Large-scale Ground-mounted Solor Photovoltaic Overlay District)	\$ 1,140.48	
10/03/018 - Gatehouse Media/MWDN #2791 (Order No. 18-1007365A, proposed Salary Ordinance Change HR & Facilities BEFORE passage)	\$ 91.80	
10/10/18 - Gatehouse Media/MWDN #2791 (Neighborhood Business District & Large-scale Ground-mounted Solar Photovoltaic Overlay District - PLANNING BOARD)	\$ 1,405.80	
10/10/18 - Main Street Journal #4909 (Various Advertisements)	\$ 438.00	
10/12/18 - Gatehouse Media/MWDN #2791 (Zoning - Coffee Roastaries, 18-1007311C AFTER passage x2)	\$ 158.40	
10/25/18 - Gatehouse Media/MWDN #2791 (State Election Warrant)	\$ 332.64	
10/26/18 - Gatehouse Media/MWDN #2791 (Early Voting advertisements - x2)	\$ 45.54	
10/31/18 - Gatehouse Media/MWDN #2791 (Street Names Ordinance BEFORE passage, Order No. 18-1007364)	\$ 76.50	
11/01/18 - Gatehouse Media/MWDN #2791 (Corrected State Election Warrant)	\$ 61.38	
11/02/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007365C, Salary Ordinance HR & Facilities AFTER passage)	\$ 91.80	
<b>11/12/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007404B, proposed Zoning Change, MV District - Readvertisement</b>	<b>\$ 624.24</b>	
<b>11/23/18 - Gatehouse Media/MWDN #2791 (Tax Classification Hearing) CN13749189</b>	<b>\$ 30.60</b>	
<b>11/29/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007439A, Library Bond BEFORE passage) CN13751137</b>	<b>\$ 76.50</b>	
<b>12/10/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007460, Proposed Zoning Change, ZBA Special Permits) CN13750296</b>	<b>\$ 612.00</b>	
<b>12/06/18 - Gatehouse Media/MWDN #2791 (Street Names Ordinance AFTER passage, Order No. 18-1007364C) #13752434</b>	<b>\$ 43.56</b>	
<b>12/06/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007337E, AFTER passage Neighborhood Business District) #13752010 - 1st AD</b>	<b>\$ 205.92</b>	
<b>12/06/18 - Gatehouse Media/MWDN #2791 (Order No. 18-1007337E, AFTER passage Neighborhood Business District) #13752410 - 2nd AD</b>	<b>\$ 211.86</b>	
<b>Total Expenses For This Line YTD</b>	<b>\$ 6,439.02</b>	<b>\$ -</b>

CITY OF MARLBOROUGH  
BUDGET TRANSFERS --

DEPT: City Clerk

FISCAL YEAR: 2018

FROM ACCOUNT:

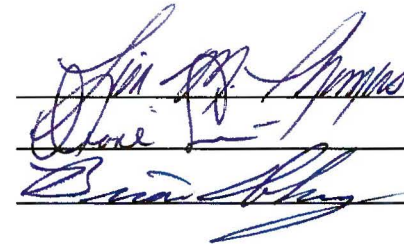
TO ACCOUNT:

Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
<u>\$8,385.00</u>	<u>\$6,000.00</u>	<u>11620006</u>	<u>53871</u>	<u>Pollworker</u>	<u>\$6,000.00</u>	<u>11610004</u>	<u>53150</u>	<u>Advertising</u>	<u>\$1,560.98</u>
	Reason:	_____				To fund high volume of advertising through year-end			
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
	Reason:	_____				_____			
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
	Reason:	_____				_____			
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
	Reason:	_____				_____			
	\$6,000.00	Total			\$6,000.00	Total			

Department Head signature:

Auditor signature:

Comptroller signature:





*City of Marlborough*  
**Legal Department**

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

**RECEIVED**  
**CITY CLERK'S OFFICE**  
**CITY OF MARLBOROUGH**  
 DONALD V. RIDER, JR.  
 CITY SOLICITOR  
**2018 DEC 13 A 9:47**  
 CYNTHIA M. PANAGORE GRIFFIN  
 ASSISTANT CITY SOLICITOR  
 ELLEN M. STAVROPOULOS  
 PARALEGAL

December 13, 2018

Edward Clancy  
 President  
 Marlborough City Council

RE: Walker Brook Estates Subdivision –  
 Acceptance of Allis Road and Bemis Road as Public Ways

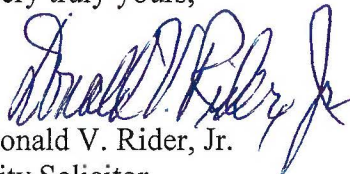
Dear President Clancy and Members:

As part of the Walker Brook Estates subdivision located off Framingham Road, I am enclosing for your review a proposed order to accept Allis Road and Bemis Road as public ways, and to accept their appurtenant easements (drainage, flowage, sewer and landscape) as municipal easements. Also enclosed are a copy of the 2 acceptance plan sheets, as well as a copy of the unsigned deed (a signed version will be provided to the Public Services Committee once I have received it).

After this matter has been referred to the Planning Board pursuant to MGL c. 41, § 81I for its report, I will be happy to meet with Public Services during its deliberations.

Thank you for your attention to this matter.

Very truly yours,

  
 Donald V. Rider, Jr.  
 City Solicitor

Enclosures

cc: Ed Melanson, Melanson Development Group, Inc.  
 Planning Board  
 Thomas DiPersio, City Engineer  
 Timothy Collins, Assistant City Engineer

ORDERED:

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that ALLIS ROAD be accepted as a public way

from Framingham Road at Station 0+00 and intersecting Bemis Road (Station 0+00) at Station 1+71.75, and

that BEMIS ROAD be accepted as a public way

from Allis Road (Station 1+71.75) at Station 0+00 and terminating at Station 1+57.88 to the south and Station 1+81.31 to the north,

and that their appurtenant easements be accepted as municipal easements,

as shown on plans thereof and as hereinafter described:

#### DESCRIPTION

Plan entitled, "Plan of Acceptance of Allis, Bemis Road and Municipal Easements, Marlborough, Massachusetts," Prepared for: The City of Marlborough; Prepared By: Bruce Saluk & Associates, Inc., Civil Engineering & Land Surveying, 576 Boston Post Road East, Marlborough, MA 01752; Dated: June 1, 2018, last revised December 12, 2018; Scale: 1"=120' (Sheet 1 of 2), 1"=60' (Sheet 2 of 2), which plan is to be recorded herewith.

Title to the roadways shown as ALLIS ROAD and BEMIS ROAD on said plan, and title to all the municipal easements shown on said plan as:

Drain Easements:

- Drainage Easement #1, over Parcel "A", containing 920 square feet
- Drainage Easement #2, over Lot #9 (1 Bemis Road), containing 730 square feet
- Drainage Easement #3, over 87 Framingham Road, containing 81 square feet
- Drainage Easement #7, over 87 Framingham Road, containing 328 square feet
- Drainage Easement #8, over Lot #9 (1 Bemis Road), containing 4,407 square feet
- Drainage Easement #9, over Lot #4 (4 Allis Road), containing 822 square feet

Flowage Easements

- Flowage Easement #4, over 79 Framingham Road, containing 5,059 square feet
- Flowage Easement #5, over 87 Framingham Road, containing 2,882 square feet
- Flowage Easement #6, over Lot #9 (1 Bemis Road), containing 2,751 square feet

Sewer Easements:

- Sewer Easement #10, over Lot #8 (7 Bemis Road), containing 1,953 square feet



- Sewer Easement #11, over Lot #9 (1 Bemis Road), containing 467 square feet

Landscape Easements:

- Landscape Easement, over Lot #4, containing 3,035 square feet
- Landscape Easement, over Lot #5, containing 2,829 square feet
- Landscape Easement, over Lot #6, containing 1,130 square feet
- Landscape Easement, over Lot #7, containing 1,427 square feet
- Landscape Easement, over Lot #8, containing 1,450 square feet
- Landscape Easement, over Lot #9, containing 1,255 square feet

has been granted to the City of Marlborough in a quitclaim deed from Melanson Development Group, Inc., a Massachusetts corporation with a principal place of business at 5 Robertson Way, Woburn, Massachusetts, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

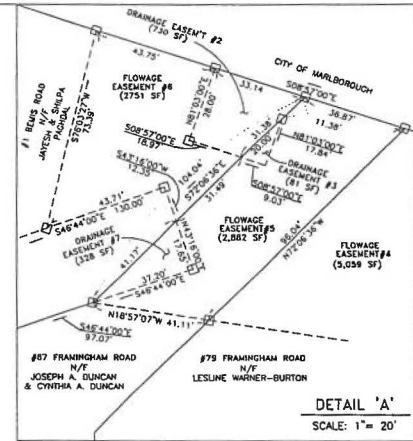
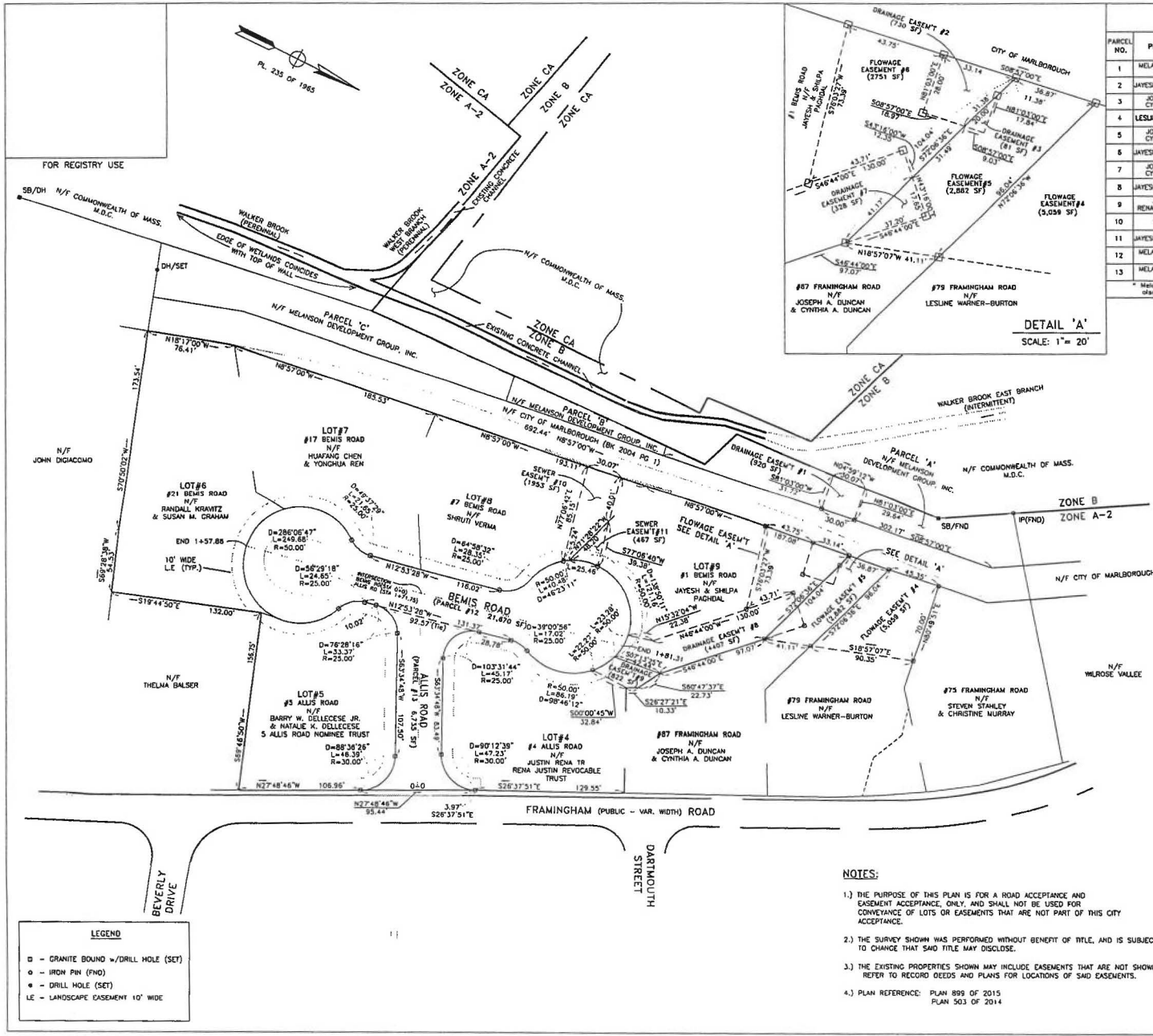
IT IS THEREFORE ORDERED THAT:

ALLIS ROAD and BEMIS ROAD be accepted as public ways, and their appurtenant easements be accepted as municipal easements, in the City of Marlborough.

ADOPTED  
In City Council  
Order No. 18-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:



ACQUISITION CHART 1 OF 2 \*

PARCEL NO.	PROPERTY OWNER	TYPE OF ACQUISITION	PURPOSE	REGISTRY OF DEEDS		CITY OF MARLBOROUGH		AREA (SQ. FT.)
				BOOK	PAGE	MAP	PARCEL	
1	MELANSON DEVELOPMENT GROUP, INC.	PERMANENT EASEMENT	DRAINAGE EASEMENT	57433	138	93	93	920
2	JAYESH & SHILPA PADHVAL	PERMANENT EASEMENT	DRAINAGE EASEMENT	69964	96	93	117	730
3	JOSEPH A. DUNCAN CYNTHIA A. DUNCAN	PERMANENT EASEMENT	DRAINAGE EASEMENT	63850	435	93	115	81
4	LESLINE WARNER-BURTON	PERMANENT EASEMENT	FLOWAGE EASEMENT	84425	278	93	114	5,059
5	JOSEPH A. DUNCAN CYNTHIA A. DUNCAN	PERMANENT EASEMENT	FLOWAGE EASEMENT	63850	435	93	115	2,862
6	JAYESH & SHILPA PADHVAL	PERMANENT EASEMENT	FLOWAGE EASEMENT	69964	96	93	117	2,751
7	JOSEPH A. DUNCAN CYNTHIA A. DUNCAN	PERMANENT EASEMENT	DRAINAGE EASEMENT	63850	435	93	115	328
8	JAYESH & SHILPA PADHVAL JUSTIN REHA TR RENA JUSTIN REV. TRUST	PERMANENT EASEMENT	DRAINAGE EASEMENT	69964	96	93	117	4,407
9	RENA JUSTIN REV. TRUST	PERMANENT EASEMENT	DRAINAGE EASEMENT	66411	223	93	87	822
10	SHRUTI VERMA	PERMANENT EASEMENT	SEWER EASEMENT	66828	554	93	118	1,953
11	JAYESH & SHILPA PADHVAL	PERMANENT EASEMENT	SEWER EASEMENT	69964	96	93	117	467
12	MELANSON DEVELOPMENT GROUP, INC.	FREE	ACCEPTANCE BEMIS ROAD	57433	136	93	300	21,670
13	MELANSON DEVELOPMENT GROUP, INC.	FREE	ACCEPTANCE ALLIS ROAD	57433	136	93	300	6,735

\* Melanson Development Group has reserved, to its benefit, the fee simple in Allis Road and Bemis Road and also reserved, to its benefit, the rights in the municipal easements shown on this Plan.

I certify that the property lines shown hereon are the lines dividing existing ownerships and the lines of streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown. The certification shown hereon is intended to meet Registry of Deeds requirements and is not a certification to the title or ownership of the properties shown.

I certify that this plan conforms to the rules and regulations of the Registry of Deeds of the Commonwealth of Massachusetts.

Bruce N. Saluk  
Professional Land Surveyor  
#32415



PLAN OF ACCEPTANCE OF ALLIS, BEMIS ROAD AND MUNICIPAL EASEMENTS

MARLBOROUGH, MASSACHUSETTS PREPARED FOR THE CITY OF MARLBOROUGH

BRUCE SALUK & ASSOCIATES, INC. CIVIL ENGINEERING & LAND SURVEYING 576 BOSTON POST ROAD EAST MARLBOROUGH, MA 01752

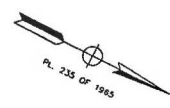
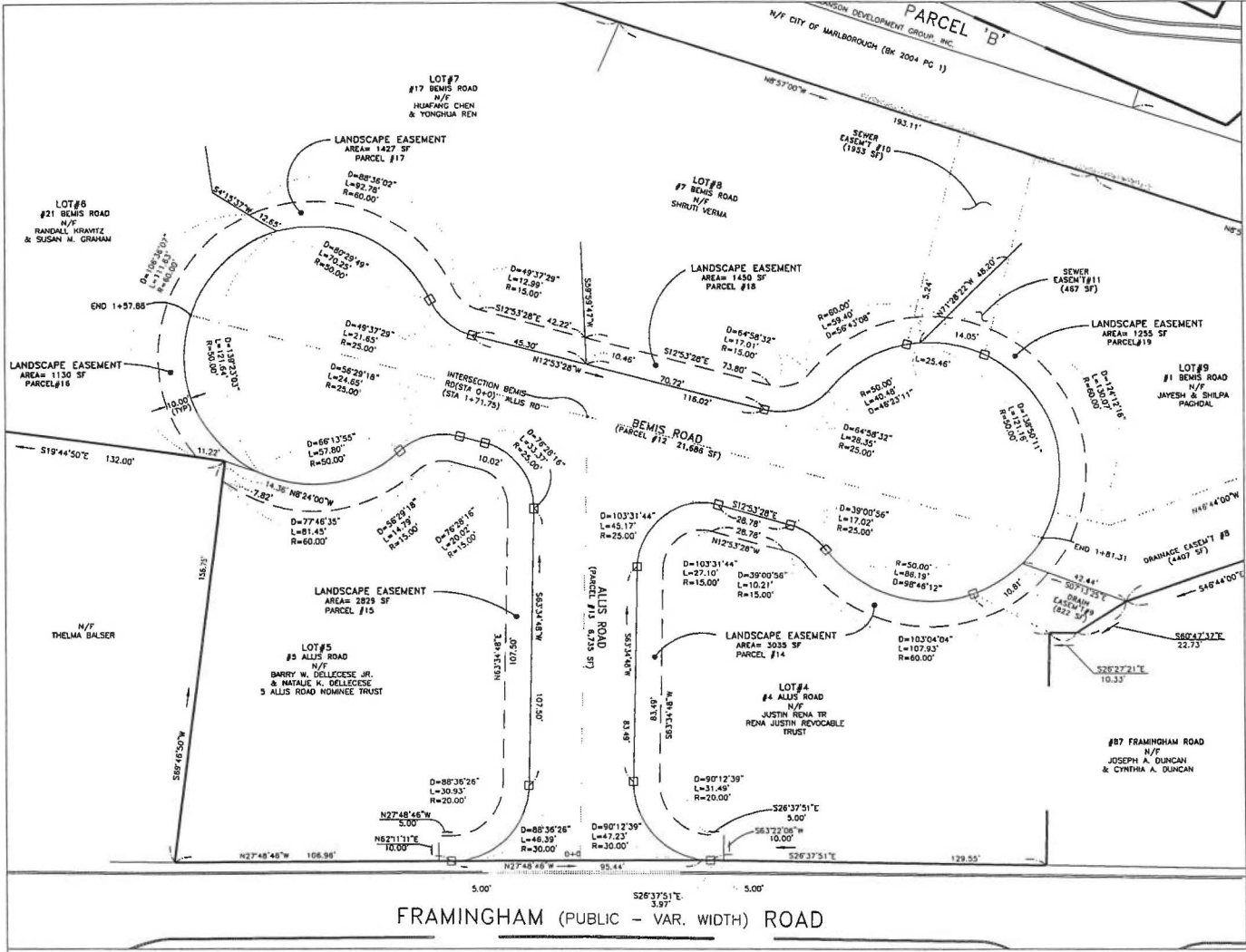
JUNE 1, 2018 REVISED OCTOBER 15, 2018 REVISED DECEMBER 12, 2018



- NOTES:
- 1) THE PURPOSE OF THIS PLAN IS FOR A ROAD ACCEPTANCE AND EASEMENT ACCEPTANCE, ONLY, AND SHALL NOT BE USED FOR CONVEYANCE OF LOTS OR EASEMENTS THAT ARE NOT PART OF THIS CITY ACCEPTANCE.
  - 2) THE SURVEY SHOWN WAS PERFORMED WITHOUT BENEFIT OF TITLE, AND IS SUBJECT TO CHANGE THAT SAID TITLE MAY DISCLOSE.
  - 3) THE EXISTING PROPERTIES SHOWN MAY INCLUDE EASEMENTS THAT ARE NOT SHOWN. REFER TO RECORD DEEDS AND PLANS FOR LOCATIONS OF SAID EASEMENTS.
  - 4) PLAN REFERENCE: PLAN 899 OF 2015 PLAN 503 OF 2014

LEGEND

- - GRANITE BOUND w/DRILL HOLE (SET)
- - IRON PIN (FND)
- - DRILL HOLE (SET)
- LE - LANDSCAPE EASEMENT 10' WIDE



FOR REGISTRY USE

ACQUISITION CHART 2 OF 2

PARCEL NO.	PROPERTY OWNER	TYPE OF ACQUISITION	PURPOSE	REGISTRY OF DEEDS BOOK	REGISTRY OF DEEDS PAGE	CITY OF MARLBOROUGH MAP	CITY OF MARLBOROUGH PARCEL	AREA (SQ. FT.)
14	JUSTIN, RENNA TRUST	PERMANENT EASEMENT	LANDSCAPE EASEMENT	69411	223	93	87	3035
15	BARRY & NATALIE DELLECESE, TRS.	PERMANENT EASEMENT	LANDSCAPE EASEMENT	70351	459	93	116	2829
16	RANDALL, KRAVITZ & SUSAN M. GRAHAM	PERMANENT EASEMENT	LANDSCAPE EASEMENT	69012	84	93	120	1130
17	HUIFANG CHEN & REN YONGHUA	PERMANENT EASEMENT	LANDSCAPE EASEMENT	68728	478	93	119	1427
18	SHRUTI VERMA	PERMANENT EASEMENT	LANDSCAPE EASEMENT	68626	354	93	118	1450
19	JAYESH & SHILPA PACHDAL	PERMANENT EASEMENT	LANDSCAPE EASEMENT	69954	96	93	117	1255

I certify that the property lines shown hereon are the lines dividing existing ownerships and the lines of streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown. The certification shown hereon is intended to meet Registry of Deeds requirements and is not a certification to the title or ownership of the properties shown.

I certify that this plan conforms to the rules and regulations of the Registry of Deeds of the Commonwealth of Massachusetts.

Bruce M. Saluk  
Professional Land Surveyor  
#35415  
December 12, 2018  
Date



PLAN OF ACCEPTANCE OF ALLIS, BEMIS ROAD AND MUNICIPAL EASEMENTS

MARLBOROUGH, MASSACHUSETTS  
PREPARED FOR  
THE CITY OF MARLBOROUGH

BRUCE SALUK & ASSOCIATES, INC.  
CIVIL ENGINEERING & LAND SURVEYING  
576 BOSTON POST ROAD EAST  
MARLBOROUGH, MA 01752

AUGUST 27, 2018  
REVISED OCTOBER 15, 2018  
REVISED DECEMBER 12, 2018



LEGEND

- - GRANITE BOUND ~/DRILL HOLE (SET)
- - GRANITE BOUND (SET)
- - IRON PIN (FND)
- - DRILL HOLE (SET)

*Massachusetts Quitclaim Deed*

MELANSON DEVELOPMENT GROUP, INC., a Massachusetts corporation having its usual business address at 5 Robertson Way, Woburn, Massachusetts 01801

*for consideration paid, and in full consideration of less than One Hundred (\$100.00) Dollars*

*grants to the City of Marlborough, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts and having its usual place of business at 140 Main Street, Marlborough, Massachusetts*

*with Quitclaim Covenants*

All right, title and interest of Grantor in and to the fee in those certain subdivision roadways in said Marlborough, Middlesex County, Massachusetts known as Bemis Road and Allis Road, as more particularly described in the legal description attached hereto as Exhibit A and as shown on a plan entitled, "Plan of Acceptance of Allis, Bemis Road and Municipal Easements, Marlborough, Massachusetts," Prepared for: The City of Marlborough; Prepared By: Bruce Saluk & Associates, Inc., Civil Engineering & Land Surveying, 576 Boston Post Road East, Marlborough, MA 01752; Dated: June 1, 2018, last revised December 12, 2018; Scale: 1"=120' (Sheet 1 of 2), 1"=60' (Sheet 2 of 2), and recorded in the Middlesex County (South District) Registry of Deeds herewith.

The fee in said roadways is conveyed together with the following appurtenant municipal easements:

1. The perpetual right and easement over, under and upon those certain strips of land shown on said plan as Drainage Easements #1, #2, #3, #7, #8 and #9, as more particularly identified on Exhibit B attached hereto, for the purpose of locating, relocating, laying out, erecting, installing, digging up, constructing, reconstructing, replacing, and maintaining drainage pipes and other drainage appurtenances and facilities of all types and kinds for drainage of surface and subsurface water to and from said roadways.
2. The perpetual right and easement over, under and upon those certain strips of land shown on said plan as Flowage Easements #4, #5 and #6, as more particularly identified on Exhibit B attached hereto, for the purpose of flowing the land within

the easement with stormwater from the roadway drainage system as well as surrounding properties.

- 3. The perpetual right and easement over, under and upon those certain strips of land shown on said plan as Sewer Easements #10 and #11, as more particularly identified on Exhibit B attached hereto, for the purpose of locating, relocating, laying out, erecting, installing, digging up, constructing, reconstructing, replacing, and maintaining sewer pipes and other sewage appurtenances and facilities of all types and kinds associated with the sewer collection system.
- 4. The perpetual right and easement over, under and upon those certain strips of land shown on said plan as Landscape Easements over Lots #4, #5, #6, #7, #8 and #9, as more particularly identified on Exhibit B attached hereto, for the purpose of planting, removing, replanting and trimming trees so as to provide shade to the roadway and sidewalks.

For title, see deed of Celeste Walker, individually and as Executrix of the Estate of Mercedes E. Walker, dated September 12, 2011 recorded with the Middlesex County (South District) Registry of Deeds in Book 57433, Page 136.

This conveyance does not represent a sale of all or substantially all of the Grantor’s assets in Massachusetts.

*IN WITNESS WHEREOF* the said MELANSON DEVELOPMENT GROUP, INC. has caused these presents to be signed, acknowledged and delivered in its name and behalf by BRYAN E. MELANSON its PRESIDENT AND TREASURER hereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

MELANSON DEVELOPMENT GROUP,  
INC.

By \_\_\_\_\_  
Bryan E. Melanson, Its President and  
Treasurer

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex: SS

*On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned notary public, personally appeared Bryan E. Melanson, President and Treasurer of Melanson Development Group, Inc., proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.*

\_\_\_\_\_  
Notary Public

**CERTIFICATE OF VOTE**

I, \_\_\_\_\_, \_\_\_\_\_ of Melanson Development Group, Inc. (the "Grantor"), hereby certify that, at a meeting of the Board of Directors of the Grantor duly held on \_\_\_\_\_, 2018, which date is earlier than the date of the Grantor's quitclaim deed to the City of Marlborough of Bemis Road and Allis Road, and their appurtenant municipal easements, at which a quorum was present and voting throughout, the following vote was duly passed and is now in full force and effect:

"Voted: That Bryan E. Melanson, President and Treasurer of Melanson Development Group, Inc. (the "Grantor"), be and hereby is authorized, directed and empowered for, in the name of and on behalf of the Grantor, to sign, seal, execute, acknowledge and deliver the Grantor's quitclaim deed to the City of Marlborough of Bemis Road and Allis Road, and their appurtenant municipal easements, by said Bryan E. Melanson to be valid and binding upon the Grantor for all purposes; and that a certificate of the Clerk of the Grantor setting forth this vote shall be delivered to the Mayor for the City of Marlborough; and that this vote shall remain in full force and effect unless and until the same has been altered, amended or revoked by a subsequent vote of such directors and a certificate of such later vote attested to by the Clerk of the Grantor is delivered to the Mayor for the City of Marlborough."

I further certify that Bryan E. Melanson is the duly-elected President and Treasurer of the Grantor.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_, 2018

Bryan E. Melanson  
President and Treasurer  
Melanson Development Group, Inc.  
Principal Office: 5 Robertson Way  
Woburn, Massachusetts 01801

**AFFIX SEAL**

In the event that the Clerk or Secretary is the same person as the Officer authorized to sign the said Agreement for the Corporation, this Certificate must be counter-signed by another officer of the Corporation.

**EXHIBIT A**  
**ROAD DESCRIPTION**

A certain parcel of land located in Marlborough, Middlesex County, Massachusetts, shown as Bemis Road and Allis Road, consisting of 28,405 square feet, shown on a plan entitled, "Plan of Acceptance of Allis, Bemis Road and Municipal Easements, Marlborough, Massachusetts," Prepared for: The City of Marlborough; Prepared By: Bruce Saluk & Associates, Inc., Civil Engineering & Land Surveying, 576 Boston Post Road East, Marlborough, MA 01752; Dated: June 1, 2018, last revised December 12, 2018; Scale: 1"=120' (Sheet 1 of 2), 1"=60' (Sheet 2 of 2), recorded in the Middlesex County (South District) Registry of Deeds herewith, and bounded and described as follows:

Beginning at a point at the west side of Framingham Road at a stone bound; said point being the intersection of the southerly side of Allis Road with Framingham Road, thence running:

Counterclockwise	46.39' a long a curve on Allis Road with a radius of 30.00' to a point of tangency at a stone bound, thence
S63-34-48W	107.50' along Allis Road to a point of curvature at stone bound, thence
Counterclockwise	33.37' along said curve on Allis Road with a radius of 25.00' to point of tangency at Bemis Road at a stone bound, thence
S12-53-28E	10.02' along Bemis Road to a point of curvature at a stone bound, thence
Counterclockwise	24.65' along a curve with a radius of 25.00' to a point of reverse curve at a stone bound, thence
Clockwise	249.68' along said curve on Bemis Road with a radius of 50.00' to a point of reverse curve, thence
Counterclockwise	21.65' on said curve along Bemis Road with a radius of 25.00' and to a stone bound at a point of tangency, thence
N12-53-28W	116.02' along Bemis Road to a stone bound at a point of curvature, thence,

Counterclockwise	28.35' on said curve along Bemis Road with a radius of 25.00' to a point of reverse curve, thence
Clockwise	247.83' on a curve along Bemis Road with a radius of 50.00' to a stone bound at a point of reverse curve, thence
Counterclockwise	17.02' on a curve along Bemis Road with a radius of 25.00' to a stone bound at a point of tangency, thence
S12-53-28E	28.78' along Bemis Road to a stone bound at a point of curvature at Allis Road, thence,
Counterclockwise	45.17' along said curve along the rounding at Allis Road with a radius of 25.00' to a stone bound at a point of tangency, thence
N63-34-48E	83.49' along Allis Road to a stone bound at a point of curvature, thence,
Counterclockwise	47.23' along Allis Road on a curve with a radius of 30.00' to a stone bound at Framingham Road, thence
S26-37-51E	3.97' along Framingham Road to a point, thence
S27-48-46E	95.44' along Framingham Road to a stone bound at the point of beginning.



## EXHIBIT B

### APPURTENANT MUNICIPAL EASEMENTS

The following appurtenant municipal easements shown on a plan entitled “Plan of Acceptance of Allis, Bemis Road and Municipal Easements, Marlborough, Massachusetts,” Prepared for: The City of Marlborough; Prepared By: Bruce Saluk & Associates, Inc., Civil Engineering & Land Surveying, 576 Boston Post Road East, Marlborough, MA 01752; Dated: June 1, 2018, last revised December 12, 2018; Scale: 1"=120' (Sheet 1 of 2), 1"=60' (Sheet 2 of 2), and recorded in the South Middlesex District Registry of Deeds herewith:

#### Drain Easements:

- Drainage Easement #1, over Parcel “A”, containing 920 square feet
- Drainage Easement #2, over Lot #9 (1 Bemis Road), containing 730 square feet
- Drainage Easement #3, over 87 Framingham Road, containing 81 square feet
- Drainage Easement #7, over 87 Framingham Road, containing 328 square feet
- Drainage Easement #8, over Lot #9 (1 Bemis Road), containing 4,407 square feet
- Drainage Easement #9, over Lot #4 (4 Allis Road), containing 822 square feet

#### Flowage Easements

- Flowage Easement #4, over 79 Framingham Road, containing 5,059 square feet
- Flowage Easement #5, over 87 Framingham Road, containing 2,882 square feet
- Flowage Easement #6, over Lot #9 (1 Bemis Road), containing 2,751 square feet

#### Sewer Easements:

- Sewer Easement #10, over Lot #8 (7 Bemis Road), containing 1,953 square feet
- Sewer Easement #11, over Lot #9 (1 Bemis Road), containing 467 square feet

#### Landscape Easements:

- Landscape Easement, over Lot #4, containing 3,035 square feet
- Landscape Easement, over Lot #5, containing 2,829 square feet
- Landscape Easement, over Lot #6, containing 1,130 square feet
- Landscape Easement, over Lot #7, containing 1,427 square feet
- Landscape Easement, over Lot #8, containing 1,450 square feet
- Landscape Easement, over Lot #9, containing 1,255 square feet



*City of Marlborough*  
**Legal Department**

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH, MA  
 DONALD RIDER, JR.  
 CITY SOLICITOR  
 2018 DEC 13 A 11:56  
 CYNTHIA M. PANAGIOTE GRIFFIN  
 ASSISTANT CITY SOLICITOR  
 ELLEN M. STAVROPOULOS  
 PARALEGAL

December 13, 2018

Edward Clancy  
 President  
 Marlborough City Council

RE: Proposed Zoning Amendment –  
 Home Offices and Contractor Yards

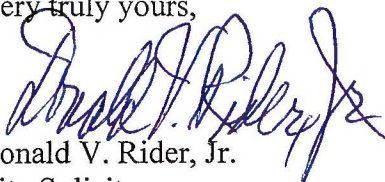
Dear President Clancy and Members:

Councilor Delano, in his capacity as Chairman of the Urban Affairs Committee, recently requested that a zoning amendment be proposed that would aim at regulating the presence of contractor yards in the various residential zoning districts, where a contractor's equipment and/or machinery can often be stored outdoors and thus detract from the way we want our residential neighborhoods to look. At the same time, there is a recognition that residents, including but not limited to contractors, often use a portion of their homes as an office for a business they run.

Accordingly, enclosed is the proposed zoning amendment. It tries to preserve the ability of residents to use a portion of their homes, or even an accessory building on their property like a garage, as a home office, while at the same time preserving the residential look and feel of residentially-zoned neighborhoods by having outdoor storage yards of contractors, including those of landscapers, be located in the Industrial and Limited Industrial areas of Marlborough when authorized by a City Council special permit.

Thank you for your attention to this matter.

Very truly yours,

  
 Donald V. Rider, Jr.  
 City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor  
 Jeffrey Cooke, Building Commissioner



*City of Marlborough*  
*Office of the Mayor*

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Nicholas J. Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

December 13, 2018

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

**Re: Contractor Yards Zoning Amendment**

Honorable President Clancy and Councilors:

I am writing in support of the enclosed zoning amendment for contractor yards and home offices. My office worked in partnership with the Building Commissioner, City Solicitor, and Councilor Delano to develop the proposed zoning amendment.

I look forward to speaking in support of this proposal and answering any questions Councilors may have. If you have questions in the meantime, or require any additional information, please do not hesitate to contact me.

Sincerely,

**Arthur G. Vigeant**  
Mayor

**ORDERED:**

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended, as follows:
  - a. By amending the definition in subsection B of “HOME OCCUPATION,” by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of “OUTDOOR STORAGE,” by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor’s storage yard or a landscape contractor’s storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions:-

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR’S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor’s storage yard. A contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).

LANDSCAPE CONTRACTOR’S STORAGE YARD – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary

to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

II. Section 650-17, entitled “Table of Uses,” is hereby amended by adding the following new uses:-

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV	NB
Contractor’s Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Home Office (47)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Landscape Contractor’s Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N

III. Section 650-18, entitled “Conditions for uses,” is hereby amended as follows:

a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:-

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- (a) The home office use must be secondary to the principal use of the property as a residence.
- (b) The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.
- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Industrial or Limited Industrial zoning districts.
- (d) No more than 25% of the floor area of the residence is to be used for the purpose of the home office.
- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance

and character of the residence or that of the accessory building if used for the home office.

(f) Not more than two (2) commercial vehicles, including trailers, shall be permitted in connection with the home office, whether those vehicles are used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles, including trailers, may be permitted when the home office is on a property located in the Industrial or Limited Industrial zoning districts. No such vehicle shall exceed a gross vehicle weight rating (GVWR) of 14,000 pounds. No such vehicle, nor any vehicle owned or operated by any employee of the business associated with the home office, shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises.

(g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office be used for a contractor's storage yard or a landscape contractor's storage yard, except when such a yard is permitted by special permit in the Industrial or Limited Industrial zoning districts. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Saturday except from 7:00 a.m. until 7:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that all such activity, when permitted during these hours, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."

b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards:-

(48) Contractor's storage yards and landscape contractor's storage yards.

Contractor's storage yards and landscape contractor's storage yards are allowed in certain zoning districts by special permit only. Applications for such a special permit shall comply with City Code Section 650-59, as well as with the following additional requirements and design standards.

(a) Applications.

(1) A scaled site plan shall show the following information:

- i. Outdoor storage areas for materials and equipment.
- ii. Parking and maintenance areas for commercial vehicles.
- iii. Location of all buildings and structures on the site.

- iv. Vehicular and pedestrian circulation on the site, including points of access to the site from a public road, loading and unloading areas, and areas for employee and customer parking.
  - v. Required or proposed landscaping and buffer areas.
  - vi. Required or proposed screening and fencing of storage yards.
  - vii. Proposed lighting plan, including location and specifications of light standards, lighting fixtures and lighting directions.
  - viii. All residential abutters within 200 feet of the proposed site.
  - ix. Any other information as might reasonably be required by the City Council for use in making a thorough evaluation of the proposal.
- (2) A description of all vehicles, trailers, and equipment stored, maintained or used on site by the business.
  - (3) A description of all fuel, chemicals or commodities and the amount of each that will be stored on site by the business.
  - (4) The range of number of employees throughout the year and the average number of employees at any time.
  - (5) A noise mitigation plan.
- (b) Design Standards.
- (1) Proximity to existing residential zoning districts. The proposed storage yard shall be not less than two hundred (200) feet from a residential zoning district.
  - (2) Screening. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the equipment and/or materials stored therein.
  - (3) Minimum parcel size. The minimum area of the parcel shall be 22,500 square feet.
  - (4) Maximum size of storage area. The maximum size of the contractor's storage yard or landscape contractor's storage yard, when combined with all structures, parking and driveways on the lot being proposed for the storage yard, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the parcel is located.

IV. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in existence in the City of Marlborough on the effective date of the

above amendments to the Zoning Ordinance of the City of Marlborough, shall submit to the City Council a special permit application, conforming with the provisions of Section 650-18(48), within six (6) months of said effective date.

ADOPTED  
In City Council  
Order No. 18-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2018 DEC 12 P 3 20



*City of Marlborough*  
**Legal Department**

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

*DONALD V. RIDER, JR.*  
CITY SOLICITOR

*CYNTHIA M. PANAGORE GRIFFIN*  
ASSISTANT CITY SOLICITOR

*ELLEN M. STAVROPOULOS*  
PARALEGAL

December 13, 2018

Edward Clancy, President and Members  
Marlborough City Council

RE: Order No. 18-1007480  
Proposed Grant of Easement to Massachusetts Electric Co. for Electric Distribution System at Marlborough High School, 431 Bolton Street and Proposed Grant of Easement to Massachusetts Electric Co. for Electric Distribution System at New Elementary School, 441 Bolton Street

Dear President Clancy and Members:

Enclosed please find the above-referenced order concerning the two (2) proposed Grant of Easement deeds attached thereto, through which deeds Massachusetts Electric Co. (aka "NGrid") will provide electrical service to the Marlborough High School and to the new elementary school. Said order and deeds are in proper form for consideration by the body.

Additionally, as you are aware, because the School Committee has care, management and control of school property, it was necessary for the Legal Department to seek its approval of the proposed easements. I was present at the December 11, 2018 meeting of the School Committee when, by unanimous vote, said easements were approved.

I am available to answer your questions. Thank you for your attention to this matter.

Very Truly Yours,

/s/ Cynthia Panagore Griffin

Cynthia Panagore Griffin  
Assistant City Solicitor

Enclosures

## ORDERED:

That pursuant to Mass. Gen. Laws c. 40, § 3, the City of Marlborough grant permanent utility easements, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a "NGrid") as described on Exhibits "A" and "B" hereto concerning, respectively, a Grant of Easement to Massachusetts Electric Company for electrical service to Marlborough High School at 431 Bolton Street and a Grant of Easement to Massachusetts Electric Company for electrical service to the new elementary school at 441 Bolton Street, said grants of easement having been approved on December 11, 2018 by vote of the Marlborough School Committee.

## ADOPTED

In City Council  
Order No. 18-1007480  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:

Property Address: 431 Bolton Street, Marlborough, MA (Southern Middlesex County)

**GRANT OF EASEMENT**

CITY OF MARLBOROUGH, a municipal corporation having an address of Marlborough City Hall, 140 Main Street, Marlborough, Massachusetts 01752, (hereinafter referred to as the Grantor), for consideration of One (\$1.00) Dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, an "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Marlborough, Southern Middlesex County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and the furnishing of electric service to the herein described premises and to service others, and without limiting the generality of the foregoing, but specifically including the following equipment; namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "UNDERGROUND SYSTEM" is located in, through, under, over, across and upon a parcel of land situated on the northwesterly side of Stevens Street, and the easterly side of Bolton Street, being more particularly described in a Taking by the City of Marlborough recorded with the Southern Middlesex County Registry of Deeds Book 12507, Page 396.

WR# 26188344

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

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

05 MARLMA GEN

And further, said "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) is approximately shown on a sketch entitled: "Install new P37-5, Pull Box, transformer pad and 550' +/- Cable. Exhibit A not to scale. The exact location of said facilities to be established by and upon the installation and erection of the facilities thereof; nationalgrid; Easement Sketch 431 Bolton St, Marlboro, Ma 01752; Scale: NONE; Date: 5-11-18; Drawn By D. Larson; Actrix Drawing Number 26188344," a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "UNDERGROUND SYSTEM" is located as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may in the opinion and judgment of the Grantee interfere with the safe and efficient operation and maintenance of the "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

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

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

It is agreed that said "UNDERGROUND SYSTEM" and all necessary appurtenances thereto, shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon.

For Grantor's title, see a Taking by the City of Marlborough dated August 22, 1973, recorded with the Southern Middlesex County Registry of Deeds in Book 12507, Page 396.

IN WITNESS WHEREOF, CITY OF MARLBOROUGH has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Arthur G. Vigeant, its Mayor, being thereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF MARLBOROUGH.  
Acting by and through its Mayor

\_\_\_\_\_  
By: Arthur G. Vigeant  
Its: Mayor

Commonwealth of Massachusetts

County of \_\_\_\_\_ } ss.

On this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned

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

\_\_\_\_\_  
Description of Evidence of Identity

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

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires \_\_\_\_\_

Place Notary Seal and/or Any Stamp Above

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

- ⊕ Existing Pole
- Proposed Pole
- Underground Cable
- ▣ Transformer Pad
- ⊠ Pullbox

Install new P37-5, Pull Box, transformer pad and 550' +/- cable.



<b>nationalgrid</b>	
<b>Easement Sketch</b> 431 Bolton St Marlboro, Ma 01752	
Scale NONE	Active Drawing Number
Date 5-11-18	<b>26188344</b>
Drawn By D. Larson	

**GRANT OF EASEMENT**

CITY OF MARLBOROUGH, a municipal corporation, having an address of 140 Main Street, Marlborough, Massachusetts (hereinafter referred to as the Grantor), for consideration of One (\$1.00) dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, one (1) pole, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Marlborough, Middlesex County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon those certain parcels of land situated on the northeasterly side of Bolton Street, being more particularly shown as Parcels 1 through 5, inclusive, on a Plan of Land recorded with the Middlesex South District Registry of Deeds in Plan Book 1973, Plan 1033.

Property Address: 441 Bolton Street, Marlborough, MA ( MIDDLESEX SOUTH )

WR26691854

Address of Grantees:  
Mass El. — 40 Sylvan Road, Waltham, Massachusetts 02451

After recording return to:  
Elizabeth Fresolone  
National Grid  
Service Company, Inc.  
280 Melrose Street  
Providence, RI 02907

05 MARLMA GEN



Said "OVERHEAD SYSTEM" is to originate from Pole P47, which is located on the northeasterly side of Bolton Street, then proceed in a northeasterly direction from said Pole over, across and upon land of the Grantor to Pole P47-2.

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "nationalgrid; Easement Sketch, 441 Bolton St, Marlboro, MA 01752; Scale: NONE; Date: 10-23-18; Drawn By: D. Larson; WR: 26691854," a reduced copy of said sketch is attached hereto as "Exhibit A" and recorded herewith, copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF MARLBOROUGH, acting by and through its Mayor, Arthur G. Vigeant, being thereunto duly authorized has executed this easement as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF MARLBOROUGH

\_\_\_\_\_  
By: Arthur G. Vigeant  
Its: Mayor

Commonwealth of Massachusetts

County of \_\_\_\_\_ } ss.

On this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me,

\_\_\_\_\_  
Name of Notary Public the undersigned Notary Public,

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

\_\_\_\_\_  
Description of Evidence of Identity

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

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires \_\_\_\_\_

Place Notary Seal and/or Any Stamp Above

05 MARLMA GEN

CITY OF MARLBOROUGH

TO

MASSACHUSETTS  
ELECTRIC COMPANY

GRANT OF EASEMENT

**AFTER RECORDING RETURN TO:**

ELIZABETH A. FRESOLONE  
NATIONAL GRID  
SERVICE COMPANY, INC.  
280 MELROSE STREET  
PROVIDENCE, RI 02907

Approved By: \_\_\_\_\_

Install OH Primary from P47 to P47-2,  
Install UG Primary from P47-2 to Pullbox PB1,  
Install UG Primary from PB1 to PB2 to PB3 to PB4 to T53

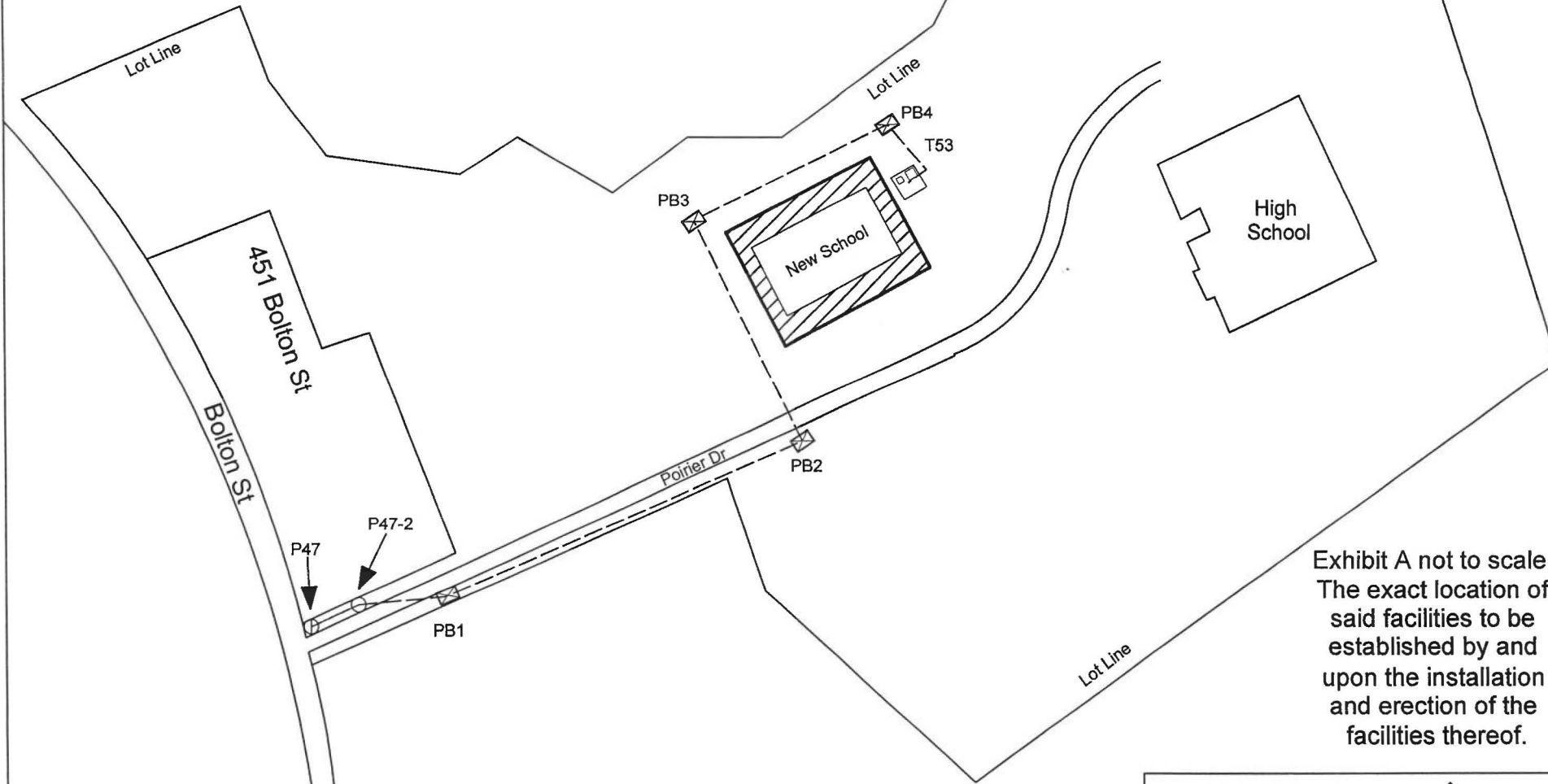
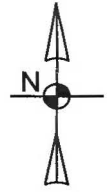








Exhibit A not to scale.  
The exact location of  
said facilities to be  
established by and  
upon the installation  
and erection of the  
facilities thereof.

**Legend**

	Transformer		Overhead Primary
	JO Pole		Underground Primary
	SO Pole		Pull Box

**nationalgrid**

**Easement Sketch**  
441 Bolton St  
Marlboro, Ma 01752

Scale: NONE	Asst Drawing Number
Date: 10-23-18	26691854
Drawn By: D. Larson	



*City of Marlborough*  
**Legal Department**

140 MAIN STREET  
 MARLBOROUGH, MASSACHUSETTS 01752  
 TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

RECEIVED  
 CITY CLERK'S OFFICE  
 CITY OF MARLBOROUGH

2018 DEC 13 A 10:55  
 DONALD V. RIDER, JR.  
 CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN  
 ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS  
 PARALEGAL

December 13, 2018

Edward Clancy, President and Members  
 Marlborough City Council

RE: Order No. 18-1007404A / Proposed Zoning Amendments to §§ 650-34 and 650-41  
 Concerning the Marlborough Village District

Dear President Clancy and Members:

Enclosed please find the above-referenced Order concerning proposed amendments to § 650-34 and § 650-41 of the Zoning Code concerning the Marlborough Village District. In conformance with proper legislative drafting style, the format of the Order has been modified from the original version which becomes an exhibit showing the proposed amendments in context. Said Order is in proper form for consideration by the body.

I am available to answer your questions. Thank you for your attention to this matter.

Very Truly Yours,

/s/ Cynthia Panagore Griffin

Cynthia Panagore Griffin  
 Assistant City Solicitor

Enclosure

Cc: Arthur Bergeron, Esq.  
 Brian Falk, Esq.

**ORDERED:**

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as amended, be further amended by amending certain provisions of § 650-34, Marlborough Village District, and § 650-41, Table of Lot Areas, Yards and Height of Structures, as follows:

A. By amending subsection F., Heights of Structures, of said § 650-34 as follows:

1. By inserting at the beginning of the paragraph which presently constitutes said subsection F., so as to newly designate said paragraph as the first paragraph of subsection F., the following parenthetical number: “(1)”;
2. In the second sentence of said paragraph (1), by inserting after the words “maximum height is” the following words and number: “6 stories and up to”;
3. In the second sentence of said paragraph (1), by deleting the word “lot” and inserting in place thereof the word “district”;
4. In the third sentence of said paragraph (1), by inserting after the words “a maximum building height” the following words and punctuation: “, including building areas within 50 feet of a residential district boundary,”; and
5. In the third sentence of said paragraph (1), by deleting the number “80” and inserting in place thereof the following words and numbers: “7 stories and up to 85”.

B. By amending § 650-34 F., Heights of Structures, by inserting after said above-described paragraph (1) a new paragraph (2), as follows:

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

C. By amending § 650-41, Table of Lot Area, Yards, and Height of Structures, in the column designated as “Height” as it pertains to the Marlborough Village District, as follows:

1. By inserting a semi-colon after the first appearance of the word “feet”;
2. By inserting after said semi-colon the word and punctuation “Maximum:”;
3. By deleting the colon following the word “stories” and inserting in place thereof a semicolon.

D. By amending paragraph 12 of the NOTES section as it appears below § 650-41, Table of Lot Area, Yards, and Height of Structures, as follows:



1. By deleting the number "80" and inserting in place thereof the words and numbers "7 stories and up to 85";
2. By deleting the words "adjacent to any" and inserting in place thereof the words and number "within 50 feet of a";
3. By inserting after the word "district" the word "boundary";
4. By inserting after the words and number "shall not exceed 52 feet" the words and punctuation "except where allowed by special permit."; and
5. By inserting after the words and number "See § 650-34 F." the following parenthetical number: "(1)".

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

F. All herein described amendments are also shown and described on Exhibit "A" attached hereto.

ADOPTED  
In City Council  
Order No. 18-1007404A

Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:

**EXHIBIT "A"**

1. Amendments to § 650-34 F., Heights of Structures, as follows (deleted words, numbers and punctuation in ~~striketrough~~; inserted words, numbers and punctuation are underlined):

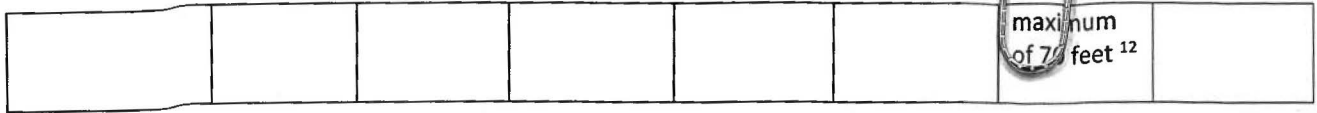
F. Heights of structures.

(1) To encourage redevelopment and reuse of parcels within the Marlborough Village District, minimum and maximum heights are established. Minimum heights shall be 35 feet; maximum height is 6 stories and up to 70 feet except for where a proposed structure is within 50 feet of a residential ~~lot~~ district boundary, where the height limit shall be 52 feet. By grant of a special permit, maximum building height, including building areas within 50 feet of a residential district boundary, may be increased to ~~80~~ 7 stories and up to 85 feet. Height limits do not include roof-mounted mechanical appurtenances; however, said appurtenances, and the screening required for them in § 650-34D(2)(b), shall be subject to site plan review and design standards. Rooftop mechanical equipment, including wireless communications equipment, shall be located and screened to minimize impacts on abutters and the general public. No interior space shall be occupied for any purpose above these height limits. This shall not preclude the use of a flat roof for purposes allowed in this section.

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

2. Amendments to § 650-41, Table of Lot Area, Yards and paragraph 12. of the NOTES thereto, all other NOTES paragraphs not being subject to these amendments; (deleted words, numbers and punctuation in ~~striketrough~~; inserted words, numbers and punctuation are underlined):

District	Minimum Lot Area	Minimum Lot Frontage (feet)	Minimum Side Yard (feet)	Minimum Front Yard (feet)	Minimum Rear Yard (feet)	Height	Maximum Lot Coverage
Marlborough Village District MV	5,000 square feet	25	10 <sup>3</sup>	10 <sup>14</sup>	10 <sup>15</sup>	Minimum: 35 feet; Maximum: <u>6 stories</u> ; not to exceed a	80% <sup>13</sup>



**NOTES:**

<sup>12</sup> Within the Marlborough Village District, special permits may allow for an increase in height to ~~80~~ 7 stories and up to 85 feet; also, provided that the height of any development ~~adjacent to any~~ within 50 feet of a residential district boundary shall be stepped down and shall not exceed 52 feet ~~except where allowed by special permit.~~ (See § 650-34.F.(1).)



# City of Marlborough Planning Board

Administrative Offices  
135 Neil St.  
Marlborough, MA 01752

10  
PLANNING BOARD

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

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

December 10, 2018

Mr. Edward Clancy  
Council President  
140 Main St.  
Marlborough, MA 01752

RE: Mauro Farms Subdivision  
Acceptance of Nolan Way, Spenser Circle and Reagin Lane as Public Ways  
(Council Order 18-1007444)

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CITY OF MARLBOROUGH  
2018 DEC 12 A 10:40

Honorable President Clancy and Members:

At its regular meeting on December 3, 2018, the Planning Board took the following action:

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to accept and file the favorable recommendation of the City Engineer, Thomas DiPersio, that Nolan Way, Spenser Circle and Reagin Lane be considered for acceptance as public ways and to reduce the maintenance bond securing the completion of the subdivision from one hundred eighty-five thousand dollars (\$185,000.00) to zero (\$0). Motion carried.

On a motion by Mr. LaVenture, seconded by Mr. Hodge, the Board further voted to recommend to the Marlborough City Council that Nolan Way, Spenser Circle and Reagin Lane be accepted as public ways and that their appurtenant easements be accepted as municipal easements as shown on their respective Street Acceptance Plans, Mauro Farms, Marlborough, MA, Prepared for: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, MA, Dated: October 16, 2015, Scale 1"=20', Prepared by: Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough, MA. Motion carried.

Should you need further information, don't hesitate to contact me.

Sincerely,

Barbara L. Fenby  
Chairperson

City Clerk ✓  
DPW Commissioner  
Capital Group Properties

## PLANNING BOARD

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



*City of Marlborough*  
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CITY OF MARLBOROUGH  
*Planning Board*  
2018 DEC -3 P 3 56

Administrative Offices  
135 Neil St.  
Marlborough, MA 01752

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

December 4, 2018

Mr. Edward Clancy, President  
Marlborough City Council  
140 Main St.  
Marlborough, MA 01752

RE: Council Order 18-1007404A Proposed Zoning Amendment to Sections 650 § 34 & 650 § 41 to Amend Certain Provisions of the Marlborough Village District and Table of Lot Areas, Yards and Height of Structures (Main Street Area)

Honorable President Clancy and Councilors:

At its regular meeting of the Planning Board on December 3, 2018, the Board took the following action regarding the above-referenced zoning amendment:

On a motion by Mr. Hodge, seconded by Mr. LaVenture, the Board voted to make a generally favorable recommendation on the proposed zoning amendment with the following comments:

The Board expressed that requiring a special permit within the Marlborough Village District introduces a potential deterrent to development. Approval uncertainty may discourage development within the District and lengthen the development cycle. The Board's preference is to set the desired standards within the District and allow developments which meet zoning to proceed by right.

The Board's second comment was directed at the developer and is not related to the proposed zoning amendment. During peak times, downtown parking is scarce. The Board requests that the developer investigate potential parking on the neighboring parcel in the back of the proposed development.

Sincerely,

Barbara L. Fenby  
Chairperson

cc: City Clerk's Office ✓  
Brian Falk, Mirick O'Connell

---

Office of the City Clerk  
City of Marlborough  
Marlborough City Hall  
140 Main Street  
Marlborough, MA -01752  
Attn: City Council

---

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2018 DEC -3 P 3:53

Joseph J. Deneen  
55 Westminster Drive  
Marlborough, MA 01752

December 2, 2018

Dear Sirs:

Acknowledgement is given as to receipt of the Decision for Special Permit In City Council, Notice of Decision, Grant of Special Permit in the case of Garden Remedies, Inc...

Having appeared in person at a regular meeting of the City Council to offer personal testimony regarding the granting of this special permit, let me comment that in no way am I surprised by the recent decision of the Council members.

To clarify my position, I take no issue with the referendum requirement that our city move forward in granting permits in response to a majority vote of its citizens.

Rather, I am strongly urging that the Council reconsider the timing and parameters of this special permit. Most importantly, and in light of the recent openings of two such facilities in other areas within the Commonwealth and the clear and overwhelming response by the public to these operations, experience has now informed us of the major concerns that will present themselves to the City.

It is now crystal clear that the initial public response to the legalization of marijuana will generate a major vehicle presence to the area along Route 20, as well as to the pedestrian traffic and parking challenges that will present themselves on opening day well into the foreseeable future.

As I presented to the Council when the request for permit was entered, the area proximate to 416 Boston Post Road is a heavily trafficked area. There are numerous apartment complexes within 100-200 feet of the location that on the conservative side will present entrance and egress issues on a daily basis to the 400-500 city residents that live within the immediate area.

A check of signage on this section of Route 20 shows absolutely no road signs to warn and/or encourage caution on the part of motorists traveling along this stretch of roadway. In fact, I am particularly disturbed and alarmed by the posted speed limit within this area of forty miles per hour (40 MPH)!!

I am recommending that the Council members take a short and reasonable step back, and a deep breath....followed by a reconsideration of the special permit. If one applies common sense, and a bit of proper consideration of all its citizens living in this area as well as all those motorists travelling daily in both directions, significant obstacles should soon come to the surface. A degree of foresight is absolutely necessary.

The recent experiences in the first two Massachusetts locations have set a rather high bar for this review. In fact, the clear evidence is compelling:

- The average revenue of the sites was \$2.2 million over the first five days (as reported in the Boston Globe). This amounts to \$220,000 per day at each facility. At 260 days, total revenue would be \$57.2 million. By the way, this estimate fails to consider the remaining two day volume (Saturdays and Sundays) not included in the Globe estimate). I cannot blame councilors for salivating at Marlborough's share of the 3% taxes forthcoming.
- Certainly this might be an exaggeration over time. But it surely is an eye-popping hopeful dream.
- I cannot begrudge the sentiment here. My plea is this. Yes, there will be \$\$\$\$'s, but let's carefully consider the facts and properly prepare for any grand opening. Let Marlborough's opening news feeds be free from the congestion, frustration and possible safety issues that the facts now scream out. We know what we know! Let's prepare.

Alternatives are possible:

- Grant the special permit for medical purposes only. Gauge the results together with accurate future forecasting and ensure that the facility, parking and traffic concerns do not become both crippling and "tomorrow night's evening news". Then add the retail marijuana sales permit.
- Immediately lower the speed limits, both east and west to a safe 25 MPH. Put out caution signs alerting motorists and pedestrians of possible danger. In conjunction with State traffic studies that the Mayor says the city has in hand when revised with projections of what certainly will occur, the results will certainly magnify existing challenges into potential nightmares!
- Project future revenues and immediately get to work spending necessary funds to make Route 20 a safer place to operate a motor vehicle or to live in the neighborhood for all the current residents that this Council appears to assume will be fine.
- Re-examine the original store design and interior traffic flow that was presented to us at the original permit request meeting. It cannot work. One entrance and exit for the likes of the traffic we have recently witnessed just will not cut it. Surely sanity and common sense demands a new review and design laid against the actual facts and exhibits of the application.

The status quo will soon be blown up in a major explosion of traffic. To wait and see, having granted this special permit is tantamount to the surrender of responsibility that both the Mayor and City Council have sworn will never happen.

Respectfully submitted



Joseph J. Deneen



The Commonwealth of Massachusetts  
House of Representatives  
State House, Boston 02133-1054

CARMINE L. GENTILE  
STATE REPRESENTATIVE  
13TH MIDDLESEX DISTRICT  
SDBURY • MARLBOROUGH  
WAYLAND • FRAMINGHAM

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2018 DEC -5 A 9 31  
Committees:

Joint Committee on Ways and Means  
Joint Committee on Health Care Financing  
Joint Committee on Housing  
Joint Committee on Elder Affairs  
STATE HOUSE, ROOM 167  
TEL. (617) 722-2810  
Carmine.Gentile@MAhouse.gov

December 4, 2018

Joseph J. Dineen  
55 Westminster Drive  
Marlborough, MA 01752

RE: Special Permit Garden Remedies Inc.

Dear Mr. Dineen:

Thank you for your letter regarding traffic and public safety and your specific concerns about the opening of Garden Remedies on Route 20 in Marlborough. I agree with you that until a number of such stores are open in our area, the first store will likely temporarily receive significant interest from consumers similar to that seen with the first two stores to open in Massachusetts.

If the City decides that a lowering of the speed limit or any other change is needed in order to mitigate the effect of increased traffic in the area of Garden Remedies, I will be happy to support the City in receiving state approval or any other assistance. The City of Marlborough may take all lawful measures to safeguard residents however as you may know, Attorney General Maura Healey has refused efforts by Rochester, Plympton and Natick to extend a moratorium on the opening of similar stores in those towns.

Thank you for reaching out to all of us with your concerns.

Best regards,

Carmine L. Gentile





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CITY OF MARLBOROUGH  
2018 DEC 11 A 10:29

CITY OF MARLBOROUGH  
*Office of the City Council*  
140 Main Street  
Marlborough, Massachusetts 01752  
(508) 460-3711 TDD (508) 460-3610

**AGREEMENT TO EXTEND  
TIME LIMITATIONS**

Order No.18-1007314

Application for Special Permit from Avalon Marlborough II, Luxury Apartment Community located on a portion of 200 Forest Street in the Results Way Mixed Used Overlay District, to increase the number of units from 350 to 473 (increase of 123 units)

The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the City Clerk.

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 10:00 p.m. on February 27, 2019

By: \_\_\_\_\_  
Edward J. Clancy, City Council President

acting on behalf of, and at the direction of,  
the special permit granting authority:  
**Marlborough City Council**

By: \_\_\_\_\_  
*(Handwritten signature)*

For Petitioner : *SCOTT DALE, SVP*  
*AvalonBay Communities, Inc.*

MINUTES  
MARLBOROUGH PLANNING BOARD  
MARLBOROUGH, MA 01752

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
November 5, 2018

**Call to Order**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Phillip Hodge, Sean Fay, George LaVenture and Chris Russ. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

**1. Meeting Minutes**

A. October 29, 2018

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of October 29, 2018. Motion carried.

**2. Chair's Business**

A. Board Membership – Call for members

Ms. Fenby asked Planning Board members whether they had any leads on potential additions to the Board. The Board has five seated members with two vacancies. Members should spread the word that the Board is looking for members. It was suggested that the Mayor's Office reach out through social media. Barbara indicated that two members have conflicts for the November 19 meeting, leaving the Board without a quorum. The next meeting of the Planning Board will be December 3, 2018.

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

**4. Public Hearings**

A. Council Order 18-1007404A, Proposed Zoning Amendment to Sections 650 §34 & Section 650 §41 to amend certain provisions of the Marlborough Village District and Table of Lot Areas, Yards and Height of Structures (Main Street Area)

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

**Presentation:**

Attorney Falk of Mirick O'Connell introduced the proposed amendment on behalf of his client and property owner, Enza Sambataro. Also present was Ken Feyl, representing the project architect. Mr. Falk indicated that the proposed zoning amendment provides two tweaks to the 2014 Marlborough Village District. The amendment proposes that (by right) structures of up to 6 stories and 70 feet be allowed within the District, unless within 50 feet of a residential district boundary, where the height limit would be 52 feet. By special permit, maximum building height, including building areas within 50 feet of a residential district boundary, may be increased to 7 stories and up to 85 feet. A second section allows (shall encourage) roof decks, providing recreation and amenity areas for residents and businesses on the roof above the top story of a building within the District. Roof decks may include open space areas for sitting and gardens; open air areas covered by permanent roofs; indoor areas for social gathering, meetings, common kitchens, restrooms, and storage; space for mechanical equipment; and enclosures for elevators and stairs.

**Speaking in Favor:** No person spoke in favor of the proposed amendment.

**Speaking in Opposition:** No person spoke in opposition to the proposed amendment.

**Questions and Comments from Board Members:**

Mr. LaVenture asked whether there were any studies done to identify the shadow effect on abutting parcels. The architect indicated that there were no shadow studies performed, but he did not anticipate any adverse effects to abutting parcels by increasing the building height.

Code Enforcement Officer Wilderman asked permission to comment. (Granted) She was familiar with the area and added her agreement that the parcel behind the proposed development project would not suffer any additional loss of light. She said that due to the building's placement on the lot, it was already in a shaded state.

Mr. Russ asked two questions: 1) How much taller would this development site be than the buildings on either side? 2) Has the Fire Department weighed in on whether the additional height would introduce any complications to firefighting? The project's architect referred to the presentation materials showing the Main Street façade. He pointed out that the building is designed to be roughly the same height as the adjacent buildings on the street side. The taller floors are offset so that the street side appearance is consistent. With respect to the firefighting question, attorney Falk indicated that the development goes through the Site Plan Review Committee, and issues of public safety are addressed at that time. Mr. DiPersio indicated that the project is back before site plan review, and the committee will make its comments regarding the plan with additional units.

Mr. Fay had a comment about zoning within the Village District. He stated that his preference is to set zoning "by right" within the district vs. "by special permit". He noted that part of the appeal to development within these special districts is to offer consistent and predictable zoning. In his opinion, the special permit process introduces uncertainty, which can be an obstacle to redevelopment.

Mr. Russ would like the renderings to include a rear view of the building from the perspective of the back abutters. Other members agreed. Ms. Fenby requested Mr. Falk provide the additional rendering for the next meeting on December 3. Ms. Fenby continued the hearing until December 3.

## 5. Subdivision Progress Reports (Updates and Discussion)

### A. Subdivision Status Report

**Cider Mill Estates:** Assistant City Engineer Collins visited the site and provided a few punch list items to the developer. Engineering did not have the opportunity to verify the status prior to the meeting. Engineering will revisit the site to check on progress. Once complete, Engineering will prepare its recommendation for bond reduction and initiation of street acceptance.

**Walker Brook Estates:** Mr. DiPersio indicated that Engineering is reviewing the deed and municipal easement descriptions from Bruce Saluk. Once he receives confirmation that the documents are in order, Solicitor Rider will proceed with preparing a Council order for acceptance.

**Mauro Farm:** Mr. DiPersio reminded the Board that a Council Order for street acceptance appeared on the October 29<sup>th</sup> City Council agenda. At that meeting, the matter was referred to the Planning Board for recommendations. While the Council order referral didn't arrive in time for the Nov. 5 Planning Board agenda, the next step would be a referral to Engineering. On a motion by George LaVenture, seconded by Mr. Russ, the Board voted to refer the matter to Engineering for final recommendation for street acceptance. Motion carried.

- B. **Goodale Estates:** Subdivision request for extension – Paul Ricciardi, Developer; Kevin Gillis, Northborough Capital Partners (Owner) were in attendance. Mr. LaVenture read the October 30, 2018 emailed letter from Kevin Gillis, Managing Director of Northborough Capital Partners, LLC. Mr. Gillis is requesting a one-year extension on the subdivision approval (current expiration date is 11-14-18). On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence. Motion carried. On a Motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to waive the reading of the Engineering Division's extension recommendation and supplementary submittals by the owner. Motion carried. As requested, the submittal package contained a new construction schedule, confirmation that the site is free of blight and proof that the property taxes are up to date. On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to extend the Goodale Estates subdivision approval until November 24, 2019. Motion carried.

## 6. Preliminary/Open Space/Limited Development Subdivisions (None)

## 7. Definitive Subdivision Submission (Continued Discussion)

- A. 215 Simarano Dr.

The Board continued its discussion regarding a possible rescission of the subdivision approval. Mr. DiPersio indicated that Engineering received a request for a street opening permit at 215 Simarano. The owner does not intend to construct a subdivision, but they do intend to build the approved plan for the storage facility on the site. Solicitor Rider was asked if there is any practical reason at this point to pursue the subdivision rescission. Solicitor Rider’s opinion was that there is no practical reason to pursue a rescission under CH 41 section 81W.

**8. Signs (Continued)**

A. Application for Sign Appeal/Variance to Planning Board: Speedway LLC, 770 Boston Post Road East  
Code Enforcement Officer Wilderman was present to address any questions from the Board. Ms. Wilderman shared a bit of the history on the 2014 electronic message board center signs section 526-13. The Marlborough City Council is the special permit granting authority under 526-13, but variances may be granted by the Planning Board. Mr. LaVenture shared his previous feelings that granting variances does not address the issue at heart. As detailed in Building Commissioner Cooke’s signage denial letter, Speedway’s GSTV point of sales displays violate numerous standards in the City’s ordinance. The Board would like City Council to consider reviewing the ordinance for potential changes. Mr. Fay concurred that the remedy should be part of a comprehensive review and rewrite of the ordinance. Consideration of evolving marketing and point of sale technology is recommended to inform potential changes. The Board took the following action regarding the application for sign appeal/variance of Speedway LLC at 770 Boston Post Rd. East:

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to affirm Building Commissioner Cooke’s letter of 9-11-18 detailing numerous violations of the Marlborough City Code §526-13 – Electronic message center (EMC) signs; digital display signs.

The Board further voted to deny any variance for standards relief.

The Board further voted to send a letter City Council stating the Board’s decision and request further review of Section 526-13.

All motions carried.

**9. Informal Discussion**

A. **Marlborough Hub** – Mr. DiPersio made the following request: Hancock Associates was previously scheduled to present a modified plan to the Board on November 19. That meeting is now cancelled due to member conflicts. Since those plans are ready now, Mr. DiPersio requests that the Board refer the initial review of those plans to Engineering. Engineering will then make comments at the next meeting of the Planning Board on December 3. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to refer the modified plan set to Engineering for review and comment. Motion carried.

**10. Unfinished Business (None)**

**11. Calendar Updates**

A. Update Goodale Estates subdivision expiration from November 14, 2018 to November 24, 2019.

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

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

Respectfully submitted,

  
George LaVenture/Clerk

/kih



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2018 DEC 12 A 11: 16

## BOH MEETING MINUTES –9/10/18

### Attending

Robin Williams, Chairwoman  
James Griffin, Vice Chair  
Joseph Tennyson, MD, Member

Also in attendance: Cathleen Liberty, Director of Public Health

Meeting called to order 6:30 pm

### REVIEW OF MEETING MINUTES

Review of August meeting minutes, accepted by Chair Griffin, and Member Tennyson.

### ADMINISTRATIVE

#### Update of Marlborough Super Buffet

Director Liberty updated the Board on the Marlborough Super Buffet. The food consultant continues to work with Super Buffet and the inspection reports show they continue to improve.

### PUBLIC HEALTH ISSUES

#### Adult Use of Marijuana Regulation Discussion

The Board took up its initial review of the draft Adult Use of Marijuana Regulations and discussed implementing regulations for medicinal marijuana. The Board will continue with a review at the next meeting in October.

### MONTHLY REPORTS

- **Nurse's Report**

Director Liberty submitted the Public Health Nurse's report and accepted to be placed on file.

- **Sanitarians' Reports**

Presented by Director Liberty - reports were submitted and accepted to be placed on file.

### OTHER BUSINESS UNKNOWN AT TIME OF POSTING

The Director reported that Attorney Rabbit did not provide the board with a six month proposal as promised and voted on by the board at the September meeting. After much discussion about this dwelling the board requested that I get an administrative warrant to enter the property to conduct a comprehensive inspection of the interior of the dwelling.

**ADJOURN**

Motion – to adjourn the meeting at 7:30 PM – Vice Chair Griffin

Second – Member Tennyson

Board approval 3-0 Chairwoman Williams: yes; Vice Chair Griffin: yes; Member Tennyson: yes.

**Next Board of Health meeting will be on October 15, 2018.**

Respectfully submitted,



10/15/2018

Dated

Cc: Board of Health Members  
City Council  
City Clerk  
City of Marlborough Website



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2018 DEC 12 A 11: 16

## BOH MEETING MINUTES –10/15/18

### Attending

Robin Williams, Chairwoman  
Joseph Tennyson, MD, Member

Also in attendance: Cathleen Liberty, Director of Public Health

Meeting called to order 6:30 pm

### REVIEW OF MEETING MINUTES

Review of September meeting minutes, accepted by Chair Williams, and Member Tennyson with changes.

### ADMINISTRATIVE

#### **Tobacco Violations**

After much discussion thereof with the owners of the establishments and the board, the decision was to fine the establishments \$100.00 per the Marlborough Tobacco Regulations for first offense.

Motion – Member Tennyson

Second – Chair, Williams

### BOARD BUSINESS

#### **Update of Marlborough Super Buffet**

The owner of Super Buffet asked the Board if he could start making sushi. After much discussion the board decided to have him continue being inspected by the food consultant and they would reassess if he could start preparing sushi at the November meeting.

#### **Food Code Trainings**

Director Liberty notified the board that the health department is holding trainings in October and November for the food establishments in leu of the state adopting the 2013 Food Code. Chair Williams discussed writing a local regulation that included definitions and time as a public health policy that should be approved by the health department. Director Liberty will put this item on the agenda for the November meeting.

### PUBLIC HEALTH ISSUES

#### **Medicinal and Adult Use of Marijuana Regulation**

The Board discussed merging the two regulations into one. Director Liberty will begin to merge the regulations and send them to the board before the next meeting and will put it on the agenda for the November meeting for more discussion. The board also discussed Garden Remedies and that it is a combination establishment.

**MONTHLY REPORTS****• Nurse's Report**

Director Liberty submitted the Public Health Nurse's report and accepted to be placed on file. Director Liberty also discussed with the board the states call regarding an increase in Hepatitis A cases and how the public health nurse was addressing the situation.

**• Sanitarians' Reports**

Presented by Director Liberty - reports were submitted and accepted to be placed on file. Director Liberty discussed some new food establishments with the board.

**OTHER BUSINESS UNKNOWN AT TIME OF POSTING****ADJOURN**

Motion – to adjourn the meeting at 7:20 PM – Member Tennyson  
Second – Chair Williams

**Next Board of Health meeting will be on November 5, 2018.**

Respectfully submitted,



12/3/2018

Dated

Cc: Board of Health Members  
City Council  
City Clerk  
City of Marlborough Website



**City of Marlborough**  
**Licensing Board**  
 140 Main Street, Lower Level  
 Marlborough, MA 01752  
 (508) 460-3751 FAX (508) 460-3625

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2018 DEC 12 A 11: 16

**Minutes of the Licensing Board Meeting Held Wednesday, October 24, 2018**  
 at 7:30 pm, City Hall, 1<sup>st</sup> floor, Council Committee Room.

Attending: Walter Bonin, Chairman; Gregory Mitrakas, Member; David Bouvier, Member;  
 Tina Nolin, Clerk

Meeting called to order by Walter Bonin, Chairman at 7:30 PM

**New Business**

**1. ONE DAY PERMIT**

**Masonic/Jacobs Hall – 8 Newton St.**

Member Mitrakas motioned for approval, seconded Member Bouvier  
 Board vote: 3-0 approved

**2. La Tapatia – Incident Report**

Jose Barajas, owner; Apolinar Martinez, Bar Manager

\* Member Mitrakas abstained from participating as he has represented the owner of La Tapatia previously.

After much discussion on what occurred on the night in question, Member Bouvier motioned for a warning to be issued to the La Tapatia license holder stating if an incident like the one discussed this evening occurs again it would result in a 2-day suspension of the license. This warning shall remain in effect for a period of 90 days 10/25/2018. Chairman Bonin seconded the motion, vote 2 – 0, with one abstention to issue the warning and its provisions.

Licensing clerk will send formal letter of warning to La Tapatia's license holder, Jose Barajas.

**3. Applications for Change of Hours and Entertainment - Strange Brew, 416 Boston Post Rd E; Brian Powers, Owner/Manager -**

Mr. Powers requested a change of hours request from:

Current hours:

4:00 pm-9:00 pm Weds-Thurs.

12:00 pm - 9:00 pm Fri. - Sun.

New Hours:

11:00 am – 11:00 pm Mon - Sun

Abbutters were notified via email or mail.

Member Bouvier motioned to approve the change in hours to 11:00 am – 11:00 pm Mon-Sun, Member Mitrakis seconded, vote was 3–0 to approve the change in hours to 11:00 am – 11:00 pm Mon-Sun.

Mr. Powers also applied for a Full Entertainment License

Member Mitrakis motioned to approve the full entertainment license, Member Bouvier seconded, vote was 3-0 to approve the full entertainment license.

**4. Class II Dealership Application – Kings Auto Sport, 103A Mechanic Street Marlon, R. Reis, Owner**

After much discussion to understand the property location, where cars would be and how they would be shown for sale the determination was put on hold until next month's meeting.

**5. Reports from Chairman**

Chairman Bonin reviewed the city's C&A Zoning as applies to Class II dealerships.

**6. Misc. Correspondence and Open Issues**

- The clerk updated the Board on a Public Request item received
- The clerk updated the Board that all Renewals both state and local had been mailed out to license holders.

**7. Review minutes –**

Member Mitrakas motioned to approve the September 18<sup>th</sup> Special Meeting minutes and the September 26<sup>th</sup> meeting and place on file, Member Bouvier seconded, the motion; Board vote: 3 – 0 to accept the minutes and place on file.

Member Mitrakas motioned to adjourn the meeting at 9:00 pm.

The next meeting of the Licensing Board is Wednesday, November 28, 2018.

Respectfully submitted,



Walter Bonin, Chairman

**City of Marlborough  
Licensing Board**  
140 Main Street, Lower Level  
Marlborough, MA 01752  
(508) 460-3751 FAX (508) 460-3625

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**2018 DEC 12 A 11:16**

**Minutes of the Special Licensing Board Meeting Held Thursday, November 15, 2018  
at 7:30 pm, City Hall, 1<sup>st</sup> floor, Council Committee Room.**

Attending: Walter Bonin, Chairman; David Bouvier, Member; Tina Nolin, Clerk  
Absent: Gregory Mitrakas, Member;

Meeting called to order by Walter Bonin, Chairman at 7:30 PM

**New Business**

**1. New Farmers Series Pouring License – Flying Dreams Brewery, 277 Main St.  
David Richardson, owner/applicant**

Public meeting opened at 7:35

Dave Richardson spoke briefly about the establishment

There were not positive or negative comments from the public.

The public meeting was closed at 7:46

Chairman Bonin recommended adding to the application that “Samples of 2  
Do not constitute a sale.”

Member Bouvier motioned to approve the Pouring License, Chairman Bonin seconded,  
the motion; Board vote: 2 – 0 to approve the license.

Respectfully submitted,

*Walter Bonin*

Walter Bonin, Chairman

ALL RELATED DOCUMENTS CAN BE SEEN IN THE LICENSE BOARD OFFICE