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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2024 FEB 14 PM 1:20

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Alta Behavioral Health, LLC, 55 Concord Street, Suite 111, Concord, MA 01742

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

400 Donald J Lynch Blvd; Parcel ID 26/29; Vision ID 1824

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

SP Capital LLC, 7 Drydock Ave, Suite 2050, Boston, MA 02210

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

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

Article VI Section 650-21 Paragraph C Sub-paragraph (2) et seq.

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

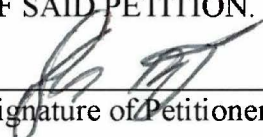
Limited Industrial

7. Specific reason(s) for seeking Special Permit **See below and Exhibit A hereto.**

400 Donald J Lynch Blvd is located in a limited industrial zone. A limited industrial zone allows for a "narcotic detoxification and/or maintenance facility" by special permit. The proposed use is a nonresidential/outpatient facility licensed under 105 CMR 164 as a substance abuse treatment program, thus fitting within the definition of a narcotic detoxification and/or maintenance facility, as set forth in Section 650-31. However, Section 650-31 sets forth limitations as to the locating of these facilities that is in violation of State and/or Federal Law. Relief is sought from those limitations.

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

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



Signature of Petitioner or Applicant

Address: 55 Concord Street, Suite 111 _____

Concord, MA 01742

Telephone No. c/o counsel 401-396-9002 _____

Date: 2/9/2024

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

Alta Behavioral Health, LLC

(Name of Petitioner)

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

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

See attached.

ATLANTIC-FULCRUM REALTY L
205 NEWBURY ST
FRAMINGHAM, MA 01701

CROSSROADS SCHOOL INC
43 BROAD ST
SUITE C300
HUDSON, MA 01749

DENALI BELLE LLC
16 BRENT DR
HUDSON, MA 01749

LYNDE EMELINE M LI EST
780 NORTH BIGELOW ST
MARLBOROUGH, MA 01752

LYNDE GARY H
KATHLEEN E LYNDE
7 ASH ST
MARLBOROUGH, MA 01752

NEW ENGLAND POWER
COMPANY
PROPERTY TAX DEPT
40 SYLVAN RD
WALTHAM, MA 02451-2286

SP CAPITAL LLC
7 DRYDOCK AVE STE 2050
BOSTON, MA 02210

TARGET CORPORATION
ATTN PROP TAX DEPT TPN-09
P O BOX 9456
MINNEAPOLIS, MN 55440-9456

THREE LP PROPERTIES LLC
325 DONALD J LYNCH BLVD
MARLBOROUGH, MA 01752

SPECIAL PERMIT-SUMMARY IMPACT STATEMENT

Applicant's Name: Alta Behavioral Health, LLC Address: 55 Concord Street, Suite 111, Concord

Project Name: Alta Behavioral Health, LLC Address: 400 Donald J Lynch Blvd

1. PROPOSED USE: (describe) Narcotic detoxification and/or maintenance facility

2. EXPANSION OR NEW: Existing space

3. SIZE: floor area sq. ft. 4,400 1st floor all floors

buildings See plan # stories lot area (s.f.)

4. LOT COVERAGE: See plan %Landscaped area: %

5. POPULATION ON SITE: Number of people expected on site at anytime:

Normal: 8 staff and 25 patients Peak period: 10 staff and 30 patients

6. TRAFFIC:

(A) Number of vehicles parked on site:

During regular hours: 12 Peak period: 17

(B) How many service vehicles will service the development and on what schedule?

None

7. LIGHT: How will the development be lit at the exterior? How much light will leave the property and enter the abutting property? As existing, see plan

8. NOISE:

(A) Compare the noise levels of the proposed development to those that exist in the area now.

No change or any expected difference from allowed uses.

(B) Described any major sources of noise generation in the proposed development and include their usual times of operation. None from the proposed use.

9. AIR: What sources of potential air pollution will exist at the development? None from the proposed use.

10. WATER AND SEWER: Describe any unusual generation of waste. None

11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will this waste be stored? Where? How much will be in storage on a daily basis? How will it be disposed? None

*Attach additional sheets if necessary



CITY OF MARLBOROUGH
MARLBOROUGH, MASSACHUSETTS 01752

City Hall
140 Main St.

Marlborough, Massachusetts 01752

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

President and Members City Council

Date: 2/9/24

SPECIAL PERMIT APPLICATION
CERTIFICATION BY PLANNING DEPARTMENT

Project Name: Alta Behavioral Health, LLC _____

Project Use Summary: Narcotic detoxification and/or maintenance facility _____

Project Street Address: 400 Donald J Lynch Blvd _____

Plate: 26 _____ Parcel: 29 _____

Applicant/Developer Name: Alta Behavioral Health, LLC _____

Plan Date: Existing building _____ Revision Date: See plan submitted 10/22/14

Dear President and Members:

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

Very truly yours,

Tin Htway
Acting Director of Planning

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

\$250.00



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

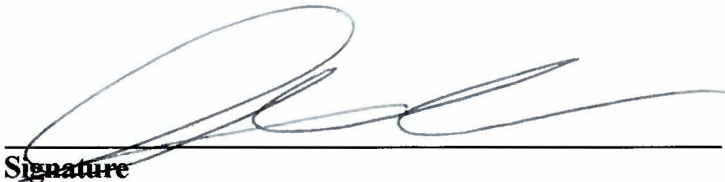
**Steven W. Kerrigan
City Clerk**

Dear Applicant,

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

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

1 SET	POLICE CHIEF <u>✓</u> 8300
1 SET	FIRE CHIEF <u>✓</u> <u>Benn</u>
1 SET	CITY ENGINEER <u>✓</u> <u>KL</u>
1 SET	DIRECTOR OF PLANNING <u>✓</u> <u>KL</u>
1 SET	CONSERVATION OFFICER (IF WETLANDS AFFECTED) _____
1 SET	BUILDING COMMISSIONER <u>✓</u> <u>KL</u>
12 SETS	OFFICE OF THE CITY COUNCIL <u>✓</u> <u>KL</u>
3 SETS	OFFICE OF THE CITY CLERK <u>✓</u> <u>KL</u> (MUST be Original & 2 Complete Sets)


Signature

Date

Thank you for your cooperation in this matter.

Sincerely,

**Steven W. Kerrigan
City Clerk**



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

**Steven W. Kerrigan
City Clerk**

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

Company Name

Alta Behavioral Health, LLC

Owner Name/Officer Name of LLC or Corporation

John Matthews, Manager

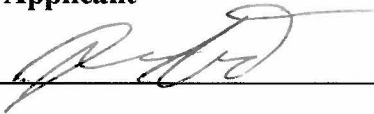
Owner/Officer Complete Address and Telephone Number

John Matthews, Manager, Alta Behavioral Health, LLC

55 Concord Street, Suite 111

Concord, MA 01742

Signature of Applicant



Attorney on behalf of Applicant, if applicable

Andrew J. Tine, Esq.

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



Tax Collector

EXHIBIT A to SPECIAL PERMIT APPLICATION OF ALTA BEHAVIORAL HEALTH, LLC

To: Marlborough City Council
From: Andrew J. Tine, Esq.
Counsel to Alta Behavioral Health, LLC
Re: 400 Donald Lynch Blvd (the "Property")
Application for Special Permit and Request for Reasonable Accommodation

Alta Behavioral Health, LLC ("Alta Health") hereby submits the below information in support of its application for a special permit.

A. Satisfaction of Criteria Under Article VI, Section 650-31 B(1)-(7)

1) Social, Economic, or Community Needs Which are Served by the Proposal

Drug and alcohol abuse is wreaking havoc on public health and safety in communities across the United States, with more than 64,000 lives lost to drug overdoses in 2016 alone.¹ In an effort to recognize and combat this growing epidemic, on March 10, 2016, the United States Senate passed the Comprehensive Addiction and Recovery Act of 2016, which documented the abuse of heroin and prescription opioid painkillers as having "a devastating effect on public health and safety in communities across the United States," with the number of drug overdose deaths now surpassing the number of traffic accident deaths: According to the Centers for Disease Control and Prevention, drug overdose deaths now surpass traffic accidents in the number of deaths caused by injury in the United States. In 2014, an average of more than 120 people in the United States died from drug overdoses every day. See Comprehensive Addiction and Recovery Act of 2016, S.524, 114th Cong., § 2. The overdose death rate in Massachusetts is more than two times the national average.² In the year 2021, opioid-related overdose deaths in Massachusetts were 2,281 people up from 547 in 2010.

The City of Marlborough ("City") does not presently have any narcotic detoxification and/or maintenance facilities. As a result, City residents are forced to seek treatment outside of their hometown. From July 1, 2022 to June 30, 2023, 161 residents of the City were admitted to Bureau of Substance Addiction Services ("BSAS"). Only 8 of those individuals received treatment from providers located within the City.³ The 153 other residents of the City received treatment an average of 18 miles away, the majority being treated in Framingham (35 patients), Westborough (29 patients), and Worcester (24 patients). This exhibits a need for providers within the City for these services, for the convenience and accessibility of the City's residents.

¹ Drug Overdose Deaths in the United States, 1999-2016. No. 294, National Center for Health Statistics, U.S. Centers for Disease Control and Prevention, December, 2017.

² According to the National Institute on Drug Abuse, the national rate of deaths due to drug overdose in 2016 was 13.3 persons per 100,000, while in Massachusetts it was 29.7 persons per 100,000.

³ BSAS level and types of services vary and patient needs vary given their personal circumstances.

Many individuals in recovery do not have readily available transportation or the ability to travel great distances.

Alta Health has made an initial application, the first step in the process of obtaining a license from the Department of Public Health/Bureau of Substance Addiction Services to operate its day program at the Property. In response, on October 6, 2023, BSAS issued a "suitability determination" confirming that there is a need for this service, as proposed by Alta Health, at the subject Property location.⁴

2) Traffic Flow and Safety, Including Parking and Loading

The subject Property has 542 parking spaces of which 12 are handicap. Alta Health's lease with the landlord of the Property provides for 20 allocated parking spaces. This does not prevent access to additional parking spaces in the event of atypical short-term demands. Alta Health will have an average parking need for staff of 8 spaces, with a maximum of 10. The parking need for patients, from prior experience is in the range of 6-7 spaces per day. Twenty (20) parking spaces is more than adequate for the proposed use and predicted demands. Further, Individuals in recovery who attend a day program are typically dropped off or take public transportation to appointments. Alta Health's members operate similar facilities in North Reading and Haverhill and based upon those operations, they have first-hand information as to the expected parking demands.

Given these are personal services, there is no significant demand for commercial deliveries. There will be tractor trailer deliveries or the use of a loading dock by Alta Health.

Attached is a traffic study performed in 1998 in relation to the development of the Property. The developer, working in conjunction with the City, has already considered the traffic flow, safety and demands, in the construction of this project, of which the less than 5,000 square feet of space to be occupied by Alta Health is a part of. The City previously approved the traffic flow and safety for this Property.

3) Adequacy of Utilities and Other Public Services

This is not a new development/building. The adequacy of utilities and other public services has already been considered and addressed by the developer and the City. The demands upon the City/Property would be the same or substantially similar if this office space were occupied by any other business use allowed by right. There are no unusual or atypical demands upon the utilities or other public services that would result from the use of the Property as proposed by Alta Health.

⁴ BSAS shall not approve an application for an initial or renewal license or approval unless there is need for the service and it determines the applicant's suitability to establish or maintain the service in accordance with 105 CMR 164.010. See 105 CMR 164.012(A).

4) Neighborhood Character and Social Structures

The Property, 400 Donald J Lynch Blvd, is located in a limited industrial zone. The useable square footage of the Property is about 116,800 square feet of office space and it is located on a 10+ acre parcel. It is over 1000' feet from any residential zone. The backside of the Property abuts Interstate 290. The front of the Property is bordered by Donald J Lynch Blvd, a significant commercial thoroughfare within the City. The area is commercial in nature and not considered residential, in fact, the limited industrial zone does not allow single family, two family or multi-family homes as a matter of right.

5) Impacts on Natural Environment

This is not a new development/building. The impact on the natural environment has already been considered and addressed by the developer and the City. The demands upon the natural environment would be the same or substantially similar if this office space were occupied by any other business use allowed by right. There are no unusual or atypical demands upon the natural environment that would result from the use of the Property as proposed herein.

6) Potential Fiscal Impact, Including Impact on City Services, Tax Base and Employment

This is not a new development/building. The impact on the City financially or from a City services, tax base, or employment standpoint has already been determined by the approved and existing development – that is 400 Donald J Lynch Blvd. The fiscal impact, demand on City services, tax base and employment opportunities will be the same or substantially similar if this office space were occupied by any other business use allowed by right. The individuals that would use Alta Health's services have already received a higher level of care. Alta Health does not offer emergency services. Its patients/clientele are in a monitoring and educational phase of recovery from substance use.

From an employment standpoint, Alta Health will be hiring staff, which will present employment opportunities for residents of the City.

7) The Ability for the Facility to: a) Meet a Demonstrated Need; b) Provide a Secure Indoor Waiting Area for Clients; c) Provide an Adequate Pickup/Drop-Off Area; d) Provide Adequate Security Measures; and e) Adequately Address Issues of Traffic Demand, Parking and Queuing

a) See response to issue 1) *supra*, the City lacks adequate facilities for the treatment of individuals in recovery from substance use. BSAS has reviewed the proposed location and made an initial suitability determination, which includes an assessment of need.

b) There is a secure, dedicated waiting area within the leased space of the Property.

c) The leased space is located next to the side entrance of the building. Patients will use the waiting area before and after their sessions, and to the extent they are waiting for a pick-up, they will be instructed to use the waiting area and wait for a text or call from their pick-up to avoid congestion/loitering outside the building.

d) The clients/patients are in recovery from substance use. They have typically come from a higher or more intense level of care. Their circumstances do not present any threat or danger to others and to assume such, would be discriminatory. In terms of "security" for the safety of Alta Health's patients, they will use the waiting area before and after their sessions, and to the extent they are waiting for a pick-up, they will be instructed to use the waiting area and wait for a text or call from their pick-up. Alta Health requires patients to sign-in/sign-out and present identification at their initial visit.

e) This has been addressed in response to issue 2) *supra*. As previously expressed, the available parking is sufficient for the proposed use. There is a dedicated waiting area, that allows patients to wait for their pickup inside, exit through a side entrance and avoid congestion and congregating of persons or vehicles at the main entrance. The proposed use will see 20-30 patients per day. The volume is not significant or unusual, nor will it create an unmanageable impact given the size of this commercial property and the availability of parking.

B. Relief from Article VI, Section 650-31 C(1) and C(2)(a)-(e)

Section C(1) The City does not have a narcotic detoxification and/or maintenance facility.

Sections C(2)(a)-(e) These provisions are unenforceable, discriminatory, and should not be considered by the City in the review of this application for a special permit. By letter dated June 12, 2017, the Office of the Attorney General reviewed a proposed bylaw from the Town of Milbury to add a "distancing requirement" substantially similar to that existing in the subject Article VI of the City's code. The Town of Milbury's bylaw similarly required that methadone clinics and similar treatment centers could not be located within 1000' of schools, parks, playgrounds, etc. The Attorney General noted that other medical facilities had no such distancing requirement. The Attorney General opined as follows:

"On its face the by-law imposes a buffer zone requirement on facilities that treat disabled individuals - a buffer zone requirement that the Town does not impose on any similar use. By singling out substance abuse treatment providers for additional land use restrictions not imposed on similar uses in Town the by-law facially discriminates against disabled persons in violation of G.L. c. 40A, § 3. See

Brockton Fire Department v. St. Mary Broad Street, LLC, 181 F. Supp. 155, 157 (D. Mass. 2016).”

The Attorney General’s office also reviewed the distancing requirement under Federal Law and noted:

“If Article 4 were subject to a challenge under the ADA and FHA, an affected Methadone Treatment Center would have to show that a "protected characteristic played a role in" the Town’s decision to treat such Centers differently from other land uses. *Id.* at 225-226. Because such a proof would require analysis of a full factual record beyond the documents submitted to the Attorney General for review under G.L. c. 40, § 32, we cannot conclude that Article 4 necessarily violates the ADA and FHA, but we caution the Town that the Article would be vulnerable to such a challenge.”

The Attorney General’s analysis concerns whether the distancing bylaw intentionally discriminates against the disabled under Federal Law. However, even if the bylaw does not intentionally discriminate against this disabled population, which we think it does, a reasonable accommodation to allow the use at the Property should be allowed as a reasonable accommodation. As such, a reasonable accommodation is requested under the ADA and Rehabilitation Act to allow Alta Health to locate its facility at the Property even if it does not comply with the distancing requirements of Sections C(2)(a)-(e). In other words, Alta Health is requesting that the City waive the 1,000 foot distancing requirement contained within Sections C(2)(a)-(e) in relation to this application for a special permit.

A locality is required to reasonably accommodate disabled persons by modifying its zoning policies, practices and procedures and may not intentionally discriminate against disabled persons. *Dadian v. Village of Wilmette*, 269 F.3d 831 (7th Cir. 2001). 28 C.F.R. § 35.130(b)(7) states: A public entity shall make *reasonable modifications* in policies, practices, or procedures when the modifications are *necessary* to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. The failure to provide a reasonable accommodation is discrimination.

Lastly, the City’s distancing requirement is more expansive than the Town of Milbury’s and effectively makes it impossible (a complete ban) to comply with to locate a narcotic maintenance facility anywhere within the City. The five (5) listed categories of uses/places from which a narcotic maintenance facility may not be within 1000’ simply covers too much ground. For example, a recreational facility has the following definition:

“Includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, mini-

golf business, video arcade, laser tag establishment, Boys and Girls Club(s), skate park, dance or gymnastic studio, movie theater, martial arts school or family-oriented pool hall, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within the City of Marlborough.”⁵

One of the uses/places set forth in the above definition of “recreational facility” is located in simply every area of the City. As such, a complete ban is effectuated by the overly broad five (5) categories of uses from which a narcotic maintenance facility may not be within 1000’. The City’s distancing requirement has a discriminatory effect and/or purpose. Again, Alta Health asks that compliance with Sections C(2)(a)-(e) not be required under these circumstances in considering its application for a special permit.

Also submitted in support hereof is the Request for Reasonable Accommodation submitted to the City via its Building Commissioner/Zoning Officer on January 23, 2024.

⁵ The City uses the definition of Recreational Facility as it appears in Section 517-2 of the Code, entitled Sex Offenders.

ANDREW J. TINE

ATTORNEY AT LAW

Via US Mail and Email – thtway@marlborough-ma.gov

January 23, 2024

Tin Htway
Building Commissioner
Inspectional Services
140 Main Street, 2nd Floor
Marlborough, MA 01752

Re: 400 Donald J Lynch Blvd, Marlborough, MA (the “Property”)
Alta Behavioral Health LLC (“Alta Health”)
Request for Reasonable Accommodation under the ADA and Rehabilitation Act

Dear Commissioner Htway:

This office represents Alta Health with respect to its intended use and occupancy of office space on the first floor of the subject Property. The usable leased office space is under 5,000 square feet. Alta Health is an outpatient mental health and substance use maintenance facility to be licensed by the Bureau of Substance Addiction Service (“BSAS”) under 105 CMR 164 et seq. I have provided herewith a copy of BSAS’s suitability determination, which is the first step in license approval under 105 CMR 164 et seq. BSAS has determined that there is a need for this service, as proposed by Alta Health, at the subject location.¹

This Property is located in a light industrial zone. The City of Marlborough’s (“City”) table of uses indicates that Narcotic detoxification and/or maintenance facilities (“Special Permit Use”) are allowed by special permit in the light industrial zone. A special permit is relief that may be sought pursuant to City’s zoning ordinance. The City has established certain requirements to obtain a special permit to locate the Special Permit Use at the Property. My client reserves its rights to pursue this avenue of relief.

In addition to local laws (i.e. the City’s zoning ordinance), relief may be provided to Alta Health to locate its intended use at the Property under Federal Law. In this instance, the ADA and Rehabilitation Act both apply, and require that the City fairly consider Alta Health’s request for a reasonable accommodation with respect to the City’s zoning ordinance to allow the locating of its proposed use at the Property.

The standard to provide a reasonable accommodation is not the same as a Special Permit.

Title II of the Americans with Disabilities Act (“ADA”) provides: [N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be

¹ The Department shall not approve an application for an initial or renewal license or approval unless there is need for the service and it determines the applicant’s suitability to establish or maintain the service in accordance with 105 CMR 164.010. See 105 CMR 164.012(A).

denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132. *Public entities* include counties, cities and towns. 42 U.S.C. § 12131(A). Zoning qualifies as a public *program* or *service* and the enforcement of a zoning ordinance constitutes an *activity* of a locality within the meaning of Title II. *A Helping Hand v. Baltimore County*, 515 F.3d 356 (4th Cir. 2008); *see also START, Inc. v. Baltimore County*, 295 F. Supp. 2d 569 (D. Md. 2003) (the administration of zoning laws is a “service, program, or activity” within the meaning of the ADA).

The ADA and the Rehabilitation Act are “separate but interrelated federal laws that protect persons with disabilities from discrimination.” *Wisconsin Community Services, Inc. v. City of Milwaukee*, 465 F.3d 737, 746 (7th Cir. 2006).

A locality is required to reasonably accommodate disabled persons by modifying its zoning policies, practices and procedures and may not intentionally discriminate against disabled persons. *Dadian v. Village of Wilmette*, 269 F.3d 831 (7th Cir. 2001). 28 C.F.R. § 35.130(b)(7) states: A public entity shall make *reasonable modifications* in policies, practices, or procedures when the modifications are *necessary* to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. The failure to provide a reasonable accommodation is discrimination.

The following are examples of case law applying the ADA in relation to local zoning laws:

- *Drug and alcohol rehabilitation programs*: The anti-discrimination provision of the ADA prohibits zoning decisions by a locality that discriminate against drug and alcohol rehabilitation programs, the clients of which are “qualified individuals with a disability.” *MX Group, Inc. v. City of Covington*, 293 F.3d 326, 345 (6th Cir. 2002) (agreeing with the trial court’s finding that “the blanket prohibition of all methadone clinics from the entire city is discriminatory on its face.”); *Bay Area Addiction Research and Treatment, Inc. v. City of Antioch*, 179 F.3d 725 (9th Cir. 1999) (holding that the ADA applied to zoning ordinance barring methadone clinics within 500 feet of residential areas); *Innovative Health Systems, Inc. v. City of White Plains*, 117 F.3d 37 (2d Cir. 1997) (holding that the ADA applies to zoning decisions involving a drug and alcohol rehabilitation center); *Habit Management, Inc. v. City of Lynn*, 235 F. Supp. 2d 28 (D.Mass. 2002) (no showing that the placement of methadone clinics in industrial or business zones poses any significant risk); *A Helping Hand v. Baltimore County*, 515 F.3d 356 (4th Cir. 2008).
- *Mental health facilities*: The anti-discrimination provision of the ADA applies to mental health facilities. *Pathways Psychological v. Town of Leonardtown*, 133 F. Supp. 2d 772 (D.Md. 2001).
- *Variance from regulations to allow reasonable use of home*: The anti-discrimination provision of the ADA prohibits zoning decisions by a locality that fail to reasonably accommodate persons with a disability to allow them the same housing opportunities

ANDREW J. TINE

ATTORNEY AT LAW

without a disability. *Trovato v. City of Manchester*, 992 F. Supp. 493 (D.N.H. 1997).

The proposed facility would not be a fundamental alteration in the nature of the City's zoning scheme as the Special Permit Use is allowed in the light industrial zone where the Property is located. A narcotic maintenance facility is *not allowed anywhere* within the City without a Special Permit. Therefore, it cannot be incompatible or a "fundamental alternation in the nature of the City's zoning scheme" to locate such a facility in one of the few zones where it is allowable. Further, there would be no undue financial and administrative burdens upon the City by allowing the proposed use at the Property in lieu of another type of occupancy.

In this instance, the City should provide a reasonable accommodation with respect to any zoning ordinance requirements that would prohibit the proposed facility at the Property given the proposed use would not impose any undue hardship or fiscal or administrative burdens upon the Town, and it would not undermine the basic purpose that the zoning ordinance seeks to achieve. Alta Health requests a reasonable accommodation to allow the use of its office suite at the Property to provide health services under its prospective license from BSAS.

Please let me know if a reasonable accommodation will be provided. If a reasonable accommodation under Federal Law must be sought from the City Council, please advise.

Sincerely,

/s/Andrew J. Tine

Andrew J. Tine

Enc.

cc: Alta Behavioral Health LLC

Debra McManus, Chair
Commission on Disabilities
140 Main Street, 4th Floor
Marlborough, MA 01752



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

MAURA T. HEALEY
Governor

KIMBERLEY L. DRISCOLL
Lieutenant Governor

KATHLEEN E. WALSH
Secretary

ROBERT GOLDSTEIN, MD, PhD
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

October 6, 2023

Edward LePage
Alta Behavioral Health, LLC
400 Donald J Lynch Blvd, Suite 104
Marlborough, MA 01752

Dear Mr. LePage,

The Department of Public Health, Bureau of Substance Addiction Service (BSAS) has received and reviewed the Notice of Intent to Apply for a Substance Use Disorder Treatment Program License (NOI) for Alta Behavioral Health, LLC.

The Department has reviewed the Notice of Intent and supporting documents. Based on this information, the Department has determined that the suitability requirements of 105 CMR 164.009 have been satisfied. Consideration for licensure is predicated compliance with 105 CMR 164.000, and all applicable state and federal regulations. This determination is valid for a period of 1 year from the date of issuance of this letter, should the approved entity fail to submit a complete application for licensure, the Department, at its discretion may require the approved entity to demonstrate suitability 105 CMR 164.009. Prior to starting the application for licensure through BSAS eLicensing please contact your regional licensing inspector (see the [webpage](#) for regional licensing inspector contact information).

To access BSAS eLicensing your Agency and its designated Virtual Gateway Access Administration must be set up by EHS VG Operations; the required forms and instructions accompany this letter.

If you have other questions or concerns, please reach out to your regional licensing inspector (see the [webpage](#) for regional licensing inspector contact information). We look forward to working with you throughout the licensure process.

Sincerely,

Erica Weil

Erica Weil, LICSW
Director, Quality Assurance and Licensing
Bureau of Substance Addiction Services
Massachusetts Department of Public Health



101 Walnut Street
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Memorandum To: Mr. G. Kent Gonzales
Nordblom Company
31 Third Avenue
Burlington, MA 01803-4470

Date: April 7, 1998

Project No.: 05845.26

From: Land Development

Re: Traffic and Access Assessment - Lots 6 & 7
Solomon Pond Park,
Marlborough, Massachusetts

INTRODUCTION

Vanasse Hangen Brustlin, Inc. (VHB) has conducted a traffic evaluation for the proposed construction of Lots 6 and 7 of the Solomon Pond Park property (formally known as the Marlborough Business Centre, EOE #4774) located on Donald J. Lynch Boulevard in Marlborough, Massachusetts. The total development for the Solomon Pond Park site which was approved under MEPA is approximately 1,000,000 square feet of office and industrial uses (refer to Attachment for "Summary of MEPA Review History"). The existing site is currently occupied by approximately 425,000 square feet of office, R&D, industrial, and recreational uses. Therefore, a balance of 575,000 square feet of office, R&D, and light industrial space has been reviewed and approved under MEPA. This development program will be distributed over the entire site, both on built and unbuilt lots.

This traffic assessment focuses on proposed development of Lots 6 and 7 within the Solomon Pond Park site. The current development program on these two lots will have less traffic impact than the already approved R&D building sizes for Lots 6 and 7 previously identified in the project's master plan. Furthermore, the access system and physical off-site roadway improvements for the overall development of the Solomon Pond Park site, which were approved by MHD based on the level of traffic projected in the FEIR, will more than adequately accommodate the traffic volumes generated by the current project proposal.

Accordingly, the purpose of this assessment is to describe the trip generation of the current development program on Lots 6 and 7 and compare the trip generation with the previous approved development program on these two lots. A qualitative discussion is also provided on the current traffic operations of three intersections identified by the City Engineer: Bigelow Street at Donald J. Lynch Boulevard; Bigelow Street at Robin Hill Street; and Bigelow Street at Elm Street. Based on field observations at these locations, existing roadway deficiencies were identified and non-structural ("soft") mitigation measures were suggested. Emphasis was placed on safety improvements and traffic calming measures.

PROJECT DESCRIPTION

The proposed project involves the construction of research and development (R&D) facilities consisting of 120,000 square feet contained in one building on Lots 6 and 7. Lots 6 and 7 are currently vacant parcels contiguous to each other on the south side of Donald J. Lynch Boulevard. Lot 6 is an approximately 6.5-acre irregularly shaped parcel located immediately west of Lot 5 which is currently occupied by Media 100, Inc. Lot 7 is a 6.55-acre irregularly shaped parcel located immediately east of Lot 8 which is currently occupied by Olicom, Inc.

Principal vehicular access to Lots 6 and 7 will be provided by the access road currently serving the Olicom, Inc. office building immediately west of Lot 7 and also from the access road currently serving the Media 100, Inc. office building immediately east of Lot 6.

PROJECT TRAFFIC

Project-related trip generation projections were calculated based on data compiled by the Institute of Transportation Engineers (ITE) and published in Trip Generation.¹ Rates published in Trip Generation represent observed trip generation rates of typical land uses throughout the United States. The vehicle trip generation for Lots 6 and 7 consisting of 120,000 square feet of R&D development is presented in Table 1.

Table 1
Project Trip Generation Summary

Weekday/Direction	Total Vehicle Trips*
Daily	1190
Morning Peak Hour	
Enter	135
Exit	<u>25</u>
Total	160
Evening Peak Hour	
Enter	25
Exit	<u>130</u>
Total	155

Source: ITE, Trip Generation, Sixth Edition, Washington, D.C., 1997; Land Use Code 760 (Research and Development Center). Trip generation based on 120,000 sf of buildable space.

The proposed development will generate an estimated 1190 daily vehicle trips. During the two critical peak hours for site trip generation, the weekday morning and weekday evening peak periods, 160 and 155 peak hour vehicle trips are expected during the morning and evening peak hours, respectively. The vehicle trip estimates refer to one-way trips, that is entering or exiting such that an estimate of 1190 daily vehicle trips relates to 595 vehicles visiting the project site.

¹ Institute of Transportation Engineers, Trip Generation, Sixth Edition, Washington, D.C., 1997.

A comparison of the project trip generation for Lots 6 and 7 based on the building sizes previously assumed in the project's master plan with the current proposed building size for Lots 6 and 7 is presented in Table 2.

Table 2
Project Trip Generation Comparison

Weekday Time Period	Previous Project Proposal* (Lots 6 and 7)	Current Project Proposal** (Lots 6 and 7)	Difference Between Previous and Current Project Proposal
Daily	1,565	1,190	-375
Morning Peak Hour	210	160	-50
Evening Peak Hour	205	155	-50

Source: ITE Trip Generation, Sixth Edition, 1997. Land Use Code 760, Research and Development Center.

* Based on the project's master plan identified in the September 1987 Supplemental EIR, Lots 6 and 7 were identified to have a build-out of 85,000 square feet (sf) and 60,000 sf of R&D space, respectively.

** The most current proposal for Lots 6 and 7 is 120,000 sf of R&D space.

As footnoted in Table 2, the building sizes for Lots 6 and 7 assumed in the project's master plan for the Solomon Pond Park project were 85,000 sf and 60,000 sf of R&D, respectively. The current proposal calls for one building consisting of 120,000 sf of R&D space on Lots 6 and 7. As shown in the table, the current project proposal will generate less traffic on a daily basis than that which was evaluated and approved in the previous master plan for the project. On a daily basis, Lots 6 and 7 in the current proposal will generate 375 fewer trips than the building sizes for these two lots in the previously approved project. During the weekday morning and evening peak hours, Lots 6 and 7 will generate 50 fewer vehicle trips than the approved project. Accordingly, the projects traffic impacts will be less than those already studied and mitigated in the previous EIR's for these two lots.

Site access for the site will be improved as a result of the construction of the development. The westerly driveway will be upgraded to provide one inbound and two outbound lanes (currently this driveway provides for one inbound and one outbound lane). The existing median separating entering and exiting traffic will be removed and an exclusive right-turn lane and an exclusive left-turn lane will be provided for the outbound movements. STOP sign control will also be provided for the outbound movements.

PRELIMINARY EVALUATION OF OFF-SITE LOCATIONS

Potential transportation improvements were investigated at three intersections in the vicinity of the Solomon Pond Park project at the request of the City of Marlborough that did not include capacity increasing measures. Emphasis was placed on safety improvements and traffic calming measures. The three locations where non-capacity related transportation improvement strategies are proposed include:

- Bigelow Street at Elm Street
- Bigelow Street at Donald J. Lynch Boulevard
- Bigelow Street at Robin Hill Street

The specific improvement measures proposed for each of these locations are summarized below.

Bigelow Street and Elm Street

Bigelow Street and Elm Street currently intersect as a "T"-type intersection. Leonard Drive is a dead end street serving about eight homes which is offset from Bigelow Street immediately to the west. STOP sign control exists along the southbound approach of Bigelow Street. Sight distance constraints exist due to the vertical crest (hill) on the Elm Street eastbound approach. High speeds along Elm Street (higher speeds than the posted speed limit of 30 mph) also make it difficult to exit from Bigelow Street as well as Leonard Drive. In addition, the southbound approach of Bigelow Street has a fairly wide right turn radius which encourages southbound traffic along Bigelow Street to stop north of the stop bar to overcome sight distance constraints. The improvement actions suggested for this location include:

- Install speed advisory signage on the Elm Street eastbound approach to the intersection;
- Add pedestrian crosswalk across the Bigelow Street approach;
- Move STOP line and STOP sign forward on the Bigelow Street approach to improve sight distance;
- Stripe a triangular island on the southbound approach to channelize the left-turn and right-turn movements; and
- Remove vegetation on the north side of Elm Street for the eastbound approach to improve visibility and safety. (Note that field observations indicate that seasonal foliage may develop on the overhanging branches of two large trees in the northwest corner of the intersection which may further impact sight distance on the southbound approach).

A conceptual sketch of the above mentioned improvements at this location are included in the Attachment.

Bigelow Street and Donald J. Lynch Boulevard

Bigelow Street and Donald J. Lynch Boulevard form a "T"-type intersection with the Bigelow Street northbound approach under STOP sign control. There is no posted speed limit along Donald J. Lynch Boulevard which gives motorists the opportunity to traverse this roadway at high rates of speed. Eastbound and westbound vehicles were observed to travel through the intersection at high speeds. Furthermore, the northbound approach of Bigelow Street is currently striped for a right-turn movement only which causes unnecessary delay for some motorists. Also, a sign pole currently exists immediately south of the STOP sign on the northbound approach which affects the motorist's line of sight on the STOP sign. Improvements suggested for this location include:

- Install speed advisory signage on the Donald J. Lynch Boulevard approaches to the intersection;
- Remove striping for right-turn only movement on the northbound approach; and
- Remove sign pole immediately south of the STOP sign pole.

Bigelow Street and Robin Hill Street

The Bigelow Street and Robin Hill Street intersection is a four-way intersection providing STOP sign control on all approaches. Advanced warning signs indicating "stop ahead" are located on the northbound and southbound approaches of Bigelow Street. Also, an advanced warning sign with a STOP sign symbol is provided on the westbound approach of Robin Hill Street. Sight distance constraints exist due to the vertical crest (hill) on the Robin Hill Street westbound approach. Motorists traveling in the southbound direction on Bigelow Street were observed to traverse the link between

Donald J. Lynch and Robin Hill Road at high rates of speed, and often times, come to a "rolling" stop and/or not stop at all. Improvements suggested for this location include:

- Install speed advisory signage on the Bigelow Street southbound approach;
- Install a flashing beacon to warn motorists of the intersection ahead; and
- Install advanced warning sign indicating "stop ahead" on the eastbound approach of Robin Hill Street.

CONCLUSIONS

VHB conducted a traffic evaluation for Lots 6 and 7 located within the Solomon Pond Park property (EOEA #4774) along Donald J. Lynch Boulevard in Marlborough, Massachusetts. The overall project was previously approved by MEPA based on a submittal of a series of EIRs prepared in the 1980's. The current proposed change to the approved project consists of downsizing Lots 6 and 7 from 85,000 sf and 60,000 sf of R&D space, as previously approved, to construct a 120,000 sf building on both lots consisting of R&D space. The assessment compared the trip generating characteristics of the current project proposal as it relates to Lots 6 and 7 of the project to the previously approved proposal for these two lots as identified in the project's master plan. The results of the assessment indicated that the current project proposal will generate less traffic than what was identified for these two lots in the EIR's. The projections for Lots 6 and 7 in the previous proposal are 375 more vehicle trips per day than that generated with the current project proposal. During the weekday morning and evening peak hours, Lots 6 and 7 in the previous proposal are 50 additional vehicle trips than the estimates for the current project proposal. Accordingly, the current project proposal will have less traffic impact than the already approved R&D building sizes for Lots 6 and 7 in the EIR's. Furthermore, the project's access system and physical off-site roadway improvements, which were approved by MHD based on the level of traffic projected in the EIR's, will more than adequately accommodate the traffic volumes generated by the current project proposal.

ATTACHMENT

- Summary of MEPA Review History
- Conceptual Improvement Plan - Bigelow Street/Elm Street

SUMMARY OF MEPA REVIEW HISTORY

Original Project

The original project proponent prepared and submitted a Draft Environmental Impact Report (EIR) (EOEA #4774) dated September 1983 for a full-build of 1,140,000 square feet of office, research and development (R&D), and light industrial space, followed by a Final EIR in November 1983 (at that time, the project was then called "Robin Hill Development"). On January 13, 1984, the Secretary of Environmental Affairs issued a certificate that the FEIR submitted on the project adequately and properly complied with MEPA and its implementing regulations.

Notice of Project Change #1

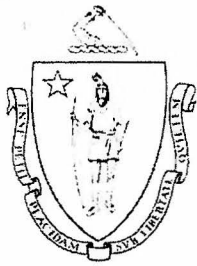
Consistent with the requirements in the Certificate on the FEIR dated November 1983, a succeeding owner of the overall site (Cabot Cabot & Forbes), filed a Notice of Project Change (NPC) describing a 300,000 square foot increase in the full-build development program (the project was then renamed "Marlborough Business Centre"). A Supplemental Draft EIR was filed in September 1987, followed by a Supplemental Final EIR in June 1988. On August 19, 1988, the Secretary of Environmental Affairs issued a certificate on the Supplemental Final EIR stating that it adequately complies with MEPA.

Notice of Project Change #2

In early 1994, New England Sports Management Corporation (NESM) proposed a 148,000 square foot skating rink facility on Lot 14 of the Solomon Pond Park site (at that time, the project was known as the "Marlborough Business Centre"). On April 26, 1994, prior to seeking a required "indirect" access permit from the Massachusetts Highway Department (MassHighway) for this newly-proposed land use on this site, the proponent filed a NPC for this skating rink facility under EOEA #4774, describing the project as a "replacement" of 155,000 square feet of office, R&D, and light industrial space. On July 8, 1994, the Secretary of Environmental Affairs issued a certificate on NPC #2 stating that no further MEPA review would be required.

Environmental Notification Form - Solomon Pond Mall

In addition, the Solomon Pond Mall development, located north of Donald Lynch Boulevard and adjacent to the Solomon Pond Park development, is significant to the Solomon Pond Park development since the mall site incorporates land that was part of the overall Solomon Pond Park project. As required, the New England Development (NED) filed an Environmental Notification Form (ENF) for the proposed 1,100,000 square foot "Regional Shopping Center" project (EOEA #9909 - now known as "Solomon Pond Mall"). As required, NED filed a Draft EIR in June 1994, followed by a Final EIR in September 1994. Because the traffic impact analysis and mitigation measures for this mall project were not well developed in these prior documents, a NPC was required to be filed to provide such further details. Therefore, a NPC was filed on November 22, 1994. On December 14, 1994, the Secretary of Environmental Affairs issued two certificates - one for the NPC and one for the Final EIR - stating that no further MEPA review would be required of the project, with the exception that a Draft MassHighway Section 61 Finding be developed and circulated for public comment. On January 31, 1995, this Draft Section 61 Finding was circulated by MassHighway. On February 24, 1995, MassHighway issued the Section 61 Finding in its final form, requiring that significant traffic mitigation measures (both physical and "soft") be implemented in conjunction with the occupancy of the mall - with particular emphasis on the I-290/Solomon Pond Road interchange.



THE COMMONWEALTH OF MASSACHUSETTS
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June 12, 2017

Jayne Marie Davolio, Town Clerk
Town of Millbury
127 Elm Street
Millbury, MA 01527-2632

**Re: Millbury Special Town Meeting of January 3, 2017 - Case # 8248
Warrant Articles # 3 and 4 (Zoning)**

Dear Ms. Davolio:

Article 4 – We must disapprove Article 4 because it is inconsistent with the Massachusetts Zoning Act (G.L. c. 40A, § 3, ¶ 4), (and as discussed below, potentially the Americans with Disabilities Act (42 U.S.C. §§, 12132 et seq.), the Rehabilitation Act (29 U.S.C. § 794(a)), and the Fair Housing Act (42 U.S.C. § 3604(f)(1) et seq.)), in its differing treatment of facilities that serve disabled persons. The reasons for our disapproval are explained below.¹

This letter briefly describes Article 4; discusses the Attorney General's standard of review of town by-laws under G.L. c. 40, § 32; and then explains why, governed as we are by that standard, we must disapprove the Article because it is in conflict with state and federal law. We emphasize that our disapproval in no way implies any agreement or disagreement with the policy views that led to the passage of the by-law. The Attorney General's limited standard of review requires her to approve or disapprove by-laws based solely on their consistency with state and federal law, not on any policy views she may have on the subject matter or wisdom of the by-law. Amherst v. Attorney General, 398 Mass. 793, 795-96, 798-99 (1986).

I. Description of Article 4.

Article 4 proposes to amend the Town's zoning by-law by adding a new (un-named) Section 54 as follows:

Any Methadone Treatment Center, Facility, Clinic, Service Center and/or, any similar type program (hereinafter Methadone Clinic) that dispenses, prescribes,

¹ In a decision issued April 11, 2017 we approved Article 3.

administers, allocates, delivers, hands out, or uses in any way, Methadone, or any synthetic version of the same or similar type drug form, may not operate and/or locate within one thousand (1,000) feet of a public school, private school, parochial school, Town or Commonwealth of Massachusetts approved charter school, a public or privately accredited preschool, accredited headstart facility, vocational school, college or university, or a Town and/or state public park or playground which is located within the Town of Millbury's boundaries. The distance between any school, park or playground, as herein described, and a proposed Methadone Clinic, will be determined by a straight line drawn between the closest boundary lot line of the Methadone Clinic to the closest boundary lot line of the school and/or park/playground as herein described.

Similar uses in the Town are not subject to such a buffer zone requirement. For example, the Town allows "nursing, convalescent or rest home, hospital" by right in the Town's Residential Districts, Suburban Districts, Bramanville Village District, Industrial I District, and the Town's Business Districts. The Town also allows a "residential social service facility" by special permit in the Residential Districts, the Suburban Districts, and the Business Districts, with no buffer zone requirement. *See* Zoning By-law, Article 2, District Regulations.

II. Attorney General's Standard of Review and General Zoning Principles.

Pursuant to G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. *Id.* at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. *Id.* at 796.² "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom, 363 Mass. at 154 (emphasis added). "The legislative intent to preclude local action must be clear." *Id.* at 155. Massachusetts has the "strongest type of home rule and municipal action is presumed to be valid." Connors v. City of Boston, 430 Mass. 31, 35 (1999) (internal quotations and citations omitted).

Article 4, as an amendment to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When

² The Attorney General also reviews by-laws for consistency with the federal constitution and statutes. This is because towns draw their legislative power from the state's Home Rule Amendment, Mass. Const. amend. art. 2, § 6 (as amended by amend. art. 89), which allows a town to exercise, subject to certain limits, "any power or function which the general court has power to confer upon it." and the Legislature has no power to confer on a town the power to enact by-laws contrary to federal law.

reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). Because the adoption of a zoning by-law by the voters at Town Meeting is both the exercise of the Town's police power and a legislative act, the vote carries a "strong presumption of validity." *Id.* at 51. "Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions." Concord v. Attorney General, 336 Mass. 17, 25 (1957) (quoting Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 117 (1955)). "If the reasonableness of a zoning bylaw is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.'" Durand, 440 Mass. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). Nevertheless, where a zoning by-law conflicts with state or federal law or the Constitution, it is invalid. See Zuckerman v. Hadley, 442 Mass. 511, 520 (2004) (rate of development by-law of unlimited duration did not serve a permissible public purpose and was thus unconstitutional). In general, a municipality "is given broad authority to establish zoning districts regulating the use and improvement of the land within its borders." Andrews v. Amherst, 68 Mass. App. Ct. 365, 367-368 (2007). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]..." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Article 4 Discriminates Against Disabled Persons in Violation of the Massachusetts Zoning Act, G.L. c. 40A, § 3, ¶ 4.

The Massachusetts Zoning Act, G.L. c. 40A, § 3, ¶ 4 prohibits town by-laws that have a discriminatory effect on disabled persons, as follows:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

Persons suffering from drug addiction are considered disabled under G.L. c. 40A, § 3, and facilities that serve this population are entitled to the protections of the statute. See S. Middlesex Opportunity Council, Inc. v. Town of Framingham, 752 F. Supp. 2d 85, 95 (D. Mass. 2010) ("Federal regulations define 'handicap' to include drug addiction or alcoholism that 'substantially limits one or more major life activities.'" (citation omitted); Granada House, Inc. v. City of Boston, 1997 WL 106688 at *9 (Mass. Super. Feb. 28, 1997) ("Massachusetts would look to federal law, including the [Fair Housing Act], in interpreting the phrase 'disabled person' and 'persons with disabilities', and that by so doing, the [Massachusetts Zoning Act] must be read to bar the City's discriminatory treatment of a group home for recovering drug and alcohol users under the Code."); Spectrum Health Systems, Inc. v. City of Lawrence, No. 2015-288-C (Essex Superior Ct.) ("Based upon the record now before this Court, the plaintiff Spectrum is entitled to those protections set out under G.L. Ch. 40A, § 3, as amended.").

The Town's by-law seeks to impose a buffer-zone requirement on a use described as: "Methadone Treatment Center, Facility, Clinic, Service Center and/or, any similar type program (hereinafter Methadone Clinic)." Although this use is not defined in Article 4 or elsewhere in the existing Zoning By-law, the by-law appears to target facilities that dispense Methadone. Methadone treatment is an established treatment for opioid addiction. *See* Massachusetts Office of Consumer Affairs and Business Regulation, Bulletin 2015-05 "Access to Services to Treat Substance Use Disorders; Issued July 31, 2015, "Medically Assisted Therapies." ³ On its face the by-law imposes a buffer zone requirement on facilities that treat disabled individuals – a buffer zone requirement that the Town does not impose on any similar use. By singling out substance abuse treatment providers for additional land use restrictions not imposed on similar uses in Town the by-law facially discriminates against disabled persons in violation of G.L. c. 40A, § 3. *See Brockton Fire Department v. St. Mary Broad Street, LLC*, 181 F. Supp. 155, 157 (D. Mass. 2016) (ruling that the City could not enforce the Massachusetts Sprinkler Law, G.L. c. 148, § 26H, against sober homes because such enforcement would constitute "facially disparate imposition of the Sprinkler Law on a group residence sheltering disabled individuals."); *see also Jeffrey's House, Inc. v. City of Fitchburg*, 2016 WL 4926415 at *7 (D. Mass. 2016) (Because the Massachusetts Sprinkler Law "imposes a health and safety requirement on sober homes... which is not imposed on homes housing families and certain unrelated groups of a similar size" it "runs afoul of the [Massachusetts Zoning Act] where it is a 'facially disparate' statute which 'shall constitute discrimination.' ") (internal citations omitted). ⁴ Because of this conflict with G.L. c. 40A, § 3, we must disapprove the by-law.

IV. Article 4 May Also Violate the ADA, the Rehabilitation Act, and the Fair Housing Act.

The Americans with Disabilities Act (42 U.S.C. §§, 12132 et seq.) ("ADA"), the Rehabilitation Act (29 U.S.C. § 794(a)) ("RA"), and the Fair Housing Act (42 U.S.C. § 3604(f)(1) et seq.) ("FHA") all prohibit municipal by-laws from discriminating against disabled persons.⁵ "Under the ADA and FHA, a public entity such as the [Town] is prohibited from implementing a zoning scheme that treats disabled individuals differently than non-disabled individuals." *U.S. v. City of Baltimore*, 845 F.Supp. 2d 640, 647-648 (D. Md. 2012) (Baltimore's zoning code requirement that residential substance abuse treatment programs obtain a conditional ordinance before locating in any district for which they were otherwise eligible was facially discriminatory in violation of the ADA and FHA).⁶ "[C]ourts have found ADA and FHA violations not only in cases of specific zoning actions such as outright permit denials, but also in cases of burdensome procedural zoning requirements uniquely placed on disabled individuals."

³ See Bulletin 2015-02: Issued July 31, 2015.

⁴ Article 4 may also be found to violate the protections for educational uses in G.L. c. 40A, § 3. Several courts have ruled that substance abuse treatment centers qualify as educational uses under that statute. *See e.g. Spectrum Health Systems, Inc. v. City of Lawrence*, No. 2015-288-C (Essex Superior Ct.). Whether a court would find the 1000-foot buffer requirement in Article 4 to qualify as a "reasonable regulation concerning ... setbacks..." allowed by G.L. c. 40A, § 3, ¶ 2 is a fact-specific analysis beyond the by-law review process in G.L. c. 40, § 32.

⁵ Because the analysis under the ADA and the RA is substantially the same, we hereafter refer only to the ADA.

⁶ The Article's definition of "Methadone Clinic" is broad enough to include residential facilities that administer Methadone, thus triggering Fair Housing Act protections.

Id. at 648 (collecting cases). Even if a local ordinance or by-law does not use the word “disability” it can be found to discriminate against disabled persons if the effect is to impose unique land use burdens on disabled persons. Community Housing Trust v. Dep’t of Consumer & Regulatory Affairs, 257 F.Supp.2d 208, 224-25 (D.D.C. 2003) (District of Columbia requirement that community based residential facilities obtain a certificate of occupancy expressly targeted individuals with disabilities, even if it did not use the word “disability,” and was thus facially discriminatory).

Here Article 4 does not use the word “disabled.” However, by specifically targeting “Methadone Treatment Centers[s]” for an additional land use requirement (a 1,000-foot buffer zone) not imposed on similar uses, it facially discriminates against disabled persons. *See Community Housing Trust*, 257 F.Supp.2d at 222-224 (by singling out community based residential facilities for certificate of occupancy requirement, ordinance facially violated FHA). If Article 4 were subject to a challenge under the ADA and FHA, an affected Methadone Treatment Center would have to show that a “protected characteristic played a role in” the Town’s decision to treat such Centers differently from other land uses. Id. at 225-226. Because such a proof would require analysis of a full factual record beyond the documents submitted to the Attorney General for review under G.L. c. 40, § 32, we cannot conclude that Article 4 necessarily violates the ADA and FHA, but we caution the Town that the Article would be vulnerable to such a challenge.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

By: Margaret J. Hurley
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Director, Municipal Law Unit
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cc: Town Counsel Brian Falk



Community Profile

Select a city/town or county

Marlborough

Population 41,793



Overview

Deaths

ER Visits

Substance Addiction Services

Deaths

Jan 2022 - Dec 2022

[Notice on deaths data](#)

27 Any Substance-Related Deaths



10 Opioid-Related Deaths

14 Alcohol-Related Deaths

7 Stimulant-Related Deaths

Emergency Events

July 2022 - June 2023

[Notice on emergency events data](#)

552 Any Substance-Related ER Visits



34 Opioid-Related ER Visits

72 Opioid-Related EMS Incidents

407 Alcohol-Related ER Visits

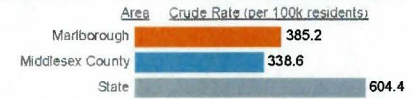
* Stimulant-Related ER Visits

Substance Addiction Services

July 2022 - June 2023

[Notice on services data](#)

161 Individuals Admitted to BSAS Services



18 mi. Avg. Distance to BSAS Provider

2,798 Bup. Rx's Filled

264 Individuals Who Received Bup. Rx's

165.0 Naloxone Kits Received

16 Naloxone Kits : Opioid Deaths Ratio

800 Fentanyl Test Strips Received



Community Profile

Select a city/town or county

Marlborough

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Overview

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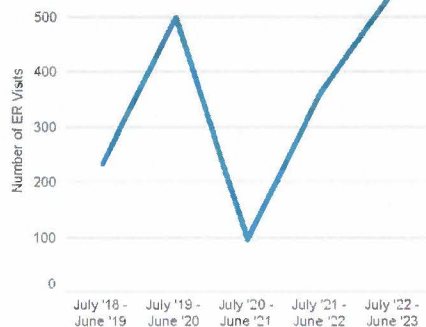
Substance Addiction Services

Show data on the following substances:

Any Substance

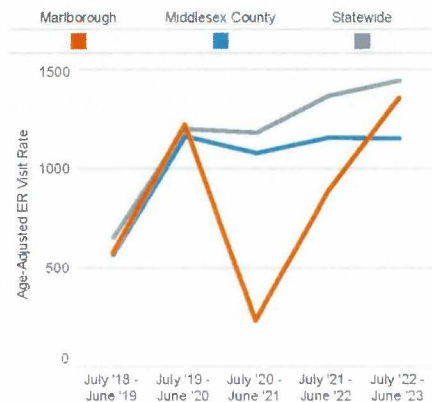
Any Substance-Related ER Visits Trend

Last 5 complete 12-month intervals of data



Age-Adjusted Any Substance-Related ER Visit Rate Trend

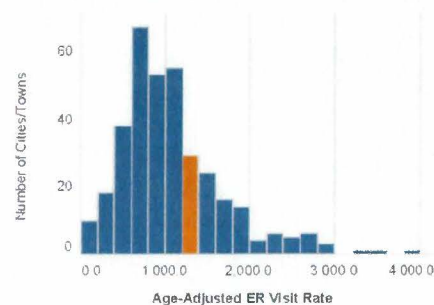
Last 5 complete 12-month intervals of data



Age-Adjusted Any Substance-Related ER Visit Rate Distribution

Last complete 12-month interval of data (July 2022 - June 2023)

The histogram shows how many cities/towns fall into each rate range, allowing for the comparison of Marlborough's rate within the distribution of all other city/town rates (Marlborough is one of the cities/towns in the orange bin).



Substance addiction services dashboard



Table of Contents

Community Profile

Select a city/town or county

Marlborough

Population 41,793

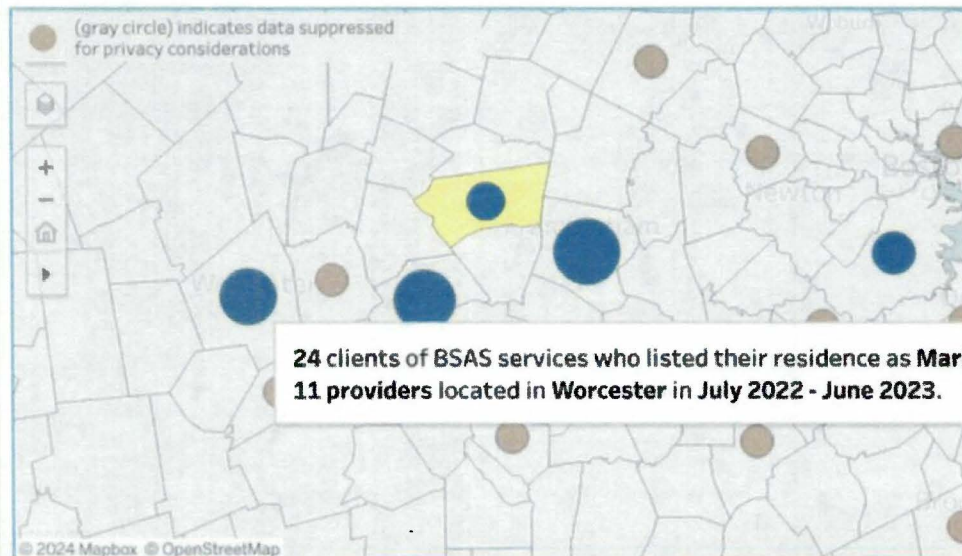


Service Accessibility Map

Help on interpreting the map

Select a Service

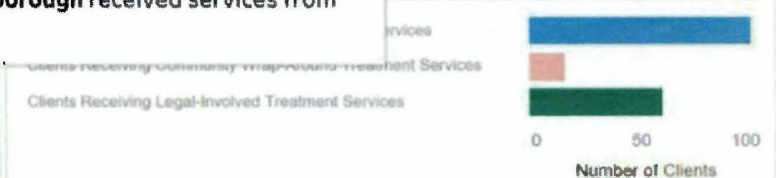
Locations of BSAS Providers That Rendered Services



Number of BSAS providers in Marlborough as of July 2022 - June 2023 by service category



Number of clients of BSAS services in July 2022 - June 2023 that listed their residence as Marlborough by service category



Substance addiction services dashboard

TOP

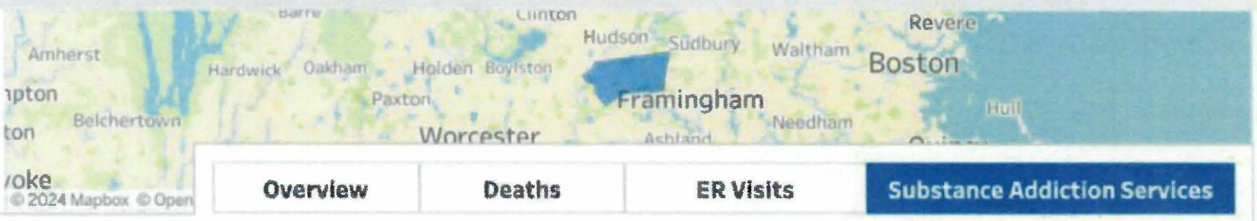
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Community Profile

Select a city/town or county

Marlborough

Population 41,793

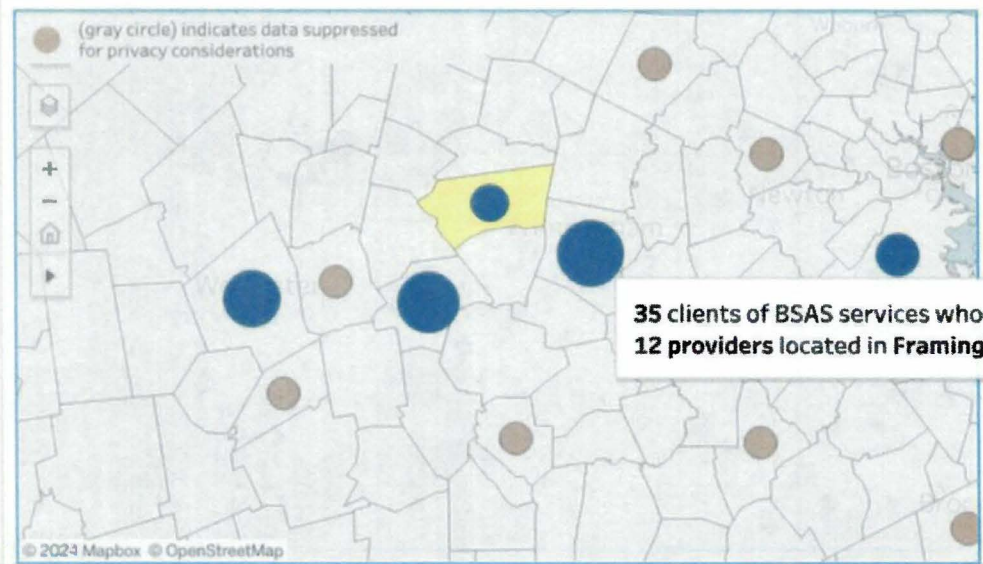


Service Accessibility Map

Help on interpreting the map

Select a Service

Locations of BSAS Providers That Rendered Services



Number of BSAS providers in Marlborough as of July 2022 - June 2023 by service category



35 clients of BSAS services who listed their residence as Marlborough received services from 12 providers located in Framingham in July 2022 - June 2023.



Substance addiction services dashboard

TOP

Table of Contents

Community Profile

Select a city/town or county

Marlborough

Population 41,793

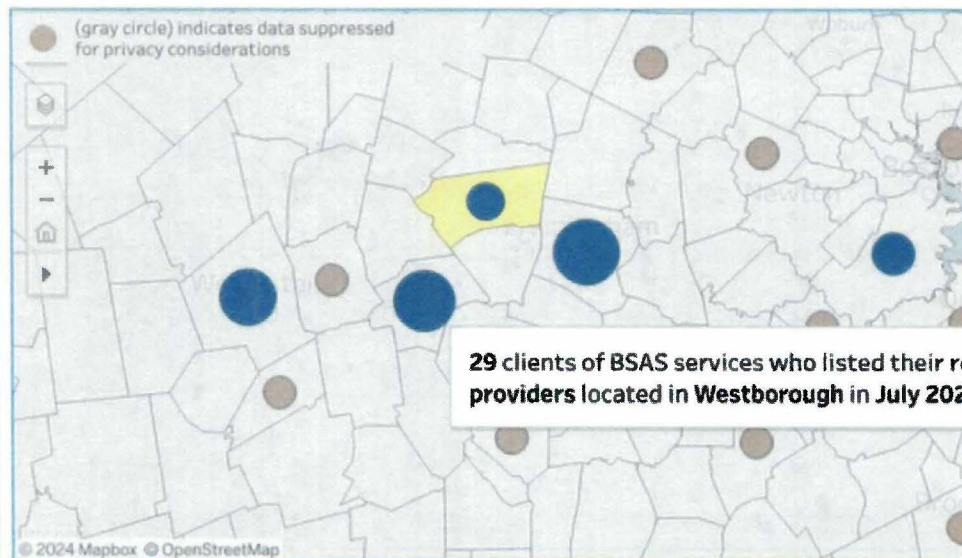


Service Accessibility Map

Help on Interpreting the map

Select a Service

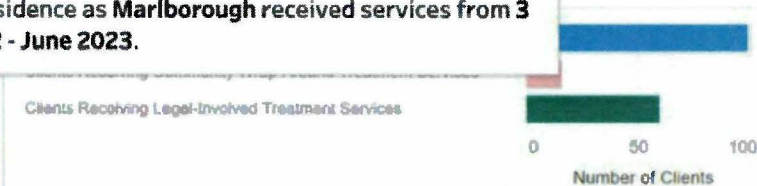
Locations of BSAS Providers That Rendered Services



Number of BSAS providers in Marlborough as of July 2022 - June 2023 by service category



Number of clients of BSAS services in July 2022 - June 2023 that listed their residence as Marlborough by service category



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Marlborough ▼

Population 41,793

Overview

Deaths

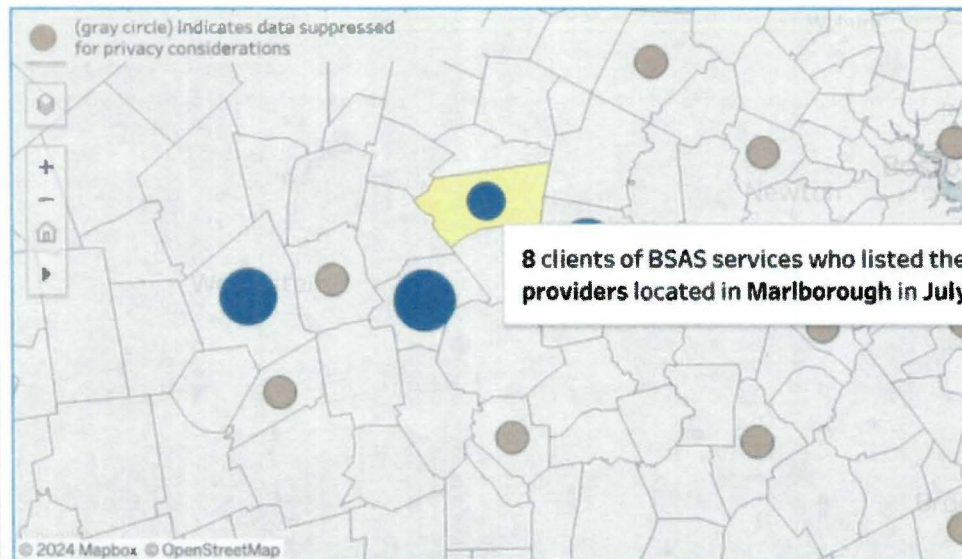
ER Visits

Substance Addiction Services

Help on interpreting the map

Select a Service

Locations of BSAS Providers That Rendered Services



8 clients of BSAS services who listed their residence as Marlborough received services from 1 providers located in Marlborough in July 2022 - June 2023.

Service Type	Percentage
Providers Offering Community-Based Treatment Services	100%
Providers Offering Community Wrap-Around Treatment Services	~15%
Providers Offering Legal-involved Treatment Services	~100%

their residence as mandated by state law.

Treatment Service Type	Number of Clients
Clients Receiving Community-Based Treatment Services	100
Clients Receiving Community Wrap-Around Treatment Services	20
Clients Receiving Legal-Involved Treatment Services	60

EXCEPTIONS

LEGAL DESCRIPTION

6. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of Donald J. Lynch Boulevard and Bigelow Road.
7. Covenant from Paramount Development Associates, Inc. ("Paramount"), for the benefit of the City of Marlborough dated October 1, 1984, recorded in Book 15843, Page 177.
8. Easement from Paramount to New England Telephone and Telegraph Company dated May 2, 1985, recorded in Book 16235, Page 13. **(NOT LOCUS)**
9. Reservation of easements as set forth in a Deed from Christopher F. Clancy, Stephen H. Anthony, Joseph W. O'Connor and Michael J. Rushman as Trustees of Marlborough Associates Realty Trust under Declaration of Trust dated June 27, 1985, filed as Document No. 684224 ("Marlborough Associates"), to the City of Marlborough dated April 20, 1990, recorded in Book 20512, Page 269. **(NOT LOCUS)**
10. Acceptance of Donald J. Lynch Boulevard by the City of Marlborough recorded in Book 20687, Page 261.
11. Declaration of Covenants and Easements for Marlborough Business Centre made by Marlborough Associates and the Trustees of Marlborough Associates Realty Trust II dated April 29, 1991, recorded in Book 21127, Page 3.
12. Order for Relocation of Donald J. Lynch Boulevard recorded in Book 25186, Page 94.
13. Order of Taking by the Commonwealth of Massachusetts Department of Public Works for Route 495, a limited access highway, recorded in Book 10188, Page 356, as affected by further alteration recorded in Book 13601, Page 102.
14. Order of Taking by the Commonwealth of Massachusetts Department of Public Works for Route 290, a limited access highway, recorded in Book 11336, Page 555, affected by further alteration recorded in Book 13601, Page 102.
15. Taking for transmission line easement by the Commonwealth of Massachusetts Department of Public Utilities for the benefit of New England Power Company dated April 7, 1976, recorded in Book 12990, Page 599, and Confirmatory Grant of Easement from G. Bonazzoli & Sons, Inc. to New England Power Company, recorded in Book 13064, Page 647. **(NOT LOCUS)**
16. Utility Easement to New England Telephone and Telegraph Company recorded in Book 16235, Page 11.
23. Easement to Massachusetts Electric Company, dated December 10, 1998, recorded in Book 29776, Page 532.
24. Easement to Massachusetts Electric Company, dated January 8, 2000, recorded in Book 32319, Page 188. **(NOT LOCUS)**
31. Matters shown on Plan Nos. 419 and 421 of 1988, including 10' wide Electric Easement, Electric and Drain Easement and Access and Utility Easement.

Beginning at a point
corner of the descr

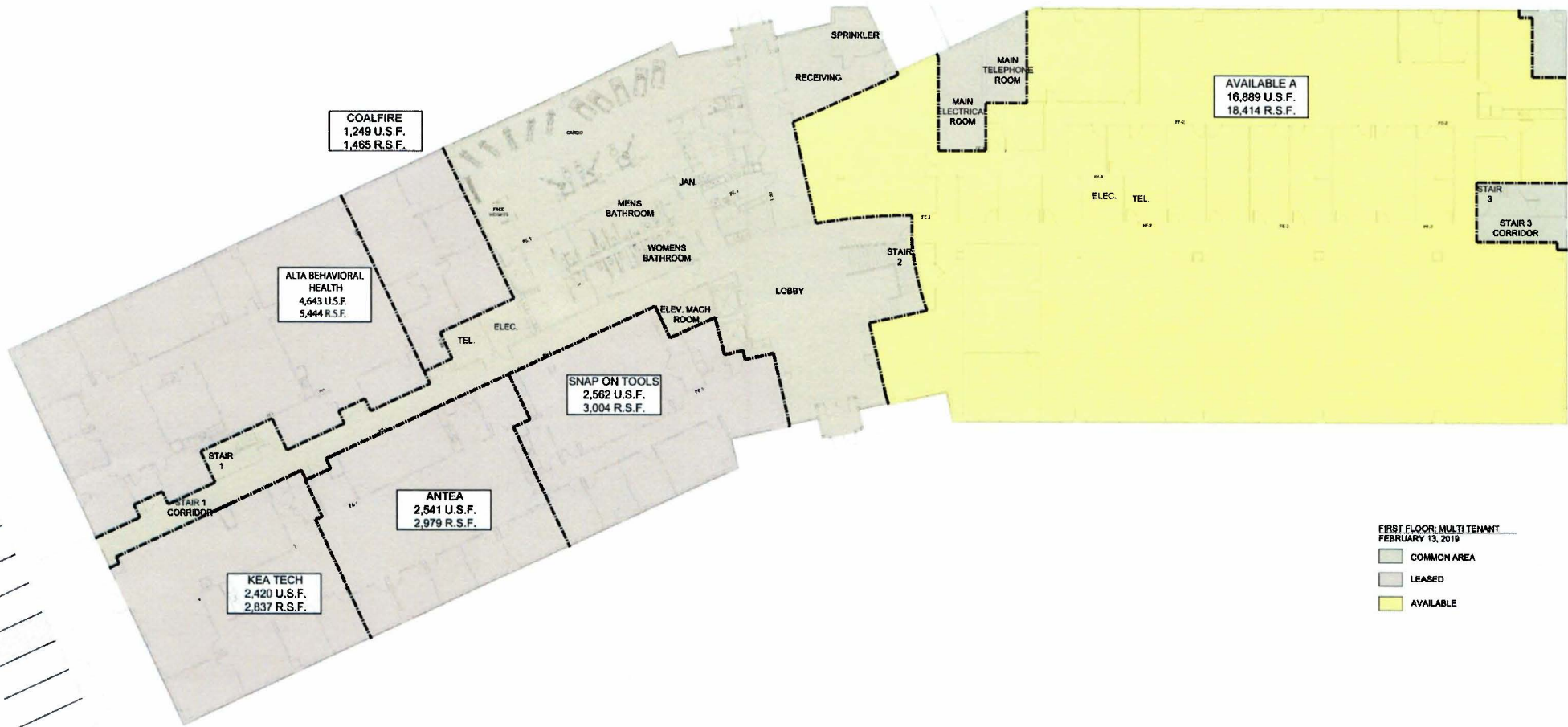
Thence running by
along a curve
concrete bou
N79°-54'-23'
thence turning and
courses:
S10°-05'-37"
along a curve
point;
S20°-01'-21"
N68°-58'-39'
S11°-53'-48"
S32°-48'-57"
S11°-53'-48"
along a curve
point;
S11°-53'-48"
thence turning and
N33°-18'-33"
N33°-18'-33"
N53°-08'-25'

Said Lot 6 contains

NOTE: The above de

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASCM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 8, 11a, 13, 14 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON OCTOBER 20, 2014.

THE PROPERTY IS LOCATED IN A ZONE X AS SHOWN ON FEMA MAP COMMUNITY PANEL NUMBER 25017C0476F, REVISED JULY 7,

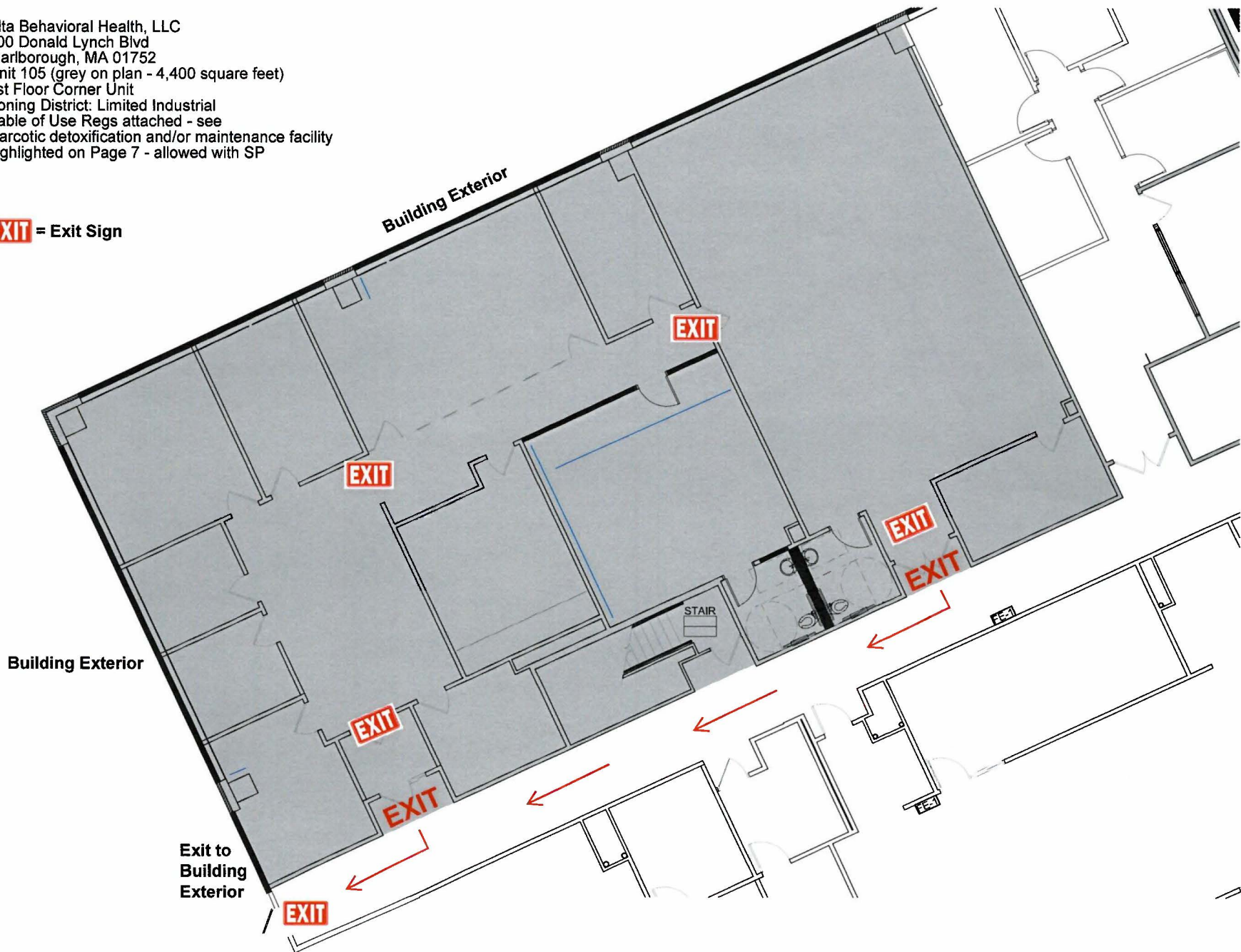


FIRST FLOOR: MULTI TENANT
FEBRUARY 13, 2019

- COMMON AREA
- LEASED
- AVAILABLE

Alta Behavioral Health, LLC
400 Donald Lynch Blvd
Marlborough, MA 01752
Unit 105 (grey on plan - 4,400 square feet)
1st Floor Corner Unit
Zoning District: Limited Industrial
Table of Use Regs attached - see
Narcotic detoxification and/or maintenance facility
highlighted on Page 7 - allowed with SP

EXIT = Exit Sign



ZONING

650 Attachment 1

City of Marlborough

Table of Use Regulations (§ 650-17)

[Amended 5-9-2005 by Ord. No. 05-100713C; 11-23-2009 by Ord. No. 09-1002277F;
3-11-2013 by Ord. No. 12/13-1005235B; 10-7-2013 by Ord. No. 13-1005481D; 2-10-2014 by Ord. No. 13/14-1005578C; 4-28-2014 by Ord.
No. 14-1005693C; 8-14-2014 by Ord. No. 12/13/14-1005247I; 12-1-2014 by Ord. No. 14-1005947C; 11-28-2016 by Ord. No. 16-1006631D;
10-16-2017 by Ord. No. 17-1006980B; 11-27-2017 by Ord. No. 17-1007002C; 4-2-2018 by Ord. No. 18-1007163-1C; 5-21-2018 by Ord. No.
18-1007163-2D; 9-10-2018 by Ord. No. 18-1007311C; 11-19-2018 by Ord. No. 18-1007337E; 12-16-2019 by Ord. No. 19-1007716E; 5-18-
2020 by Ord. No. 20-1007915D; 6-22-2020 by Ord. No. 20-1007947H]

KEY:

All uses noted with "Y" are allowed as of right, subject to any referenced conditions.

All uses noted with "SP" are allowed by special permit, subject to any referenced conditions.

All uses noted with "N" are not permitted.

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Residential Use														
Single-family	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N
Single-family, attached (1)*	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N	N
Conversion of detached one-family to a two-family (2)	SP	SP	SP	SP	Y	Y	N	Y	N	N	N	N	N	N
Two-family homes	N	N	N	N	Y	Y	N	Y	N	N	N	N	N	N
Conversion of a two-family dwelling to a three (3)	N	N	N	N	SP	SP	N	SP	SP	N	N	N	N	N
Multifamily dwelling (4)(42)	N	N	N	N	SP	SP	N	SP	SP	N	N	N	SP	SP
Comprehensive developments (§ 650-27)	Y	Y	Y	Y	Y	Y	Y	SP	Y	Y	Y	Y	N	Y

* (Numbers in parentheses correspond to subsection numbers in § 650-18, Conditions for use as noted in the Table of Uses.)

MARLBOROUGH CODE

		Zoning District Abbreviations												
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Residential Use														
Boarding and lodging homes	N	N	N	N	N	SP	N	N	SP	N	N	N	N	N
Tourist home\bed-and-breakfast	Y	N	N	N	N	Y	N	Y	N	N	N	N	SP	N
Open space development (§ 650-28)	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N	N
Trailer mobile homes (5)	SP	SP	SP	SP	SP	SP	SP	N	SP	SP	SP	SP	N	N
Retirement Community Overlay (§ 650-22)	N	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Residential accessory uses (6)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Customary home occupations (7)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Yard sales, charitable sales bazaars (8)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Two residential structures on a lot less than 80,000 square feet (9)	N	N	N	N	SP	SP	N	N	N	N	N	N	N	N
Artist studio/live/work gallery space	N	N	N	N	N	N	N	Y	N	N	N	N	Y	Y
Recording studio/live/work space	N	N	N	N	N	N	N	Y	N	N	N	N	Y	Y
Assisted living facilities (44)	N	N	SP	N	N	N	N	N	N	N	N	N	N	N

ZONING

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Business Use														
Convert buildings to office, bank, insurance use (18)	N	N	N	N	N	SP	N	Y	N	N	N	N	Y	Y
Commercial kennels and animal hospitals	SP	N	N	N	N	N	N	N	N	N	N	N	N	N
Veterinary hospital	N	N	N	N	N	N	N	SP	N	Y	N	N	SP	N
Commercial kennels	SP	N	N	N	N	N	N	N	Y	Y	N	N	N	N
Riding academy	SP	N	N	N	N	N	N	N	SP	SP	N	N	N	N
Retail sales and services <75,000 square feet gross floor area (19) (43)	N	N	N	N	N	N	N	Y	Y	Y	SP	SP	Y	Y
Retail sales and services >75,000 square feet gross floor area (19) (43)	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP
Offices, banks, insurance and financial institutions	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Schools, for business, trade, music, dance, and television\or radio broadcasting studios (but not including towers)	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y
Commercial radio and television towers and wireless communications facilities (20)	SP	SP	SP	SP	SP	SP	N	SP	SP	SP	SP	SP	SP	SP
Hotels (41)	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	Y	N
Hotels < 100 rooms														SP
Hotels with conference facilities and commercial uses (21)	N	N	N	N	N	N	N	N	SP	SP	SP	SP	Y	N

MARLBOROUGH CODE

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Business Use														
Residential conference and training center with food and recreation services (22)	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Recreation center (23)	N	N	N	N	N	N	N	Y	N	N	SP	SP	N	SP
Private clubs, nonprofit	N	N	N	N	N	Y	N	N	SP	SP	N	N	Y	N
Clubs (24)	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N
Self-service laundry	N	N	N	N	N	N	N	Y	Y	Y	N	N	SP	SP
Medical office/clinic	SP	SP	SP	SP	SP	Y	Y	Y	Y	N	N	N	Y	Y
Dental clinics	SP	SP	SP	SP	SP	Y	Y	Y	Y	N	N	N	Y	Y
Consumer service establishments	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y
Salesroom	N	N	N	N	N	N	N	SP	N	Y	N	N	N	Y
Wholesale office or showroom	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Wholesale sale and warehousing	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Commercial greenhouse	N	N	N	N	N	N	N	SP	Y	Y	Y	Y	N	N
Motels	N	N	N	N	N	N	N	N	SP	SP	SP	SP	N	N
Mixed-use development (42)	N	N	N	N	N	N	N	SP	SP	N	N	N	Y	SP
Brew pubs	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Copy shops, newspaper offices	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	Y
Place of repair for cars, boats, trucks and farm equipment (25)	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Places of assembly	N	N	N	N	N	N	N	SP	SP	SP	N	N	SP	N
Outdoor recreation uses	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N
Outdoor storage (26)	N	N	N	N	N	N	N	N	Y	Y	SP	SP	N	N
Car parking lots, garages (27)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N

ZONING

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Business Use														
Gasoline filling stations (28)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N
Auto service facilities for minor repairs, changing tires and lubrication (28)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N
Auto sales and service (25)	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Car wash (28)	N	N	N	N	N	N	N	N	SP	SP	N	N	N	N
Open air markets (29)	N	N	N	N	N	N	N	N	SP	SP	N	N	Y	N
Shopping malls	N	N	N	N	N	N	N	N	N	N	SP	SP	N	SP
Soil removal (30)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Accessory uses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Funeral homes, parlors and mortuaries	N	N	N	N	N	Y	N	Y	N	Y	N	N	N	N
Public, private or commercial recreation establishments, recreation grounds or places of amusement	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N
Restaurant, cafe	N	N	N	N	N	N	N	Y	Y	Y	SP	SP	Y	Y
Restaurant with drive-in or drive-thru facilities (31)	N	N	N	N	N	N	N	SP	SP	SP	N	N	N	SP
Restaurants serving food outdoors (31)	N	N	N	N	N	N	N	Y	Y	Y	SP	SP	Y	Y
Restaurants for employee use	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y
Drive-thru facilities	N	N	N	N	N	N	N	N	SP	SP	N	N	N	SP
Adult bookstore (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N
Adult video store (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N
Adult paraphernalia store (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N

MARLBOROUGH CODE

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Business Use														
Adult movie theatre (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N
Adult live entertainment establishment (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N
Tattoo and body piercing parlors and shops (32)	N	N	N	N	N	N	N	N	N	N	N	SP	N	N
Narcotic detoxification and/or maintenance facility	N	N	N	N	N	N		N	N	SP	SP	SP	N	N
Medical marijuana treatment center (45)	N	N	N	N	N	N		N	SP	N	SP	N	N	SP
Adult use marijuana retail; marijuana accessories retail (46)	N	N	N	N	N	N			SP	N	SP	N	N	SP
Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter (47)	N	N	N	N	N	N			N	N	SP	SP	N	N
Winery, brewery, or distillery with tasting room	N	N	N	N	N	N	N		Y	Y	Y	Y	Y	Y
Contractor's yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N	N
Landscape contractor's yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N	N

ZONING

			Zoning District Abbreviations												
		RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Agriculture, Public and Institutional Use															
Agriculture, horticulture or floriculture >5 acres (10)		Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Forest, woodlots, portable, woodworking mills (11)		Y	N	N	N	N	N	N	N	N	N	N	N	N	N
Livestock farms > 10 acres (12)		Y	N	N	N	N	N	N	N	N	N	N	N	N	N
Farms and poultry farms (13)		Y	SP	SP	SP	N	N	Y	N	N	N	N	N	N	N
Cemeteries		SP	SP	SP	SP	N	N	N	N	N	N	N	N	N	N
Hospitals and sanitarium		SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N
Correctional institutions		N	N	N	N	N	N	N	N	N	N	N	N	N	N
Golf courses, country clubs and beaches (14)		Y	SP	SP	SP	N	N	N	N	N	N	N	N	N	N
Charitable and philanthropic buildings		SP	SP	SP	SP	SP	SP	N	SP	N	N	N	N	SP	N
Churches and religious buildings (15)		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Public recreation and conservation		Y	SP	SP	SP	N	N	N	Y	N	N	N	N	N	N
Day camps		SP	SP	SP	SP	N	N	N	N	SP	SP	N	N	N	N
Public, private and religious schools, museums, libraries, parks, recreation facilities, buildings and playgrounds		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Child-care centers (16)		Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Public utilities, not including storage yards or repair shops		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Public buildings (17)		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

MARLBOROUGH CODE

			Zoning District Abbreviations												
		RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Agriculture, Public and Institutional Use															
Water towers, reservoirs		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Floodplain and Wetland Protection District (§ 650-23)		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Water Supply Protection District (§ 650-24)		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Convalescent and nursing homes		SP	SP	SP	SP	SP	Y	N	N	N	N	N	N	N	N
Chicken hens, personal use (6 or fewer) (49)		Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N
Chicken hens, personal use (between 7 and 12) (49)		Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N

ZONING

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Industrial Uses														
Airports and heliports	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Newspaper printing and publishing, job printing	N	N	N	N	N	N	N	N	N	Y	Y	Y	SP	N
Manufacturing where the majority of items are sold on premises to the consumer	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Transportation terminal and freight depots	N	N	N	N	N	N	N	N	N	SP	SP	SP	N	N
Food processing plants	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Research, experimental labs (33)	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Bakery (nonretail)	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Light non-nuisance manufacturing	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Light manufacturing, using portable electric machinery (34)	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Light manufacturing incidental to research	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Associated/accessory research uses (35)	N	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Manufacturing and/or warehousing (36)	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Manufacturing or warehouse (37)	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Retail sales accessory to manufacturing (38)	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Recreation center, indoor and outdoor	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP

MARLBOROUGH CODE

	Zoning District Abbreviations													
	RR	A-1	A-2	A-3	RB	RC	RCR	NB	B	CA	LI	I	MV	Wayside
Industrial Uses														
Power laundries	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Dry cleaning	N	N	N	N	N	N	N	N	Y	N	N	Y	N	SP
Dye works	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Packaging or bottling plants	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Electric power substation for changing bulk power to distribution voltage	N	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Accessory uses and service buildings (39)	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
Large tract development (40)	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Data storage/ telecommunications facilities	N	N	N	N	N	N	N	N	N	N	Y	Y		N
Self-service storage facility	N	N	N	N	N	N	N		SP	SP	N	N	N	N
Coffee roastery	N	N	N	N	N	N	N		SP	N	SP	SP	SP	SP