



IN CITY COUNCIL

Marlborough, Mass., _____ JUNE 7, 2021

ORDERED:

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IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT CALVERDE NATURALS, LLC

DECISION ON A SPECIAL PERMIT ORDER NO. 21-1008214C

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Calverde Naturals, LLC (the "Applicant") to build and operate an Adult Use Marijuana Retail Establishment at 239 Boston Post Road West, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation having a business address of 10 Briarwood Lane, Winchester, Massachusetts.
2. The Applicant is the prospective tenant of a commercial retail unit located at 239 Boston Post Road West, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 78 as Lot 2A (the "Site"). The Site is owned by R.K. Marlboro West, LLC, c/o RK Centers with a business address of 50 Cabot Street, Suite 200, Needham, MA 02494.
3. In accordance with Article V, § 650-17, § 650-18(A)(46), and Article VI, § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant seeks to operate an Adult Use Marijuana Retail Establishment at the Site within a single story building to be constructed by the Applicant consisting of approximately 2,800 square feet of floor area (the "Use").
4. The Site is located in the Business Zoning District with adequate frontage on Boston Post Road West (Route 20).
5. The overall Site has an area of 208,005 +/- square feet.
6. The Use entails construction of a standalone building dedicated to the use to be constructed by the Applicant within an existing development pad at the Site with an area of 2,800 +/- square feet.
7. The Applicant, by and through its counsel, filed with the City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.



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8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, existing site plans for the Site in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of plans, photographs, and concept designs of the exterior and interior of the unit associated with the Use (collectively the "Plans"), attached hereto as "Attachment A.".
9. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
10. Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, March 22, 2021. The hearing was closed on that date.
12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
13. The Applicant demonstrated that the proposed Use is not located within 500 feet of an existing public or private school providing education to children in kindergarten or grades 1 through 12 as required by § 650-32(F.1)(1) of the Marlborough Zoning Ordinance.
14. At the public hearing, there were no members of the public that spoke either in support of or in opposition to the Use.

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

- A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.



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- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council finds that the Site is located in the portion of the Business District along Massachusetts State Highway 20 (Boston Post Road) between the Northborough town line and Massachusetts State Highway Route 495 with frontage along Massachusetts State Highway 20 (Boston Post Road), in accordance with § 650-18(46)(a) and (b) of the Zoning Ordinance, and that the Site is not located within 500 feet of a school or daycare center, in accordance with § 650-32.F.1 of the Zoning Ordinance.
- D. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:
1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will provide a safe and convenient location for adults to obtain marijuana and marijuana infused products. The sales occurring within Marlborough (in lieu of neighboring communities) increases revenues to the City as a result of annual community impact payments that Calverde makes to the City based on a Host Community Agreement.
 2. Traffic flow and safety, including parking and loading:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity. There are adequate parking spaces within the retail development to both comply with the requirements of the Zoning Ordinance and to meet the anticipated need of customers. The parking lot also includes a 30'x30' fenced loading zone adjacent to a dumpster pad which can be secured in accordance with Cannabis Control Commission security preferences to ensure the highest level of safety during the unloading of product deliveries to the site.
 3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.



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4. Neighborhood character and social structures:
Finding: The Use is consistent with the established retail area in the vicinity of the Site.
5. Impacts on the natural environment:
Finding: The Use will have no greater impact than the established retail uses in the area.
6. Potential fiscal impact, including impact on City services, tax base, and employment:
Finding: The Use will be revenue positive, with additional revenues coming from a local sales tax and host community agreement impact fees. The proposed use will allow for the phased creation of over 30 jobs at the facility over the next three years. Calverde has committed to prioritize the hiring of local resident.
7. Hours of operation:
Finding: The hours of operation of the Use are specifically conditioned below.
8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:
Finding: The provision of contact information is specifically conditioned below.
9. Requiring payment of a community impact fee:
Finding: The City and the Applicant have entered a host community agreement that requires the payment of impact fees in accordance with statutory requirements.
10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Massachusetts Cannabis Control Commission:
Finding: This requirement is specially conditioned below.
11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Massachusetts Cannabis Control Commission:
Finding: This requirement is specially conditioned below.



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12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police who shall have the authority to disapprove the employment of any person(s) as a result of said background check:

Finding: This requirement is specially conditioned below.

13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises:

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: This requirement is specially conditioned below.

15. The ability for the Business to:

- a. provide a secure indoor waiting area for clients;
- b. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
- c. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals;
- d. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Business, and its impact on neighboring uses; and
- e. provide opaque exterior windows;

Finding: These requirements are specially conditioned below.

16. Signs and signage:

Finding: The signage shown on the Plans is appropriate for the Use.

17. Names of businesses, business logos and symbols, subject to state and federal law and regulations:

Finding: The name of the business, logos, and symbols associated with the Use, as provided in the Application and shown on the Plans, are appropriate for the Use.



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- E. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit to operate an Adult Use Marijuana Retail Establishment, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Construction in Accordance with Applicable Laws. Construction is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
 2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use including without limitation the regulations promulgated by the Massachusetts Cannabis Control Commission.
 3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
 4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 5. Compliance with State Requirements. In accordance with § 650-18(46)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of an Adult Use Marijuana Retail Establishment.



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6. Security.

a. As shown on the Plans, the Applicant, its successors and/or assigns, shall maintain a secure entry and exit vestibule providing a physical separation between the exterior door of the unit and interior areas of the unit where marijuana and marijuana infused products are dispensed and sold, with security personnel available during operating hours to screen individuals arriving at the unit, to ensure that interior areas of the unit are only accessible to persons over the age of 21 and to ensure that no individuals pose a direct threat to the health or safety of others.

b. As shown on the Plans, the Use shall have opaque exterior windows.

c. The Applicant, its successors and/or assigns, shall maintain adequate staffing so that customers may make purchases in an efficient manner to avoid queuing and impacts on neighboring uses.

d. The Applicant, its successors and/or assigns, shall maintain surveillance cameras capable of 24-hour video recording, archiving recordings, and the ability to immediately produce images, in, on, around, or at the Use.

7. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use. Marijuana and marijuana products shall be pre-packaged and sealed prior to arriving at the Site. Any odors associated with marijuana and marijuana infused products shall be limited to the interior of the unit. There shall be no onsite consumption or use of marijuana or marijuana infused products associated with the Use.

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

9. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.

10. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to the Massachusetts Cannabis Control Commission.



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11. Inspections and Records. The Applicant, its successors and/or assigns, shall make the Use available for regular inspections by City officials or their agents, and shall provide City officials or their agents with access to the same records which are available for inspection to the Massachusetts Cannabis Control Commission.
12. Background Checks. The Applicant, its successors and/or assigns, shall require that employees undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police, who shall have the authority to disapprove the employment of any person(s) as a result of said background check.
13. Unrelated Materials. The Applicant, its successors and/or assigns, shall not make available for sale as part of the Use any materials or items unrelated to the purposes of registration by the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.
14. Police Detail. The Applicant, its successors and/or assigns, shall employ a City of Marlborough Police detail at the Site during all operating hours for the first sixty (60) days after the commencement of operations, unless the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during certain times of the day. Within the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during any hour of operation, then the Applicant shall stop employing a City of Marlborough Police detail. Otherwise, at the end of the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is still necessary during all operating hours or at certain times, then the Applicant, its successors and/or assigns shall continue to employ a City of Marlborough Police detail until deemed unnecessary by the Chief of Police in a letter filed with the City Council. In the event a City of Marlborough Police detail is not available when required, the Applicant, its successors and/or assigns, shall obtain a private detail.
15. Lapse of Special Permit. This Special Permit shall lapse if the Applicant fails to commence retail operations at the Site within three (3) years of the date of approval of the Special Permit, not including any time during an appeal under M.G.L. c. 40A § 17. The Applicant may with good cause, request the Council extend the provisions of this section.



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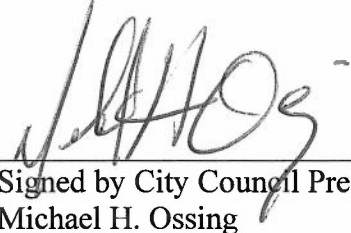
ORDERED:

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

Yea: 11 – Nay: 0

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


Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
21-1008214C

ORDER NO. 21-1008214C

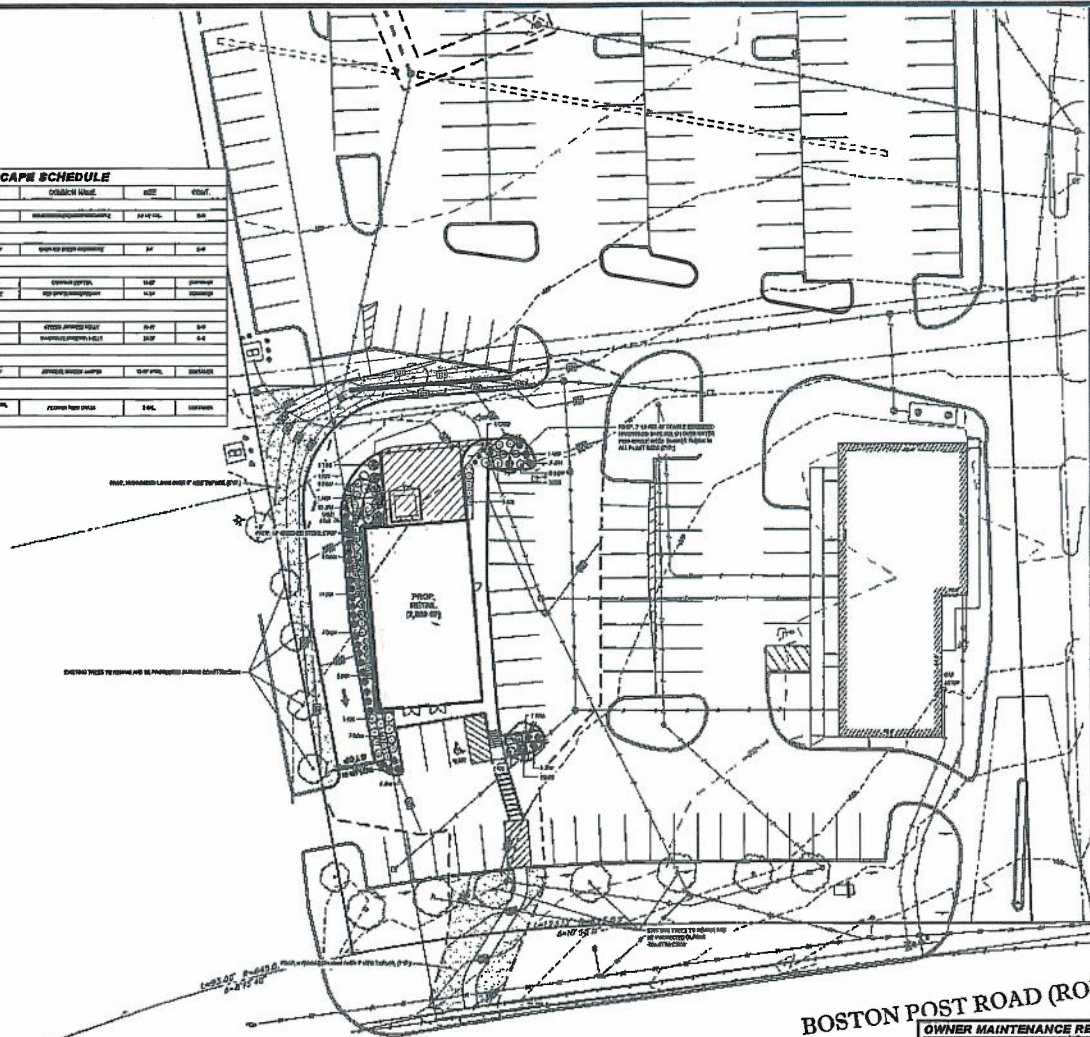
ATTACHMENT

A



LANDSCAPE SCHEDULE

NO.	QTY.	DESCRIPTION	CONTRACT VALUE	UNIT	AMOUNT
101	1	100' x 100' x 100' x 100'			
102	1	100' x 100' x 100' x 100'			
103	1	100' x 100' x 100' x 100'			
104	1	100' x 100' x 100' x 100'			
105	1	100' x 100' x 100' x 100'			
106	1	100' x 100' x 100' x 100'			
107	1	100' x 100' x 100' x 100'			
108	1	100' x 100' x 100' x 100'			
109	1	100' x 100' x 100' x 100'			
110	1	100' x 100' x 100' x 100'			



**CITY OF MARLBOROUGH
LANDSCAPE REQUIREMENTS**

SECTION	REQUIREMENTS	CALCULATIONS/NOTES
101	AS REQUIRED PLANTINGS SHALL INCLUDE BOTH TREES AND A MIX OF DECIDUOUS AND EVERGREEN SPECIES AND SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING, BE OF A SPECIES COMMON TO THE AREA, AND BE PLANTED IN A MATURE STAGE OF AT LEAST 10 FEET TALL. PLANTINGS SHALL BE PLANTED AT THE TIME OF BUILDING OCCUPANCY AND BE OF A SPECIES COMMON TO THE AREA. THE PLANTINGS SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
102	IN PLANTINGS SHALL CONSIDER AT LEAST ONE TREE AND ONE SHRUB PER 1000 SQ FT OF LANDSCAPE AREA. PLANTINGS SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE EXISTING TREES TO REMAIN
103	AS PLANTINGS ARE AN INTEGRAL PART OF THE LANDSCAPE DESIGN, THE PLANTINGS SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
104	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
105	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
106	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
107	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
108	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
109	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE
110	PLANTINGS RECEIVED BY THE CONTRACTOR SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING: TREES SHALL BE AT LEAST 10 FEET TALL AT THE TIME OF PLANTING AND BE OF A SPECIES COMMON TO THE AREA.	PROVIDE

SEED MIX KEY

[Symbol]	PROPOSED HYDROZED
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BOSTON POST ROAD (ROUTE 20)

OWNER MAINTENANCE RESPONSIBILITIES

THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE LANDSCAPE FOR A PERIOD OF 12 MONTHS AFTER THE DATE OF COMPLETION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE LANDSCAPE FOR A PERIOD OF 12 MONTHS AFTER THE DATE OF COMPLETION OF THE PROJECT.

THIS PLAN TO BE UTILIZED FOR LANDSCAPE PURPOSES ONLY

REFER LANDSCAPE NOTES & DETAIL SHEET FOR LANDSCAPE NOTES AND DETAILS



REVISIONS

NO.	DATE	REVISION



ISSUED FOR PERMIT

PROJECT NO.:	DATE:
DRAWN BY:	CHECKED BY:
SCALE:	DATE:
PROJECT:	DATE:

SPECIAL PERMIT PLANS



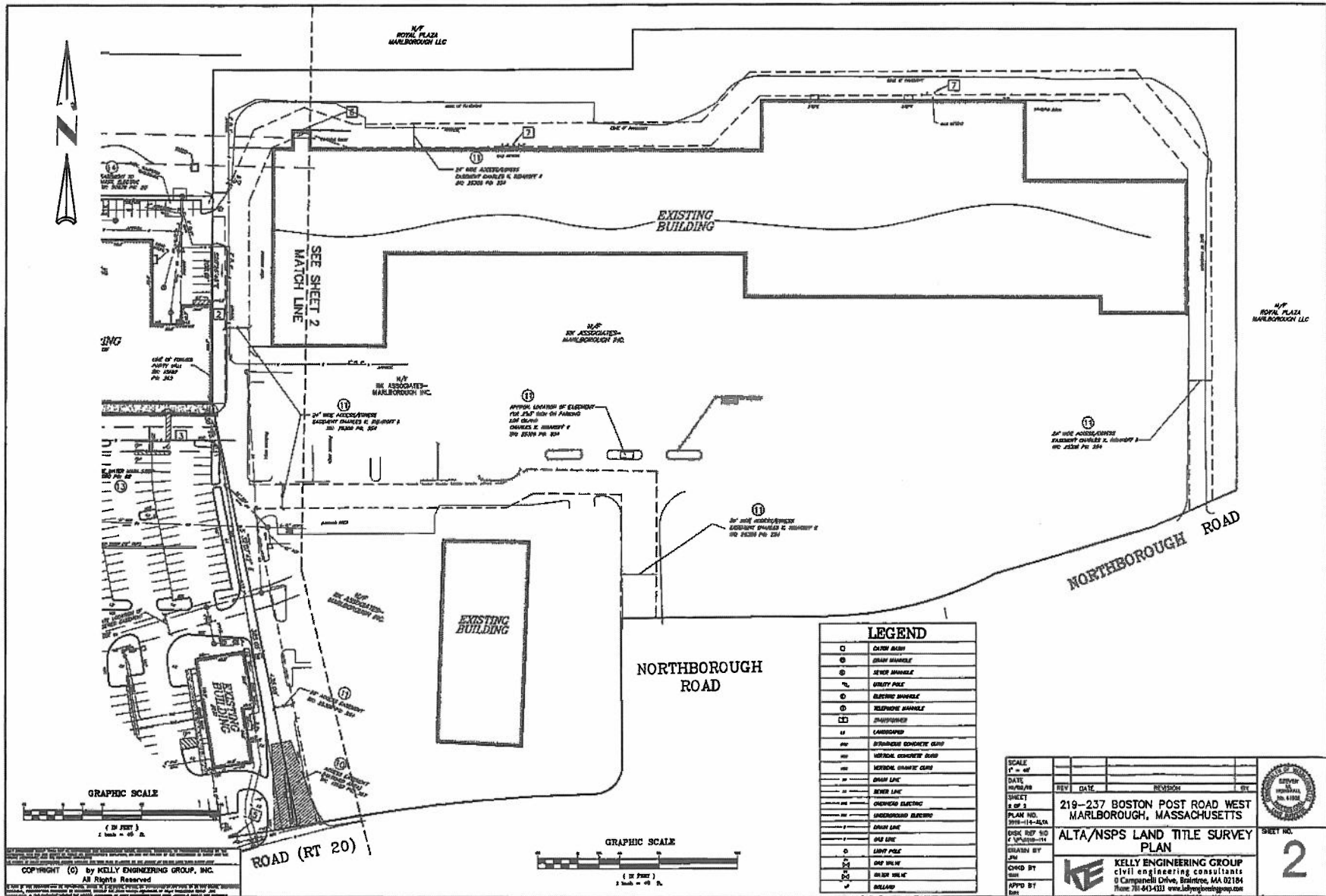
PROPOSED RETAIL DEVELOPMENT
300 FT. LOT 6A
338 BOSTON POST ROAD
CITY OF MARLBOROUGH
MIDDLESEX COUNTY,
MASSACHUSETTS



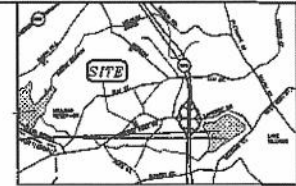
LANDSCAPE PLAN

PROJECT NUMBER:
C-701

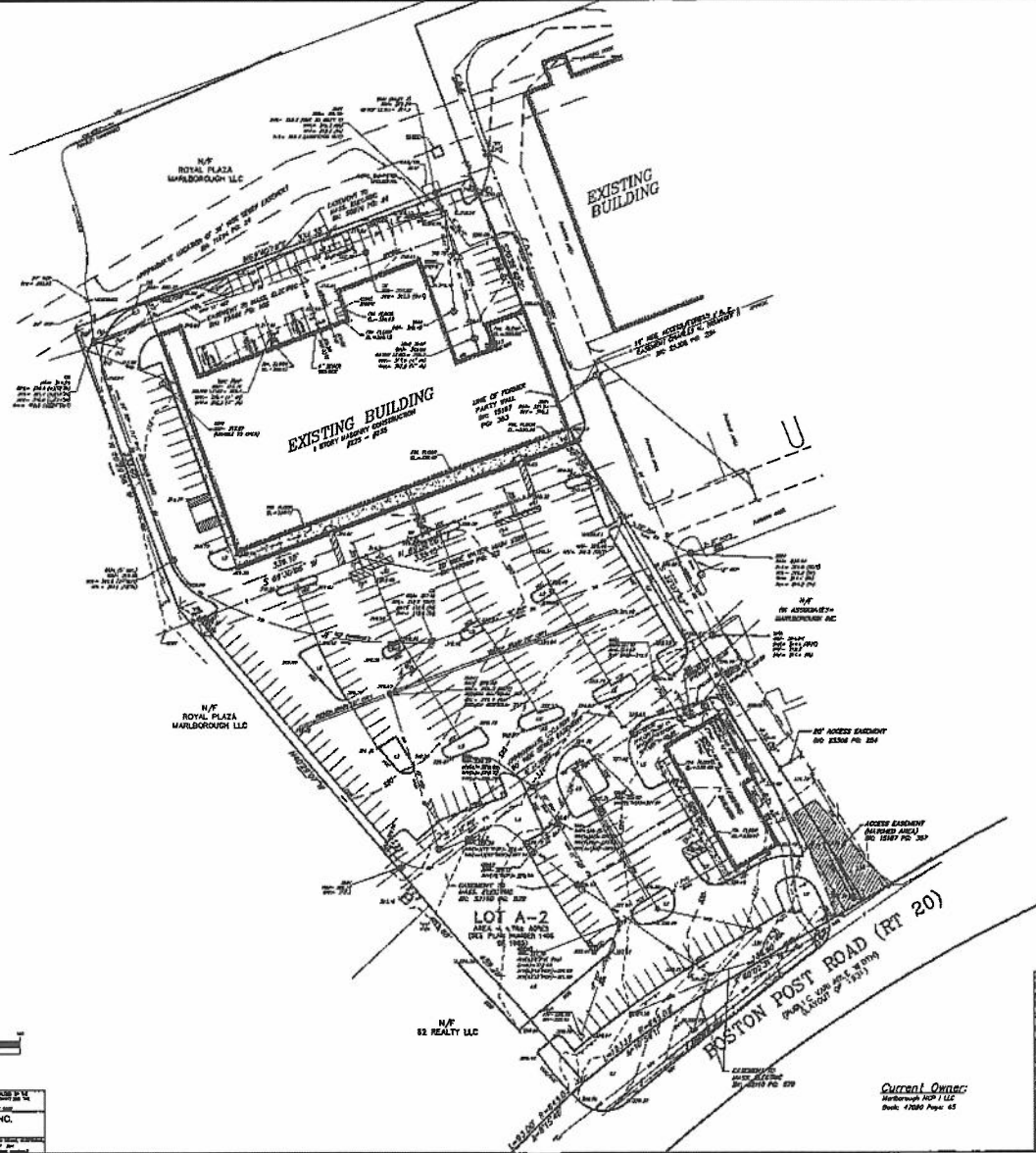
GRID DATE: 5/19/2021



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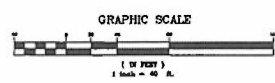


LOCUS



LEGEND	
□	GRADE BENCH
○	SEWER MANHOLE
⊙	SEWER MANHOLE
⊕	UTILITY POLE
⊖	ELECTRIC MANHOLE
⊗	EXPANSION MANHOLE
⊘	TRANSFORMER
▭	LANDSCAPE
▨	STRIPPAWS CONCRETE CURB
▩	VERTICAL CONCRETE CURB
▪	VERTICAL GRANITE CURB
—	DRAIN LINE
—	SEWER LINE
—	OVERHEAD ELECTRIC
—	UNDERGROUND ELECTRIC
—	DRAIN LINE
—	SEWER LINE
○	UTILITY POLE
○	SEWER VALVE
○	SEWER VALVE
○	SEWER VALVE
○	WELLHEAD

NOTES:
 1.) Independent features have been completed, in part, based upon information furnished by others. The information is to be considered approximate and Kelly Engineering Group, Inc. does not take responsibility for subsequent errors or omissions which may arise from incorporation into this plan as a rough indication, other such features may refer to the city, the existence of which are indicated in Kelly Engineering Group, Inc. the site, location, and character of all such features shall be verified by the appropriate authorities prior to construction.
 2.) The site and surface measurements depicted herein were obtained by a field survey of the property conducted in April of 2015 by Kelly Engineering Group, Inc.



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Current Owner:
 Marlborough 427 LLC
 Book: 4700 Page: 43

SCALE	1" = 40'
DATE	02/19/19
SHEET	1 OF 1
PLAN NO.	219-237 BOSTON POST ROAD WEST MARLBOROUGH, MASSACHUSETTS
DATE REV. NO.	1/1/2018-121
DRAWN BY	JM
CHECK BY	JM
APPROVED BY	JM
CROSSPOINT ASSOCIATES 219-237 BOSTON POST ROAD WEST MARLBOROUGH, MASSACHUSETTS EXISTING CONDITIONS PLAN	
KELLY ENGINEERING GROUP, INC. CIVIL ENGINEERING CONSULTANTS 9 CHARLES STREET SUITE 101 • BOSTON PHONE 781 843 4333 FAX 781 843 4338	
SHEET NO.	1





