



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 11, 2017

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ORDERED:

## IN CITY COUNCIL

### DECISION ON A SPECIAL PERMIT

Special Permit  
BSL Marlborough Development LLC  
Order No. 17-1006816E

### DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 17-1006816E

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to BSL Marlborough Development LLC (the "Applicant") to build and operate an assisted living facility with a special care unit at 421 Bolton Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

### FINDINGS OF FACT AND RULING

1. The Applicant, BSL Marlborough Development LLC, is a duly organized and existing Limited Liability Company having a business address c/o Benchmark Senior Living, 201 Jones Road, Third Floor West, Waltham, Massachusetts 02451.
2. Richard and Jill Cochrane are the owners of the property located at 421 Bolton Street, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 30, Parcels 13 and 14, and the City of Marlborough is the owner of the property shown on the Marlborough Assessors Maps as Map 30, Parcel 700 (the "Site").
3. The Applicant proposes to build and operate a new 104-bed, 60,823+/- square foot assisted living facility with a special care unit at the Site (the "Use").
4. The Site is located in the Residence A-2 Zoning District, north of U.S. Route 20 and with frontage on Massachusetts State Route 85.
5. The Site has an area of approximately 677,332 square feet (15.5 acres).
6. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.



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7. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan entitled "Site Development Plans for Benchmark Senior Living" prepared by Bohler Engineering and dated January 20, 2017, revised March 28, 2017, May 31, 2017 and July 18, 2017 (the "Plans").

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

9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

10. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the Application on Monday, May 8, 2017. The hearing was opened and closed on that date. On June 19, 2017, the City Council approved an Agreement to Extend Time Limitations to extend the time for final action on the Application to September 12, 2017.

11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Project, describing its impact upon municipal services, the neighborhood, and traffic.

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

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

B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.



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C. In accordance with Section 650-18(44)(c) of the Zoning Ordinance of the City of Marlborough, the City Council also finds that:

1. There is adequate access to and from the proposed assisted living facility for emergency response vehicles, insofar as the Plans demonstrate sufficient space for emergency response vehicles to enter and exit the Site.
2. Alternative access to the Site is not necessary, based upon the sufficiency of the Site's primary access in the event of an emergency evacuation.
3. There are sufficient provisions for medical transport, based upon the Site's access ways and layout.
4. The overall impact of the proposed assisted living facility will not adversely affect the neighborhood or the City, as the Site is located in the vicinity of similar or complimentary land uses and the Use, as conditioned in this Decision, will have minimal impact on the neighborhood and the City.

D. In accordance with Section 650-18(44).d.(1) and Section 650-59.C(12)(a) of the Zoning Ordinance of the City of Marlborough, the City Council also finds that the Applicant has agreed to donate approximately 10 acres of the Site to the City for municipal purposes (the "Donated Land"). The Donated Land will benefit the City and its citizens generally, and prior to the separation of the Donated Land from the Site, the Use conformed to the dimensional criteria set forth in Section 650-41 of the Zoning Ordinance of the City of Marlborough.

E. The Donated Land includes a walking trail in the southeast corner as shown on Sheet 4 of the Plans. The walking trail connects the 1LT Charles W. Whitcomb School and the athletic fields on the Marlborough High School property, although the trail was disturbed as a result of the construction of the athletic fields. The Applicant has agreed to clear the vegetation for a path to make the connection from the base of the slope by the athletic field around the slope out to Stevens Street. Such work shall be complete before the issuance of a final Occupancy Permit for the Use. The precise location of the clearing to reconnect the path will be identified in the field by the Applicant and the City Conservation Officer.



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F. The City Council finds that the Plans comport with the design standards set forth in Section 650-18(44).d(3).

G. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to build and operate an assisted living facility with a special care unit as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Project.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the City Council or the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.



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5. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

6. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s) credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

7. Parking. The Applicant shall provide 65 parking spaces at the Site, plus 10 additional overflow parking spaces, as shown on the Plans, which exceeds the parking required for the Use under Section 650-48.A(16) of the Zoning Ordinance of the City of Marlborough by 15 spaces. Prior to the issuance of the final Occupancy Permit, the Applicant shall enter into a written agreement with a third party for the provision of any off-site parking needed for holidays and special events at the Site.

8. Donated Land: Lot Coverage. Pursuant to Finding D of this Decision and in accordance with Section 650-18(44)d(1) of the Zoning Ordinance of the City of Marlborough, the Applicant shall donate the Donated Land to the City for municipal purposes, and following the conveyance of the Donated Land to the City, the maximum lot coverage allowed for the Use as shown on the Plans may exceed 30% notwithstanding the dimensional criteria set forth in Section 650-41 of the Zoning Ordinance of the City of Marlborough. The Donated Land shall be deeded to the City at the time of the closing of the Applicant's acquisition of the Site, subject to the City's conveyance of the "Sewer Parcel" and "drainage easement" as referenced in condition 9 below.



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9. Mitigation Payment. The Applicant has agreed to donate One Hundred and Fifty Thousand Dollars (\$150,000, the "Mitigation Payment") to the City to mitigate the impacts of the Use on the City. The Mitigation Payment shall be made to the City within 60 days of the issuance of the Building Permit for the Use. The Mitigation Payment will benefit the City and its citizens generally. The Mitigation Payment includes Fourteen Thousand Dollars (\$14,000) in compensation to be paid by the Applicant to the City pursuant to the Applicant's February 16, 2017 Request to Purchase or Have City-Owned Property Abandoned for 13,401 SF+/- Land Off of Bolton Street, Assessor's Map No. 30, Parcel No. 700 ("Sewer Parcel"), subject to the City Council's approval of the Applicant's Request by the City Council. The City would retain a permanent sewer easement in the Sewer Parcel. The \$14,000 valuation of the Sewer Parcel was established pursuant to a November 1, 2016 appraisal by Kenneth J. Croft III, Esq. of Foster Appraisal & Consulting Co., Inc. The Mitigation Payment also includes any compensation to be paid by the Applicant to the City for the acquisition of a drainage easement from the northern property line of the Site to the Proposed Connection to Existing Catch Basin on the property of the City of Marlborough (Marlborough Assessors Maps, Map 30, Lot 12) between the property line to the Site and Poirier Drive, as shown on Sheet 6 of the Plans, and subject to the City Engineer's review and the City Council's approval. The Mitigation Payment is intended to subsidize the City's construction of a concession stand and bathrooms for the athletic fields at the 1LT Charles W. Whitcomb School.

10. Traffic Mitigation. To mitigate any traffic-related concerns related to the proposed project, the Applicant has agreed to make the improvements specified in June 20, 2017 Memorandum of Jason Adams, P.E., PTOE of McMahon Transportation Engineers & Planners re "Vehicle Speed and Safety Assessment, Bolton Street (Route 85), Marlborough, Massachusetts;" and the June 25, 2017 Memorandum from Timothy F. Collins, Assistant City Engineer to the Traffic Commission re "Traffic Safety Plan in the Vicinity of #421 Bolton Street – for Benchmark Senior Living," all as approved by the City's Traffic Commission on July 25, 2017. Such traffic-related improvements shall be complete before the issuance of the final Occupancy Permit for the Use.

11. The Applicant shall hold a job fair in the City for the purpose of giving Marlborough residents an opportunity to apply for employment at the assisted living facility. This condition may be satisfied by the Applicant's participation in a job fair organized by the Marlborough Economic Development Corporation.



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12. Recording of Decision. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, 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: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey

  
Signed by City Council President  
Edward J. Clancy

ADOPTED  
In City Council  
17-1006816E



McMAHON ASSOCIATES  
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 Gary R. McNaughton, P.E., PTOE

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 Maureen Chlebek, P.E., PTOE  
 Dean A. Carr, P.E.

## MEMORANDUM

**TO:** Eric Gardner  
**FROM:** Jason Adams, P.E., PTOE  
**DATE:** June 20, 2017  
**RE:** Vehicle Speed and Safety Assessment  
 Bolton Street (Route 85)  
 Marlborough, Massachusetts

McMahon Associates has completed an assessment of the vehicle speeds and crash history of Bolton Street (Route 85) in the immediate vicinity of the proposed assisted living facility project to be located in the southeast corner of the intersection of Bolton Street (Route 85) and Poirier Road in Marlborough, MA. Based on the direction of the City Council Urban Affairs Committee, McMahon has reviewed vehicles speeds and Massachusetts Department of Transportation (MassDOT) crash records, and has developed a set of improvements that could be implemented as part of the Benchmark project.

To assess existing vehicle speeds on Bolton Street (Route 85), Automatic Traffic Recorder (ATR) data was collected for a 48-hour period on Wednesday, May 24, 2017 and Thursday, May 27, 2017. Data was collected on Bolton Street (Route 85), south of the intersection with Poirier Road in the vicinity of the proposed site driveway. The Bolton Street (Route 85) data is summarized in Table 1, below.

**Table 1: Bolton Street (Route 85) Vehicle Speeds**

<u>Speeds (mph)</u>	<u>Northbound</u>	<u>Southbound</u>
Average	37	35
85th Percentile	41	38
Percent > 35 mph	62.8%	42.9%

The posted speed limit along Bolton Street (Route 85) is 35 miles per hour. As shown in Table 1, the average speed in the northbound direction was measured to be approximately 37 miles per hour and the average speed in the southbound direction was measured to be approximately 35 miles per hour. The 85<sup>th</sup> percentile speed was shown to be greater than the posted speed limit for both directions of travel on Bolton Street (Route 85), with 41 miles per hour recorded in the northbound direction and 38 miles per hour recorded in the southbound direction. Based on the ATR data, approximately 62.8% of the vehicles traveling in the northbound direction were traveling over the posted speed limit. In the



southbound direction, approximately 42.9% of the vehicle traffic was recorded to be traveling above the posted speed limit.

In order to determine if existing safety deficiencies are present along Bolton Street (Route 85) in the vicinity of the project, crash data for three locations along Bolton Street (Route 85) was obtained from MassDOT for the most recent three-year period available. This data includes complete yearly crash summaries for 2012, 2013, and 2014. A summary of the crash data is presented in Table 2, attached.

As shown in Table 2, the intersection of Bolton Street (Route 85) and Poirier Road is shown to have experienced a total of 19 reported crashes over the three-year period from 2012 to 2014. The resulting crash rate at the intersection is shown to be slightly above both the statewide and District 3 crash rates for an unsignalized intersection, 0.58 and 0.65 crashes per million entering vehicles, respectively. Marlborough High School is located at the end of Poirier Road, and the increased number of crashes at the intersection can likely be attributed to the high concentration of inexperienced drivers traveling through the intersection. A majority of the crashes, 15 of 19, occurred between 7:00 AM and 4:00 PM, when students would likely be coming from or traveling to the high school.

In addition to the intersection with Poirier Road, crash data was obtained at two locations on Bolton Street (Route 85), south of the proposed assisted living facility. The intersection of Bolton Street (Route 85) and the Bolton Manor Nursing Home driveway is shown to have experienced eight reported crashes between 2012 and 2014. The intersection of Bolton Street (Route 85) and the 397 Bolton Street Residences is shown to have experienced three total crashes over the three-year period reviewed. Both driveway locations were shown to have experienced crash rates lower than the statewide and District 3 average crash rates. Similar to the intersection of Bolton Street (Route 85) and Poirier Road, a majority of the crashes occurring at both driveway locations, 8 of 11, were reported to have occurred between 7:00 AM and 4:00 PM.

While the review of vehicle speeds and crash history does not indicate any significant speeding or safety issues, McMahon would recommend that minor improvements be constructed on Bolton Street (Route 85) to reduce vehicle speeds in the vicinity of the proposed project. The recommended improvements include the installation of upgraded signage along Bolton Street (Route 85) and the addition of pavement markings along Bolton Street (Route 85) to designate shoulders. The upgraded roadway signage would be compliant with the Manual on Uniform Traffic Control Devices (MUTCD) and would provide more information for drivers traveling along the roadway. The addition of pavement markings to designate roadway shoulders would reduce the width of the travel way along Bolton Street (Route 85). Based on studies conducted by MassDOT and the Federal Highway Administration (FHWA), the reduction of travel lane width is shown to be a traffic calming measure and is expected to result in reduced vehicle speeds. Figure 1 shows the recommended improvements.

Based on a review of the existing conditions on Bolton Street (Route 85), including speed and crash data, the recommended improvements shown in Figure 1 are expected to reduce vehicle speeds and improve safety along the roadway.

**Table 2: Crash Summary**

	Bolton Street at Poirier Road	Bolton Street at Bolton Manor Nursing Home	Bolton Street at 397 Bolton Street Residences
<b>Year</b>			
2012	3	4	0
2013	8	3	1
2014	<u>8</u>	<u>1</u>	<u>2</u>
<b>Total</b>	19	8	3
<b>Type</b>			
Angle	6	4	0
Rear-end	6	1	1
Sideswipe	2	1	0
Head-on	0	0	0
Single Vehicle	3	2	2
Other	<u>2</u>	<u>0</u>	<u>0</u>
<b>Total</b>	19	8	3
<b>Severity</b>			
Property Damage	16	6	2
Personal Injury	1	1	1
Fatality	0	0	0
Unknown	<u>2</u>	<u>1</u>	<u>0</u>
<b>Total</b>	19	8	3
<b>Weather</b>			
Clear	13	4	0
Cloudy	3	1	0
Rain	3	0	0
Snow	0	1	3
Ice	0	0	0
Sleet	0	1	0
Fog	0	0	0
Unknown	<u>0</u>	<u>1</u>	<u>0</u>
<b>Total</b>	19	8	3
<b>Time</b>			
7:00 AM to 4:00 PM	15	5	3
4:00 PM to 6:00 PM	1	2	0
6:00 PM to 7:00 AM	<u>3</u>	<u>1</u>	<u>0</u>
<b>Total</b>	19	8	3
Crash Rate	0.94	0.41	0.16

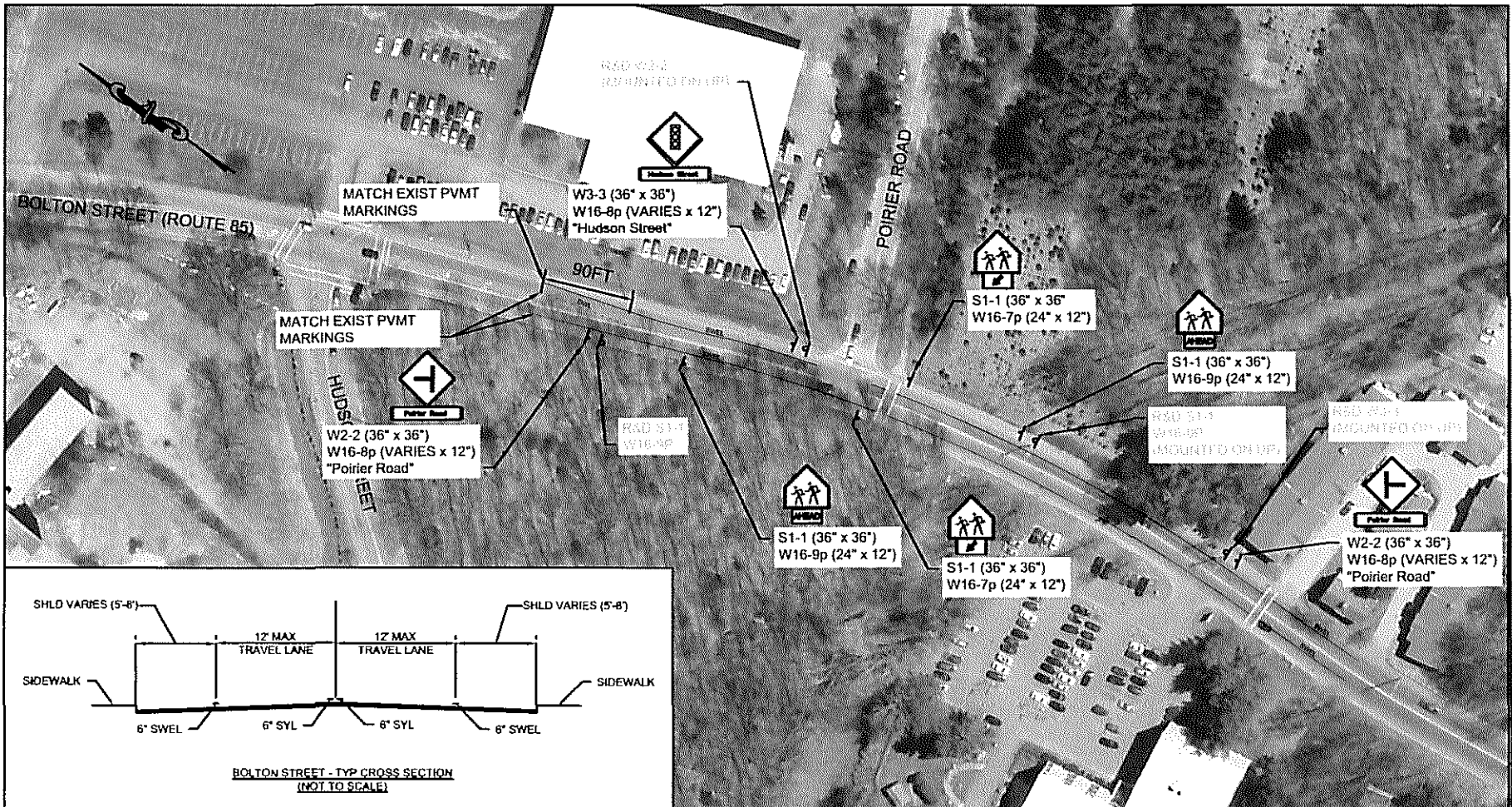


Figure 1  
 Safety Improvements  
 Bolton Street (Route 85)  
 Marlborough, MA





CITY OF MARLBOROUGH  
*Department of Public Works*  
Engineering Division  
135 Neil Street  
Marlborough, Massachusetts 01752  
(508) 624-6910 Ext. 7200  
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**MEMORANDUM**

**TO: TRAFFIC COMMISSION**

**FROM: TIMOTHY F. COLLINS – ASST. CITY ENGINEER**

**DATE: JULY 25, 2017**

**RE: TRAFFIC SAFETY PLAN IN THE VICINITY OF #421 BOLTON STREET  
– FOR BENCHMARK SENIOR LIVING**

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At the request of the Urban Affairs Committee of the Marlborough City Council, McMahon Transportation Engineers and Planners on behalf of Benchmark Senior Living came before the Traffic Commission with a presentation regarding upgrades to traffic safety in the vicinity of their proposed site - #421 Bolton Street.

The presentation made of behalf of Benchmark Senior Living has proposed pavement markings that would create two 12-foot travel lanes with shoulders varying in width between 5 ft. – 8 ft. between the Housing for Elderly site and in front of the Navin Skating Rink. The narrowing of the travel lane will act as a “traffic calming” measure and slow down traffic through this corridor. I would be concerned that the shoulders that would be created would be used for parking lanes (potentially using the sidewalks as well, when parking). A No Parking regulation should be incorporated into this design.

The signage plan includes advance warning signs for the side streets: Hudson Street, as a signalized intersection and Poirier Road (should be Drive), the driveway to Marlborough High School. The plan also replaces the existing signage, for school crosswalks, and placing them on new post. As this is a sidewalk plow route, signs on utility poles last longer than sign on their own post. I would recommend that the new signage be installed and that the locations of the signs remain as is.

After the presentation Councilor Clancy was asking that the proponent make improvements to the crosswalk located at the driveway exiting #397 Bolton Street – Bolton Street Senior Housing. The crosswalk ramp at the driveway exiting #397 Bolton Street is A.D.A. compliant, but the crosswalk ramp on the opposite side of the road – Marlborough Hills Nursing Home, is not A.D.A. complaint. There is granite curbing at the crosswalk which would need to be removed and ramps and a landing installed in the sidewalk.

Councilor Clancy also suggested the use of “electronic signage” as the signage suggested by McMahon to improve visibility on the posted speed in that area of Bolton Street. The posted Speed Limit through this section of Bolton Street (in both directions) is 35 MPH. electronic speed feedback signs have been permanently installed on Farm Road and Bigelow Street and movable electronic speed feedback have recently been purchased by the Marlborough Police Department and are being used at various locations throughout the City of Marlborough. These electronic speed feedback signs work very well to control speeding and would be helpful to deter speeding through this section of Bolton Street.

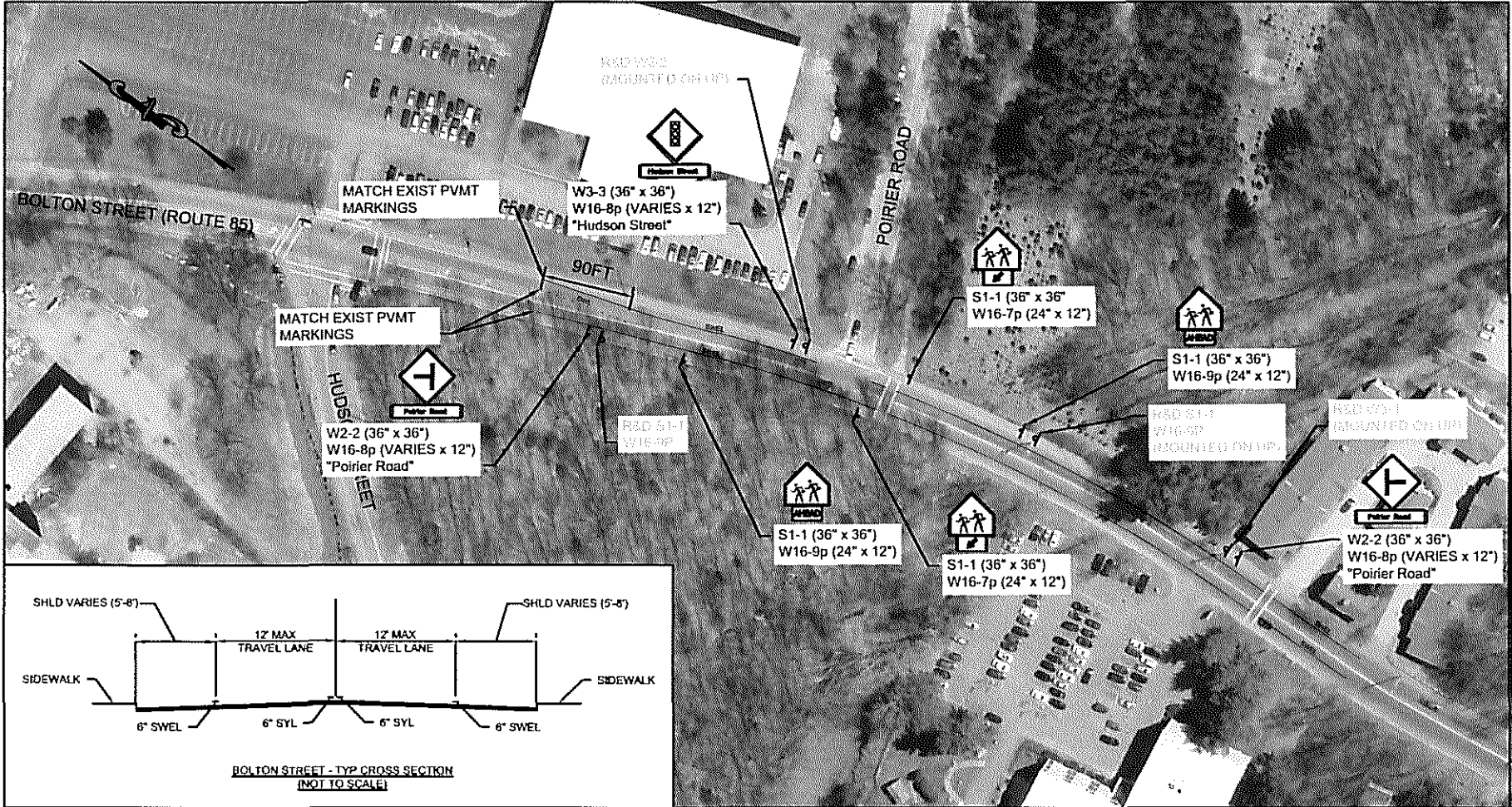


Figure 1  
Safety Improvements  
Bolton Street (Route 85)  
Marlborough, MA