

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR 18 P 1:37

1. Minutes of the City Council Meeting, April 8, 2013.
2. PUBLIC HEARING On Medical Marijuana Treatment Centers-Proposed Moratorium, Order No. 12/13-1005247A.
3. Communication from the Mayor re: Legal Department transfer requests in the amount of \$265.00 which moves funds from Registry of Deed to Office Supply to cover the department's expenses for the remainder of this fiscal year.
4. Communication from the Mayor re: Building Department transfer request in the amount of \$10,688.86 which covers expenses associated with an increasing amount of electrical inspections for the remainder of this fiscal year.
5. Communication from the Mayor re: Veteran's Office Transfer request in the amount of \$20,000.00 which moves funds from Senior Assessor to Veteran's Benefits due to a rise in demand for benefits afforded to eligible veterans and their families through the assistance program offered by the Commonwealth of Massachusetts under MGL Chapter 115.
6. Communication from Mayor re: Notification of Tax Title Collection Efforts.
7. Communication from the Mayor re: Validation of Use of Ward Park.
8. Communication from City Clerk, Lisa Thomas, re: Special Primary State Election Call.
9. Communication from City Solicitor, Donald Rider, re: AT & T Mobility LLC Special Permit, 75 Donald Lynch Blvd, in proper legal form, Order No. 13-1005342B.
10. Communication from City Solicitor, Donald Rider, re: T-Mobile Northeast LLC Special Permit, 445 Simarano Dr., in proper legal form, Order No. 12/13-1005249B.
11. Communication from City Solicitor, Donald Rider, re: Logical Partners LLC Special Permit, 126 Pleasant St., in proper legal form, Order No. 12/13-1005151F.
12. Communication from City Solicitor, Donald Rider, re: Easterly Wastewater Treatment Plant-Proposed Easement to National Grid.
13. Communication from Building Commissioner, Michael Mendoza, re: Proposed Zoning Amendment, Section 41, Utility Service Vehicle Maintenance, Order No. 12/13-1005267B.
14. Communication from Attorney Bergeron re: Acceptance of Bouffard Drive as a public way.
15. Communication from Attorney Mitrakas re: request to extend date for City Council vote on Special Permit, Logical Partners LLC, Order No. 12/13-1005151F.
16. Petition of National Grid to install conduit from manhole 15-22 to pole 50, Simarano Dr. and pole 50, D'Angelo Dr. Petition also includes two pole installations on Simarano and D'Angelo Dr.
17. Renewal of Junk Dealer's License, Tony Bitar, Hannoush Jewelers, 601 Donald Lynch Blvd.
18. Renewal of Junk Dealer's License, Roman Kimyagarov, Arthur & Sons Shoe Repair, 107 Main St.
19. Minutes, Council on Aging, March 12, 2013.
20. Minutes, Recreation Department, March 13, 2013.
21. Minutes, Conservation Commission, January 19, April 5, July 19, August 2 & 16, September 6, October 4 & 18, December 6 & 20, 2012 and January 17, 2013.

22. CLAIMS:

- A. Maranatha Christian Church, 276 Boston Post Rd. East., other property damage,
- B. A. Richard Desimone, 54 Schofield Dr., residential mailbox claim 2(a)
- C. Ken and Andrea Mercier, 14 Fish Lane, residential mailbox claim 2(b)
- D. Rich Berte, 11 Paquine Dr., residential mailbox claim 2(a)
- E. Dan Tran, 39 Desimone Dr., residential mailbox claim 2(a)
- F. Francis McCarthy, 114 Leolis Dr., other property damage
- G. Janice Stafford, 287 Forest St., residential mailbox claim 2(b)

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

From Finance Committee

- 23. **Order No. 13-1005353 – Transfer \$10,308.00 to Fund Comptroller Temporary Employee.** The Finance Committee reviewed the Mayor's letter dated March 7, 2013 requesting a transfer of \$10,308.00 from Bond Issue Expense to Comptroller Finance Assistant to cover unanticipated short term absence of payroll personnel. **Recommendation of the Finance Committee is to approve the transfer 3-0. Councilor Seymour abstained.**
- 24. **Order No. 13-1005352 – Transfer \$18,712.85 to Cover Upcoming Special Elections.** The Finance Committee reviewed the Mayor's letter dated March 7, 2013 requesting two transfers totaling \$18,712.85 to fund costs associated with the upcoming special elections for the United States Senate. **Recommendation of the Finance Committee is to approve the transfer 4-0.**
- 25. **Order No. 13-1005368 – Transfer \$25,000.00 for the Summer Employment Initiative.** The Finance Committee reviewed the Mayor's letter dated March 21, 2013 requesting the transfer of \$25,000.00 from the Sewer Loan Origination Fee to the Summer Employment Initiative. **Recommendation of the Finance Committee is to approve the transfer 4-0.**
- 26. **Order No. 13-1005369 – Transfer \$6,176.00 to Fund Widows Pension Account.** The Finance Committee reviewed the Mayor's letter dated March 21, 2013 requesting the transfer of \$6,176.00 from the Bond Issue Expense account to the Widows Pension account. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

From Wireless Communications Committee

- 27. **The Wireless Committee met on 4/2/2013 at 6:36 PM to review Council Order No. 12-1005249.**

The request by T-Mobile to Modify an existing Wireless Communications Facility, allowing the replacement of the six (6) GSM TMA'S panel antennas currently located on the facility with six (6) Alpha Sector Air21 B4A/B2P antennas. Also, the addition of one (1) fiber optic (1" O.D.) to the Wireless Communications Facility.

Changes were made to the wording of “The Plan” to correct errors which were noted by the Wireless Committee, specifically the address. The Committee reviewed the Evidence and the Conditions making changes and corrections, where necessary. Ten (10) conditions were reviewed and agreed upon.

Motion to approve and to send to the City Solicitor to be place in “Proper Legal Form” by Councilor Robey, seconded by the Chair

Motion passed: 2- 0

28. The Wireless Committee met on 4/2/2013 at 7:08 PM to review Council Order No. 13-1005342

The request by AT&T Mobility LLC, seeking permission to perform general maintenance to the Existing Wireless Communication Tower. Maintenance to be performed would be the reinforcement of the Tower by adding 1.25 inch thick steel plating to the surface of the Tower, up to the height of 87.5 feet and also the reconfiguring of the subgrade foundation and concrete pads at the base of the Existing WCF Tower.

Discussion of the project was held with the reason for the upgrade, as to increase of its structural integrity. Because of the age of the tower it was deemed necessary. Review of the Evidence and Nine (9) Conditions were agreed upon, with changes of wording for clarity.

Motion to approve and to send to the City Solicitor to be place in “Proper Legal Form” by Councilor Robey, seconded by the Chair

Motion passed: 2- 0

From Urban Affairs Committee

- 29. 8-27-12 – Order No. 12-1005151 - Application for Special Permit by Atty. Greg Mitrakas on behalf of Logical Partners, LLC for Special Permit to construct a three- Town House Condominium Unit on Map 68, Lot 466, 126 Pleasant Street /REFER TO URBAN AFFAIRS; PUBLIC HEARING: OCTOBER 15, 2012 – Councilor Tunnera abstained
9-10-12 – Order No. 12-1005151A - Communication from Attorney Greg Mitrakas on behalf of Logical Partners LLC, re: amendment to Application for Special Permit to construct a three-town house condominium unit on Map 68, Lot 466, 126 Pleasant Street, Order No.12-1005151.**

The Chair thanked the petitioners for working with the Committee at some of its concerns regarding the number of bedrooms and sewage connections.

Councilor Delano expressed concerns about the density of the project and stated his concern that the office can be converted to a third bedroom.

The Chair and the Committee discussed the conditions, reading only the conditions that changed from its last meeting.

At the request of the Committee and Councilors, the petitioners changed from three bedrooms to two. Also the units will now be owner occupied per request of the Committee.

President Pope asked for wording in the conditions regarding a back fence – petitioners agreed with her request; President Pope asked for wording in the conditions requiring petitioner to remove the barn on the property within three months of approval of the permit – petitioners agreed with her request.

The Chair asked if the project is approved that petitioners begin to clean up the property as soon as possible, hopefully before the full Council votes on the project.

Councilor Clancy made a motion to approve, the Chair seconded the motion. It passed 4-0 (Councilor Tunnera abstained)

Councilor Robey made a motion to ask for a suspension of the rules at the 4/8 Council meeting to refer the matter to the City Solicitor to place the proposed special permit decision in proper legal form. Vote passed 4-0.



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723

APRIL 8, 2013

Regular meeting of the City Council held on Monday, APRIL 8, 2013 at 8:03 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 8:50 PM.

ORDERED: That the minutes of the City Council Meeting MARCH 25, 2013, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit, Bohler Engineering on behalf of McDonald's Restaurant, to improve the aesthetics and operational efficiencies of their restaurant which includes updates to the drive-thru at 155 Boston Post Road West, Order No. 13-1005341, all were heard who wish to be heard, hearing recessed at 8:18 p.m.; adopted.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

ORDERED: That the Employee Retirement transfer requests in the amount of \$96,569.40 which moves funds from and to various accounts as noted below to cover costs associated with the retirement of three employees, refer to **FINANCE COMMITTEE**; adopted.

BUDGET TRANSFERS --									
DEPT:		Various				FISCAL YEAR:			
Available Balance		FROM ACCOUNT:				TO ACCOUNT:			
Amount	Org Code	Object	Account Description:		Amount	Org Code	Object	Account Description:	
\$454,218.00	\$9,898.00	11990008	51500	Fringe	\$9,898.00	11410002	50550	Head Clerk	
	Reason:	Retirement Payout of Vacation							
	\$17,816.40	11990008	51500	Fringe	\$17,816.40	11410003	51920	Sick Leave	
	Reason:	Retirement Payout Sick Leave							
	\$5,353.00	11990008	51500	Fringe	\$5,353.00	11440002	50770	Senior Clerk	
	Reason:	Retirement Payout of Vacation							
	\$51,138.00	11990008	51500	Fringe	\$51,138.00	12100003	51920	Sick Leave	
	Reason:	Retirement Payout Sick Leave							
	\$12,364.00	11990008	51500	Fringe	\$12,364.00	12100001	50820	Sargeant	
	Reason:	Retirement Payout of Vacation							
	\$96,569.40	Total			\$96,569.40	Total			

- ORDERED: That the Reappointments of Eric Asman and Joyce Torelli to the Community Development Authority for terms of three years expiring from the date of confirmation by the City Council, refer to **PERSONNEL COMMITTEE**; adopted.
- ORDERED: That the Appointment of Mitchell Gorka to the Zoning Board of Appeals for a term of three years expiring from the date of confirmation by the City Council, refer to **PERSONNEL COMMITTEE**; adopted.
- ORDERED: That the Communication from the City Solicitor Rider re: Construction Materials Service, Inc. Special Permit in proper legal form, Order No. 12/13-1005236D, **MOVE TO ITEM 21**.
- ORDERED: WHEREAS having convened in an open meeting on **April 8, 2013** the **CITY COUNCIL** of the **CITY OF MARLBOROUGH, MA** in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form **BY NO LATER THAN APRIL 10, 2013** for the **KANE ELEMENTARY SCHOOL LOCATED AT 520 FARM ROAD, MARLBOROUGH, MA** which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future to include **THE ELIMINATION OF EXISTING SEVERE OVERCROWDING, THE PREVENTION OF SEVERE OVERCROWDING EXPECTED TO RESULT FROM INCREASED ENROLLMENTS, AND REPLACEMENT OF OR ADDITION TO OBSOLETE BUILDINGS IN ORDER TO PROVIDE A FULL RANGE OF PROGRAMS CONSISTENT WITH STATE AND APPROVED LOCAL REQUIREMENTS, AS DETERMINED IN THE JUDGMENT OF THE AUTHORITY**; and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the **City of Marlborough** to filing an application for funding with the Massachusetts School Building Authority, **NOW THEREFORE** the City Council of the City of Marlborough hereby authorizes the Superintendent to submit a Statement of Interest to the Massachusetts School Building Authority for the above-specified project, **APPROVED**; adopted.
- ORDERED: That the Communication from Retirement Director, Margaret Shea, re: Consideration of Cost-of-Living Adjustment (COLA), **FILE**; adopted.
- ORDERED: That the Communication from MEDC Operations Director, Tim Cummings re: Wayside Overlay District, refer to **URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the Communication from the Planning Board re: Favorable Recommendation of Zoning Amendment, Order No. 12/13-1005267A, refer to **URBAN AFFAIRS COMMITTEE, BUILDING COMMISSIONER AND CITY SOLICITOR TO RENDER THEIR RECOMMENDATIONS TO THE URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, MAY 6, 2013** as date for a **PUBLIC HEARING** On Application for Fuel Storage License, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids as noted on attached spreadsheets, refer to **PUBLIC SERVICES COMMITTEE, AND ADVERTISE**; adopted.

- ORDERED: That the Communication from Attorney Gadbois, re: Submission of a draft of a Master Concept Plan and Development Agreement for the Results Way Mixed Use Overlay District, Order No. 12-1005154C, adopted December 17, 2012, to **URBAN AFFAIRS COMMITTEE**; adopted.
- ORDERED: That the Notice of Filing and Public Hearing, Department of Public Utilities, **FILE**; adopted.
- ORDERED: That the Minutes, Planning Board, March 11, 2013, **FILE**; adopted.
- ORDERED: That the Minutes, Traffic Commission, February 26, 2013, **FILE**; adopted.
- ORDERED: That the Communication from the Hanover Insurance Group on behalf of Ann Mills, 47 Boudreau Ave., refer to **LEGAL DEPARTMENT**; adopted.
- ORDERED: That the Communication from Hoefle Phoenix Gormley & Roberts, P.A. on behalf of Helen Crowe and Thomas McGovern, 65 High St., Exeter, New Hampshire, refer to the **LEGAL DEPARTMENT**; adopted.
- ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
- A. Paul Tanzi, 27 Beaman Lane, residential mailbox claim 2(a)
 - B. Richard Kelleher, 38 Millham St., pothole or other road defect
 - C. Marie Bijou, 48 Washington St., Hudson, pothole or other road defect
 - D. Magdi Alfred, 14 South St., other property damage
 - E. Evan Goduco, 657 Elm St., residential mailbox claim 2(a)
 - F. Donna Waterman, 55 Teller St., residential mailbox claim 2(a)
 - G. Lisa Colleton, 28A Blaiswood Ave., other property damage
 - H. Mr. & Mrs. Nowakowski, 30 Fowler St., other property damage
 - I. Karen Brunetti, 16 Eagle Dr., Douglas, pothole or other road defect
 - J. John Flynn, 351 West Hill Rd., other property damage

Reports of Committees:

Present: Chairman Ossing; Finance Committee members Councilors Delano, Seymour and Jenkins. The meeting convened at 7:01 PM.

Order No. 13-1005353 – Transfer \$10,308.00 to Fund Comptroller Temporary Employee. The Finance Committee reviewed the Mayor's letter dated March 7, 2013 requesting a transfer of \$10,308.00 from Bond Issue Expense to Comptroller Finance Assistant to cover unanticipated short term absence of payroll personnel. **Recommendation of the Finance Committee is to approve the transfer 3-0. Councilor Seymour abstained.**

Order No. 13-1005352 – Transfer \$18,712.85 to Cover Upcoming Special Elections. The Finance Committee reviewed the Mayor's letter dated March 7, 2013 requesting two transfers totaling \$18,712.85 to fund costs associated with the upcoming special elections for the United States Senate. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

Order No. 13-1005368 – Transfer \$25,000.00 for the Summer Employment Initiative. The Finance Committee reviewed the Mayor's letter dated March 21, 2013 requesting the transfer of \$25,000.00 from the Sewer Loan Origination Fee to the Summer Employment Initiative. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

Order No. 13-1005369 – Transfer \$6,176.00 to Fund Widows Pension Account. The Finance Committee reviewed the Mayor’s letter dated March 21, 2013 requesting the transfer of \$6,176.00 from the Bond Issue Expense account to the Widows Pension account. **Recommendation of the Finance Committee is to approve the transfer 4-0.**

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

The Wireless Committee met on 4/2/2013 at 6:36 PM to review Council Order No. 12-1005249.

The request by T-Mobile to Modify an existing Wireless Communications Facility, allowing the replacement of the six (6) GSM TMA’S panel antennas currently located on the facility with six (6) Alpha Sector Air21 B4A/B2P antennas. Also, the addition of one (1) fiber optic (1” O.D.) to the Wireless Communications Facility.

Changes were made to the wording of “The Plan” to correct errors which were noted by the Wireless Committee, specifically the address. The Committee reviewed the Evidence and the Conditions making changes and corrections, where necessary. Ten (10) conditions were reviewed and agreed upon.

Members Present: Councilors Clancy and Robey; Councilor Oram was absent.

Applicant Present: Jeff Barbadora

Motion to approve and to send to the City Solicitor to be place in “Proper Legal Form” by Councilor Robey, seconded by the Chair
Motion passed: 2- 0

The Wireless Committee met on 4/2/2013 at 7:08 PM to review Council Order No. 13-1005342

The request by AT&T Mobility LLC, seeking permission to perform general maintenance to the Existing Wireless Communication Tower. Maintenance to be performed would be the reinforcement of the Tower by adding 1.25 inch thick steel plating to the surface of the Tower, up to the height of 87.5 feet and also the reconfiguring of the subgrade foundation and concrete pads at the base of the Existing WCF Tower.

Members Present: Councilors Clancy and Robey; Councilor Oram was absent

City Solicitor: Donald Rider

Applicant Present: Chris Swiniarski, Esq.

Discussion of the project was held with the reason for the upgrade, as to increase of its structural integrity. Because of the age of the tower it was deemed necessary. Review of the Evidence and Nine (9) Conditions were agreed upon, with changes of wording for clarity.

Motion to approve and to send to the City Solicitor to be place in “Proper Legal Form” by Councilor Robey, seconded by the Chair

Motion passed: 2- 0

Councilor Elder reported the following out of the Urban Affairs Committee:

Present: Chairman Elder, Vice Chair Clancy, Councilor Robey, Councilor Landers, Councilor Delano, President Pope

8-27-12 – Order No. 12-1005151 - Application for Special Permit by Atty. Greg Mitrakas on behalf of Logical Partners, LLC for Special Permit to construct a three- Town House Condominium Unit on Map 68, Lot 466, 126 Pleasant Street /REFER TO URBAN AFFAIRS; PUBLIC HEARING: OCTOBER 15, 2012 – Councilor Tunnera abstained

9-10-12 – Order No. 12-1005151A - Communication from Attorney Greg Mitrakas on behalf of Logical Partners LLC, re: amendment to Application for Special Permit to construct a three-town house condominium unit on Map 68, Lot 466, 126 Pleasant Street, Order No.12-1005151.

The Chair thanked the petitioners for working with the Committee at some of its concerns regarding the number of bedrooms and sewage connections.

Councilor Delano expressed concerns about the density of the project and stated his concern that the office can be converted to a third bedroom.

The Chair and the Committee discussed the conditions, reading only the conditions that changed from its last meeting.

At the request of the Committee and Councilors, the petitioners changed from three bedrooms to two. Also the units will now be owner occupied per request of the Committee.

President Pope asked for wording in the conditions regarding a back fence – petitioners agreed with her request; President Pope asked for wording in the conditions requiring petitioner to remove the barn on the property within three months of approval of the permit – petitioners agreed with her request.

The Chair asked if the project is approved that petitioners begin to clean up the property as soon as possible, hopefully before the full Council votes on the project.

Councilor Clancy made a motion to approve, the Chair seconded the motion. It passed 4-0 (Councilor Tunnera abstained).

Councilor Robey made a motion to ask for a suspension of the rules at the 4/8 Council meeting to refer the matter to the City Solicitor to place the proposed special permit decision in proper legal form. Vote passed 4-0.

Suspension of Rules requested – granted

ORDERED: That the Communication from the Mayor regarding Notice of Retirement for Comptroller Thomas Abel effective June 26, 2013, **FILE**; adopted.

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit from Crown Castle, on behalf of T-Mobile to exchange six existing antennas on a cell tower, 445 Simarano Dr., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 22, 2013 CITY COUNCIL MEETING**; adopted.

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit from Tower 16 Inc., on behalf of AT&T Wireless LLC, to modify an existing telecommunications tower at 75 Donald Lynch Blvd., refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 22, 2013 CITY COUNCIL MEETING**; adopted.

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit from Logical Partners, LLC to construct three Townhouse Condominium Units at 126 Pleasant St, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE APRIL 22, 2013 CITY COUNCIL MEETING**.

Councilor Tunnera abstained

ORDERED: That the Operations and Oversight Committee work with the Marlborough Economic Development Corporation to receive quarterly reports in the form of a presentation before the committee on the progress of the MEDC and other items of interest regarding economic development in order to update the Marlborough City Council and the citizens of Marlborough, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED:

VETERANS' SERVICES INTERMUNICIPAL AGREEMENT
Between the City of Marlborough and the Town of Sudbury

Pursuant to M.G.L. c. 40, § 4A, this Intermunicipal Agreement, approved by the Marlborough City Council and the Selectmen of the Town of Sudbury, establishes the "Marlborough – Sudbury Regional Veterans District" (the "District") and is hereby entered into and is effective from the 1st day of March, 2013 by and between the City of Marlborough ("Marlborough") and the Town of Sudbury ("Sudbury") (collectively, the "Parties") in accordance with the following terms:

1. Purpose and Duties: (A) This agreement contractually enables the Director of Marlborough's Veterans' Services Department (the "Director") to perform the duties of such office for Sudbury. The Director will maintain separate accurate and comprehensive records of all services performed for Sudbury.
(B) Sudbury will provide for a part-time employee ("Agent/Administrative Assistant") to serve as administrative support for the District. Said employee will be an employee of the Town of Sudbury.

(C) The Director of Veterans Services and the Agent/Administrative Assistant will develop a schedule of available hours in each community in consultation with the Town Manager of Sudbury and the Mayor of Marlborough. The Director and the Agent/Administrative Assistant will have the ability to serve all qualifying veterans and their dependents in both municipalities regardless of which office they are working in on any particular day.

(D) The Agent/Administrative Assistant will work under the direction of the Director of Veterans Services and assist the office in carrying out relevant duties including but not limited to the coordination of benefits to eligible applicants, the completion of local and state compliance reports, and other duties as needed.

2. Term: The term of this agreement shall be from March 1, 2013 until June 30, 2014. The Town of Sudbury and the City of Marlborough reserve the right to terminate this agreement at any point with at least (45) business days written notice.
3. Location and Time of Services: The Director and the Agent/ Administrative Assistant shall perform their duties in offices to be provided by both Marlborough and Sudbury.
4. Salary and Benefits: The Director shall be an employee of Marlborough, and his salary and benefits will be paid by the City of Marlborough. Sudbury agrees to pay to Marlborough the amount of \$833.50 per month, by check made payable to the City of Marlborough, c/o Comptroller, 140 Main Street, Marlborough, MA 01752, for the duration of this agreement.
5. Distribution of Benefits to Veterans: It is understood and agreed that the distribution of benefits payments to eligible Veterans in Marlborough and Sudbury under M.G.L. c. 115 shall be paid by the respective municipality in which the eligible Veteran resides.
6. Insurance: The Parties acknowledge that they each have a minimum of \$1,000,000 of liability insurance through the Massachusetts Interlocal Insurance Association (MIIA) and that each party is covered by insurance for this joint venture as stated in the General Liability Coverage Form MGP 001.
7. Amendments: The Parties may modify this Agreement only by a written instrument signed by both Parties.
8. This District is subject to approval by the Massachusetts Department of Veterans Services.

APPROVED; adopted

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 12/13-1005236E**

FINDINGS OF FACT AND RULING

1. **Construction Materials Service, Inc.** is hereinafter referred to as “Applicant”.
2. Applicant is a party to contracts calling for the continued lease of the premises known and numbered as 379 South Street, Marlborough, Massachusetts described on Marlborough Assessor’s Map 93, Parcel 10 (hereinafter the “Site”) and proposes to construct an approximately 2,400 square foot two-story office building (hereinafter the “Project”).
3. The Applicant, by and through its site engineer, Hancock Associates, has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter the “Application”). Pursuant to Sections 650-12 of the Zoning Ordinance of the City of Marlborough, the Applicant is seeking permission to construct the office building on a non-conforming property.
4. The Site is located in a Residence A-1 zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Special Permit Application, the Applicant has submitted a certified list of abutters, filing fees, an impact statement and twenty-three (23) copies of a detailed site plan entitled “Permit Site Plan of Land;” site address: Construction Materials Service, Inc., 379 South Street, Marlborough, MA; prepared for: Patrick Mauro, 379 South Street, Marlborough, MA; drawn by: Hancock Associates, 315 Elm Street, Marlborough, MA; scale 1”=20’, consisting of one sheet dated 10-25-12, revised through 2-21-13. Additionally the Applicant submitted a rendering of the proposed two-story wood-framed office building with floor plans and outline specifications.
6. The site plan was certified by the Building Inspector, 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.
7. 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 for a Special Permit 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.
8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on January 7, 2013. By Applicant’s request approved by the Council on March 11, 2013, the time for the Council to take final action on the Application has been extended to May 8, 2013.

9. The Applicant presented testimony at the public hearing detailing the Application, describing its anticipated 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 this Special Permit Application.

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. Further the City Council finds the proposed expanded use of the site, consistent with its current use, and of the structure and site as altered, will not be substantially more detrimental to the neighborhood than the continued use of the existing site and structure. The visual and drainage impacts from the proposed use will be mitigated through the proposed enhancements and location of the proposed building.

C. 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 construct a 2,400 square foot, two-story office building as shown on the plans filed, as revised, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

1. Compliance with Building Regulations. Construction and 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 Commonwealth of Massachusetts and shall be built according the site plan entitled "Permit Site Plan of Land;" site address: Construction Materials Service, Inc., 379 South Street, Marlborough, MA; prepared for: Patrick Mauro, 379 South Street, Marlborough, MA; drawn by: Hancock Associates, 315 Elm Street, Marlborough, MA; scale 1"=20', consisting of one sheet, dated October 25, 2012, as revised through February 21, 2013, as and if further amended during the application process.
2. Compliance with Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough 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 this Special Permit and no occupancy certificate shall be issued until all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and plans submitted, reviewed and approved by the City Council as the special permit granting authority. Any changes to the plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.

3. Application and Documents. All plans, drawings, site elevations and documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same.
4. Compliance with Local, State and Federal Laws. The Applicant 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 Applicant's facility.
5. Incorporation of Plans and Drawings. All terms, conditions, requirements, approvals, plans, and drawings provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, including the Permit Site Plan referenced in Condition No. 1 above, are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
6. Improvements Installed Prior to Certificate of Occupancy. All site improvements that have been shown on renderings and/or the Permit Site Plan are conditions of this Special Permit and will be installed prior to the issuance of any temporary or permanent occupancy certificate; provided, however, that if all other work is completed between October 1, 2013 and June 1, 2014, all landscaping plants will be required to be installed by June 1, 2014. Applicant agrees that the permanent maintenance of the landscaping and other site improvements is an ongoing condition of this Special Permit.
7. Drainage Improvements. Prior to the completion of the Project, and prior to obtaining a certificate of occupancy, Applicant shall make all drainage improvements shown on the Project plans.
8. No Modifications to the Driveway Entrances. No modifications to the existing driveway configuration from South Street to the subject parcel are proposed. No modifications shall be allowed to the driveway as shown on the Site Plan without the Applicant returning to the City Council for modification of this Special Permit.
9. Signage. The locations and design of proposed signage shall be reviewed and approved during Site Plan Review in accordance with the sign ordinance of the City of Marlborough without variance therefrom.
10. Pavement Markings. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.

11. Illumination. All illuminations of individual parking lot light fixtures shall not exceed 200-watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.
12. Street Opening Permit. In connection with the installation of improvements within public right-of-ways, which requires a street opening permit, the City Engineer shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.
13. Trench Permits. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the City's Department of Public Work's Engineering Division.
14. In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant, 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. After recording but prior to issuance of a building permit, Applicant shall provide the City Council and the City Solicitor's office with a copy of the recorded Special Permit.
15. Unless the context otherwise clearly requires, all references in the above conditions to "Applicant" shall also refer to Applicant's successors and assigns.
16. Applicant shall add striping to the existing paved area adjacent to the existing building on site for shop employees.
17. If during construction Applicant anticipates construction noise exceeding normal daily noise levels, Applicant shall, at least 48 hours prior to commencing with that portion of the work, so notify the abutters appearing on the Assessor's certified list accompanying the Application.

Yea: 11- Nay: 0

Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:50 PM.



IN CITY COUNCIL

MARCH 25, 2013

Marlborough, Mass., _____ PAGE 1

ORDERED:

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

1. Section 650-5, entitled "Definitions; Word Usage," is hereby amended by adding to said Section the following definition:

MEDICAL MARIJUANA TREATMENT CENTER: A not-for-profit entity, as defined by Massachusetts law only, registered under Massachusetts law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, shall be deemed a "Medical Marijuana Treatment Center" and subject to the temporary moratorium under Section 650-32 of this ordinance.

2. A new Section 650-32, entitled "TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS," is hereby added, as follows:

650-32 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

- A. Purpose.

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the acquisition, cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), transference, transportation, sale, distribution, dispensing, and administering of marijuana, products containing marijuana, related supplies, or educational materials, for medical purposes. The law provided that it became effective on January 1, 2013 and that the Massachusetts Department of Public Health ("MDPH") is required to issue regulations regarding the law's implementation within 120 days of the law's effective date. Currently under the City's Zoning Ordinance, a medical marijuana treatment center is not a permitted use in the City, and any regulations to be promulgated by MDPH are expected to provide guidance to the City in regulating medical marijuana, including medical marijuana treatment centers.



IN CITY COUNCIL

MARCH 25, 2013

Marlborough, Mass., _____ PAGE 2

ORDERED:

The regulation of medical marijuana treatment centers raises novel and complex legal, planning, and public safety issues, and the City needs time to study and consider the regulation of such centers and those issues, as well as to address the potential impact of MDPH regulations on local zoning and to undertake a planning process to consider amending the Zoning Ordinance regarding the regulation of such centers and other uses related to such regulation. The City intends to adopt a temporary moratorium on the use of land and structures in the City for the purpose of medical marijuana treatment centers, so as to allow the City sufficient time to engage in a planning process to address the effects of such use, and to enact ordinances in a manner consistent with sound land use planning goals and objectives.

B. Temporary Moratorium.

For the reasons sets forth above, and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for a medical marijuana treatment center. In no case shall the acquisition, cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), transference, transportation, sale, distribution, dispensing, and administering of marijuana, products containing marijuana, related supplies, or educational materials, for medical purposes be considered accessory to any use permitted in the City. The moratorium shall be in effect through June 30, 2014. During the moratorium period, the City shall undertake a planning process to address the potential impacts of medical marijuana in the City, shall consider MDPH regulations regarding such centers and related uses, and shall consider amending its Zoning Ordinance to address the impact and operation of such centers and related uses.

Be and is herewith refer to **PLANNING BOARD AND ADVERTISE PUBLIC HEARING FOR APRIL 22, 2013.**

Councilor Oram requested to be recorded in opposition to the proposed Ordinance as it reads: "moratorium shall be in effect through June 30, 2014".

ADOPTED

ORDER NO. 12/13-1005247A



City of Marlborough

RECEIVED
CITY CLERK
CITY OF MARLBOROUGH

Office of the Mayor

2013 APR 18 A 11: 23 140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610
www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Michael C. Berry
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 18, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Legal Department

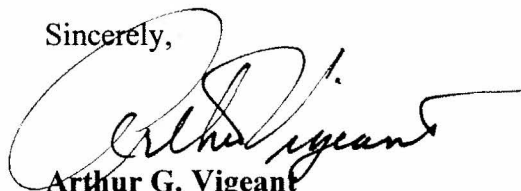
Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request:

- 1) Transfer in the amount of \$265.00 from 11510006-53880 (Registry of Deeds) to 11510005-54220 (Office Supply).

As always, please do not hesitate to let me know if you have any questions or concerns.

Sincerely,



Arthur G. Vigeant
Mayor



City of Marlborough
Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 18, 2013

Arthur Vigeant
Mayor
City of Marlborough

RE: Transfer Request

Dear Mayor Vigeant:

Per the enclosed transfer request, the Legal Department is requesting that \$265.00 be transferred to the line item for Office Supply/Expenses (11510005 54220), with that transfer being funded from the line item for Registry of Deeds (11510006 53880). Legal anticipates that the \$265.00 transfer will be sufficient for the Department's office supply needs and expenses for the remainder of this fiscal year.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure



City of Marlborough

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Office of the Mayor

2013 APR 18 A 11: 23 140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Michael C. Berry
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 18, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Building Department

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request from the Building Department in the amount of \$10,688.86.

Although our community has been fortunate to experience increased growth, new construction and several large scale renovations, our Building Department bears the brunt of this increased strain to meet the demand of increased inspections and permitting required by law.

This transfer request will fund the increasing amount of electrical inspections that will be required of our Building Department this spring and will sustain us for the remainder of the fiscal year. Funding for this request is available through unspent funds associated with the departure of an employee from this department.

As always, please do not hesitate to let me know if you have any questions or concerns.

Sincerely,

Arthur G. Vigeant
Mayor



City of Marlborough
BUILDING DEPARTMENT

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3776 Facsimile (508) 624-6504 TDD (508) 460-3610

Michael Mendoza
Building Commissioner

April 17, 2013

Re: Budget Transfer

To Whom It May Concern:

Due to the number of permits and inspections which has transpired this latter half of the Fiscal Year, this office is requesting a transfer from the following accounts to fund the Wiring Inspector through FY 13:

12410003	51430 Longevity	\$1,277.19
12410003	51920 Sick Leave Buy Back	\$3,156.86
12410002	50770 Senior Clerk	\$6,254.81
	Total:	\$10,688.86

If approved, please transfer the funds to: 12410001 50380

Sincerely,



Michael Mendoza
Building Commissioner



City of Marlborough

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CITY CLERK'S
CITY OF MARLBOROUGH

Office of the Mayor

2013 APR 18 AM 11:23 140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610
www.marlborough-ma.gov

Arthur G. Vigeant
MAYOR

Michael C. Berry
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 18, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Transfer Request – Veteran's Office

Honorable President Pope and Councilors:

I am submitting for your approval the following transfer request:

- 1) Transfer in the amount of \$20,000.00 from 11410001-50170 (Senior Assessor) to 15430006-57710 (Veteran's Benefits).

This increase is needed due to the rise in demand for benefits afforded to eligible veterans and their families through the assistance program offered by the Commonwealth of Massachusetts under M.G.L. Chapter 115 ("Chapter 115 Benefits").

The Department of Veterans Services authorizes veterans' benefits paid by the Veteran Service Officer in each community and reimburses cities and towns for seventy-five percent (75%) of municipal outlays that the Secretary deems lawful and proper. Eligible dependents of deceased veterans are also provided with the same benefits under this program.

Funding for this request is available through a vacated position in the Assessor's Office.

As always, please do not hesitate to let me know if you have any questions or concerns.

Sincerely,

Arthur G. Vigeant
Mayor



CITY OF MARLBOROUGH VETERANS' SERVICES DEPARTMENT

255 Main St. Room 107
Marlborough, MA 01752
Facsimile (508) 460-3733 Tel (508) 460-3782

Gary Brown
Director

TO: MAYOR ARTHUR VIGEANT DATE: APRIL 17, 2013
FROM: GARY BROWN, VETERANS' AGENT
RE: TRANSFER

Dear Sir:

I have been expending the Veterans' Benefits Account at a rate that will deplete this line item prior to the end of the fiscal year. I have also just had a client who appears eligible for benefits come into my office. He is gathering supporting documents for his claim.

Therefore, I am requesting a transfer of \$20,000 into the Benefits Account. None of these funds can be expended unless approved by the State Department of Veterans' Services. Also, these funds are $\frac{3}{4}$ reimbursed by the State.

Thank you for your considering this request.

Sincerely yours,

Gary Brown
Veterans' Agent
City of Marlborough



City of Marlborough
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CITY OF MARLBOROUGH
Office of the Mayor

2013 APR 18 A 11: 23 140 Main Street
Marlborough, Massachusetts 01752
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Arthur G. Vigeant
MAYOR

Michael C. Berry
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 18, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Notification of Tax Title Collection Efforts

Honorable President Pope and Councilors:

I wish to notify you that I have directed our City Collector, Deb Fox, to double her efforts to collect the outstanding real estate taxes owed to the City of Marlborough, which is currently estimated to be more than \$1.5 million, including both commercial and residential properties.

Ms. Fox will be working closely with our tax title attorneys, D'Ambrosio Brown LLP, to work with delinquent owners, some of whom owe taxes dating back to the 1980s.

The tax title process is often a complicated one. However, I believe that this is a worthwhile endeavor. We owe it to the majority of our residents who pay their taxes on-time to ensure that everyone pays their fair and equitable share.

Please do not hesitate to let me know if you have any questions or concerns.

Sincerely,

Arthur G. Vigeant
Mayor



City of Marlborough

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Office of the Mayor

2013 APR 18 A 11:23

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

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Arthur G. Vigeant
MAYOR

Michael C. Berry
EXECUTIVE AIDE

Patricia Bernard
EXECUTIVE SECRETARY

April 18, 2013

City Council President Patricia Pope
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Validation of Use of Ward Park

Honorable President Pope and Councilors:

As you are aware, some landlords and residents in the Ward Park neighborhood have retained legal counsel to question the city's standing as it relates to the legality of utilizing a portion of Ward Park for the purposes of a new Senior Center.

Although I have remained confident in the legal opinion issued by City Solicitor Don Rider in August 2012, I saw fit to engage a third party attorney specializing in land use matters to act as an ombudsman for the city in the interest of transparency and good public policy.

I have enclosed for you correspondence from our third party attorney, McGregor & Associates, to Attorney Julie McNeill, who is being retained by some Ward Park residents. As you will see from their correspondence, McGregor & Associates has not only validated the legality of utilizing a portion of Ward Park for the purposes of a Senior Center, but also cited recent case law from March 2013 that, for one reason or another, was completely ignored by Attorney McNeill. Also enclosed for your information is the original letter sent to my office from Attorney McNeill.

Our community has been spinning its wheels for several years examining site after site for a suitable Senior Center location. While universal agreement may never be achieved on which site is best, the question of the legality of utilizing a portion of Ward Park for these purposes is now, in my estimation, put to rest.

I look forward to continuing to work with you on this project and welcome any questions you may have.

Sincerely,

Arthur G. Vigeant
Mayor

McGREGOR & ASSOCIATES

ATTORNEYS AT LAW, P.C.

15 COURT SQUARE - SUITE 500
BOSTON, MASSACHUSETTS 02108
(617) 338-6464
FAX (617) 338-0737

GREGOR I. MCGREGOR
E-mail: gmcgregor@mcgregorlaw.com
(617) 338-6464 ext. 123

April 16, 2013

Julie McNeill, Esquire
1734 Lakeview Avenue, #101
Dracut, MA 01826

RE: City of Marlborough, Senior Center

Dear Ms. McNeill:

This Firm represents the City of Marlborough with respect to plans to construct a senior center at a portion of Ward Park. This is in response to your letter of March 30, 2013 on behalf of certain residents to City Solicitor Donald V. Rider, Jr.

In our opinion, the City's plans to construct a senior center on a portion of Ward Park are authorized by G. L. c. 45, sec. 14, and the authorities you cite are inapplicable. We disagree with your conclusions.

On August 31, 1923, the City Council acquired by eminent domain certain parcels of land shown on a plan entitled "Proposed Playground, Hayden Meadow, Marlborough, Massachusetts." The land was acquired for "the purposes of a public playground or recreation center." The taking order references G. L. c. 45, sec. 14.

G. L. c. 45, sec. 14 provides that land acquired for a playground or recreation center

"With the consent of, and subject to the terms and conditions and terms prescribed by, the officer or board in control of the building, may be used by the municipality, or by any department thereof, or by any person, society, or other organization for such other public, recreational, social or educational purposes as the said officer or board may deem proper."

You state in your letter that a June 6, 1973 opinion by then-Attorney General Robert H. Quinn concluded that playgrounds are subject to Article 97 of the Amendments to the Massachusetts Constitution. However, your letter disingenuously fails to mention the March 15, 2013 decision by the SJC in the case of Mahajan v. Department of Environmental Protection, 464 Mass. 604, which sharply limited the sweeping nature of the Quinn opinion and explicitly held that it is not binding in its particulars. "Its (the Quinn opinion's) interpretation of art. 97 is not binding in its particulars, and we are hesitant to afford it too much weight due to the generalized nature of the inquiry and hypothetical nature of the response." Id., at 613.



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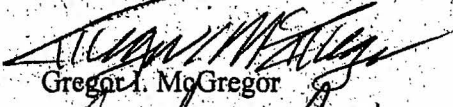
You next cite a footnote in a Land Court case, Parker v. Dungan, 07 Misc. 34915. Parker is distinguishable from the present case on its facts. In Parker, the Land Court based its decision on its finding that the Town was contractually bound to adhere to conditions in a deed in trust by which the Town obtained the land. Furthermore, the Land Court found that the use proposed by the town, a soccer field and parking lot, was permitted by the terms of the deed, rejecting the challenger's argument that only passive recreation was permitted.

You next argue that G. L. c. 40, sec. 15A requires notice to and a vote by the City Council. G.L. c. 40, sec. 15A deals with disposition of land no longer needed, that is, surplus land. The construction of the senior center in this case does not involve the disposition of any surplus land. G. L. c. 40, sec. 15A is inapplicable.

Your final argument is that the City must comply with the doctrine of prior public use. You say that land appropriated to one public use cannot be appropriated to another inconsistent public use without explicit statutory authority. We disagree that the senior center is an inconsistent use. Even if statutory authority was required, G. L. c. 45, sec. 14 provides it.

The City hopes that the residents you represent reconsider their opposition to this project. If they decide to bring a lawsuit, the City will defend it vigorously.

Sincerely,


Gregor J. McGregor


Michael J. O'Neill

ALL LAND LAW

COPY

*To M. Barry
w/ attachments
4/3/13*

ATTORNEY JULIE MCNEILL

1734 LAKEVIEW AVENUE, #101

DRACUT, MA 01826

978-455-0296

JULIE@ALLLANDLAW.COM

March 30, 2013

CERTIFIED MAIL
RET. REC. REQ.

Donald V. Rider, Jr., Esq.
City Solicitor
140 Main Street
Marlborough, MA 01752

RECEIVED
APR 1 2013

OFFICE OF THE CITY SOLICITOR
MARLBOROUGH, MA 01752

Dear Attorney Rider:

Please be advised that I represent several residents and property owners of Marlborough, MA, including Michael Nickolas, Christine S. Manzi, and Ned Fenstermacher. I am writing regarding the city's plans to use a portion of Ward Park for a Senior Center.

As you are aware, the land for Ward Park was acquired by the city "for the purposes of a public play ground or recreation center" by an eminent domain taking in 1923, pursuant to c. 45, §14. I am in receipt of a memorandum you wrote to Mayor Vigeant on August 15, 2012. In that memorandum, you state that, as the aforementioned statute differentiates between parks and playgrounds, and Ward Park was actually taken for playground use, then compliance with Article 97 of the Amendments to the Massachusetts Constitution ("Article 97") is not required.

However, playgrounds have been found to be subject to Article 97. Massachusetts Attorney General Robert H. Quinn issued an opinion to the Speaker of the House of Representatives on June 6, 1973, regarding Article 97 ("Quinn Opinion"). I have enclosed a copy of the Quinn Opinion for your ease of reference. In the opinion, Quinn states that the term "natural resources" in Article 97 is to be broadly construed and that land acquired for "parks, monuments, reservations, athletic fields, concert areas and *playgrounds* clearly qualify" as land covered by Article 97. Quinn at 142-143.

Further, I direct your attention to a Land Court case, Parker v. Dungan, (Mass.LandCt.) 07 MISC 346915. In Parker, a parcel of land was granted from Lloyd L. Parker to "the Inhabitants of the Town of Stow." There was a "near contemporaneous [Confirmatory] Order of Taking" by the Town of Stow to purchase or take the land by eminent domain "for a Town swimming and recreation area, to include a public playground, and other recreational facilities." The deed also contained language that it was "intended ... for recreational, playground and swimming facilities."

After finding that this language created a public trust, the court states at footnote 44, "It is well to remember that even if there were no public trust, the Locus in its entirety, would be subject to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth. As a consequence, the Locus could not be used for other purposes or otherwise disposed of, absent a two-thirds roll call vote of each branch of the General Court." In a previous decision in Parker, an Order on Memorandum of Lis Pendens, the court stated that the deed "sets forth those purposes for which the property may be used; such uses fall squarely within the ambit of Article 97 of the Articles of Amendment to the Constitution of the Commonwealth." Copies of both Parker decisions are enclosed. Therefore, it is my clients' position that the city must comply with Article 97 prior to putting any portion of Ward Park to another use. Such compliance entails obtaining a two-thirds roll call vote of each branch of the General Court.

Along with Article 97, the city has other mandates with respect to Ward Park. M.G.L. c. 40, § 15A, states, in relevant part, "Whenever a board or officer having charge of land, including land acquired for playground purposes pursuant to the provisions of section fourteen of chapter forty-five ... constituting the whole or any part of an estate held by a city ... within its limits for a specific purpose shall determine that such land is no longer needed for such purpose, whether such land was acquired before or after the effective date of this section and whether acquired by eminent domain, purchase, gift, devise or otherwise, such board or officer shall forthwith give notice of such determination to the city council of the city ... At any time after the receipt of such notice, the city council of the city by a two thirds vote of all its members, ... with the approval of the mayor, ... may transfer the care, custody, management and control of such land to the same or another board or officer of the city or town for another specific municipal purpose, any provision of general or special law to the contrary notwithstanding; provided, that no such transfer shall be valid if it is in violation of any term or condition of the title of the city or town to such land. ..." My clients were unable to find evidence that the notice was given to the city council, nor that the required vote was taken.

Finally, the city is also obligated to comply with the doctrine of prior public use. The Massachusetts Supreme Judicial Court has held, "The doctrine is well established that "[l]and appropriated to one public use can't be diverted to another inconsistent public use without plain and explicit legislation to that end. ... Where land devoted to a public purpose is concerned, specific statutory language is required." Sacco v. Department of Public Works, 352 Mass. 670, 672-673 (1967). [Citing Higginson v. Treasurer & School House Commrs. of Boston, 212 Mass. 583, 591. See Appleton vs. Massachusetts Parking Authy. 340 Mass. 303, 310; Gould v. Greylock Reservation Commn. 350 Mass. 410, 419, and cases cited].

In a later case, the SJC established a 3-part test that must be met whenever a diversion of public land is attempted: 1) The statute in question must clearly identify the land at issue; 2) The statute must include a statement of the contemplated new use; and 3) The statute must contain a statement or recital showing in some way legislative

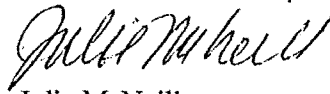
Donald V. Rider, Jr., Esq.
March 30, 2013
Page 3 of 3

awareness of the existing public use. Robbins v. Department of Public Works, 355 Mass. 328 (1969). Again, there is no evidence that legislation was passed with regard to diverting part of Ward Park to a Senior Center.

Please contact me at your earliest convenience should you wish to discuss the above. My clients are prepared to avail themselves of all legal remedies in this matter.

Thank you.

Very truly yours,



Julie McNeill

Enclosures

cc (w/o Encl.):
Mayor Arthur Vigean
Marlborough City Council
clients



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **SPECIAL PRIMARY STATE ELECTION** will be held in the polling locations as noted below on **APRIL 30, 2013** as follows: Senator in Congress.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Room 103
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St., Library
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

LEGAL AD – PLEASE PUBLISH IN THE MWDN ON Monday, April 8, 2013



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

13 APR 18 AM 4:58

City of Marlborough
Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 18, 2013

Patricia Pope
President
Marlborough City Council

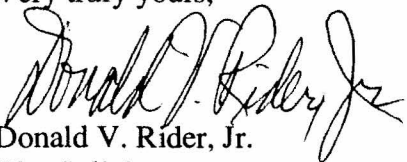
RE: Order No. 13-1005342B
Application to Modify Special Permit
AT&T Mobility LLC
75 Donald Lynch Boulevard

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by AT&T Mobility LLC, seeking to further modify the existing special permit previously modified in 2011 regarding the existing cell tower located at 75 Donald Lynch Boulevard. Specifically, the applicant seeks permission to perform general maintenance to the tower consisting of (i) reinforcing the existing cell tower by installing 1.25 inch thick steel plating to the surface of the that tower up to a height of 87.5 feet, and (ii) reinforcing and reconfiguring the subgrade foundation and concrete pads at the base of the cell tower.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,



Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Christopher A. Swiniarski, Esquire

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

**AT&T Mobility LLC, successor to AT&T Wireless Services (“ATT”),
by its contractor and agent Tower 16, Inc. (“Tower 16” and collectively with ATT, the “Applicant”)**

CITY COUNCIL ORDER NO. 13-1005342C

Re: 75 Donald Lynch Blvd, Marlborough, Massachusetts (the “Site”)

The City Council of the City of Marlborough (the “City Council”) hereby GRANTS the application to modify Special Permit No. 97-6754F, as previously modified by City Council Order No. 11-1002955 (collectively, the “Existing Special Permit”), submitted by Applicant, having a usual place of business at 550 Cochituate Road, Framingham, MA 01701, as provided in this Decision and subject to the following findings of fact and conditions.

EVIDENCE

1. On April 29, 1997, by Order No. 97-6754F, the City Council granted Applicant a special permit to construct a 130.5 foot monopole wireless communication facility at the Site (the “Existing WCF Tower”). The 1997 Special Permit is recorded at the Middlesex County South District Registry of Deeds (“MSDRD”) in Book 27316, Page 532, and was later modified in 2011 and recorded at the MSDRD in Book 57756, Page 356. The Site is more particularly identified on the Assessor’s Map of the City of Marlborough as Map 13, Parcel 2. The current owner of record for the Site is Albert D. Bombard.
2. Through its Application for Modification of Special Permit for a Wireless Communication Facility submitted to the City Council on February 21, 2013 (“the Application”), the Applicant seeks permission to perform general maintenance to the Existing WCF Tower consisting of (i) reinforcing the Existing WCF Tower by installing 1.25 inch thick steel plating to the surface of the Existing WCF Tower up to a height of 87.5 feet, and (ii) reinforcing and reconfiguring the subgrade foundation and concrete pads at the base of the Existing WCF Tower (the “Proposed WCF Project”), all as substantially depicted on those certain plans entitled “Marlborough 290/495, USID #: 3083, 130.5’ FWT Monopole,” prepared by GPD Group, 520 South Main Street, Suite 2531, Akron, OH 44311, and issued as of November 2, 2012 (the “Plans”).
3. The Applicant holds a leasehold interest in the Site for purposes of the Application.

4. The Site is located in the Limited Industrial zoning district. Wireless communication facilities are allowed in the Limited Industrial zoning district by special permit of the City Council.
5. Applicant seeks modification of the Existing Special Permit pursuant to Article VI, Section 650-25 et seq. the Zoning Code of the City of Marlborough.
6. Pursuant to the Rules and Regulations of Application for Special Permit (“Rules and Regulations”), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
7. The Applicant has complied with all of the applicable Rules of the Rules and Regulations.
8. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on March 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
9. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project continues to meet all the applicable Special Permit criteria of Article VI, Section 650-25 et seq.
10. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
11. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Existing WCF Tower to minimize adverse impact on the abutting neighborhood and on nearby residential properties. The Proposed WCF Project will not change the visual appearance of the Existing WCF Tower.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Existing Special Permit

(hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

1. Applicant agrees to comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts, and the federal government as they may apply to the construction, maintenance and operation of Applicant's Proposed WCF Project.
2. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, as amended, are herein incorporated and become conditions and requirements of this Modified Special Permit unless otherwise altered by the City Council.
3. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
4. All conditions set forth in the Existing Special Permit are applicable to this Modified Special Permit.
5. Since the Existing Special Permit requires Applicant to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 (the "Open Space Payment"), failure to make the Open Space Payment shall constitute a violation of this Modified Special Permit, and pursuant to the terms of the Existing Special Permit the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment. No additional Open Space Payment above that which is required pursuant to the Existing Special Permit is imposed or required in connection with the Proposed WCF Project or the issuance of this Modified Special Permit.
6. Applicant shall provide landscaping around the equipment cabinets owned by Applicant at the Site to adequately shield them from view, if required by Site Plan Review.
7. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
8. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by

Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system for such hazardous materials.

9. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards.
10. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.

END OF TEXT



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City of Marlborough
Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 17, 2013

Patricia Pope
President
Marlborough City Council

RE: Order No. 12/13-1005249B
Application to Modify Special Permit
T-Mobile Northeast LLC
445 Simarano Drive

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Crown Castle, on behalf of T-Mobile Northeast LLC, to modify T-Mobile's existing special permit at 445 Simarano Drive. The application is to allow the replacement of six (6) existing panel antennas currently located onto the wireless communication facility with six (6) new antennas in-kind, as well as to add one (1) fiber optic cable (1" O.D.) to the wireless communication facility.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Jeff Barbadora, Crown Castle, agent for T-Mobile

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT**

T-MOBILE NORTHEAST LLC (OMNIPOINT HOLDINGS, INC.)

CITY COUNCIL ORDER NO. 12/13-1005249C

Re: 445 Simarano Drive, fka 40 Crane Meadow Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 01-9069D, submitted by Crown Castle on behalf of T-Mobile Northeast LLC, having a usual place of business at 15 Commerce Way, Suite B, Norton, MA 02766 as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Crown Castle (Crown Castle USA Inc) with a principal office located at 2000 Corporate Drive, Canonsburg, PA 15317 (hereinafter, "the Applicant"), on behalf of T-Mobile Northeast LLC (Omnipoint Holdings, Inc.), with its principal office located at 12920 SE 38th Street, Bellevue, WA 98006.
2. On November 19, 2001 , the City Council granted to Omnipoint Holdings, Inc., Division of VoiceStream Wireless, Inc., a special permit to locate and operate a wireless communications facility located at 445 Simarano Drive, fka 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2006, Omnipoint Holdings, Inc. converted into a limited liability company named T-Mobile Northeast LLC. The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 34813, Page 247. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter, "the Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter, "the Application"), the Applicant seeks permission to allow the replacement of six (6) panel antennas currently located on the wireless communication facility. Applicant also seeks to add one (1) fiber optic cable (1" O.D.) to the wireless communication facility (hereinafter, "the Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Site Name: BOS Marlborough 2 969202, Site ID Number: 4BS0494A, Site Address: 40 Crane Meadow Road, Marlborough, MA 01752," by Tectonic Engineering & Surveying Consultants P.C., 1279 Route 300, Newburgh, NY 12550, dated 10/10/12 and last revised 4/3/13, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").
4. The Applicant is the Wireless Communication Facility owner and lessee of the Site's owner for purposes of the Application.

5. The Proposed WCF Project is located in the Industrial (I) Zoning District. Wireless communication devices are allowed by grant of special permit in the Industrial (I) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 28, 2013, continued to February 25, 2013, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.

C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit, as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) Applicant agrees to all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Applicant's existing WCF.
- 4) The issuance of this Modified Special Permit is further subject to Site Plan Review in accordance with the City of Marlborough's Ordinance, prior to the issuance of an actual building permit. Any additional changes, alterations, modifications or amendments, as required by Site Plan Review, shall be further conditions attached to this Modified Special Permit. No occupancy permit shall be issued until the Applicant complies with all such further conditions, if any.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified Special Permit. Applicant shall pay an additional sum of \$500 per

quarter or portion thereof after the payment due date that the Applicant has failed to make payment.

- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications

Facilities then located at the Site to exceed any applicable health and safety standards.

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.
- 10) All conditions set forth in the Original Special Permit shall apply to this Modified Special Permit.



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

LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

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CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 17, 2013

Patricia Pope
President
Marlborough City Council

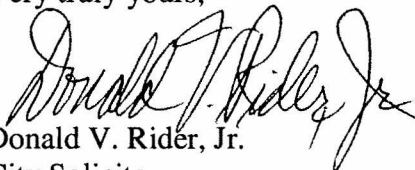
RE: Order No. 12/13-1005151F
Application for Special Permit
Logical Partners LLC
126 Pleasant Street, Marlborough

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Logical Partners LLC to construct three (3) residential townhouse style condominium units on the property located at 126 Pleasant Street in Marlborough.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Gregory Mitrakas, Esquire

**SPECIAL PERMIT
LOGICAL PARTNERS LLC
CITY OF MARLBOROUGH, MA
CITY COUNCIL ORDER 12/13-1005151G**

The City Council of the City of Marlborough hereby **GRANTS** the Application for Special Permit of Applicant, as provided in the Decision and **SUBJECT TO THE FOLLOWING FINDINGS OF FACT AND CONDITIONS:**

EVIDENCE

1. The Applicant is Logical Partners LLC, a Massachusetts LLC with a principal place of business at 241 Boston Post Road West, 1st Floor, Marlborough, MA 01752 (the "Applicant").
2. The location of the proposed project is 126 Pleasant Street, Marlborough, MA and more particularly identified on the City of Marlboro Assessor's Map as Lot 466 of Map 68, and furthermore particularly described in a deed recorded with the Middlesex South District Registry of Deeds, Book 58142, Page 503 (the "Site").
3. The Applicant seeks a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site (the "Project").
4. The Applicant is the Owner for the purpose of this Special Permit Application (the "Application").
5. The property is located in zoning district Residence B (RB), which allows multifamily dwellings as a matter of special permit.
6. The Building Inspector, acting on behalf of the City Planner, provided a Certificate of Completeness of Application as required by Para. 7 of the Rules and Regulations of Application/Petition for Special Permit by the City of Council under the Marlborough Zoning Ordinance, Chapter 650-59.
7. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to demolish the current structures at the Site and construct three (3) residential Townhouse style Condominium units on the Site.
8. The Applicant obtained all necessary zoning variances to allow its project to proceed, said variance being recorded with the Middlesex South District Registry of Deeds, Book 59143, Page 190.
9. A public hearing was held on October 15, 2012, in compliance with the requirements of the Code of the City of Marlborough and by the provisions of MGL Chapter 40A, as amended, and all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlborough. The time for the City Council to take final action on the Application was timely extended by the parties' agreement to May 15, 2013.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing and demonstrated that the Project meets all applicable Special Permit criteria provided by MGL Chapter 40A, as amended, and the Code of the City of

Marlborough including, without limitation, Article VII, Section 650, Paragraph 40, Subparagraph B, and generally Section 650-59.

11. The plan submitted with the Application is entitled "Preliminary Site Plan, 126 Pleasant Street, Marlborough, MA," Prepared for Logical Partners LLC, 241 Boston Post Road West, 1st Floor, Marlborough, MA 01752; Owned by Logical Partners LLC, 241 Boston Post Road West, 1st Floor, Marlborough, MA 01752; Prepared by Thomas Land Surveyors & Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, scale 1" = 20', dated June 28, 2012 and revised October 11, 2012, December 11, 2012 and February 25, 2013 (the "Plan"), attached hereto as "Attachment A."

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

The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site.
2. The Marlborough City Council finds that all necessary Fees for the proposed Special Permit have been paid.
3. The Marlborough City Council finds that the Application was properly completed and filed by Applicant, and that all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlboro prior to Application submission.
4. The Plan accompanying said Application was completed in accordance with the all applicable Rules and Regulations.
5. The Summary Impact Statement filed with said Application is sufficient for said Application and that no further studies or requirements are necessary.
6. The City Department reports as required by the Code of the City of Marlborough have been received and incorporated as deemed appropriate by the said Marlborough City Council into this final decision.
7. The Marlborough City Council finds generally that the use sought by Applicant and its impact and characteristics is not in conflict with the public health, safety, convenience and welfare and is not detrimental or offensive; and further, that the use of the Site for three (3) residential Townhouse style Condominium units is appropriate for the Site and does not derogate from the intent and purpose of MGL Chapter 40A and/or the Code for the City of Marlborough.
8. The Marlborough City Council therefore **GRANTS** to the Applicant a Special Permit to construct three (3) Residential Townhouse Units on the Site, pursuant to its authority under MGL Chapter 40A and the Code of the City of Marlboro, **with the following conditions:**

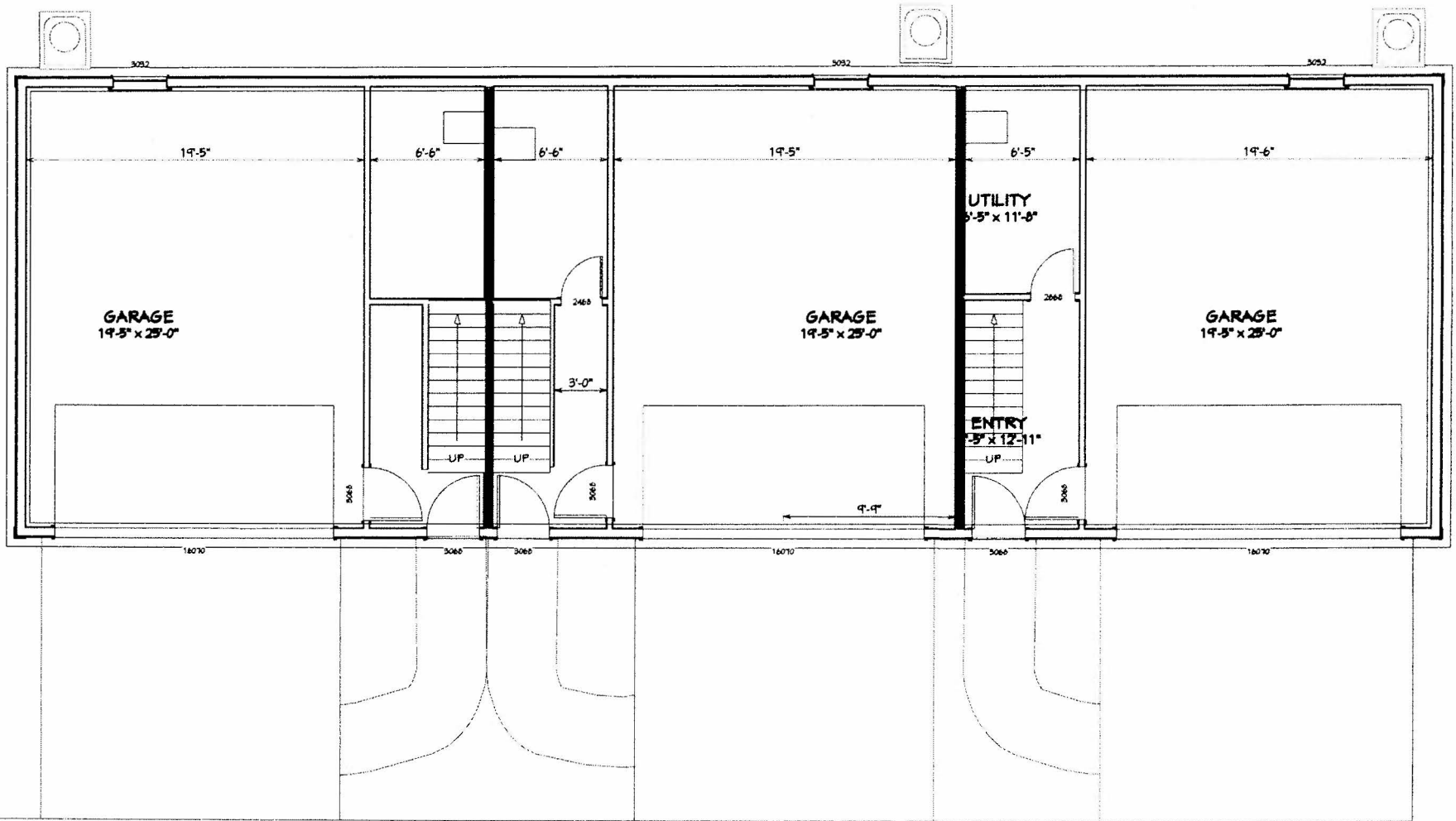
- A. The Marlborough City Council conditions its approval on subsequent Site Plan Review and approval as provided under Chapter 270, Building and Site Development. The Plan may be subject to modification by the Site Plan Review Committee to the extent allowed by the Code of the City of Marlborough. Other conditions and limitations may be imposed at the time of the final Site Plan Approval by said Committee, which are not inconsistent with any term or condition attached to this Special Permit.
- B. The applicant will work with Site Plan Review to coordinate minor cosmetic and mutually acceptable modifications to the building and/or site to make the same more Colonial in appearance so as to fit into the neighborhood.
- C. The drainage from the site shall be reviewed during the Site Plan Review process to ensure that any excess drainage is adequately mitigated.
- D. The building will be protected by an automatic sprinkler system under a NFPA Section 13R installation due to the low water pressure in the area and proposed garage spaces.
- E. All existing structures and improvements at the Site will be removed pursuant to Code and subject to the approval of the Marlborough Building Inspector and the resulting residue disposed of in accordance with all applicable Federal, State, and municipal statutes, rules and regulations; in particular, within ninety (90) days after approval of this Special Permit, the Applicant shall remove the barn from the Site.
- F. Construction of the three (3) new Single-Family Townhouse Condominium units is to be in accordance with all applicable building codes currently in effect in the City of Marlborough.
- G. Pursuant to recommendations from the Urban Affairs Committee of the Marlborough City Council, the number of bedrooms for each Unit has been reduced from three (3) bedrooms to (2) bedrooms. Accordingly, each Unit will contain no more than two (2) bedrooms, be approximately 1,400 square feet, and will otherwise be substantially similar to that as shown on a 10-page set of plans entitled "Project Description – Pleasant St. Project," Builder: Lisboa; Builder's customer: spec; Prepared by Westchester Modular Homes, Inc., 30 Reagans Mill Rd., Wingdale, NY 12594; scale ¼" = 1"; dated July 6, 2012 and revised on July 11, 2012, July 16, 2012, August 22, 2012, February 24, 2013 and March 4, 2013, attached hereto as "Attachment B." The Units will be serviced by public water and public sewer separately metered.
- H. All Units shall be required to be owner-occupied, i.e., no leasing shall be allowed, and a restriction for same shall be inserted into the Master Deed

creating the Condominium, and shall also be incorporated into the Unit deed for each Unit conveyed by Applicant, its successors and assigns.

- I. Existing building sewers or portions thereof may be used in connection with new construction only when they are found, on examination and testing by the Marlborough Commissioner of Public Works, to meet all Code requirements. The applicant will be required to confirm the size, material, slope, and condition of the existing sewer service. This can be accomplished via test pits and/or video-taping of the existing sewer service. A single service to the proposed building shall only be allowed if allowed and approved by the Marlborough Department of Public Works.
- J. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Special Permit to the City Council's office and to the City Solicitor's office.
- K. All work performed at the Site shall be in compliance with this Special Permit decision. No other building or construction shall occur or happen without a change or modification of this Special Permit.
- L. Applicant shall provide side yard and rear yard fencing as depicted on the Plan.

ATTACHMENT A

ATTACHMENT B



SCALE: 1/4" = 1'
8' CEILINGS

REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DYN	7/11/12
2	REVISIONS	DYN	7/16/12
3	REVISIONS	DYN	8/22/12
4	REVISIONS	DYN	2/24/13
5	REVISIONS	DYN	3/4/13

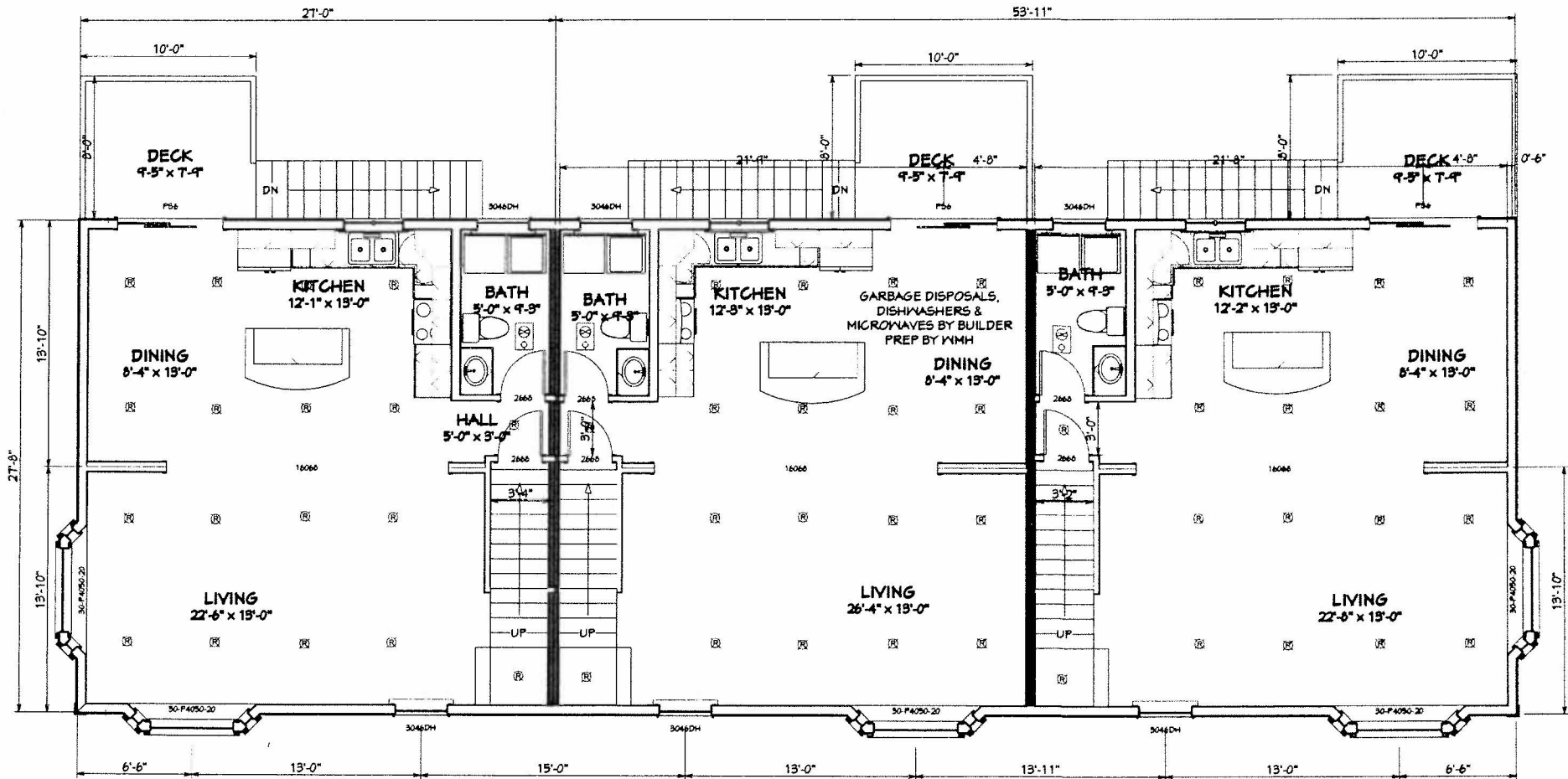

WESTCHESTER MODULAR HOMES, INC.
 AN EMPLOYER OWNED COMPANY
 CONTACT US: 1-800-432-3688
www.westchestermodular.com

30 REAGANS MILL RD
 WINGDALE, NY 12544
 800-832-3888

PROJECT DESCRIPTION
PLEASANT ST. PROJECT
 BUILDER: LISBOA BUILDER'S CUSTOMER: SPEC

SHEET TITLE
LOWER LEVEL
 DRAWN BY: DYN DATE: 7/6/12
 SCALE: AS NOTED

SHEET NO.
A-0



SCALE: 1/4" = 1'
8' CEILINGS

REVISIONS		
NO.	DESCRIPTION	BY DATE
1	REVISIONS	DW 7/11/12
2	REVISIONS	DW 7/16/12
3	REVISIONS	DW 8/22/12
4	REVISIONS	DW 2/24/13
5	REVISIONS	DW 3/4/13

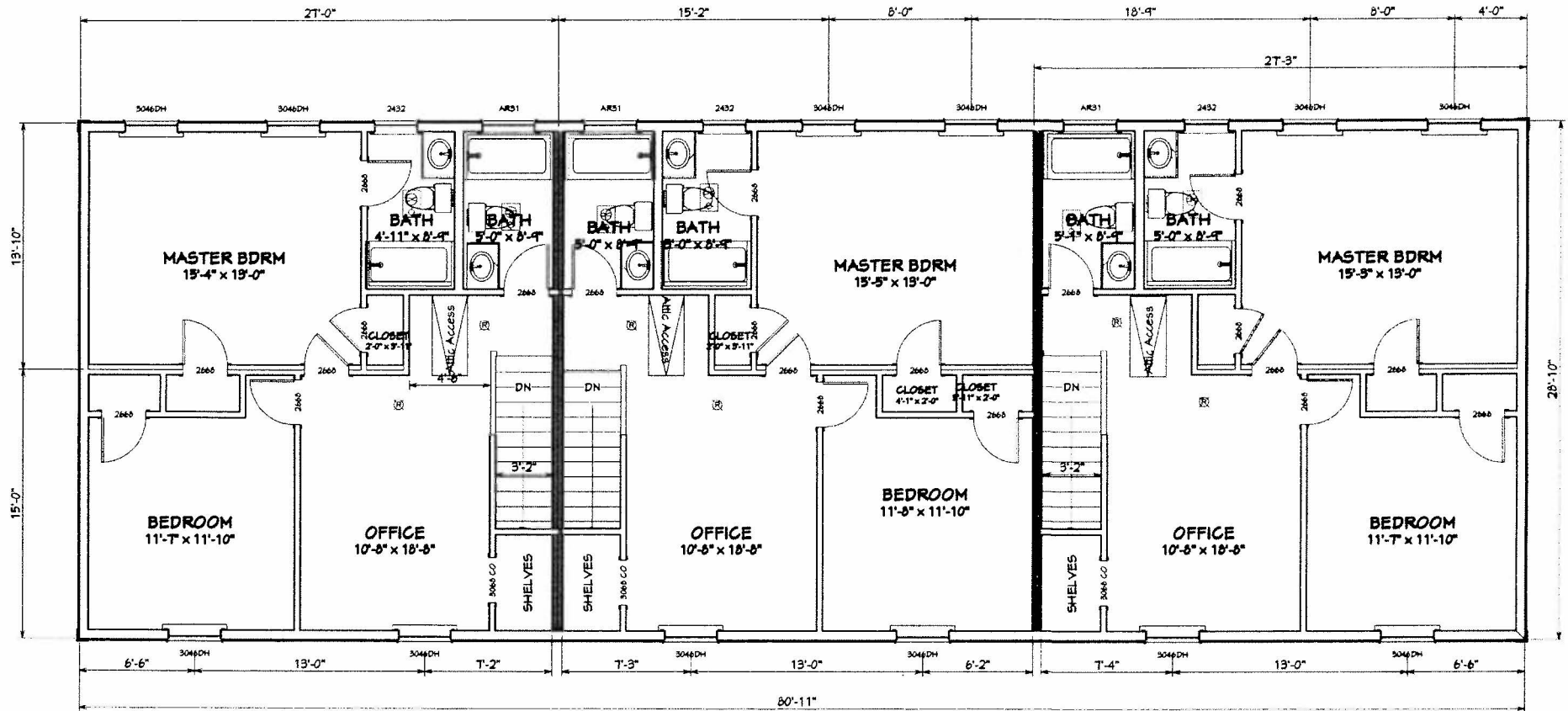

WESTCHESTER MODULAR HOMES
 AN EMPLOYER OWNED COMPANY
 CONTACT US: 1-800-832-3000
www.westchestermodule.com

30 REAGANS MILL RD
 WINGDALE, NY 12544
 800-832-3000

PROJECT DESCRIPTION	
PLEASANT ST. PROJECT	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC

SHEET TITLE	
FIRST FLOOR	
DRAWN BY:	DATE: 7/6/12
DW	SCALE: AS NOTED

SHEET NO.
A-1



SCALE: 1/4" = 1'
8' CEILINGS

NO	REVISIONS	DESCRIPTION	BY	DATE
1	REVISIONS		DW	7/11/12
2	REVISIONS		DW	7/16/12
3	REVISIONS		DW	8/22/12
4	REVISIONS		DW	2/24/13
5	REVISIONS		DW	3/4/13



30 REAGANS MILL RD
WINGDALE, NY 12544
800-832-3888

PROJECT DESCRIPTION	
PLEASANT ST. PROJECT	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC

SHEET TITLE	
SECOND FLOOR	
DRAWN BY:	DATE: 7/6/12
DW	SCALE: AS NOTED

SHEET NO.
A-2



SCALE: 1/4" = 1'

NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	9/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



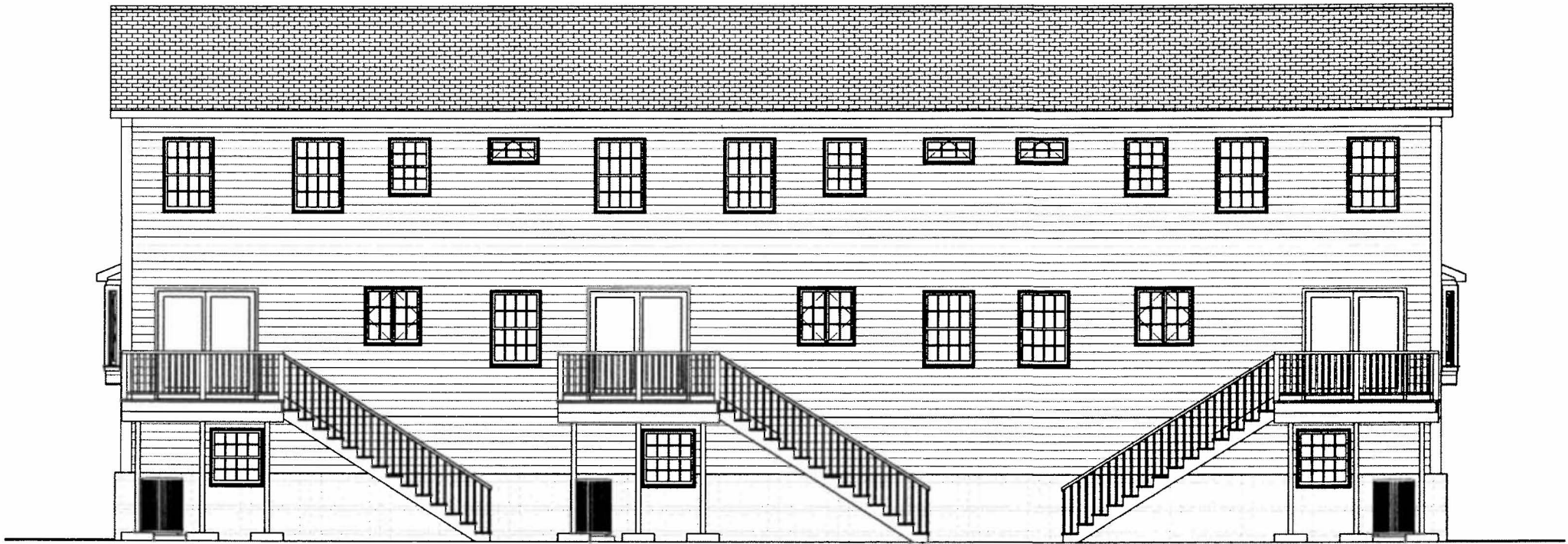
www.westchestermodular.com

30 REAGANS MILL RD
WINGDALE, NY 12594
800-632-3888

PROJECT DESCRIPTION
PLEASANT ST. PROJECT
BUILDER: LISBOA BUILDER'S CUSTOMER: SPEC

SHEET TITLE
FRONT ELEVATION
DRAWN BY: DW DATE: 7/6/12
SCALE: AS NOTED

SHEET NO.
A-3



SCALE: 1/4" = 1'

REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13



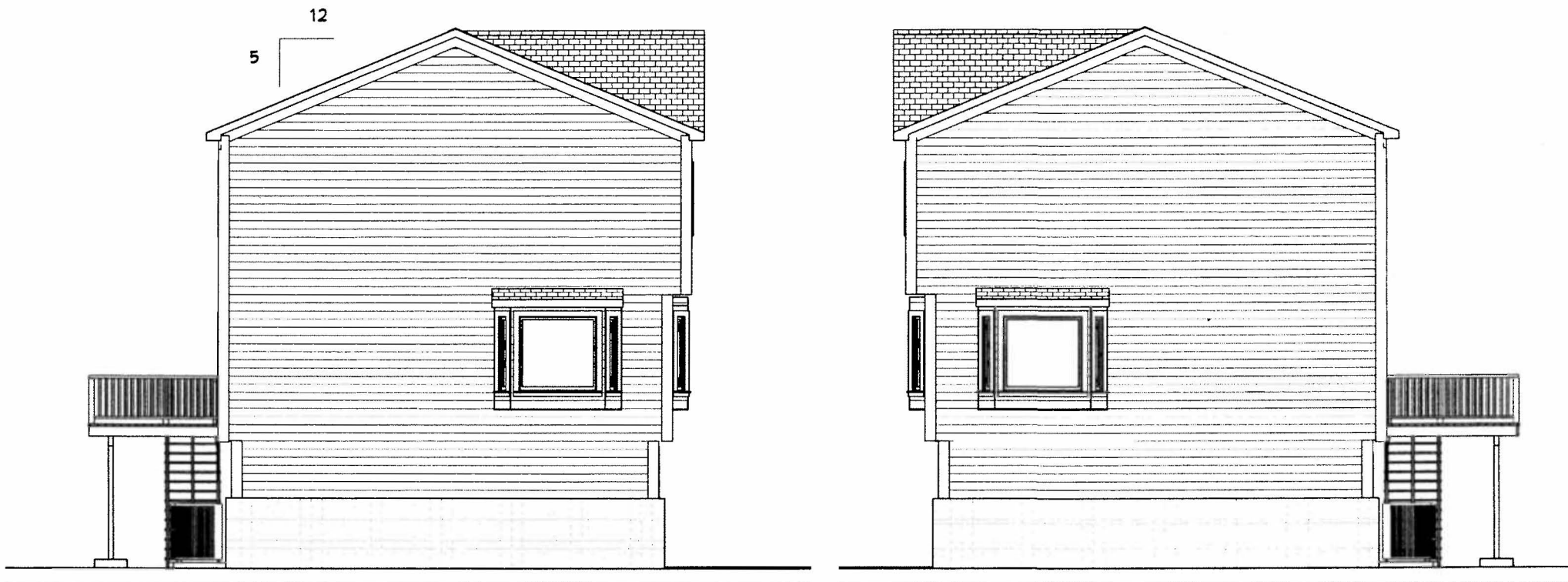
WESTCHESTER MODULAR
AN EMPLOYER OWNED COMPANY
CONTACT US: 1-800-832-3888
www.westchestermodular.com

30 REAGANS HILL RD
WINGDALE, NY 12544
800-832-3888

PROJECT DESCRIPTION	
PLEASANT ST. PROJECT	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC

SHEET TITLE	
REAR ELEVATION	
DRAWN BY:	DATE: 7/6/12
DW	SCALE: AS NOTED

SHEET NO.
A-4



LEFT ELEVATION

SCALE: 1/4" = 1'

RIGHT ELEVATION

REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DW	7/11/12
2	REVISIONS	DW	7/16/12
3	REVISIONS	DW	8/22/12
4	REVISIONS	DW	2/24/13
5	REVISIONS	DW	3/4/13




30 REAGANS MILL RD
 PINGDALE, NY 12544
 800-852-3888

PROJECT DESCRIPTION	
PLEASANT ST. PROJECT	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC


SHEET TITLE	
ELEVATIONS	
DRAWN BY:	DATE: 7/6/12
DW	SCALE: AS NOTED

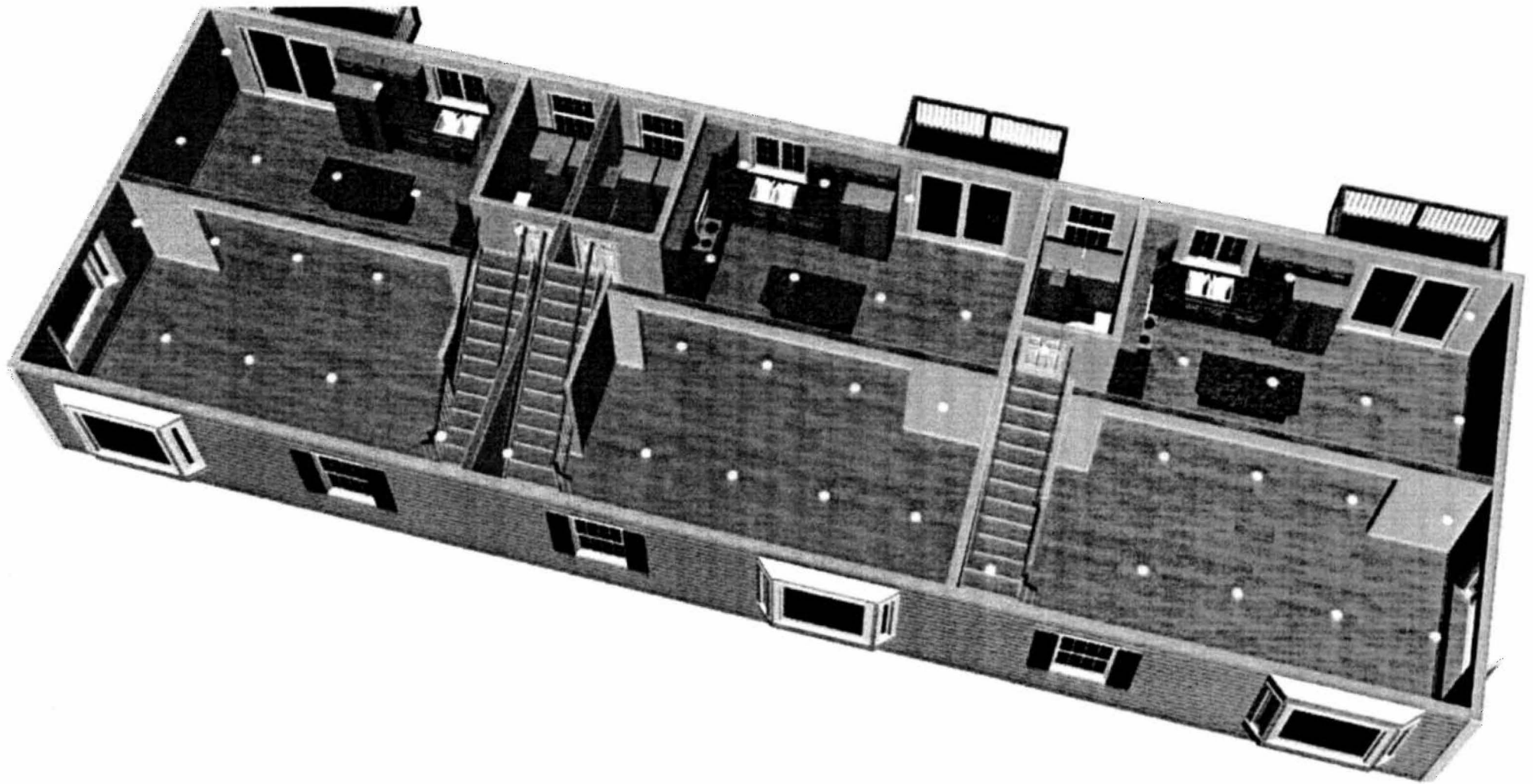
SHEET NO.
A-5



REVISIONS			 WESTCHESTER MODULAR HOMES, INC. <small>AN EMPLOYER OWNED COMPANY</small> CONTACT US: 1-800-832-3000 www.westchestermodule.com	PROJECT DESCRIPTION		SHEET TITLE	SHEET NO.
NO.	DESCRIPTION	BY DATE		30 REAGANS MILL RD WINGDALE, NY 12594 800-832-3000	PLEASANT ST. PROJECT		
1	REVISIONS	DYN 7/11/12		BUILDER:	BUILDER'S CUSTOMER:		
2	REVISIONS	DYN 7/16/12		LISBOA	SPEC	DRAWN BY:	DATE: 7/6/12
3	REVISIONS	DYN 8/22/12				DYN	SCALE: AS NOTED
4	REVISIONS	DYN 2/24/13					
5	REVISIONS	DYN 3/4/13					



REVISIONS			 WESTCHESTER MODULAR HOMES, INC. <small>AN EMPLOYEE OWNED COMPANY</small> CONTACT US: 1-800-832-3000 www.westchestermodular.com	PROJECT DESCRIPTION		SHEET TITLE	SHEET NO.
NO.	DESCRIPTION	BY DATE		30 REAGANS MILL RD PINGDALE, NY 12594 800-832-3000	PLEASANT ST. PROJECT		
1	REVISIONS	DYN 7/11/12		BUILDER:	BUILDER'S CUSTOMER:		
2	REVISIONS	DYN 7/16/12		LISBOA	SPEC		
3	REVISIONS	DYN 8/22/12				DRAWN BY:	DATE: 7/6/12
4	REVISIONS	DYN 2/24/13				DYN	SCALE: AS NOTED
5	REVISIONS	DYN 3/4/13					



REVISIONS			
NO.	DESCRIPTION	BY	DATE
1	REVISIONS	DYN	7/11/12
2	REVISIONS	DYN	7/16/12
3	REVISIONS	DYN	8/22/12
4	REVISIONS	DYN	2/24/13
5	REVISIONS	DYN	3/4/13

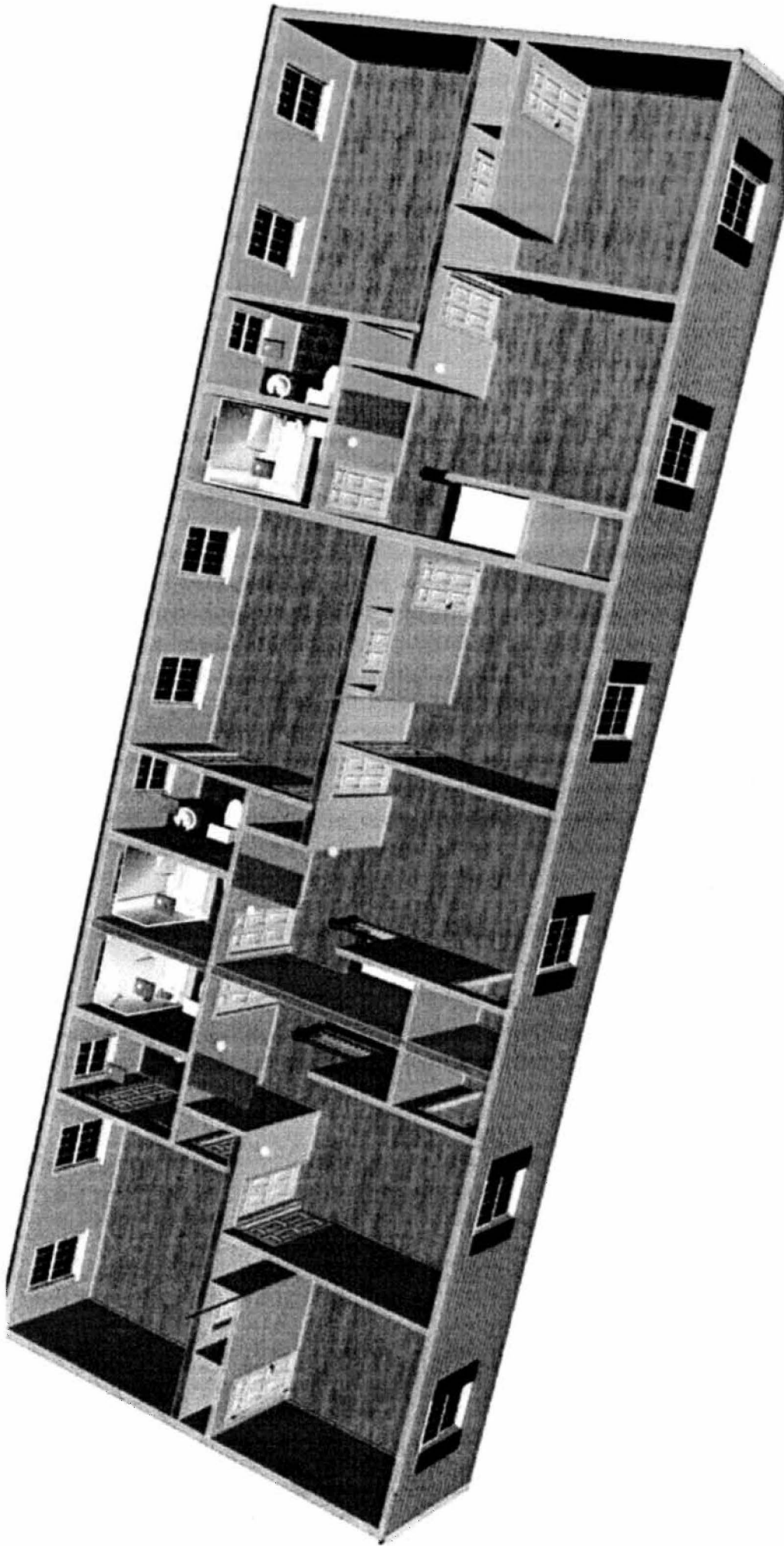



30 REAGANS MILL RD
 WINGDALE, NY 12594
 800-832-3088

PROJECT DESCRIPTION	
PLEASANT ST. PROJECT	
BUILDER:	BUILDER'S CUSTOMER:
LISBOA	SPEC

SHEET TITLE	
DRAWN BY:	DATE: 7/6/12
DYN	SCALE: AS NOTED

SHEET NO.



REVISIONS NO. DESCRIPTION BY DATE 1 REVISIONS DKA 11/11/12 2 REVISIONS DKA 11/16/12 3 REVISIONS DKA 12/21/12 4 REVISIONS DKA 2/24/13 5 REVISIONS DKA 3/4/13		PROJECT DESCRIPTION PLEASANT ST. PROJECT BUILDER: LISBOA BUILDER'S CUSTOMER: SPEC		SHEET TITLE DRAWN BY: DKA DATE: 1/6/12 SCALE: AS NOTED		SHEET NO.	
 WESTCHESTER MODULAR HOMES A COMMITMENT TO EXCELLENCE CONTACT US: 1-800-832-3888 www.westchestermodule.com		30 REAGANS MILL RD WINGDALE, NY 12594 800-832-3888					



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
City of Marlborough
Legal Department

APR 18 A 10:53 140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS
PARALEGAL

April 18, 2013

Patricia Pope
President
Marlborough City Council

RE: Easterly Wastewater Treatment Plant –
Proposed Easement to National Grid

Dear President Pope:

As you know, the Department of Public Works is in the process of upgrading the Easterly Wastewater Treatment Plant. Part of that upgrade involves a new generator and associated equipment. In order to power that generator and equipment, the City needs for National Grid to run electrical lines both overhead and underground, as well as to install transformers. All of this in turn requires that Grid be granted an easement by the City. Accordingly, enclosed for your consideration is a proposed Grant of Easement.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure

Property Address: 860 Boston Post Road, Marlborough, MA (Middlesex South)

GRANT OF EASEMENT

that the CITY OF MARLBOROUGH, a municipal corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, having usual place of business at Marlborough City Hall, 140 Main Street, Marlborough, Massachusetts 01752 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, one (1) pole, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Marlborough, Middlesex County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon a certain parcel of land situated on the northerly side of Boston Post Road, F/K/A Old Boston Post Road, being more particularly shown as "Area: 5.96+/- ACRES" on a Plan of Land recorded with the Middlesex South District Registry of Deeds as Plan Number 444 of 1946, in Book 6963, Page 502 and the most southerly portion of 62.21+/- ACRES as shown on a Plan of Land recorded with the Middlesex South District Registry of Deeds as Plan Number 210 of 1973, in Book 12385, Page END.

11892054

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

After recording return to:
Elizabeth A. Fresolone
National Grid
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451

05 MARLMA GEN

Said "OVERHEAD SYSTEM" is to originate from Pole P.93-8, which is located on the Grantor's property, then proceed in a northwesterly direction from said Pole crossing over, upon and across land of the Grantor to Pole P.93-9.

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "nationalgrid; WATER TREATMENT PLANT; 860 BOATON POST RD., MARLBOROUGH, MA; Scale: NTS; Date: 2/8/13; Drawn By: NG; Actrix Drawing Number 11892054," a reduced copy of said sketch is attached hereto as "Exhibit A" and recorded herewith, copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

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

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

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

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

For Grantor's title, see Takings dated October 13, 1890 and April 1, 1946, recorded with the Middlesex South District Registry of Deeds in Book 2004, Page 1 and Book 6963, Page 502, respectively.

IN WITNESS WHEREOF, the City of Marlborough has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Arthur Vigeant, its Mayor, being thereto duly authorized, this _____ day of _____, 2013.

CITY OF MARLBOROUGH

By: Arthur Vigeant
Its: Mayor

Commonwealth of Massachusetts

County of _____ } ss.

On this the _____ day of _____, 2013, before me,
Day Month Year

Name of Notary Public the undersigned Notary Public,

personally appeared **Arthur Vigeant**
Name of Signer

proved to me through satisfactory evidence of identity, which was

Description of Evidence of Identity

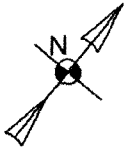
to be the person whose name is signed on the preceding Grant of Easement, and acknowledged to me that he signed it voluntarily for its stated purposes in his capacity as Mayor of The City of Marlborough.

Signature of Notary Public

Printed Name of Notary

My Commission Expires _____

Place Notary Seal and/or Any Stamp Above



LEGEND	
⊕	EXISTING JO POLE
●	PROPOSED JO RISER POLE
□	PROPOSED PADMOUNT XFMR
⊗	XFMR TO BE REMOVED
—	PROPOSED OVERHEAD WIRE
- - -	PROPOSED UNDERGROUND WIRE

CONCRETE STRUCTURE

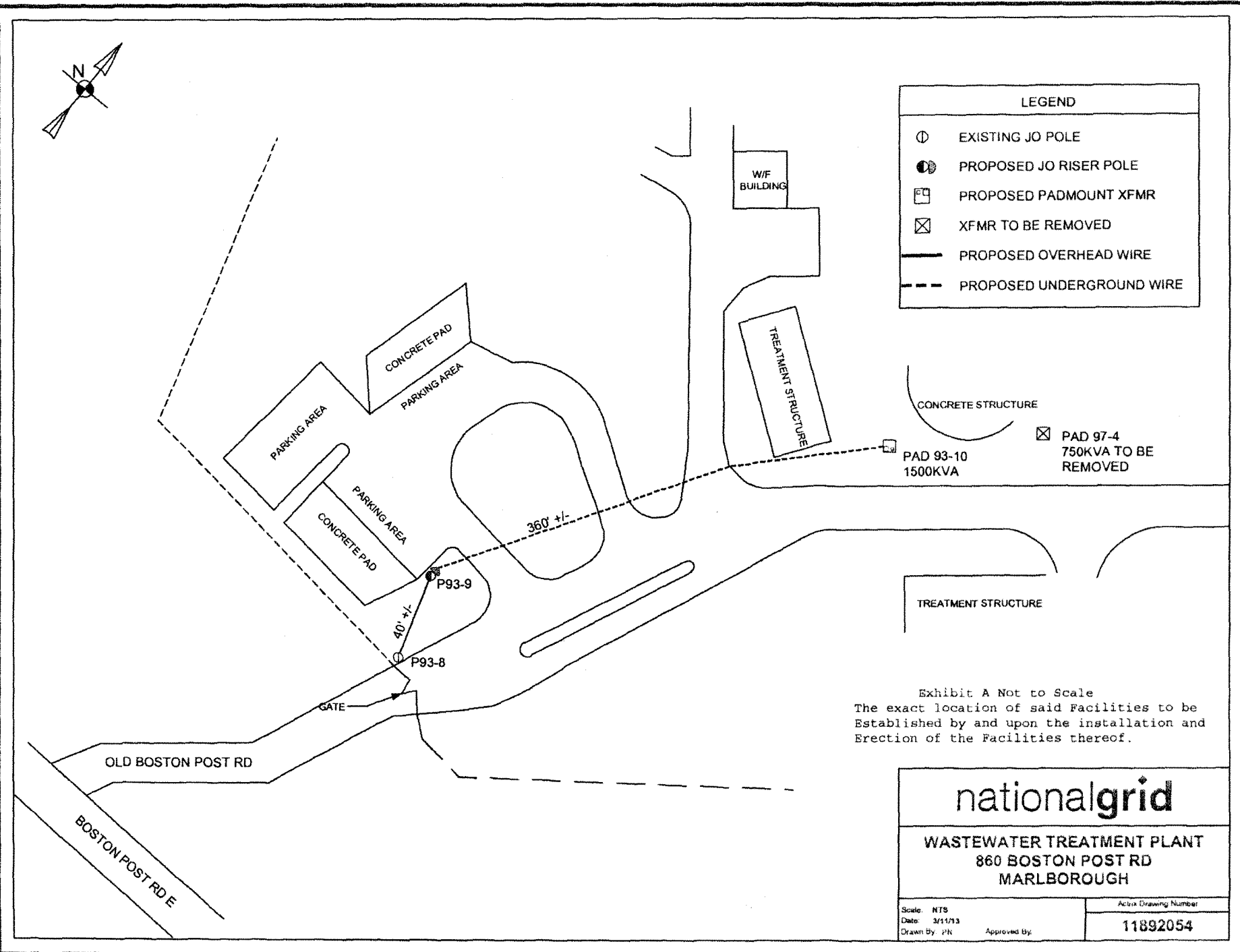
⊗ PAD 97-4
750KVA TO BE
REMOVED

□ PAD 93-10
1500KVA

TREATMENT STRUCTURE

Exhibit A Not to Scale
The exact location of said facilities to be
Established by and upon the installation and
erection of the facilities thereof.

nationalgrid	
WASTEWATER TREATMENT PLANT 860 BOSTON POST RD MARLBOROUGH	
Scale: NTS Date: 3/11/13 Drawn by: JN	Alpha Drawing Number 11892054
Approved By:	





City of Marlborough

BUILDING DEPARTMENT

140 Main Street

Marlborough, Massachusetts 01752

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CITY OF MARLBOROUGH

2013 APR 18 A 11:17

Michael Mendoza
Building Commissioner

April 16, 2013

Re: Proposed Zoning Amendment
Section 41, Utility Service Vehicle Maintenance

Dear Members of the City Council:

This letter is to address two issues: the Proposed zoning amendment and if vehicles can be stored.

Proposed Zoning Amendment

Upon reviewing the proposed zoning amendment which is to add a new section: Section 41, Utility Service Vehicle Maintenance; I would like to the Council to consider the following:

We need a definition of what "Minor mechanical servicing" is. I would suggest that there should be a section/note that clearly states what is not allowed to be performed; like engine repairs or replacements; exhaust work; transmission work; brake work; body work; or auto body work.

Vehicle Storage

The area is Zoned I (Industrial). The main building (630 Forest Street) is located on Lot 111-11 and is owned by 630 Forest Realty LLC.

My current understanding is that the vehicles will be stored not on the same lot as that main building but on an adjacent lot which is listed as 686 Forest Street. This lot is listed as Lot 111-10 and is owned by 686 Forest Realty LLC.

When you review the Table of Use Regulations (§650-17), the closest match for the storage of up to 91 service vehicles would be Outdoor Storage. This is listed as requiring a Special Permit in an Industrial District, but there is also a note (26) attached to this Use, in the Table, which sends you to §650-18(26).

§650-18 (26) Outside storage may be permitted in Industrial Districts if it is accessory to one of the permitted uses in the zoning district in which the main building and lot is located.

To apply section §650-18 (26), it requires that for the storage of these vehicles to be allowed on that lot, you would need to have both the vehicles and the main building on the same lot.

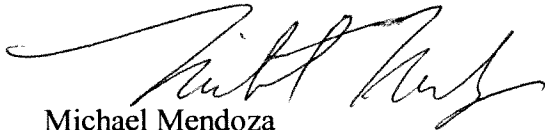
This does not appear to be the case, for the main building is located on Lot 111-11; which is owned by 630 Forest Realty LLC and the proposed site for the service vehicles to be located will be on a lot which has a different lot number (Lot 111-10) and which is owned by a different company (686 Forest Realty LLC).

It would appear that the storing of vehicles, on the 686 Forest St lot would not be in compliance with the City of Marlborough Zoning Ordinance.

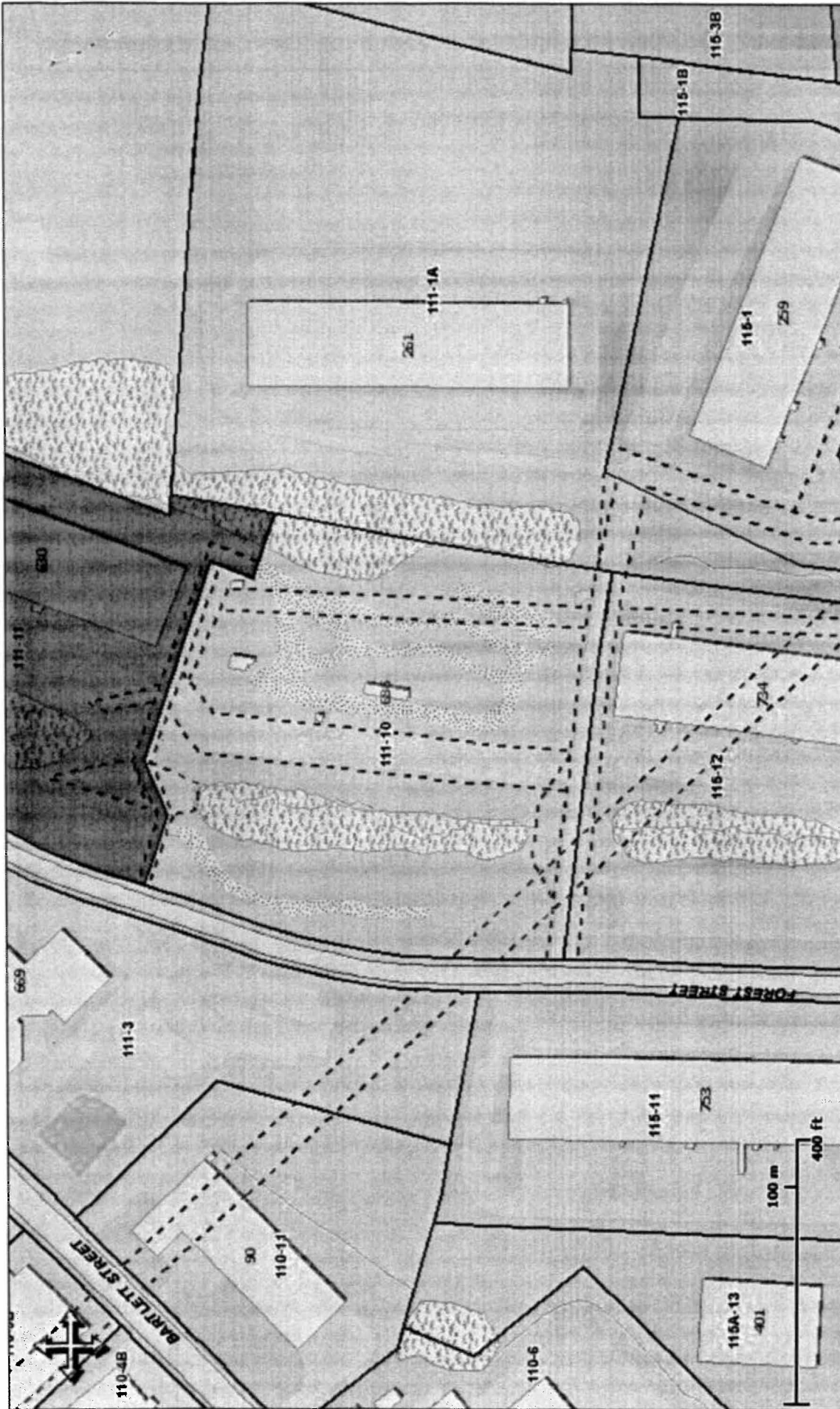
The Council may consider the following comments:

1. A list of the type of vehicles that will be stored at this location.
2. If approved, what would happen if the owner of the building at 630 Forest St (Lot 111-11) decided to sell the lot with the building? This would leave the adjacent lot, as a stand-alone parking lot and in violation of the zoning ordinance.
3. A Special Permit will be required for them to store the vehicles, regardless of the proposed zoning change.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Mendoza". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Michael Mendoza
Building Commissioner

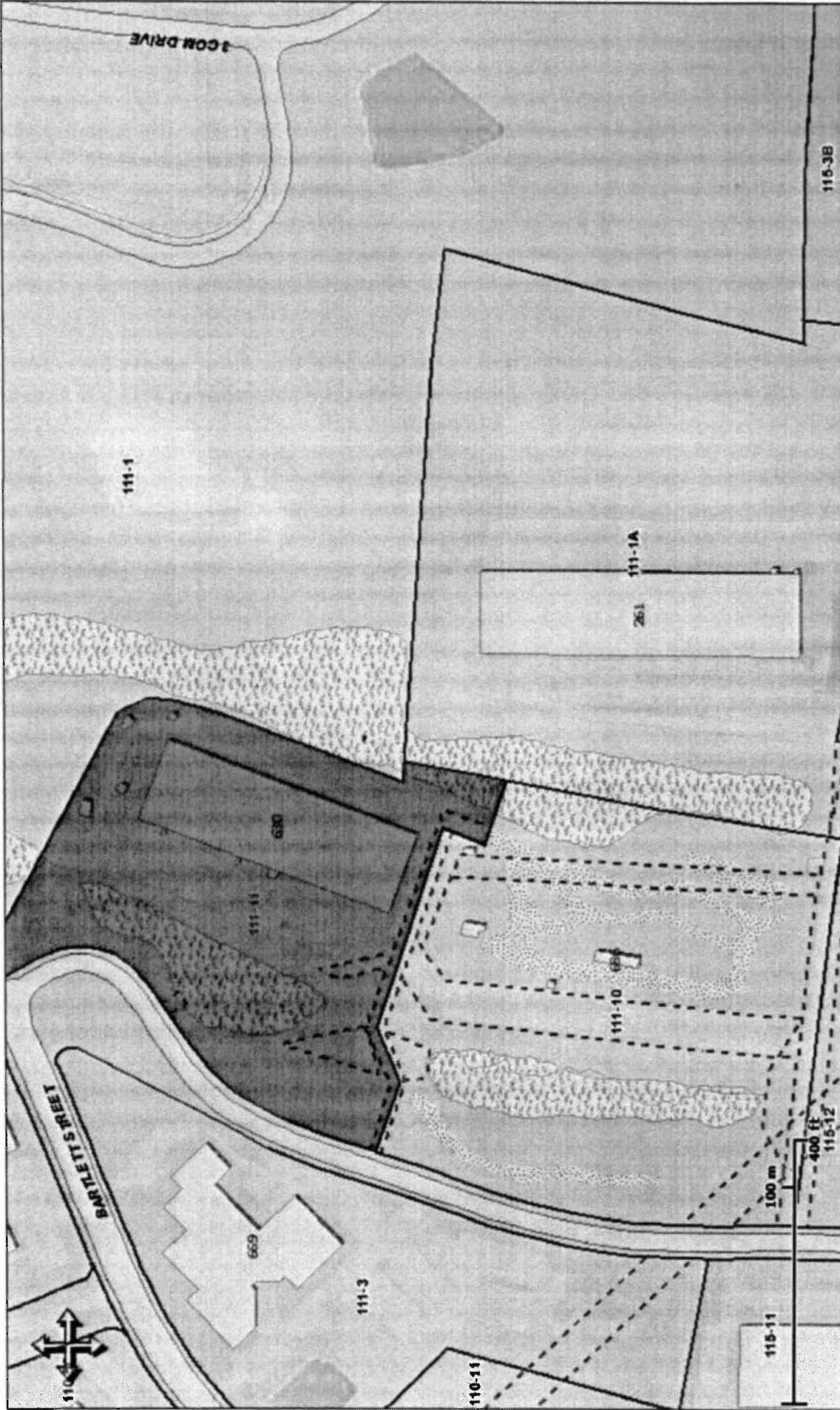


City of Marlborough



The City of Marlborough shall assume no liability for the use of this map for any errors, omissions, or inaccuracies contained herein regardless of how caused. The City of Marlborough assumes no liability for any decision made or action taken or not taken by the user in reliance upon any information furnished hereunder.



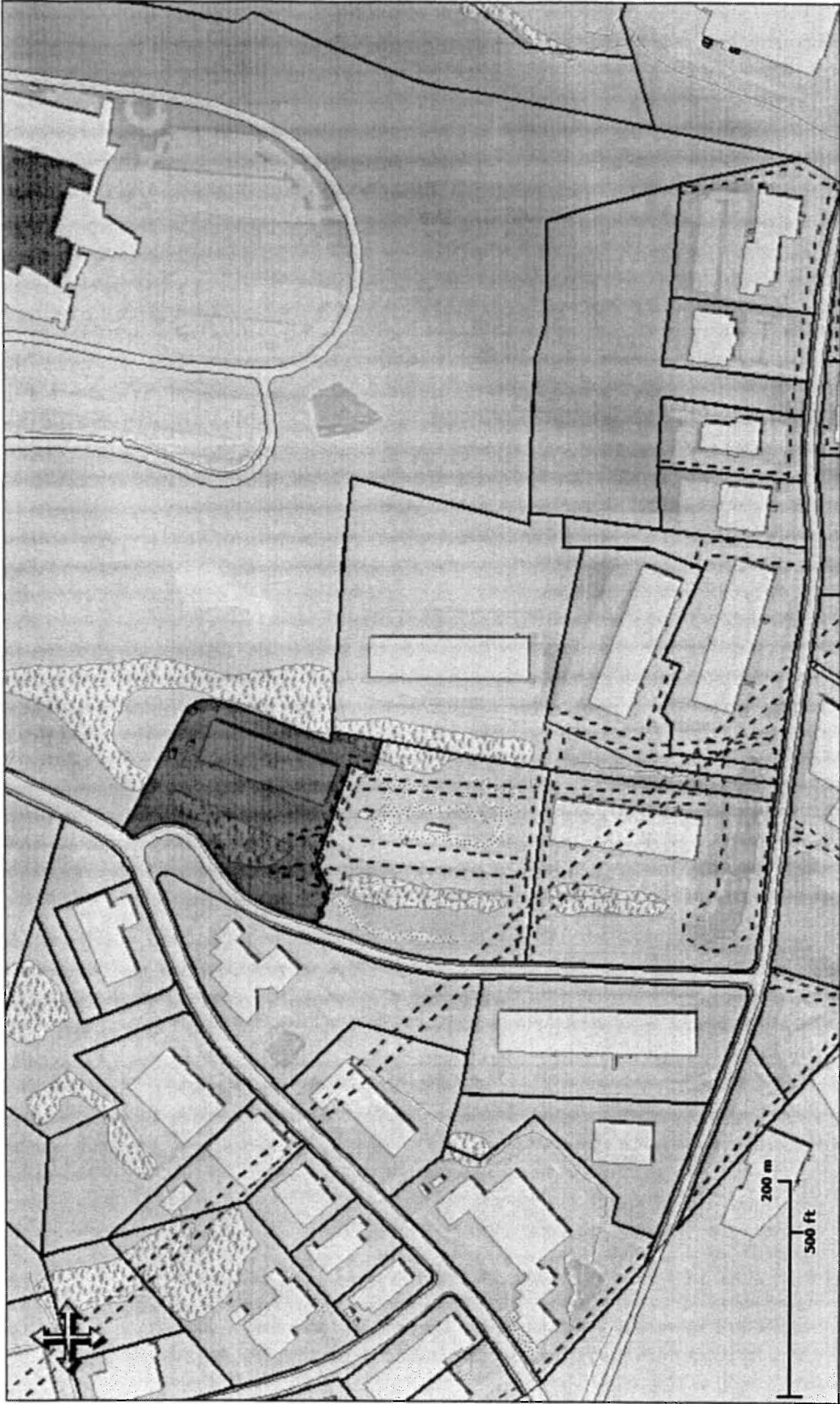


City of Marlborough



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City of Marlborough



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MIRICK O'CONNELL

A T T O R N E Y S A T L A W

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR 18 A 11: 52

Arthur P. Bergeron
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
abergeron@mirickoconnell.com
t 508.929.1652
f 508.463.1385

April 18, 2012

VIA EMAIL AND HAND DELIVERY

Councilor Trish Pope, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: Acceptance of Bouffard Drive

Dear Councilor Pope:

I represent Thomas H. Niles, successor in interest to J. Giles Development Company, the developer of the Wayside Hollow subdivision.

On behalf of the Thomas H. Niles, I am requesting that the City Council consider accepting Bouffard Drive, located in the Wayside Hollow subdivision, as a public way. Please refer this matter to the Planning Board and take the appropriate steps for review by the City Council.

Pursuant to City Council Order No. 91-3822A, I am notifying you that Mirick O'Connell is representing Thomas H. Niles regarding this matter before the City Council and the Planning Board.

Very truly yours,



Arthur P. Bergeron

APB/brf

**LAW OFFICES OF
GREGORY G. MITRAKAS**

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR 10 P 6:27

297 EAST MAIN STREET (ROUTE 20)
MARLBOROUGH, MASSACHUSETTS 01752-2653
TELEPHONE (508)-481-4544
FACSIMILE (508)-480-8228
www.mitrakaslaw.com

April 9, 2013

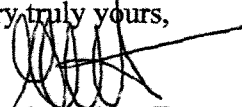
Ms. Patricia Pope, President
Marlboro City Council
140 Main St.
Marlboro, MA 01752

Dear Madame President and Council members:

Logical Partners, LLC respectfully requests an extension of date for the Council vote on its Special Permit application, Order #12-1005151A, until May 6, 2013.

Please do not hesitate to contact me if you should have any questions regarding the enclosed. Thank you.

Very truly yours,



Greg Mitrakas, Esq.
gm.ms

cc: Client

nationalgrid

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CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2013 APR 16 A 10:10

April 12, 2013

City of Marlborough
City clerks Office
140 Main Street
Marlborough, MA 01752

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID covering the installation of underground facilities.

If you have any questions regarding this permit please contact:

Scott Boyce 508-935-1652

If this petition meets with your approval, please return an executed copy to:

National Grid Contact: Angela Birch; 280 Melrose Street; Providence, RI

Very truly yours,



Chris Montalto, Engineering
Supervisor, Distribution Design

Enclosures

PETITION FOR MANHOLE AND DUCT LOCATIONS

Hopedale, MA 01747

April 12, 2013

COUNCIL COPY

To the City Council
of the City of Marlborough, Massachusetts

MASSACHUSETTS ELECTRIC COMPANY requests permission to locate manholes, wires, and ducts, including the necessary sustaining and protecting fixtures, along and across the following public way:

D'Angelo Dr intersection Simarano Drive

**Ngrid install of conduit fr MH#15-22ti PO-50
Simarano Dr and PO-50D'Angelo. Petition also
includes 2 poles install on Simarano Dr and 2
poles install on D'Angelo Drive**

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain manholes, ducts and wires, together with such sustaining and protecting fixtures as it may find necessary, said manholes and ducts to be installed substantially in accordance with the plan filed herewith marked--

MASSACHUSETTS ELECTRIC COMPANY

Plan No. **14589540** Dated: **04/05/2013**

MASSACHUSETTS ELECTRIC COMPANY

By: Chris Montalto
Manager of Distribution Design

PAID
\$25.
4/11/13



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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR 11 P 1:52

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: 4-11-13

To the City Council:

Owner Name: Tony BITAR

Residential Address: 5 Rolling Ridge Lane, Paxton, MA 01617

Telephone Number: (508) 981-5080

Business Name: Hannoush Jewelers

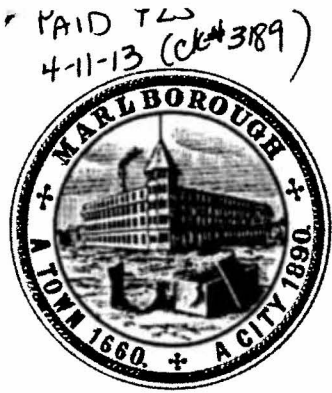
Business Address: 601 Donald Lynch Blvd. 01752

Business Telephone Number: (508) 303-6595

Owner Signature: Tony Bitar

The above-signed Tony BITAR respectfully requests that he/she be granted a Junk Dealer License license.

In City Council



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

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR 11 A 11:05

**Lisa M. Thomas
City Clerk**

MARLBOROUGH, MA

DATE: April 10, 2013.

To the City Council:

Owner Name: Roman Kimyagarov

Residential Address: 95 Edmunds RD Framingham 01701

Telephone Number: (508) 877-02-07

Business Name: Arthur & sons shoe repair

Business Address: 107 Main street MARLBOROUGH MA

Business Telephone Number: (508) 624-70-66

Owner Signature: Roman Kimyagarov.

The above-signed Roman Kimyagarov respectfully requests that he/she be granted a Junk Dealers license.

In City Council

Minutes: Tuesday, March 12, 2013 Meeting

Location: Mayor's Conference Room, City Hall, Marlborough, MA

Attendees: Sheila Brecken, Jennifer Claro, Richard Collins, Jim Confrey, Rita Connors, Brenda Costa, Marie Elwood, Jeanne McGeough, Angela Rosetti

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR - 9 P 1: 24

I. Call to Order at 8:50 am. Board Chair announced meeting was being recorded

II. February 2013 meeting minutes were reviewed and approved by the board.

III. Director's Update:

Jennifer Claro met with the Exec. Director of the MWRTA on a funding request to BayPath Elder services, Inc. concerning Title III funding. It was recommended that the Marlborough COA form a partnership with Employment Options on the grant. The transportation grant would help seniors as well as others get to doctor visits, the pharmacy, grocery shopping, etc. Suggestions were made to perhaps divide geographic areas of Marlborough for transportation scheduling. Currently FISH provides medical transportation for 65 and over for seniors in elderly housing and members of the Friends of the Marlborough Seniors, aged 65 and older. The 60-65 age groups are not serviced at this time.

Lynn Anderson is on agenda with city council for new COA board member.

IV. Board Updates

A. BayPath – Jim Confrey reported that sequestration on the State's budget has begun due to non- movement in Congress.

The Marlborough Community Cupboard is looking at ways to better target seniors for food assistance. Currently, the United Way Of Tri-County. Council on Aging Director, Jennifer Claro, Ana Cristina Oliveira, COA Outreach coordinator sit on this committee along with other representatives such as Baypath Elder Services, who are discussing senior friendly assessment process and food delivery program Inc. This program can be tricky due to federal guidelines of distribution of food through USDA and other procedural requirement thorough United Way. The next meeting is scheduled at the Marlborough Community Cupboard on April at 2:00.

V. Old Business

1. The Coats System – Rita Connors reported that there were 6 or 7 new applicants in the past week. Rita also reported that the system has some checking in and reporting issues. Board discussion ensued, regarding investigating other COA systems, as to an alternative new system in anticipation of the new Senior Center.

2. COA Party Committee – Angela Rossetti from the Friends of the Marlborough Seniors board recommended to the COA Board that a listing of all activities and parties of both the COA Board and the Friend's Board be combined on one list. When an event or party is being planned the COA board member can confer with the Friend's board member on the needs for the event or party for coordination of planning and funding.

Sheila Brecken reported her findings regarding a new coffee pot for the seniors in the lobby. Angela said she would discuss with the Friend's board to approach BJ's, regarding a discounted purchase of a Keurig machine and coffee.

3. By-Law Committee – Jim reported that the draft by-laws are being reviewed by the City's legal department. Brenda Costa will send the e-draft to legal for the revisions to be made.

4. New Senior Center – Jennifer Claro reported that an advisory committee is being formed at this time to participate in the new Senior Center planning and progress.

5. Mayor's Senior of the Year Banquet 2013 – scheduled for 4/10/2013. Nomination forms for the senior of the Year were sent out with the March newsletter.

VI. New Business

A. Committee promoting new senior center at Ward Park was tabled until April meeting.

Meeting adjourned at 9:45 AM

The next board meeting will be 4/9/2013 at 8:45am in Mayor's conference room, City Hall.

Respectfully submitted,
Brenda Costa



CITY OF MARLBOROUGH RECREATION DEPARTMENT

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
239 Concord Road
Marlborough, Massachusetts 01752
Tel (508) 624-6925 FAX (508) 624-6940 TTY (508) 460-3610

2013 APR 18 A 10:58

COMMISSIONERS
Brenda Calder
Thomas Evangelous
Robert Kays, Chairman
Nancy Klein
Jeffrey Long
Mark Vital
Dennis Zilembo

DIRECTOR
David T. Grasso

PROGRAM MANAGER
Charles Thebado

March 13, 2013

Pursuant to notice duly filed with the City Clerk, a meeting of the Parks and Recreation Commission was held at 4:15pm., at the Recreation Commission Office.

Present were Commission Members: Chairman Kays, Commissioner Long, Commissioner Zilembo, Commissioner Vital, Commissioner Calder and Commissioner Klein.

Also attending: Recreation Director David Grasso and Recreation Program Manager, Chuck Thebado.

Approval of minutes 02-13-13

On a motion made by Commissioner Klein and seconded by Commissioner Vital, it was unanimously:
VOTED: To approve the 02-13-13 minutes.

Communication from Mr. Paul Brodeur of 41 Hayden St, Marlborough: Upon reviewing Mr. Brodeur's letter, the Commission requested Chairman Kays to respond.

Parks Report:

Parks General Foreman, Chris White was unable to attend the meeting due to other work obligations. Mr. Grasso informed the Commission that our department is working closely with Chris White and are in the process to finalize all details regarding the Memorial Day Soccer Tournament.

Recreation Report:

Recreation Director David Grasso and Program Manager Chuck Thebado gave the following updated report:

- There was a brief discussion regarding the PARC Grant for Ward Park and Communication from Ms. Priscilla Ryder.
- As of today, we did not hear back from Royal Crest Apartments regarding parking at Memorial Beach.
- Project Winter Adventure Program went very well. Due to the special permit condition provided by City Council, our Department did not have to pay for the Bus.
- Registrations for the April School Vacation /Project Spring Adventure Program started last week.
- PSA registrations will start on Saturday, April 13th, 2013, from 11:00am to 200pm, at the Jericho Lodge.
- Working on Summer Staff.
- As of right now we have 35 programs available for the spring schedule.
- Skyhawks and Basketball Program will be available on line within a few weeks.

Page 2

There was a discussion regarding online payment. The Commission stated this process would allow more participation and asked Mr. Grasso to look more into it.

The Commission thanked Mr. Grasso and Mr. Thebado for their updated report.

Meeting adjourned at 4:42pm.

Attest to:

Simela Perdikomatis
Senior Clerk/Comm. Secretary

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

2013 APR -9 A 8:15

Minutes

January 17, 2013 (Thursday)

Marlborough City Hall – 3rd Floor, Memorial Hall

7:00 PM

Members Present: - Edward Clancy Chairman, John Skarin, Dennis Demers, Dave Williams, Lawrence Roy, Allan White

Absent: Michele Higgins

Approval of Minutes: The Commission reviewed and voted 6-0 to unanimously approve as written the minutes of February 2nd, Feb. 16th, 2012 and March 15, 2012

Draft Order of Conditions

- 706 Hosmer St. – Memorial Beach – DEP 212-1103
The Commission reviewed the draft Order of Conditions and corrected a few typos and errors. The Commission voted 6-0 to approve the Order of Conditions as written and amended.

Discussion:

- Flagg Swamp – State Division of Fishery and Wildlife – discuss use policy for city land adjacent to state land.

Ms. Ryder explained that she met at the Flagg Swamp property with Pat Huckery of the DFW on January 4th to discuss trail layout etc. However, Ms. Huckery explained that the State Division of Fishery and Wildlife (DFW) have decided NOT to make any formal trails, bridges or other amenities. They would like the land to be left more natural and un-maintained. Several hunters have used the site this past year and have enjoyed the property as it is. By formalizing a trail system and encouraging more people to walk the area, it may detract from the wildlife habitat and hunting capabilities which DFW is trying to promote. Therefore, she has suggested the kiosk that was constructed just have information about DFW and a map, but not much more. Ms. Ryder had discussed having a neighborhood meeting to explain to all the abutters what the rules are and to get their input on safety. Posting the safety zone was also discussed with her.

The Commission noted that there are two parcels of abutting conservation land. Ms. Ryder asked how these should be treated. It was agreed that Ms. Ryder will talk to Police Chief Leonard about the property given the new direction being taken by DFW. Mr. White wanted to be on record that he is opposed to having hunting on the DFW land or city land since it is in a very close to residences and he does not believe it is safe to have hunters and walkers on these properties at the same time. The Commission asked that this be placed on the next agenda and discussed after input from the Police Chief is provided.

- U.S. Dept. of Agriculture – insect trapping on conservation land.
 - The Commission reviewed an e-mail to Ms. Ryder from Kenneth Divito in the US Dept. of Agriculture. Mr. Clancy said he read the e-mail and had no problem giving permission to the USDA to put up traps to see if they find any exotic insects. The Commission voted unanimously 6-0 to allow this trapping.

Correspondence/Other Business:

- Dog issues on Conservation Land - Ms. Ryder reported that she has received several complaints from walkers and users of the Felton and Desert Conservation Lands that professional dog walkers sometimes with 6-8 dogs are bringing the dogs on the property and letting them run free off leash. Conflicts with people and horses and other dogs that are on leash have been a problem. Ms. Ryder has been in contact with the new Animal Control Officer who has been visiting these sites and talking to dog walkers about the leash law. He has not yet encountered the professional dog walkers, but will continue to visit these sites to see if he can talk to them.
- DPW projects – Kirby St. reconstruction and Maple St. water line. Ms. Ryder said the DPW will be submitting applications for both these projects and wanted to know if they can file a Request for Determination of Applicability (RDA) for this work. The Commission determined since all work was being done within the roadway layout, that an RDA would be sufficient. Ms. Ryder will inform the DPW.
- Project updates on Mauro Farm, Toll Brothers were discussed – both sites appear under control, but weekly inspections are still required.


Violation:

- DEP 212-1086 Letter dated, Jan. 9, 2013, RE: Wetland Violation Notice, Easterly Waste Water Treatment Plan Improvements. The Commission reviewed this letter and approved it.

Meetings: Next Conservation Commission meetings – Feb. 7th and Feb. 21st, 2013.

Adjournment: There being no further business the meeting was adjourned at 7:50 PM.

Respectfully submitted,


Priscilla Ryder
Conservation Officer

CITY OF MARLBOROUGH
CONSERVATION COMMISSION

Minutes

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

January 19, 2012 (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.

2012 APR -9 A 8:15

Members Present: Edward Clancy-Chairman, John Skarin, Dennis Demers, Dave Williams, Allan White and Priscilla Ryder-Conservation Officer

Absent: Michele Higgins and Lawrence Roy

Public Hearings

Request for Determination of Applicability

16 Spring Lane – Maria Montes Otenti

Maria Montes Otenti and her husband were present. They explained that they wanted to replace and repair the walls on the property. One wall is at the water's edge of Ft. Meadow Reservoir, the other walls are internal to the site. Existing walls are old railroad ties which are rotting. Mrs. Otenti provided some pictures showing the existing walls. The wall near the water is leaning over. They will replace the wall along the lake in the same place using some block walls similar to what is in the front of the house. The Commission asked about the design of the wall and the footings required. This will be determined when the exact wall type is determined. The interior wall in the back yard which is 6' tall now will be terraced with two 3' walls. The Commission discussed timing, machines to be used, erosion control and dewatering needed. The applicants replied that they would like to build the wall at the water's edge ASAP before the water rises and would like to do the rest this winter or next spring weather permitting. No dewatering is anticipated. Small machines will be used and will access through the adjacent beach property. There being no further questions, the hearing was closed. **The Commission voted unanimously 5-0 to issue a Negative Determination with conditions to: 1) notify the Conservation Officer before the construction begins for each wall segment (if there is a delay between each); 2) erosion controls to be installed as needed to control runoff into the lake; 3) Pin the wall next to the water and replace it in kind in the same location.**

Request for Determination of Applicability

111 Hayes Memorial Dr. - Rinchem Company Inc.

Christian Grimms from Rinchem Company Inc. was present and explained that the company proposes to add a 12 x 16 concrete pad for an 8 x 10 self contained safety storage container. The work involves excavating out the exiting pavement which will be placed in a dumpster and removed from site. They will then pour the concrete pad. Work is just at 20' away from the wetland drainage area. The Commission agreed this was minor disturbance on existing pavement. They required a preconstruction meeting and erosion controls as necessary. **The Commission closed the hearing and voted unanimously 5-0 to issue a Negative Determination of Applicability with conditions as noted above.**

Notice of Intent

24 Hager St. - Lourival Santos

Lourival Santos was present and explained that he proposes to make improvements to the barn, existing stone walls, gates, fences, sheds and landscape features and trees, within the Buffer Zone and Riverfront Area of Hop Brook. He showed a plan highlighting all these items to be addressed. He discussed each with the Commission:

1. Fence next to shed 12' x 24' for his dogs. The Commission determined this was far enough away from the wetland and was OK.
2. Fence next to the brook is in need of replacement and repair. The Commission agreed this was a replacement in kind and would be permitted.
3. Barn is in disrepair. He would like it torn down and rebuilt on the same footprint. The Commission asked Ms. Ryder to find out from the building department if it originally had a building permit, and if it is in the floodplain and is it taxed? Ms. Ryder will check.
4. Replace walls below driveway with the rocks currently stockpiled down near the stream which were collected from the site after the septic system was installed.
5. Rebuild stone walls along the street in the same location. He wants to repair the stone wall between the driveways and the section south of the driveway to match the headwall over the stream.
6. Water feature- At the front of the house is an existing small water garden feature. He would like to repair and replace this garden.
7. The trees along Rte. 20 are old and about to fall down, he'd like to remove them and replace them with some evergreen trees. The Commission noted that this could be done as long as it was on his property and not the state layout, also that if he did this in phases, he could only clear an area that he was going to replant. Ms. Ryder will check the property line location in relation to the trees.

The Commission determined that each of these items would be acceptable projects and would not affect the wetland; however, there are still some questions about the barn, trees and the stone walls that need clarification. Therefore, the Commission continued the hearing to the Feb. 2nd meeting and asked Ms. Ryder to draft a set of conditions for review. The Commission also asked Mr. Santos to move the granite blocks as soon as the ground is frozen.

Notice of Intent

The City of Marlborough DPW – 860 Boston Post Rd. and 82 Country Lane

Dana Green, Design Manager for Easterly Waste Water Treatment Plan (EWWTP); Mike Guidice Design Engineer for Country Lane; and Magdalena Lofstedt all from CDM Smith were present to discuss this project.

Dana Green explained that there are two related projects one at the Easterly Waste Water Treatment Plant upgrade and the sewer pump station upgrade at 82 Country Lane. He will discuss the EWWTP project first. The work at the EWWTP is mostly outside the 100 foot buffer zone, but some work on the driveway and drainage do affect the buffer zone.

Mr. Green provided the background for this project. The EWWTP has been issued a NPDES EPA permit with new discharge limits which requires the removal of phosphorous. There was also an enforcement order from EPA requiring the minimization of phosphorous loading in the Assabet River and Concord River watersheds. The plant was built in 1973 and has never been upgraded since. There was an older plant 100 years before, in the 20's the plant had oxidation lagoons in the back. All the equipment in the existing plant is 40 years old which will be upgraded. In doing the design, the primary concern has been to control odors. They will install 2 separate odor control systems one carbon system and one bio-filter organic odor control system. At the grit screen facility, sludge storage tank and primary settling tanks there will also be some odor control systems to reduce odors from leaving these areas.

He described the upgrades that are also proposed at the transfer station which accepts solid waste, recycling of materials including oil and light-bulbs. WeCare leases this property from the city and manages this transfer station. WeCare takes sludge generated from the EWWTP and WWTP which is added to the WeCare digesters to make compost. The upgrade to this transfer

station facility will improve safety and security. The center containers are to be recessed into the ground for easier disposal. They will also add security cameras. A detention basin has also been added to the design and will drain across the street into a new drain outlet which drains to the wetland.

The entire project is driven by an EPA mandated deadline and is to be completed in 2014-2015.

Work in the buffer zone to the wetland will include: 1) the chain link fence removal, 2) erosion control installation, and 3) work within the existing tanks. The rest of the work is outside the Commission's jurisdiction.

Chairman Clancy asked how they will switch the head-works during construction. Mr. Green explained that they will build a new structure nearby and divert the flow during construction of the new headworks building structure. Mr. White wanted to be sure this has been properly calculated to avoid any chance for escape. Mr. Green assured the Commission that this is a good solution and it is cheaper than a bypass system. Mr. Clancy asked where the new septic hauler dump was to be located and if it had "odor" control as well. Mr. Green said they would dump into the new building and it is designed to have negative pressure, so will pull in the smell as it is designed to do. He also explained that the new WWTP has a new septic receptacle, so the amount of sewerage dumps at the EWWTP will be reduced. Mr. Clancy asked if the bio filters and clarifiers were covered. Councilor Delano also asked how much odor reduction is anticipated as he is concerned with odors for the neighborhoods and surrounding businesses. Mr. Green explained that they have looked at the system closely with an eye to reducing odors as much as possible. The edge of the tanks will have covers which will remove odors. Mr. Delano asked if the tanks could be covered. Mr. Green said they investigated that option, but the cost is astronomical and the majority of the odors will be captured with the system as designed. After further discussion about the septic issue, and sewerage delivery to the WeCare facility, Mr. Clancy asked about the transfer station process.

Mr. Green explained that they have redesigned the transfer drop off area. They are seeking a new site assignment from the Board of Health as required. He explained that the containers will be recessed into the ground to allow for easier loading from car. The leaf and yard waste would be piled on a concrete pad. The Commission discussed this and said that the material would get wet and smelly – as is the problem today. It now drains into the catchbasin, Mr. Clancy has seen sheen off this site in the past which is not good. Mr. Allen expressed concern that the organic materials would be discharging nutrients and this needed to be controlled. It was decided that the organic materials would be deposited into a bin which will be covered, so as not to add water weight; it will be removed regularly, so it does not have a chance to decompose and cause major odor problems which exist today. Mr. Green explained that the WeCare Facility has a contract with the city until 2020. He said they should look more closely at how WeCare transfers this material from the drop off area to their facility to help reduce odors there as well. They should also look at the current drainage system in the area to see what improvements can be made.

The Commission discussed construction sequencing and phasing of the project which Mr. Green explained. A drainage detention basin has been included in the design to help treat runoff during construction and once the project is completed.

82 Country Lane - Mike Guidice of CDM Smith was present to discuss the pump station upgrade. The station is 35 years old and is the biggest pumping station in the city. It works hard and is in need of replacement. The existing conditions include 10' concrete wet well, 8" line flows to the wet well under Mowry Brook. There is an existing emergency generator on site. Mr. Guidice explained that some of the structures can be reused, but they will be adding a vault

8' x10' and 8' deep to house the piping and valves for the force main. The existing pumping chamber will be abandoned and filled in place. The only excavation they are anticipating is for a value vault and force main connection. They will also be adding a "pig" (**what is this?**) into the pipe. All work will be done within the limits of the city's easement. They will be installing a new fence around the facility 6' high chain link fence black, and will plant some evergreens around the outside to provide some screening. The Commission inquired of the timeframe. Mr. Guidice explained that they would like to award the contract in the summer and begin construction in the fall with hopes to be done in 2013. It should take 2-3 months at most. He explained that they have met with the neighbors and have offered to pave their driveway since it has been impacted by trucks turning in the area.

During construction all excess materials will be trucked away, dewatering will be necessary and the contractor hired will be responsible for determining what they would like to use. The Commission determined that the contractor would need to come before them to explain the system to be used at a regularly scheduled meeting.

Several neighbors were present. Mrs. Judy Driscoll of 88 Country Lane expressed concern with how sewer will be dealt with during construction. Mr. Guidice said they would install a bypass system. Ms. Sue Monty of 115 Farrington Circle wanted to know if there would be any effect on their property across the stream. The consultant said no work was proposed across the brook. Mrs. Driscoll asked about any additional noise with the new system? Mr. Guidice indicated it should be less with the new pumps which are quieter.

Mr. Clancy noted that he was out at the site and saw a big pile of concrete forms and wondered who's they were. Mr. Driscoll, the abutter, explained that they were his. He has been at the site for 35 years and he will work with the contractor to get them moved out of the way.

The Commission noted that some additional information about construction sequencing was still needed and continued the hearing to the Feb. 2, 2012 meeting date. Ms. Ryder was asked to draft a set of conditions as well for review at this meeting.

Discussion:

- Desert Natural Area Conservation Land – seeking funding for pitch pine forest restoration. Ms. Ryder noted that they will be submitting applications from various funding sources including DCR. She will report on progress as these are submitted.
- Project updates- Ms. Ryder provided updates on the ITAM, Vestas at Crowley Dry, 621 Sudbury St. violation and beavers on Sudbury St. which are flooding the woods in a neighbor's back yard.

Correspondence/Other Business: the following correspondence was reviewed and the Commission unanimously voted to accept and place on file.

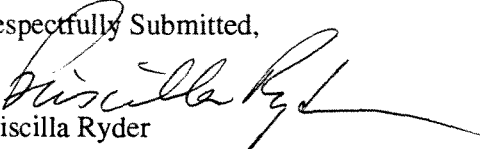
- Letter of Recommendation for Aiden Steadman-Eagle Scout, dated Jan. 9, 2012
- Letter to Mr. McIver, Italian American War Veterans Post 45, dated Jan. 11, 2012 RE: 111 Neil St. tree clearing, violation of Determination of Applicability

Meetings

- Next Conservation Commission Meetings will be February 2nd and 16th, 2012 (Thursdays)
- Land Stewardship Trail Crew – Tuesday, January 24, 2012, 9:00 AM at Cider Knoll/Mello Family Meadow

Adjournment - There being no further business, the meeting was adjourned at 9:10 PM

Respectfully Submitted,


Priscilla Ryder
Conservation Officer

CITY OF MARLBOROUGH
CONSERVATION COMMISSION

Minutes

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2013 APR -9 A 8:15

April 5, 2012 (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.

Members Present: Edward Clancy-Chairman, John Skarin, Dennis Demers, Dave Williams, Lawrence Roy and Priscilla Ryder-Conservation Officer and Michele Higgins

Absent: Allan White

Public Hearings

Request for Determination of Applicability

123 Farmington Circle - Donald Monty

Proposes to install an above ground pool within 50 ft. of a stream.

Donald Monty was present and explained that he wants to install an above ground pool in his back yard. He has enough room to place it outside the 50 ft. buffer zone and away from the house. He will be using cartridge filters to filter the water. The area is mostly flat so there is minimal grading needed. Really he just needs to remove the sod, add sand and install the pool. The Commission determined that the disturbance will be minimal and voted unanimously 5-0 to issue a negative determination of applicability with no conditions. (Larry Roy had not yet arrived)

Notice of Intent

63, 73, Schofield Dr. 58 Brazeau Cir, 64, 74 Bergeron Rd.

The Marlborough Dept. of Public Works proposes to create a trench to improve drainage behind the homes at 63 and 73 Schofield Dr. 58 Brazeau Cir. and 64 and 74 Bergeron Rd.

Chris LaFreniere Assistant City Engineer and Ken Caulder from the DPW Street Division were both present to explain the project. Chris LaFreniere described the area as a ½ acre wetland which over the years has begun to fill in. Based on complaints from the neighbors there has been some problems with flooding over the past several years. To help address this problem they are proposing to install a trench through the wetland, from the discharge of the detention basin at the end of Brazeau Cir. and convey this water into the existing cross drain which crosses from Bergeron Rd. to Schofield Rd. through the house lots and just below the wetland area. The pipe will be perforated. Their goal is to channel the surface water from the detention basin and lower the groundwater table a bit to eliminate the flooding to homes, while still maintaining the wetland.

The Commission asked if easements were going to be sought from the neighbors, Mr. LaFreniere indicated that yes that would be necessary so the City has a right

to maintain it. However, the intent here is for the neighbors to keep the ditch open and keep it flowing with minimal involvement of the DPW. Mr. Clancy noted that it is unusual to ask to lower a wetlands water level, but under the current circumstances, given the detention basin above, and the gradual filling in of the wetland with the vegetation that this seems like a reasonable solution to help protect the homes.

Mr. Sullivan an abutter at 63 Schofield Dr. explained that he is in favor of this project. Over the past few years his back yard has been getting very wet, they never had this amount of water before. He noted that it does appear that the overgrowth in the wetland, which used to be more concaved, is pushing the water to the edges of the wetland and flowing into his yard. The shed which used to be on dry land is now in water. Mr. Blake of 73 Schofield Rd. also spoke in favor of the project. He asked questions about the swale construction and depth. Mrs. Blake asked about the new catch basin design and location.

Ms. Higgins also asked how Chris LaFreniere calculated that the wetland was 3' higher than in the 1960's topo maps. He replied that he just looked at the comparison of the water levels then and now and made a rough calculation.

Mr. Clancy asked for clarification on construction sequencing and tree clearing

Certificate of Compliance


- DEP 212-1071 173 Cullinane Dr. – Mr. Garafalo's wall repair in the back yard.

Discussions:

- Community Garden – Update
- Approval of Cider Knoll Community Garden rules and regulations
- Italian American Club (ITAM) – Neil St. – tree plantings plan - review
- Review NPDEP discharge permit for Ft. Meadow Reservoir Weed Treatment
- 79 Chase Rd. – questions about wall

Meetings – Next Conservation Commission meetings –May 3rd and May 17th, 2012 (Thursdays) (Note: No meeting April 19th)

Adjournment

Respectfully Submitted,

Priscilla Ryder
Conservation Officer

CITY OF MARLBOROUGH
CONSERVATION COMMISSION

Minutes

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

July 19, 2012 (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall - 9 A 8:15
7:00 P.M.

Members Present: Edward Clancy-Chairman, John Skarin, Dennis Demers, Dave Williams, and Allan White Michele Higgins and Lawrence Roy (Priscilla Ryder-Conservation Officer)

Absent: None

Public Hearings:

Request for Determination of Applicability (Continuation)

117 Wayside Inn Rd. - Joaquim & Karen Bento

Proposes to add a screened in porch and deck at the rear of the house close to wetlands.

Mr. Jack Bento was present and asked to **withdraw** his RDA application since he has now filed an NOI in its place. The Commission voted 5-0 to approve the withdrawal.

Notice of Intent

117 Wayside Inn Rd. - Joaquim & Karen Bento

Proposes to add a screened in patio/deck at the rear of the house close to wetlands.

Mr. Bento, the owner, explained that Ms. Ryder had taken soil samples in his back yard and defined the wetland boundary. These are shown on the plan. He scaled the deck location on the plans based on the house and wetland flags. He showed some pictures of the proposed deck location. He hired an engineer to determine how to minimize the decks impact. He showed several exhibits; one showing 2 of the 4 posts in the buffer zone. He also showed a plan where the deck is cantilevered. There was much discussion with all Commission members about whether the posts could be moved, the deck made smaller. There was discussion about the 20' buffer zone and Mr. Bento explained how he had gone through the Commission's policy and answered all the questions asked. Mr. Demers and Mr. Allan had visited the site and determined the work which will involve just the footing with a deck 11' in the air should have little or no impact on the wetland regardless if it was in the 20' buffer zone. Mr. Clancy and Mr. Williams concurred and they had both seen the site as well. Councilor Joe Delano spoke in favor of the project on behalf of Mr. Bento saying he thought the project was a good one and encouraged the Commission to approve it. After some additional discussion about cantilevering the deck the Commission closed the hearing.

The Commission reviewed a set of draft conditions and clarified the location of the silt fence, and agreed to add the removal of the dead trees on the property and to add the permanent 20' wetland boundary marker.

On a motion by Mr. Williams, second by Mr. Allen, the Commission voted to approve the draft Order of Conditions as written 5 – 2. Edward Clancy, Dennis Demers, Allan White, David Williams and Michele Higgins in favor. John Skarin and Lawrence Roy opposed.

Request for Determination of Applicability (Continuation)

3 Red Spring Rd. - The Inter-Colonial Club

Proposes to add sand to the lawn area near Ft. Meadow Reservoir.

At the applicants request this hearing was continued to the next meeting.

Certificates of Compliance

- DEP 212-958 274 Brigham St. - Ms. Ryder noted that she is still waiting for deed language and permanent markers to be installed. This item was continued until these issues have been addressed.
- DEP 212-1066 340 Maple St. - Ms. Ryder indicated all work had been done. The Commission asked if a fence around the basin was required. Ms. Ryder will inquire. This item was continued until this issue is addressed.
- DEP 212-1088 17 Rolfe Rd. - Ms. Ryder indicated all the work had been done and erosion controls removed. The Commission voted unanimously 6-0 to issue a full Certificate of Compliance. (Mr. Demers abstained due to a conflict of interest)
- DEP 212-964 226 & 238 Berlin Rd. - Ms. Ryder indicated she is still waiting for confirmation that the detention basin has been cleaned. When this is received this will be reconsidered.

Discussions/ Other Business

- Ft. Meadow Reservoir - Ms. Ryder noted that there were calls this week about large amounts of bladderwort in the lake. This is just a nuisance weed and not problematic.
- 621 Sudbury St. - Ms. Ryder noted that the back yard of this house is still not stable as was required. The Commission asked that a letter be sent to remind the owner of his obligations.
- Summer Interns - Ms. Ryder said they had three summer interns who would be working with the Commission, Hunter Loveland who is a college Student, and Urial Sanchez and Dylan King who are high school students. They will be working on trail projects and storm drain projects throughout the summer.
- Aiden Steadman, a Boy Scout, is going to receive the Horaday Award, the highest award in scouting, and the ceremony is July 27th at 7:00 PM and the Commission is invited to attend. Mr. Steadman has done 3 of his 5 projects for this award with the Conservation Commission. Mr. Clancy said he was very proud.

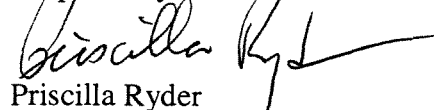
Correspondence/Other Business

- Letter to Mayor Vigeant, dated June 26, 2012 RE: Acceptance of Gift of \$200 to Conservation Maintenance Fund – Felton Conservation Land – Blue Bird boxes supplies.

Meetings: Next Conservation Commission meetings – August 2nd and 16th, 2012 (Thursdays)

Adjournment: There being no further business, the meeting was adjourned at 8:10 PM

Respectfully submitted,



Priscilla Ryder
Conservation Officer

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

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2013 APR -9 A 8:16

**Minutes
August 2, 2012 (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.**

Members Present: Edward Clancy-Chairman, John Skarin, Dennis Demers, and Michele Higgins
(Priscilla Ryder-Conservation Officer)

Absent: David Williams, Allan White and Lawrence Roy

Recognition and Thanks to Reg Burgess: Chairman Clancy began the meeting by recognizing and thanking Reg Burgess who has volunteered his time, equipment and enthusiasm to the Conservation Commission's Cider Knoll Community Garden project. Mr. Clancy expressed the Commission's gratitude to Mr. Burgess for helping out so much and being such a wonderful partner in this endeavor. A small gift was presented to Mr. Burgess, who said he had a great time working on this project and offered to continue his help as needed.

Public Hearings:

Request for Determination of Applicability (Continue to Aug. 16, 2012)

3 Red Spring Rd. - The Inter-Colonial Club

Proposes to add sand to the lawn area near Ft. Meadow Reservoir.

At the applicants request this item was continued to the August 16, 2012 meeting.

Request for Determination of Applicability

City of Marlborough, Dept. of Public Works will perform paving and milling along Parmenter Rd. and Reservoir St. near wetlands.

Tom Cullen, City Engineer, was present and explained that they would be doing milling and resurfacing of both Parmenter Rd. and Reservoir St. both of which are near wetlands. The standard procedure of adding silt sacks in all catch basins and straw wattles as needed along the side of the roadway. On Parmenter Rd. there are 3 culvert crossings in these locations which straw wattles will be placed 100' on either side of the crossing. Both roads will be milled and swept immediately. Paving will follow within 30 days. The Commission wanted to be sure the streets were swept after the milling to ensure no siltation during the time before the road is repaved. Mr. Cullen assured the Commission this would be done. The Commission voted 4-0 to issue a Negative Determination with the standard conditions and those discussed above.

Request for Determination of Applicability

479 Hosmer St. - Vanderlando Pitol

Proposes to install an above ground pool with a deck near wetlands.

Mr. Pitol was present and explained that he wanted to install an above ground pool in his back yard. The location is 30' from the wetland boundary and on an existing lawn area. He had tried to find a location outside the 100' buffer zone, but would have had to cut

down some large trees. The Commission noted that all excess materials would need to be removed from the site. Any fencing would need to be outside the 20' buffer zone and the cartridge filter system was to be used. The Commission voted unanimously 4-0 to issue a Negative Determination with the standard conditions.

Notice of Intent (Continue to August 16th)
637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

At the applicants request this item was continued to the August 16, 2012 meeting.

Certificates of Compliance

- DEP 212-958 274 Brigham St. – Continued from last meeting - Ms. Ryder noted that the deed language required had been provided and that they will install the wetland markers later this week. The Commission voted 4-0 to issue a Full Certificate of Compliance which will be held until Ms. Ryder verifies the wetland boundary markers have been installed.
- DEP 212-1066 340 Maple St. – Continued from last meeting - Ms. Ryder noted that the catchbasin have not been cleaned yet, but Mr. Hickey was going to have it done and will report when this is completed. The Commission voted 4-0 to issue a Full Certificate of Compliance with on-going conditions, which will be held until Ms. Ryder verifies the catch basin, has been cleaned.
- DEP 212-964 226 & 238 Berlin Rd. – Continued from last meeting - this item has not yet been finalized. The Commission continued this item until the information has been provided.

Discussion/ Other Business

- DCR – Forest Stewardship Grant – awarded - Ms. Ryder explained that the city received a \$12,000 grant award for the Habitat Restoration Project at the Desert. The Commission agreed that since it is now funded the project should move forward.
- Comprehensive Permit (40B) – Ames St. & Rte. 20 – Brookview Village – 243 Unit apartment rental community - Ms. Ryder showed the plans before the Zoning Board of Appeals (ZBA) to the Commission. The Commission reviewed the comments provided and gave input. Ms. Ryder will finalize comments and submit them to the ZBA on behalf of the Commission.
- DEP 212-1016 Mauro Farm - Ms. Ryder provided an update on this project.
- Forest Cutting Plan – Red Spring Rd. - a plan to do a forest cutting along Red Spring Rd. has been filed. The Commission requested that if there is a site walk, they would like to participate. Ms. Ryder will call the state forester to set this up.
- 175 Maple St. – Limits of clearing - Ms. Ryder met with the property manager for this property and they discussed the clearing needed to remove some dead trees and remove some invasives along the brook that runs through this property (former Design Pack). Ms.

Ryder found a “maintenance” plan which describes the work to be done. The Commission agreed this work could proceed according to the plan.

- Violation notices - Ms. Ryder reported that she has issued violation notices for 14 Union St. and 3 Red Spring Rd.
- EEE spraying - Ms. Ryder indicated that several of the Community Garden members were wondering if the Commission would restrict the state from spraying for EEE near the garden. The Commission decided that from a public health perspective they would not petition for a no spray zone, although they understood the concern from the gardeners about pesticides in the area.
- Lake Williams Trail - The trail is under construction and the DPW has requested that several “vistas” to the water be created. The Commission agreed this was minor and acceptable and asked Ms. Ryder to convey.
- Community Garden - Ms. Ryder reported that she is pursuing drilling a well and will report back to the Commission once that is set.
- MWRA aqueducts - Ms. Ryder noted that the MWRA is considering opening up their abandoned aqueducts to communities to allow trail links on them. This will provide great connectivity between communities and open spaces.

Correspondence/Other Business

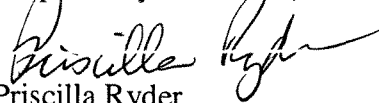
The following correspondence was reviewed and the Commission voted unanimously to approve and place on file

- Vernal Pool Certifications – at Desert Natural Area - (post card & plan) - Ms. Ryder noted that someone had submitted a certification for several pools at the Desert which is great.
- Draft Regulations Coming Soon for Regulatory Reform Initiative

Meetings – Next Conservation Commission meetings – August 16th and Sept. 20th, 2012 (Thursdays)

Adjournment: There being no further business, the meeting was adjourned at 8:22 PM

Respectfully submitted,


Priscilla Ryder
Conservation Officer

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

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2012 APR -9 A 8:16

Minutes

August 16, 2012 (Thursday)

**Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.**

Members Present: Edward Clancy-Chairman, Lawrence Roy Dennis Demers, David Williams, and (Priscilla Ryder-Conservation Officer)

Absent: Michele Higgins, John Skarin, and Allan White

Public Hearings

Request for Determination of Applicability

200 Concord Rd. - Marlborough Country Club

Proposes to replace an existing wooden bridge with a similar foot bridge over Mowry Brook.

Ken Crimmings of the Marlborough Country Club explained that he is looking to replace an old cart bridge with a "trex" bridge for foot traffic only. It will be located in the middle of the 17th fairway above the pond and over the stream. The construction will involve the construction of an 18" holes with crust stone- there will be no footings. The span will be 16' long and 4' wide. They will use a small backhoe to remove the existing bridge. They will re-sod the area when they are done to stabilize it. The new bridge will have a 6" high railing. The Commission discussed the need to anchor the bridge into the ground to prevent it from washing away if there are large storms. Mr. Crimmings agreed. The Commission determined that the work would have no direct impact to the wetland and voted unanimously 4-0 to issue a Negative Determination with standard conditions including anchoring of the bridge.

Notice of Intent

28 Thompson Rd. - John Donahue

Proposes to replace an existing retaining wall with associated grading and related landscaping near wetlands.

David Hancox of Veron Landscaping represented the owner and presented the plans. He explained that the base plans were drawn by Handcock Associates and Veron Landscaping had added the topo and wall design on top of the existing conditions plan. They will be removing the existing wall which is about to fall over and in disrepair and in it's place proposed two smaller walls at the base 3-3½ feet in height to replace the 5'-7' existing wall. The new wall will use the "unilock wall" system which is simialr to the versolock wall. They will be using crushed stone and fabric, no geogrid is needed per the manufacturer's design. Mr. Demers, explained that he knows this silty soil, and he would recommend that the geofabric be used on

this wall to keep it from moving in the future. Now is the time to install it. Mr. Hancox said he would look into it. He will not need a building permit, because the wall is less than 4' in height. The construction sequencing was also discussed and will be critical to follow given the soil type in this area and the amount of soil to be moved and added to this site. Weather will also be an issue and the Commission discussed options. The Commission voted unanimously to close the hearing and asked Ms. Ryder to draft a set of conditions based on this discussion.

Notice of Intent (Continuation)

637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

Matt Hammor of Hancock Associates was present and represented the owner, Richard Nardo, who was also present. Mr. Hammor explained the subdivision design. A wetland botanist did the wetland delineation shown on the plan. They have included a drainage report and storm water report and will control and clean the runoff as designed. They are scheduled for a hearing with the Planning Board in September and have had several informal meetings with the Planning Board to review this Low Impact Development (LID) roadway design. The new roadway will serve two additional lots and the existing home to make this three lot subdivision. They have requested some waivers from the planning board to reduce roadway width to 22', and LID - country drainage with no curbing and no closed drainage system, just an open grass swale. The grass swale is designed to remove pollutants and provide some recharge into the ground. There is an existing 24" drainage pipe draining from Sudbury St. which will be tied into the grass swale. They are proposing to connect into the existing sewer line into Mosher Lane, water and gas are available from Sudbury St. Mr. Demers asked how the existing house deals with sewerage. Mr. Hammor explained that the existing house has a septic system. Mr. Williams asked who would be in charge of maintaining the swale and the roadway if it was a private road. Mr. Hammor explained that they would recommend it be a homeowners association and that the road remain private.

The Commission reviewed the plans and noted that there are no roof drains or foundation drains shown, will they be submitting plot plans for the actual houses, the detention basin/rain garden appears to be right on the line this needs to be moved back to allow for construction without impacting the neighbor's property. Feedback from the City Engineer, Tom Cullen is required on the drainage design before the Commission can make any type of determination. They would also like to see a construction sequencing plan, and to show that the new drainage easement from Sudbury St. would work. Mr. Demers asked about the retaining wall and the easement to be sure it would be adequate.

Mr. Paul Major an abutter at 671 Sudbury St. said the area has been woods forever; he has lived there 20 years. He noted he has seen spotted salamanders in the area and wondered if the wetland on this property was a vernal pool. He also expressed concern about drainage and who will maintain it if it isn't public.

Mr. Richard Nardo, the owner, explained that they would save as many trees as they can and these restrictions can be shown on the plans when they are finalized.

After some further discussion, the Commission continued the hearing to the Sept. 6th meeting to allow the applicant time to gather the above noted information and make changes to the plans.

Request for Determination of Applicability (Continuation)

3 Red Spring Rd. - The Inter-Colonial Club

Proposes to add sand to the lawn area near Ft. Meadow Reservoir.

Mr. Ciano, President of the Colonial Club was present. He showed pictures of the current condition of the shoreline to the west of the house. He noted that their filing was to request adding sand to extend their beach area, at the request of the landlord Mr. Morse. When the Commission was not in favor of that, they instead removed a few dead and broken trees and added wood chips in the area to control poison ivy. There were also some roots they covered up to make it easier walking. The Commission reviewed the pictures and discussed what had occurred. They determined that sand would NOT be acceptable in this area; grass and woodchips are permitted. They voted unanimously that the work done was acceptable and that the fine of \$100 issued in August 7, 2012 should be rescinded. Ms. Ryder will convey.

Request for Determination of Applicability

623 Stow Rd. - Jim and Kathy Gakis

Proposes to demolish an existing deck and replace it with a 14 ft. x 27 ft. deck. Work is proposed within the 100 ft. wetland buffer zone.

Don Bradley of LaCroix Construction was representing the owners. He explained that the wetland boundary was delineated using soils by Priscilla Ryder. They would like to remove the existing deck and add a new one that is bigger. The owners like the wetlands and do not wish to alter it. The plans show the deck just outside the 20' buffer zone. Sona tubes will hold up the deck and are the only excavation needed. After some discussion the Commission agreed that the work was minor and voted unanimously to issue a Negative Determination with conditions to include: Permanent boundary markers at the 20' buffer zone line, no mowing of the 20' buffer zone, and to allow the deck to be installed as shown.

Discussion:

- Desert Natural Area – Habitat restoration plan - Ms. Ryder reported that they have received the grant paperwork and are now working on the outreach material. A public meeting will be held to explain the project to all in Marlborough, Sudbury and Hudson.
- Forest Cutting Plan – Red Spring Rd. (update) - Ms. Ryder and Mr. Clancy along with Mr. Williams met with Laura Dooley from DCR and the forester. They walked the site and reviewed the buffer zone restrictions and felt satisfied that the wetlands will be protected. Several wetland crossings with equipment are proposed. Ms. Dooley had restricted one of them, but it looks OK. It is an aggressive cut according to Ms. Dooley, but should be fine.

Violation Notices:

- 3 Red Spring Rd. – As noted above, a violation notice was issued to the Inter Colonial Club for doing work along the edge of the lake without a permit. A permit was subsequently issued as noted above. The Commission unanimously agreed with the violation notice.
- 14 Union St. - Ms. Ryder noted that the owner of this lot has been building a wall and has stored material in the back in the 20' buffer zone. The violation notice requires them to clean it up. Ms. Ryder has since reviewed the site and notes that they have complied and have satisfactorily cleaned up the mess. Mr. Clancy had seen the site as well and concurred.

Correspondence/Other Business

The following correspondence was reviewed and the Commission voted unanimously to accept and place on file:

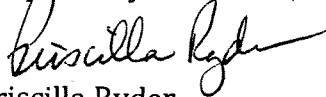
- E-mail from Priscilla Ryder, dated Aug. 2, 2012 RE: ZBA Comprehensive Permit Brookside Village
- Letter to Matthew Scola, dated Aug. 6, 2012, RE: 621 Sudbury St. Unfinished items as required in Determination.

Meetings: Next Conservation Commission meetings – Sept. 6th and 20th, 2012 (Thursdays)

Adjournment: There being no further business, the Commission voted unanimously to adjourn.

The meeting was adjourned at 8:45 PM.

Respectfully submitted,



Priscilla Ryder
Conservation Officer

CITY OF MARLBOROUGH
CONSERVATION COMMISSION

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Minutes

2013 APR -9 A 8:16

September 6, 2012 (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.

Members Present: Edward Clancy-Chairman, John Skarin, Dennis Demers, Allan White, Michele Higgins;
and Lawrence Roy (Priscilla Ryder-Conservation Officer)

Absent: David Williams

Discussion:

- Royce Rd. reconstruction – DEP 212-1099 – Dewatering Plan – Arruda Trenchless Construction. The contractor could not attend this meeting, so this item was continued to the Sept. 20th agenda.

Public Hearings:

Request for Determination of Applicability

8 Flint Dr. - Unmesh Gundewar

Proposes to replace a retaining wall and remove some trees near a wetland.

Dr. Gundewar was present. He explained that he is the first owner of the house which was built in 1998 and now it is time to replace the railroad tie retaining wall with a stone wall, as the wooden wall is now rotting. He also explained that he would like to cut down some trees at the edge of the lawn. After one of the last storms a small tree fell on the house, he is concerned now for the larger trees. When the house was built, he asked that all these trees be saved during construction. He has spoken with some tree contractors who recommended all the trees he has marked on the attached plan and in the field be removed. Ms. Ryder noted that most of these trees are outside the 20 foot buffer zone. The Commission determined that the work would not impact the wetland and voted unanimously 6-0 to issue a Negative Determination with standard conditions, including proper disposal of the rail road ties

Request for Determination of Applicability (Continuation)

3 Red Spring Rd. - The Inter-Colonial Club:

Proposes to add sand to the lawn area near Ft. Meadow Reservoir.

The applicant has asked that this be continued to the next meeting. However, they did request through Ms. Ryder that the fine be rescinded given the fact that the work they did was minor and they will agree not to do any more besides maintaining what they have. The Commission voted 4-2 to rescind the fine. (John Skarin and Michele Higgins both abstained since they had not been part of previous discussions)

Notice of Intent (Continued to the Sept. 20th meeting)

637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

At the applicants request this was continued to the next meeting.

Request for Determination of Applicability

83 O'Malley Rd. - James and Ann LaFollette

To construct a 31 ft. x 24 ft. addition to their home and also replace an existing deck. The work will be within 100 ft. to the wetlands.

Frank Dougherty P.E. of KGI properties was present and represented the applicant. He explained that the owners wanted to place an addition to the building and add a new deck. The addition would include a frost wall not a full basement. Ms. Ryder explained that she had visited the site and they have plenty of room outside the 20' buffer zone to do the work. The Commission discussed the plan and construction process. Then the Commission voted 6-0 to issue a negative determination with standard conditions regarding erosion control; including in the side swale, tracking pad or matting to keep the road clean and all excess materials to be removed from site.

Draft Order of Conditions:

- 28 Thompson Rd. - DEP 212- 1101 – The Commission reviewed the set of draft Order of Conditions. The Commission voted 4-0-(2) to issue the Order as written and amended. John Skarin and Michele Higgins abstained from this vote, because they were not at the previous hearing.

Certificates of Compliance:

- DEP 212-313 and 212-365 196 Blanchette Dr. (Stoney Brook Estates) Partial Certificates. These are very old Orders of Conditions and the work has been completed, according to Ms. Ryder's review. The Commission voted unanimously 6-0 to issue partial Certificates of Compliance for both these Orders of Conditions.

Violations - the following correspondence was reviewed by the Commission and they voted unanimously to accept and place on file:

- Letter to Toll Brothers, Inc. – Joint violation – Regency at Assabet Ridge, Wetland Violation – Enforcement Order DEP 212-997 - Fine \$300; Storm Water Ordinance Violation-Fine \$300.

- Letter to First Colony Crowley Dr. Two LLC – Join Violation notice – “0” Crowley Dr. Vestas Project, Wetland Violation – Enforcement Order DEP 212-1083 – Fine \$100; Storm Water Ordinance Violation – Fine \$100.

Other Business:


- Red Spring Rd. forest cutting plan - Ms. Ryder provided an update on this clearing which may have encroached on the church property. Ms. Ryder will contact Mr. Morse and the church to confirm all is OK.
- Community Garden - Ms. Ryder said that the garden is moving along successfully and harvest is good. A pot luck party is being planned.

Meetings: Next Conservation meetings – Sept. 20th and October 4th, 2012 (Thursdays)

Adjournment

There being no further business the meeting was adjourned at 8:20 PM

Respectfully Submitted,


Priscilla Ryder
Conservation Officer

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

Minutes

October 4, 2012 (Thursday)

Marlborough City Hall – 3rd Floor, Memorial Hall

7:00 PM

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2012 APR -9 A 8:16

Members Present: - John Skarin- Acting Chairman, Dennis Demers, Michele Higgins, Lawrence Roy, Allan White and Priscilla Ryder-Conservation Officer

Absent: Edward Clancy and Dave Williams

Public Hearings:

Request for Determination of Applicability

(Dennis Demers abstained due to a conflict of interest)

209 Spoonhill Ave. - Mark Allen

Proposes to make a water line connection from the street to the house and abandoning the old well.

Paul Demers from Demers Construction presented a plan to install a new water line from the street to the house. The trench will be 5' deep and will be within the existing lawn area. All excess materials will be removed immediately. The existing well will be capped. Ms. Ryder said she'd inspected the site and there should be no impact to the wetland. The yard is relatively flat. Mr. Demers said he would be installing straw wattles as erosion controls. The Commission determined that the work would not impact the wetland and voted unanimously 4-0 to issue a Negative Determination with standard conditions. (Mr. Demers abstained)

Request for Determination of Applicability (Continuation)

3 Red Spring Rd. - The Inter-Colonial Club

Proposes to add sand to the lawn area near Ft. Meadow Reservoir.

No one from the club was present; however they had provided some photos to Ms. Ryder for the Commission to review. After some discussion the Commission reviewed some draft conditions to allow the work that had been done, but nothing more without a permit. **The Commission voted unanimously 5-0 to issue a Negative Determination with conditions as drafted and amended.**

Notice of Intent (Continuation)

637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

Richard Nardo, the owner and Matt Hammor PE from Hancock Associates were present. Mr. Hammor explained that they are proposing a three lot subdivision and that at the last hearing, he had been asked to investigate whether the area contained a vernal pool. The field botanist on their staff met with Ms. Ryder on site to see if the wet area in question had vernal pool characteristics. Ms. Ryder noted that there were no finger nail clams, lots of vegetation- uncharacteristic of an area that would

be inundated for 2 months of the year. There were no telltale signs of it being a vernal pool.

Mr. Hammor reviewed the erosion control plan, detention basin, construction sequencing plan and sedimentation basin and fore bay. The Commission noted that the detention basin should be moved away from the wetland line to provide a better buffer. They also noted concerns about whether the “country drainage” as described would meet with the approval of the City Engineer. Mr. Demers requested that a response from Tom Cullen would be needed before the Commission could pass judgment on the drainage design.

Mr. Hammor did explain that this is a relatively new design using country drainage, recharge, a smaller driveway and a cleansing ditch. This design follows the recommendation of the DEP Low Impact Development criteria, which is overall more environmentally, sound. He noted the fire department is OK with the design as there is adequate place for truck turnaround. There are fewer infrastructures to upkeep and they would propose that the roadway be a private way and not a public street. Mr. Skarin asked about the existing drainage from Sudbury St. and how that will be addressed. Mr. Hammor said the existing drainage would be directed into the swales and then into the detention basin. Mr. Allan asked about construction sequencing and materials to be transported out. The consultant explained that they would be bringing materials in and not much would go off site.

Mr. Hammor explained that several subdivision waivers have been requested. Mr. Demers stated that the Commission needs to wait to see what the Planning Board is going to allow before doing a final review and issuing a permit for this project. He likes the green LID ideas, however it will be up to the Planning Board to determine if this meets with their approval or not. He is concerned with how the swales would be maintained ten years down the road. Ms. Higgins expressed concern with the maintenance, because she lives on a “common driveway” and has experienced how difficult it is to work with neighbors to get the proper maintenance done.

Mr. Paul Major of #671 Sudbury St., an abutter, explained that he lives up the hill and is a direct abutter to this property. He is not in favor of this design and is concerned that they are cramming two houses in a very small place. Lots of clearing will be done and he is opposed to this project.

Mr. Matt Scola of #621 Sudbury St., also an abutter, is concerned with the existing drainage pipe and the new design. The existing drainage system does not catch all the water and some drains on to his property. The water table is right near the

surface given the wetness of his back yard. He is concerned that this project will have an impact on him.

The Commission decided they needed to wait to get comments from the City Engineer and to wait for the Planning Board's review to determine if the waivers requested are to be granted. They did ask that the design be modified to include the 20' Buffer Zone and to move the detention basin away from the wetland and property line, so construction would NOT encroach on the 20' Buffer Zone area. The hearing was continued to the Oct. 18th meeting.

Minor Amendment to Order of Conditions:

- DEP 212-1101 28 Thompson Dr.- the applicants had made a written request that one of the conditions of the Order requiring an As-Built-Plan be removed, since they have not hired an engineer for this project and would prefer not to have that extra expense. The Commission agreed and voted 5-0 to amend the order to eliminate this condition. A letter will be sent to the applicant.

Certificate of Compliance

- DEP 212-761 48 Page Circle – full Certificate - The work is completed for this property. The Commission voted 5-0 to issue a full Certificate of Compliance for this property.

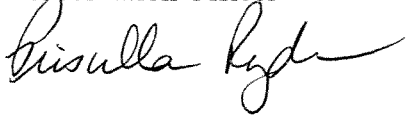
Correspondence/Other Business:

- Ft. Meadow Reservoir foam issue--FYI Ms. Ryder explained that she has been out around Ft. Meadow Reservoir trying to determine the cause and source of some significant foam on the lake. Residents from Hudson and Marlborough have observed this and called her to complain. Ms. Ryder has been out with the fire department and the Boards of Health in Hudson and Marlborough. To date, it appears to just be foam caused by wind action and the breakdown of some of the vegetation. The State DEP indicated that many lakes were experiencing the same foam and it was nothing to be alarmed about. It is off-white foam that is very stiff, but seems harmless and does not originate from any particular area.
- DEP 212-828 62 Lacombe St. The owners would like to add an addition on the existing pavement with a slab and wondered if they could file a Request for Determination of Applicability (RDA). The Commission looked at the sketch and agreed that an RDA would be sufficient. Ms. Ryder noted they will file for the next meeting.
- Mauro Farm update - Ms. Ryder reported that there have been a few issues at the Mauro Farm site with sediment; she will work with the Engineering Dept. under the stormwater ordinance to see if these issues can be addressed.
- 120 Bartlett St. - Ms. Ryder has been approached by the owners. They want to change the parking lot configuration to better accommodate truck deliveries. The Commission agreed that the work was minor and an RDA would be sufficient.

Meetings: Next Conservation Commission meetings - October 18, 2012 and November 1st, 2012 Thursdays

Adjournment - There being no further business the meeting was adjourned at 8:30 PM

Respectfully submitted,
Priscilla Ryder
Conservation Officer

A handwritten signature in cursive script that reads "Priscilla Ryder". The signature is written in dark ink and is positioned below the typed name and title.

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

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Minutes

2012 APR -9 A 8:16

October 18, 2012 (Thursday)

Marlborough City Hall – 3rd Floor, Memorial Hall

7:00 PM

Members Present: - Edward Clancy – Chairman, John Skarin, David Williams, Lawrence Roy, and Priscilla Ryder-Conservation Officer

Absent: Michele Higgins, Allan White, and Dennis Demers

Public Hearings:

Request for Determination of Applicability

75 Framingham Rd. – Bryan Melanson

Proposal to connect a proposed house to the city sewer line behind the property near wetlands.

Scott Smyers of Oxbow Associates and Ed Melanson of Melanson Development Group, Inc. were present. Mr. Smyers explained that several years ago an Abbreviated Notice of Resource Area Delineation (ANRAD) was submitted for this property which identified the wetland boundary. Now they are requesting to tie into the sewer line at the back of this lot. The sewer manhole they need to tie into is within the 100' buffer zone to the wetland. They are proposing to place the erosion controls 51 feet away from the wetland around the work area. Once the line is in, they will stabilize the area with loam and seed. **The Commission determined this project as described to have minimal impact to the wetland and voted unanimously 4-0 to issue a Negative Determination with standard conditions.**

Request for Determination of Applicability

62 Lacombe St. - 62 Lacombe Street Realty Trust

Proposes to add an addition to the building for storage, near wetlands.

Peter Bemis was present and represented the owners. A new company, Ultra Shine, is a car cleaning business. They are looking for some additional storage area. The design presented shows a new addition with a slab foundation, roof and walls. Although the area is already paved, the design includes an infiltration trench for recharge and to improve drainage. They will include an erosion control barrier during construction. They anticipate that the work will take 2-3 weeks and they would like the building in place and weather tight before winter. The Commission determined that as described, **this project would have no impact to the wetlands, and voted unanimously 4-0 to issue a Negative Determination with standard conditions.**

Request for Determination of Applicability

120 Bartlett St. - RAM Development Companies Inc.

Proposes to reconstruct a driveway and add a loading dock to the existing building near wetlands.

Bradlee Mezquita from Tighe & Bond presented the plan. They are requesting permission to install a loading dock to accommodate a lab company who wants to rent this space. Based on site plan review discussion, they are changing the driveway configuration to accommodate the truck deliveries more safely. A very small portion of the work is within the 100' Buffer Zone including the loading dock pad and a small portion of the roadway. The Commission **reviewed the plans and determined that the work would not have an impact to the wetland and voted unanimously 4-0 to issue a Negative Determination with standard conditions.**

Notice of Intent (Continuation)

637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

At the applicant's request, this hearing was continued to the Nov. 1st meeting until the Planning Board has had a chance to review and comment on the plans.

Extension Permit:

- DEP 212- 1016 Mauro Farm – Cook Lane Because work is still ongoing **the Commission voted unanimously 4-0 to issue a two year extension for this project.**

Certificate of Compliance:

- DEP 212-406 289 Farm Rd. This is an old file, the work is complete, and Ms. Ryder did an inspection. The house is being sold and it was discovered a Certificate of Compliance was never issued. **The Commission voted 4-0 to unanimously issue a full Certificate of Compliance for this project.**

Discussion:

- Project updates - Ms. Ryder provided an update on:
 - 61 Maurice Dr. - where the owner had added some piping to a drainage pipe near wetlands
 - Chase Rd. where the applicant has begun their back yard project which is going well
 - The Exxon Mobile site on Maple St. is decommissioning the cleanup recovery wells and is almost done.
- ENF (Environmental Notice Form) – Sudbury St. water and sewer project- The Commission was asked to review the ENF for the upcoming sewer and water project. Some work is proposed in or near wetlands as shown on the plans. In addition, some work will cross through an Estimated Habitat Area. Ms. Ryder has discussed this with the Natural Heritage and Endangered Species program (NHESP) and they have indicated that the corridor provided by a utility easement can, in some cases, be an improved habitat for the turtle that lives there, so it is possible to do this work. The Commission will be involved when the Notice of Intent (NOI) filing is made for this project.
- Desert Habitat Restoration Project – Public information meeting, Nov. 8, 2012, Site Walk Nov. 10, 2012. The Commission was encouraged to attend the public information meetings and site walk regarding the habitat restoration project to proceed early next year at the Desert Conservation Land.

Correspondence/Other Business:

The following correspondence was reviewed and the Commission voted to accept and place on file:

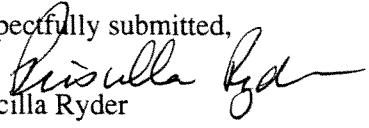
- Household Hazardous Waste Collection Day – Oct. 27, 2012 (Saturday) 9 AM-12 PM the Easterly Treatment Plant, 860 Boston Post Road East.
- Community Preservation Act & Bio Map 2 in Worcester County – Workshop Nov. 14, 2012 in Sterling, MA
- MACC Annual Calendar Fall 2012 – Summer 2013 and Fall Conference 2012 (Roads & Water: Maintenance & Protection)

- Invitation to Lake Williams Trail – grand opening – 4:30 PM on Oct. 18th (Thursday)

Meetings - Next Conservation Commission meetings-November 1st and 15th, 2012 (Thursdays)

Adjournment - There being no further business, the meeting was adjourned at 7:40 PM

Respectfully submitted,


Priscilla Ryder

Conservation Officer

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION
Minutes**

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December 6, 2012, (Thursday)
Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 P.M.

2013 APR -9 A 8:16

Members Present: John Skarin- acting Chairman, Michele Higgins, Dennis Demers, Dave Williams, Lawrence Roy and Priscilla Ryder-Conservation Officer

Absent: Edward Clancy-Chairman and Allan White

Discussion:

- **Massachusetts Water Resource Authority – Proposed Wachusett Aqueduct Pumping Station – Discussion about Flood Plain inaccuracy**

Bill Sullivan from the MWRA was present. He explained that during the design phase, they noticed that the new FEMA floodplain was not accurate. Before proceeding further with the design they wanted to be sure the Commission concurs that the floodplain maps are in error.

He provided a package including: FIRM Map, photos of the weir, Wachusett aqueduct pump station Figure 2 Draft location. The plan with the elevations show that the channels along both sides of fore bay is diverting water around the fore bay, and therefore, could not rise to the elevations shown on the FIRM maps. In addition the circular dam just below the fore bay is the control, so water is not going to back up into the fore bay area. Based on this information they have concluded that the floodplain map is incorrect.

The Commission agreed with this analysis and confirmed that the FIRM maps have not been ground truth-ed with elevations, this has been a problem and FEMA is working on updating the maps to be more accurate. The Commission agreed and voted 5-0 to have Ms. Ryder write a letter to the MWRA agreeing with their Floodplain analysis.

Mr. Sullivan indicated he'd be filing and Notice of Intent (NOI) to upgrade the pump system next to the open channel. They are required now to ensure they have full redundancy should another emergency occur like several years ago in Wellesley.

- **Country Lane pump station – DEP 212-1086 - Methuen Construction** – (Michele Higgins abstained due to the fact that she now works at the city's DPW)

Eric Salo from Methuen Construction was present to discuss construction sequence as required in the Order of Conditions.

As required in the Order of Conditions, he provided the following information:

1. Erosion control and temp fencing around pump station are proposed
2. They will be doing some exploratory digging in preparation for the work

3. In January, they plan to start doing underground work, work on force main and the piping part of the project, temporary bypass pumps will be in place and on line by end of January. New pumps will be on line Feb. and March.
4. The Valve vault excavation material will be hauled away.
5. Dewatering- onsite dewatering well is already in place. They can use this well to pump the water table down, so they can work in a dry condition. The bypass pumping would be in place once work starts. Two pumps – one is electric- lead pump. Generator at station is back up to electric. Back up pump is diesel-and they will use a sound attenuating pump. At peak time pumps will pump for about once every half hour and duration would be on a minute.
6. Then they will clean up and pull off site.
7. Return in April and May to stabilize and install planting and do the final cleanup and install the new fencing, and remove any remaining temporary measures.
8. Temporary fence will be on city property, not in the abutter's property.

Mr. Driscoll –abutter at 88 Country Lane - asked about timing of pumps and how that works. Mr. Salo explained the process with the bypass pumps. Will test at low flow period and redirect the flow and let pumps take over from there. Mr.Driscoll noted that that the rate is 100 gallons per hour if septic truck is needed. Mr. Salo said there may be a few places in the process they will need the septic trucks on hand to do the transfer.

Mrs. Driscoll asked- How loud is the pump and gas generator is very loud. Will it be as loud? Eric- you will hear it, but it should be less sound then the existing system. Mrs. Driscoll had provided a letter to the Commission dated Nov. 27th 2012 –regarding the transformer on a pole which needs to be added by National Grid. She has spoken to National Grid and the city about this and is concerned that the new transformer and possibly new pole would be a problem for her front yard. She asked why the utilities couldn't be put underground. Mr. Skarin noted that although they are concerned, the issues appear to be one with the electric company and not with the Commission. If the pole location changes, the Commission would like to know, but this work is outside the Commission's jurisdiction. Mrs. Driscoll indicated that she signed a waiver that it would look nicer like the new one on Farm Rd. which has underground service. She doesn't know why it isn't being included here? So she is concerned.

Denise Demers said underground electric – gas electric & water are already underground. The more congestion of utilities in the ground, the worse it is for repair. In theory everything must be a 10 feet separation from all the utilities. Mrs. Driscoll explained that the only utilities in the road is sewer, there is no gas no water in this location.

Mr. Salo explained that they would like to start work on January 2nd . Erosion controls will go in on December. The Commission agreed with the information presented and voted unanimously to approve the methods and information about the project presented this evening and also indicated that Methuen Construction could proceed with the project.

- **Desert Natural Area and Memorial Forest – Burn Plan** Desert Natural Area – Burn Plan – (David Williams abstained due to a conflict of interest.) The Commission reviewed the burn plan written by Joel

Carlson. They asked Ms. Ryder a few questions about the plan which they had reviewed. The Commission voted unanimously 4-0 to accept the plan as written and for Ms. Ryder to proceed to follow up with the burn process which should occur this winter.

- **DEP 212-997 - Regency at Assabet Ridge-Toll Bros – ratify violation notices.** The Commission reviewed the violation notice and discussed the follow-up with Toll Brothers. The Commission voted 5-0 to ratify the violation notices.

Certificate of Compliance:

- DEP 212-1094 79 Chase Rd. - As this project is complete, the Commission voted 5-0 to issue a full Certificate of Compliance. Ms. Ryder indicated the project came out very well.

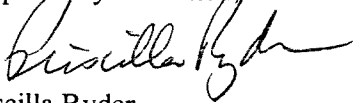
Correspondence/Other Business:

The Commission voted unanimously 5-0 to accept the following correspondence and place on file:

- Letter from ADDA Farms - Donald Wright, dated Nov. 13, 2012 RE: List of yield and happenings at the Elm St. Conservation Land.
- E-mail from Sarah Haggerty, dated Nov. 20, 2012 RE: NHESP online Vernal Pool and Rare Species Reporting System
- Letter to Eagle Scout, Stephen Traiforos, dated Nov. 28, 2012 RE: Eagle Scout Project – Kiosk at Flagg Brook Wildlife Management Area.

Adjournment - There being no further business, the meeting was adjourned at 8:05 PM.

Respectfully submitted,



Priscilla Ryder
Conservation Officer

**CITY OF MARLBOROUGH
CONSERVATION COMMISSION**

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Minutes

December 20, 2012 (Thursday)

2013 APR -9 A 8:16

**Marlborough City Hall – 3rd Floor, Memorial Hall
7:00 PM**

Members Present: John Skarin, Acting Chairman, Dennis Demers, Allan White, Lawrence Roy, David Williams and Priscilla Ryder-Conservation Officer

Members Absent: Edward Clancy and Michele Higgins

Also present were the Hudson Conservation Commission members: Paul Byrne Chairman, Minot Wood, Terrence Joyce, and Leif Longtine.

Public Hearings:

Notice of Intent (Joint hearing with Hudson Conservation Commission)

706 Hosmer St. - Memorial Beach – City of Marlborough Dept. of Public Works

Proposes improvements to Memorial Beach including reconstruction within the buffer zone and a portion of wetland. A portion of the work lies within the Town of Hudson and the majority of the work is in Marlborough.

The hearing was opened by John Skarin, acting Chairman for the Marlborough Commission and by Paul Byrne the Hudson Commission Chairman.

Tom Cullen, City Engineer, and Scott Landgren from CDM Smith were present and made the presentation. Tom Cullen explained the project which involves the upgrade and improvements to the city's Memorial Beach. The city has received a PARC grant for \$400,000 which will help pay for this \$900,000 project. Work is proposed in both Hudson and Marlborough; he thanked both Commissions for holding a joint meeting. The project will include: parking lot upgrades and renovations, adding a new playground, new pathways and one bridge. Picnic area improvements, water and sewer line installations and handicapped accessible parking and water access are all part of this upgrade.

The current parking lot is wide open and not striped. The new parking lot will include a sidewalk, drainage and stripping to improve its' look and function. A new access way off Causeway St. Extension will improve traffic flow and create a better controlled access year round. The parking lot improvements include cleansing swales and sub-drains to improve the condition of the parking lot, where now groundwater seeps across the pavement. A playground is proposed on the gently sloped area below the bathhouse which is currently mowed, all this work will be outside the 20' buffer zone. A new walking path will be provided which is an improvement over what is there today. It will have a 10% grade and although a bit longer than the existing trail will be far easier to ascend. A new trail will be built which leaves the sidewalk on Hosmer St. up to the beach area. This new trail loop will be about 1/3 mile in length. Additional trees are to be planted in the parking lot islands to improve the look of the park.

The handicapped accessible parking area off Causeway St. Extension will be constructed to accommodate two cars. This is located on the Hudson section of this property. In addition to a well-defined handicapped parking area, some removable matting will be installed down to the beach and onto the floating docks. This matting will allow for handicapped accessibility to the beach and into the water. The beach house is to be upgraded by the facilities department and the regional high school students. Floating docks are to be added to the beach and water area. These will be seasonal dock to be removed at the end of each season, as is done at the Hudson Centennial Beach. The docks will be similar to those in Hudson.

The current bath house is serviced by an old septic system which will be abandoned. A new sewer and water connection are to be installed and cross the brook at the bridge crossing. The sewer line will connect into the sewer on Hosmer St. and follow the sidewalk around the parking lot.

The stream will be crossed with a bridge which is a 20' x 18' span. This will replace the two 36" metal corrugated pipes to be removed. The bridge installation will include the installation of the wing walls outside of the wetland area and then placing the bridge span on top of this. No wetland alteration is anticipated with the bridge installation. Both the water and sewer lines will be installed under the brook; the water line will be installed on the north side and the sewer line on the south side. Work will be done when the stream is dry. A dewatering system will be necessary, Tom Cullen indicated that the contractor would be required to provide the Commission with the specifics when they came on board. The stream bed will be restored to the original grade, so there will only be temporary alteration to land under water and Bordering Vegetative Wetland (BVW) in this location.

Erosion control measures will be as follows: On the beach sand area, they will move and berm the sand on the down slope side of all work with a sand berm. Around the parking area, playground and trails, hay bales and silt fencing will be installed as shown on the plans. The schedule is not yet set, but is anticipated to start after the beach season is over in August of 2013. It will hopefully only be one construction season and will be completed before the 2014 swimming season.

The Commissions both opened it up for questions. The questions asked by the members were:

1. What will be used on the playground as ground cover? Mr. Cullen indicated they would be using wood chips.
2. What is the grade change of the parking lot? Mr. Cullen answered that it is a smaller parking lot. They are pulling the pavement back from the brook area and adding a cleansing swale in the middle of the parking lot and at the downhill edge for water quality improvement. They will also be installing a sub-drain in order to help convey the high groundwater table. Because of the high ground water, there are no formal drainage catch basins.
3. How to manage area for the winter? Ice fishing? Mr. Cullen replied that this property would be managed similar to other conservation land areas, a small area will be plowed for parking (plowed a day or two after a storm), but the trails will not be plowed in the winter.

4. Mr. White asked whether during extreme snow winters if excess snow will still be placed in this area. Mr. Cullen was unaware of this practice and will check into this.

The Chair opened the discussion up to the audience:

- a. Garry Pelletier, an abutter on Lakeshore Ave. in Hudson, said that changing the access entrance may help. Currently there is a problem with people parking along the Causeway St. Extension to avoid the parking lot, or during spring training when the parking lot is closed off. He hopes this new system will help solve this problem.

The **Hudson Conservation Commission** noted that the impact to the buffer zone on the Hudson section of this project is very minimal. Chairman Byrne indicated that there were no further questions regarding the Hudson portion of this project, and the Hudson Commission voted unanimously to close the hearing and approve the portion of the project in Hudson and voted to issue a standard set of conditions. The Hudson Commission closed their hearing and left the meeting.

- b. Dick Mangus an abutter on Lakeshore Dr. wanted to know what is going on. He came in late. He noted that the area is not well patrolled and not maintained and has been a problem with parking and people accessing the beach. He doesn't like the idea of changing the entrance. He wanted to know the status of the project and if it was funded. He realized he came in late, so asked if he could meet with Mr. Cullen some other time to discuss. He objected to the plans. He was also concerned that the gates were on his property. Mr. John Skarin, explained that the traffic and parking problems are not an issue for the Conservation Commission. He noted that the Traffic Commission is best to address this issue. Mr. Cullen explained that the gates have been moved onto the city property. No impacts to Mr. Mangus property are proposed. Mr. Cullen agreed to meet with Mr. Mangus after the holiday.
- c. Lawrence Roy, Commission Member, said that there are too few handicapped accessible parking spaces. He thinks there should be more. Mr. Cullen said he'd look into that, but thought it had been analyzed by the Recreation Commission.
- d. Dennis Demers asked questions about the stream crossing, with water with a 1" copper is OK. However, he indicated that both the water and sewer lines should be sleeved, especially the sewer line given the breaks that have occurred over the years above and below the sewer pump station. Mr. Cullen said they will be sleeving the sewer line under the brook and can easily use a 2" pipe size which will be changed on the plans. Will sleeve the sewer line under the brook. 1' ½ " should be 2" . Should be changed on the plan. Sewer line force main - Mr. Cullen confirmed that his office has reviewed the plans and are satisfied with the design. Mr. Demers also suggested that the sewer pipe needs to be put in sand and not stone, so any leaks will NOT migrate as fast.

There being no further questions, the hearing was closed. Ms. Ryder was asked to draft some conditions for the next meeting for review.

Request for Determination of Applicability

215 Fitchburg St. – Assabet Valley Regional Technical High School

Proposes to install American Disability Act (ADA) compliant renovations and improvements to the high school building and campus, including some walkways. Some of this work falls within 100 ft. of a wetland.

Denise Barton, CDW consultants was present and said that the work is in the buffer zone to the stream on the northern side of the property. The school is going through a major upgrade and they are proposing to install pathways to several of the fields and ADA compliant sidewalks to the dug outs and storage shed. In one location, the walking path needs to cross a drainage swale, which will be done with a small span to allow water to continue to flow downhill. The Commission confirmed that they would maintain this swale, so it is free flowing. During the fall they may need to remove accumulated leaves. Ms. Barton noted that they did not do a delineation of the wetland, since it is well defined just beyond the fields. Ms. Ryder confirmed that no work is being proposed within the wetland area only outside the 20' buffer zone, she did inspect the site. Ms. Barton explained that they have included erosion controls in the swale and at the end of the area. Maria Donovan on the design team for the school, explained that they are doing a large systems replacement in the building which will last several years. This work will be done in one of the springs/summers and should only take a week or so.

As there were no further questions, the hearing was closed. A motion was made to issue a Negative Determination with conditions about a preconstruction meeting and inspection of the erosion controls. The Commission voted 5-0 unanimously to issue a Negative Determination with conditions.

Notice of Intent (Continued to Jan. 3rd, 2013)

637 Sudbury St. - Richard Nardo

Proposes to construct a private road intended to provide access to three (3) single family dwellings (one of which is existing) and with associated utilities within the 100 ft. buffer to a Bordering Vegetated Wetland.

At the applicants request this item be continued to the next Commission's meeting.

Certificate of Compliance:

- DEP 212-1092 420 Maple St.

Ms. Ryder explained that the work has been completed and an as-built plan provided and she recommends that a full certificate be issued for this project. The Commission voted 5-0 to issue a full Certificate of Compliance, provided that Ms. Ryder hold it until the trash at the edge of the parking lot has been cleaned up.

Meetings: Next Conservation Commission meetings: January 3rd and 17th, 2013 (Thursdays)

Adjourned - There being no further business, the meeting was adjourned at 8:02 PM

Respectfully submitted,


Priscilla Ryder
Conservation Officer