



*City of Marlborough*  
*Office of the Mayor*

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 NOV -1 A 11:44

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

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

November 1, 2012

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

**Re: Assabet River Rail Trail; Inter-Municipal Agreement Extension Request**

Honorable President Pope and Councilors:

In November 2000, the City Council and Mayor William Mauro approved the signing of the Inter-Municipal Agreement (IMA) for the advancement of the Assabet River Rail Trail (ARRT) with the towns of Hudson, Stow, Maynard and Acton to further the development of the Assabet River Rail Trail. In August 2007 Mayor Nancy Stevens approved the extension of this IMA for another five years.

The Stow, Maynard and Acton section of this rail-trail are currently under design in line to begin constructed within the next five years. Therefore an extension of the IMA is being requested at this time to continue this work. The IMA establishes the ARRT Steering Committee, which includes a representative from Marlborough. As the Marlborough section of the trail is complete, the city's role on this committee is to help keep the momentum going as the trail makes its way through Stow, Maynard, and Acton. The Steering Committee provides support to grant applications and to be sure the trail reaches its full 12 mile ending at the Acton Commuter Rail station. Conservation Officer Priscilla Ryder currently serves as the City's representative on this committee. There is no financial obligation in this IMA on the part of the City of Marlborough, since the Marlborough and Hudson sections of the trail are already completed.

I would appreciate your approval of this IMA to help continue the expansion of the ARRT, which is a wonderful asset to our city. Enclosed please find the IMA extension and the proposed order for your consideration. Please let me know if you have any questions.

Sincerely,

Arthur G. Vigeant  
Mayor

ORDERED:

That the Inter-Municipal Agreement for Advancement of The Assabet River Rail Trail (“the ARRT IMA”), by and between the Town of Hudson, the City of Marlborough, the Town of Stow, the Town of Maynard, and the Town of Acton, as approved by the City Council in Order No. 00-8821A on November 13, 2000, and as timely extended on behalf of the City by the then-Mayor on August 23, 2007 with a term expiration date of December 31, 2012, is hereby confirmed; and

Further that, pursuant to M.G.L. c. 40, § 4A, the Mayor is hereby authorized to execute a five (5)-year extension to the ARRT IMA with a term expiration date of December 31, 2017, as per the ARRT IMA extension agreement attached hereto.

ADOPTED

In City Council  
Order No. 12-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:

**INTER-MUNICIPAL AGREEMENT**

-

**EXTENSION**

**For advancement of**

**The Assabet River Rail Trail (ARRT)**

**By and Between the:**

**TOWN OF HUDSON, CITY OF MARLBOROUGH  
TOWN OF STOW,  
TOWN OF MAYNARD, and TOWN OF ACTON**

**November 2012**

**TOWN OF HUDSON**

**By its Board of Selectmen:**

**Date:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_



**TOWN OF STOW**

**By its Board of Selectmen:**

**Date:** \_\_\_\_\_

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# TOWN OF ACTON

By its Board of Selectmen:

Date: \_\_\_\_\_

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**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 (the "Parties"), is hereby entered into and is effective from 5th day of November, 2012 by and between the City of Marlborough ("Marlborough") and the Town of Sudbury ("Sudbury") in accordance with the following terms:

1. Purpose And Duties: This agreement contractually enables Gary Brown, 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.
2. Term: The term of this agreement shall be from November 7, 2012 and shall continue for a period thereafter not to exceed eight (8) weeks until December 26, 2012.
3. Location and Time of Services: The Director shall perform his duties in an office to be provided by Sudbury. The Director will provide such duties during regularly scheduled business hours on one (1) day per each week for the term of this agreement.
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 two-hundred dollars (\$200.00) per week, 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 Veterans in Sudbury under M.G.L. c. 115 shall be paid by the Treasurer of Sudbury.
6. Amendments: The Parties may modify this Agreement only by a writing signed by both Parties.
- 7.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 2012.

**City of Marlborough**

**Town of Sudbury**

\_\_\_\_\_  
**Arthur G. Vigeant, Mayor**

\_\_\_\_\_  
**Maureen Valente, Town Manager**



# City of Marlborough

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## Office of the Mayor

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2012 NOV - 1 A 11 Marlborough, Massachusetts 01752

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*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

November 1, 2012

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

### **Re: Suspension of Municipal Aggregation Program**

Honorable President Pope and Councilors:

Municipal aggregation in the City of Marlborough was worked well for some time now. However, fluctuations in the utilities market have placed the rate available under the city's aggregation plan at a disadvantage when compared to the default rate of National Grid.

It is clear that, at current market rates, municipal aggregation for electrical utilities does not represent a cost savings for our residents. Therefore, I have suspended our municipal aggregation, effective November 12, 2012 until further notice. We have the ability to revisit the program in the early spring season if the price comparison through aggregation is more favorable.

I want to thank Councilors Ed Clancy and Joe Delano for their advocacy on behalf of our residents and for helping to advise me on this matter. Please do not hesitate to let me know if you have any questions.

Sincerely,

Arthur G. Vigeant  
Mayor



# City of Marlborough

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## Office of the Mayor

2012 OCT 25 A 11: 51

140 Main Street

Marlborough, Massachusetts 01752

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MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

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

### Re: Cultural District Designation

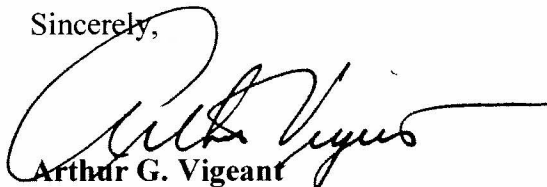
Honorable President Pope and Councilors:

I am pleased to inform you that the downtown area in the City of Marlborough has officially earned designation by the Massachusetts Cultural Council as a cultural district. Officially known as the "Marlborough Downtown Village Cultural District," this designation marks an important step in the city's ability to promote tourism, economic development, and address the revitalization of pedestrian friendly areas.

Enclosed for your edification is the official letter to the city from the Mass. Cultural Council.

I want to give special thanks the Marlborough Economic Development Corporation and Mary Scott of the Marlborough Downtown Village and Main Street Cafe for their hard work in leading this effort and putting Marlborough in a position for success.

Sincerely,

  
Arthur G. Vigeant  
Mayor



# City of Marlborough

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2012 OCT 25 A 11: 52 Marlborough, Massachusetts 01752

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EXECUTIVE SECRETARY

October 25, 2012

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

### **Re: Zoning Board of Appeals Appointments**

Honorable President Pope and Councilors:

I am pleased to submit to you the names of Mr. John Sahagian and Mr. Ralph Loftin for appointment to the Zoning Board of Appeals. Mr. Sahagian is a reappointment for a term of five years to expire on 5/5/2017.

Mr. Loftin is one of the many residents that my staff and I have met with over the past several months who responded to my outreach efforts to bring new people and new perspectives to our boards and committees. Mr. Loftin's thoughtful demeanor, education, and extensive private sector experience will be a great addition to the Zoning Board of Appeals. He will be appointed as an Alternate Member for a term of two years, expiring from the date of Council approval.

Thank you in advance for your consideration and please do not hesitate to let me know if you have any questions.

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

RECEIVED  
DONALD V. RIDER, JR.  
CITY CLERK OF CITY SOLICITOR  
CITY OF MARLBOROUGH  
2012 OCT 25 A 11:35  
CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR  
BEVERLY J. SLEEPER  
CHIEF PROCUREMENT OFFICER  
ELLEN M. STAVROPOULOS  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

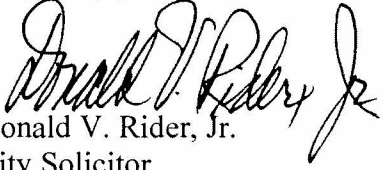
RE: Order No. 12-1005150B  
Application to Modify Special Permit  
T-Mobile Northeast LLC  
157 Union Street

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 T-Mobile Northeast LLC to modify its existing special permit at 157 Union Street. The application is to allow the replacement of six (6) panel antennas currently located on the smokestack next to Marlborough Hospital. T-Mobile also seeks to remove six (6) existing GSM TMA's (Tower Mounted Amplifiers) and remove coax cables, and install hybrid cables and one (1) future site support cabinet within T-Mobile's existing lease area.

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: David J. Scarfo, Tower Resource Management, agent for T-Mobile



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

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

**CITY COUNCIL ORDER NO. 12-1005150C**

Re: 157 Union Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 01-9204C, submitted by 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 T-Mobile Northeast LLC (Omnipoint Holdings, Inc.), with its principal office located at 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006 (hereinafter, “the Applicant”).
2. On October 22, 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 at the existing building located at 157 Union Street, 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 34097, Page 279. The site is more particularly identified on the Assessor’s Map of the City of Marlborough as Map 43, Lot 56 (hereinafter, “the Site”). The owner of record for the Site is Marlborough Hospital.
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 smokestack next to Marlborough Hospital. Applicant also seeks to remove six (6) existing GSM TMA’s (Tower Mounted Amplifiers) and remove coax cables, and install hybrid cables and one (1) future site support cabinet within the Applicant’s existing lease area (hereinafter, “the Proposed WCF Project”), all substantially as depicted on a set of plans entitled “Site Name: BS489/Marlboro Hospital, 157 Union Street, Marlborough, MA 01752, Middlesex County, Site Number: 4BS0489B” by Advance Engineering Group, P.C. dated 6/29/12 and last revised 7/31/12, a copy of which was provided in the Special Permit Application (hereinafter, “the Plans”).
4. The Applicant is a lessee of the Site’s owner for purposes of the Application.

5. The Proposed WCF Project is located in the Residential (A-3) Zoning District. Wireless communication devices are allowed by grant of special permit in the Residential (A-3) 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 September 24, 2012, 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 9:**

- 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 shall 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 the Applicant's WCF.
- 4) The issuance of this Modified Special Permit may be further subject to Site Plan Review. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit.
- 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.



# City of Marlborough Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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2012 OCT 25 11:55  
DONALD V. RIDER, JR.  
CITY SOLICITOR  
CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR  
BEVERLY J. SLEEPER  
CHIEF PROCUREMENT OFFICER  
ELLEN M. STAVROPOULOS  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

RE: Order No. 12-1005092C  
Application to Modify Special Permit  
Sprint  
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 Sprint to modify its existing special permit at 75 Donald Lynch Boulevard. The application is to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace two (2) cabinets with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment.

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: Rossella Mercuri, Esquire

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

**SPRINT**

**CITY COUNCIL ORDER NO. 12-1005092D**

Re: 75 Donald Lynch Blvd.

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-7271B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "the Applicant").
2. On December 8, 1997, by Order No. 97-7271B, the City Council granted to Sprint Spectrum L.P. d/b/a Sprint PCS, a special permit to install nine (9) antenna and three (3) ancillary equipment cabinets at the base of the AT&T monopole of the property located at 75 Donald Lynch Boulevard, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 28034, Page 518. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 13, Parcel 2 (hereinafter, "the Site"). The owner of record for the Site is the Albert D. Bombard, with ATT Tower being the owner of the monopole.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "the Application"), as amended by the Applicant at the Marlborough City Council's September 10, 2012 public hearing, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace two (2) cabinets with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, Site Number: BS03XC502, Site Name: AT&T Marlborough, Site Address: 75 Donald Lynch Blvd., Marlborough, MA 01752" by Atlantis Group, dated 5/16/2012, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Limited Industrial Zoning District. Wireless communication devices in the Limited Industrial Zoning District are allowed by grant of special permit.

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 opened a public hearing on the Proposed WCF Project on September 10, 2012, 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. 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 and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
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 all conditions are complied with by Applicant.
4. All conditions set forth in the Original Special Permit are applicable to this Modified Special Permit.
5. 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 shall constitute a violation of the Modified Special Permit, and 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.
6. Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
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.

9. 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.

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.



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 25 A 11:35

# 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

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

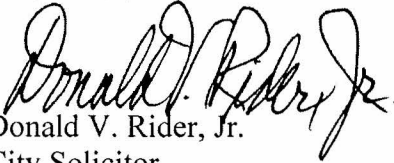
RE: Order No. 12-1005093C  
Application to Modify Special Permit  
Sprint  
860 Boston Post Road East

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 Sprint to modify its existing special permit at 860 Boston Post Road East. The application is to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace one (1) CDMA cabinet with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment.

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: Rossella Mercuri, Esquire

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

**SPRINT**

**CITY COUNCIL ORDER NO. 12-1005093D**

Re: 860 Boston Post Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 05-100942A, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On December 19, 2005, by Order No. 05-100942A, the City Council granted to Sprint Spectrum LP, A Delaware Limited Partnership, a special permit to construct and operate a 15' monopole extension to the then-previously approved 120' wireless tower, and to install on that extension up to twelve (12) panel antennas and associated equipment in a fenced compound area, on the property located at 860 Boston Post Road, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit is being recorded herewith at the Middlesex South District Registry of Deeds. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 61, Parcel 16 (hereinafter, "the Site"). The owner of record for the Site is the City of Marlborough.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "the Application"), as amended by the Applicant at the Marlborough City Council's September 10, 2012 public hearing, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace one (1) CDMA cabinet with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, Site Number: BS54XC929, Site Name: Verizon/Easterly Treatment Plant, Site Address: 860 Boston Post Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 9/22/11, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").
4. The Applicant is a lessee of Verizon Wireless for purposes of the Application.

5. The Proposed WCF Project is located in part in the Rural Residential Zoning District, and in part in the Business Zoning District. Wireless communication devices are allowed by grant of special permit in both Zoning Districts.
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 opened a public hearing on the Proposed WCF Project on September 10, 2012, 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 13:**

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 and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
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 all conditions are complied with by Applicant.
4. All conditions set forth in the Original Special Permit are applicable to this Modified Special Permit.
5. 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 shall constitute a violation of the Modified Special Permit, and 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.
6. No installation work shall be performed by Applicant or its contractors without the supervision of an appropriate individual designated by the Commissioner of the City of Marlborough's Department of Public Works. Additionally, the MDPW will conduct a final inspection of the installation work within fifteen (15) days of completion of the installation.
7. Pursuant to Chapter 650-25F of the Marlborough Zoning Ordinance, Applicant shall indemnify the City of Marlborough regarding the installation, maintenance and operation of Applicant's equipment at the Site, and Applicant shall provide the City's Legal Department with a certificate of liability insurance naming the City as an additional insured.



8. Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
9. Applicant shall not install any asphalt on the Site or the adjacent City-owned premises.
10. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
11. 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.
12. 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.

13. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record both the Original Special Permit, as well as 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 both the recorded Original Special Permit as well as the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy of both special permits to the City Council's office and to the City Solicitor's office.





City of Marlborough

Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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

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

**DONALD V. RIDER, JR.**  
CITY SOLICITOR

**CYNTHIA M. PANAGORE GRIFFIN**  
ASSISTANT CITY SOLICITOR

**BEVERLY J. SLEEPER**  
CHIEF PROCUREMENT OFFICER

**ELLEN M. STAVROPOULOS**  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

RE: 61 Emmett Street  
Proposed License to Encroach onto Public Way

Dear President Pope and Members:

The Marlborough Community Development Authority is in the process of conveying the property located at 61 Emmett Street to a new owner. The retaining wall built to the northwest of the driveway to 61 Emmett encroaches very slightly onto the public right of way layout. Accordingly, enclosed for your consideration is a proposed license to encroach, along with the as-built plan it references.

Note that the proposed license to encroach expressly takes into account an existing temporary license, granted by the City Council in December 2011 to the record owners of 56 Emmett Street, to park during the 2011-12 winter parking ban at or near the same portion of Emmett Street being encroached on by the retaining wall at issue. The latter license to park may possibly come up for renewal with the Council this December.

By enclosed letter, counsel for the CDA indicates his approval, along with that of the buyer's attorney, as to the legal form of the proposed license to encroach. That letter also requests that the proposed license to encroach be advanced to the Council in time for the scheduled closing in November. Accordingly, it is respectfully requested that the Council take action on this matter no later than its November 5, 2012 meeting, so that the closing may timely proceed.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosures

cc: Aldo A. Cipriano, Esquire

ORDERED:

That the record owner ("the Licensee") of 61 Emmett Street, Marlborough, Massachusetts, identified as Map 81, Parcel 126 of the Marlborough Assessors Maps, is hereby granted by the City of Marlborough ("the Licensor") a license ("the License") to encroach on and occupy a portion of the right of way layout for Emmett Street located to the northwest of the driveway to said 61 Emmett Street ("the Affected Portion of the Emmett Street ROW"), as shown on a plan entitled, "As Built Site Plan, 61 Emmett Street, Marlborough, MA, Scale 1"=20', Date: August 15, 2012, Addit.: August 22, 2012" ("the Plan"), for the sole purpose of extending a concrete block retaining wall into the said right of way. No changes to the surface conditions and use of the Affected Portion of the Emmett Street ROW, other than those shown as existing on the Plan, shall be made by the Licensee unless previously approved through formal site plan approval and written authorization from the Commissioner of Public Works.

This License is subject to all other uses which the Licensor may from time to time make of the Affected Portion of the Emmett Street ROW, including but not limited to a temporary one-year license granted by the Marlborough City Council (Order No. 11-1004017, X-0309919A) on December 19, 2011, subject to further Council approval one year from said date, to the record owners of 56 Emmett Street for the sole purpose of parking at or near the Affected Portion of the Emmett Street ROW, as shown on a plan entitled, "Plan of Land in Marlborough, Massachusetts, to be Licensed to Richard F. and Jane A. Sullivan, for Parking, #56 Emmett Street, Prepared by: City of Marlborough Department of Public Works, Engineering Division (BWT), Scale: 1" = 20', January 2002."

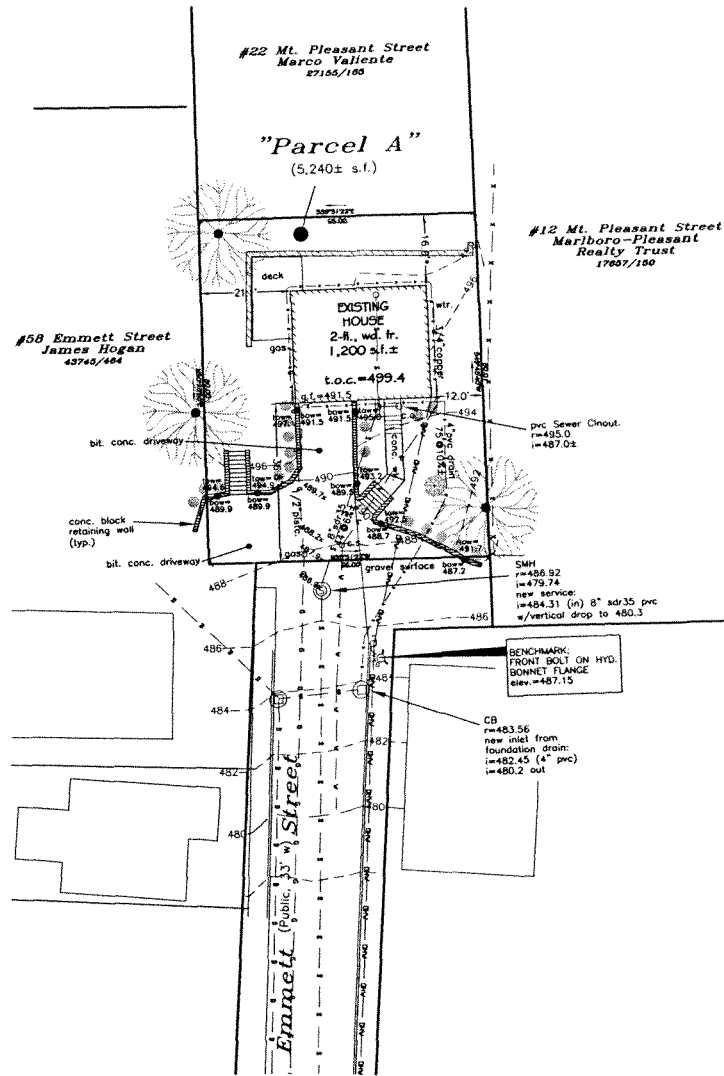
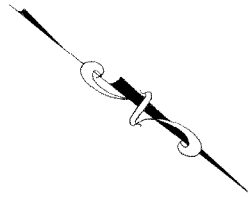
This License is further subject to Mass. Gen. Laws c. 86, § 3.

The Licensee, its successors and assigns hereby agree to indemnify and hold harmless the Licensor, including its officers, employees and agents, from any damage that may be caused by the Licensor, including its officers, employees and agents, to said retaining wall insofar as it encroaches on and occupies the Affected Portion of the Emmett Street ROW; as well as from any damage or injury to property or person that may arise in connection with the said retaining wall's encroachment on and occupation of the Affected Portion of the Emmett Street ROW.

ADOPTED  
In City Council  
Order No 12-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:



**LEGEND**

- 000--- DENOTES EXISTING CONTOUR
- 000.0 DENOTES EXISTING ELEVATION
- B --- DENOTES DRAIN LINE
- S --- DENOTES SEWER LINE
- V --- DENOTES WATER LINE
- G --- DENOTES GAS LINE
- OHW --- DENOTES OVERHEAD ELECTRIC LINE
- o C.O. DENOTES SEWER CLEANOUT
- o C.S. DENOTES WATER CURB STOP
- o DENOTES EXISTING TREE/SHRUB
- o DENOTES EXISTING RETAINING WALL
- x --- DENOTES EXISTING FENCE

**MARLBOROUGH ASSESSORS REFERENCE:**

MAP B1 PARCEL 126

**DEED REFERENCE:**

WCRO BOOK 48153 PAGE 261

**NOTES**

- 1.) REFER TO APPROVED SITE PLAN BY TLS&EC, DATED JUNE 28, 2012 (REV. THROUGH JULY 19, 2012).
- 2.) AS-BUILT TOPOGRAPHIC DATA BASED ON SURVEY BY TLS&EC, AUGUST, 2012. ELEVATIONS BASED ON NGVD 1929 DATUM.

**ZONING TABLE**

ZONING DISTRICT	RES. C REQUIREMENTS	REQUIRED	EXISTING	PROPOSED	AS-BUILT
AREA:	10,000 S.F.	5,200 S.F.	5,200 S.F.	5,200 S.F.	5,200 S.F.
FRONTAGE:	30 FEET	65 FEET	65 FEET	65 FEET	65 FEET
FRONT YARD:	20 FEET	31.3 FEET	40.2 FEET	38.8 FEET	38.8 FEET
REAR YARD:	25 FEET	7.8 FEET	13.8 FEET	18.8 FEET	18.8 FEET
SIDE YARD:	10 FEET	14.1 FEET	11.0 FEET	12.0 FEET	12.0 FEET
LOT COVERAGE:	30 % MAX.	28 %	40 %	35 %	35 %

**WATER METER:**

#90447339

I HEREBY CERTIFY THAT THE STRUCTURES SHOWN ON THIS PLAN ARE NOT LOCATED WITHIN THE FLOOD HAZARD AREA AS SHOWN ON THE FEMA FLOOD HAZARD BOUNDARY MAP FOR THIS CITY.

I CERTIFY THAT THE STRUCTURE SHOWN ON THIS PLAN IS LOCATED AS SHOWN, AND THAT, AT THE TIME OF CONSTRUCTION, COMPLIES WITH ZONING LAWS OF THE CITY OF MARLBOROUGH, EXCEPT AS NOTED.

THOMAS P. DIPERSIO, Sr.  
REGISTERED PROF. LAND SURVEYOR  
LICENSE #29864

DATE

**AS BUILT SITE PLAN  
61 EMMETT STREET  
MARLBOROUGH, MA**

SCALE: 1" = 20' DATE: AUGUST 15, 2012  
ADDIT.: AUGUST 22, 2012

Prepared for:

MARLBOROUGH COMMUNITY  
DEVELOPMENT AUTHORITY  
140 MAIN STREET  
MARLBOROUGH, MA 01752

Owned by:

MARLBOROUGH COMMUNITY  
DEVELOPMENT AUTHORITY  
140 MAIN STREET  
MARLBOROUGH, MA 01752

**THOMAS LAND SURVEYORS**

& Engineering Consultants, Inc.  
Land Surveyors, Civil & Environmental Engineers, Planning Consultants

288 WASHINGTON STREET  
PHONE: (978) 563-2881

MARLBOROUGH, MA 01746  
FAX: (978) 568-8884

ALDO A. CIPRIANO  
ATTORNEY AND COUNSELLOR AT LAW

277 MAIN STREET  
VICTORIA BUILDING  
SECOND LEVEL • ATRIUM SUITE  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 485-7245  
FAX (508) 485-2304

*Sent Via Email Only*

October 25, 2012

Donald V. Rider, Esq.  
City Solicitor  
City of Marlborough  
City Hall, 4<sup>th</sup> Floor  
140 Main Street  
Marlborough, MA 01752

*Re: 61 Emmett Street, Retaining Wall Issue, Public Way Encroachment*

Dear Mr. Solicitor,

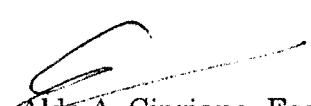
We acknowledge receipt of your correspondence of October 24, 2012, together with proposed City Council Order amending an existing municipal License for the Emmett Street public road layout area. We find it to be in proper legal form and have advanced the documents to buyer's counsel, who has no known objection to the format.

However, in turn, she needs to send it to bank counsel for Citizen's Bank for his ultimate approval, relative to the loan. We would respectfully request this matter be advanced for City Council consideration, commencing on October 29<sup>th</sup>, so that we can meet the timetable for closing, which, apparently, will be later in November.

If we learn of any suggested changes from bank counsel, we will so inform you promptly.

Thank you for your continued professional assistance in this regard.

Very truly yours,

  
Aldo A. Cipriano, Esq.  
General Counsel

AAC/lc

cc: Marlborough Community Development Authority



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 **STATE ELECTION** will be held in the polling locations as noted below on **NOVEMBER 6, 2012** as follows: Electors of President and Vice President, Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court, (Thirteen and Fourth Middlesex District) Clerk of Courts, Register of Deeds and Sheriff.

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., Cafetorium
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.

---

# MIRICK O'CONNELL

---

A T T O R N E Y S   A T   L A W

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 25 A 9 53

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

October 25, 2012

**HAND DELIVERED**

Lisa M. Thomas, City Clerk  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752

Re: Notice of Representation (City Council Order No. 91-3822A), Breazzano  
Properties Corp.

Dear Ms. Thomas:

I am employed as an attorney with the law firm of Mirick, O'Connell, DeMallie & Lougee, LLP (the "Firm"). The Firm serves as outside legal counsel for the City of Marlborough for labor services.

Outside legal counsel has been designated by the City Council as special municipal employees. The City Council requires that all such employees file a disclosure with the City Clerk's office when they are representing a non-City of Marlborough client before a City board, commission, department, etc.

I hereby provide notice that I will be the attorney representing Breazzano Properties Corp. in a matter involving the City Council and the Urban Affairs Subcommittee relative to certain property t on Lakeside Avenue.

Very truly yours,



Arthur P. Bergeron

APB/alm

---

# MIRICK O'CONNELL

---

A T T O R N E Y S   A T   L A W

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 29 P 1:27

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

October 29, 2012

**HAND DELIVERED**

Lisa M. Thomas, City Clerk  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752

Re: Notice of Representation (City Council Order No. 91-3822A), Heritage Hill  
Townhouses Condominium Association

Dear Ms. Thomas:

I am employed as an attorney with the law firm of Mirick, O'Connell, DeMallie & Lougee, LLP (the "Firm"). The Firm serves as outside legal counsel for the City of Marlborough for labor services.

Outside legal counsel has been designated by the City Council as special municipal employees. The City Council requires that all such employees file a disclosure with the City Clerk's office when they are representing a non-City of Marlborough client before a City board, commission, department, etc.

I hereby provide notice that I will be the attorney representing Heritage Hill Townhouses Condominium Association in a matter involving the Department of Public Works.

Very truly yours,



Arthur P. Bergeron

APB/alm

---

# 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

2012 OCT 25 A 9:13

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

October 25, 2012

**HAND DELIVERED**

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

Re: Request for Transfer of Real Estate

Dear Councilor Pope:

My client, Breazzano Properties Corp., hereby requests that the City Council authorize the transfer to it of the property described in a plan entitled Discontinuance Plan of Land in Marlborough, MA, prepared for: David Breazzano, dated October 7, 2005, last revised April 20, 2006, Scale: 1"=30'" prepared by Bruce Saluk and Associates, Inc. The land in question, containing 8,816 sq. ft., consists of that portion of what is often referred to as Old Lakeside Avenue that currently bisects other land of my client, land on which are located both Allora Restaurant and Weichert Realtors. You and several councilors, who were there at the time, may recall that my client made a similar request in 2006, at which time the City Council voted to discontinue that portion of Old Lakeside Ave., but decided not to actually convey the property to my client until a determination had been made that the Commonwealth of Massachusetts no longer had any legal interest in the property. That decision was made upon the advice of City Solicitor Don Rider expressed in a letter to you, in your role as Chairman of the Urban Affairs Committee, dated June 30, 2006. A copy of that letter is attached as Attachment #1. Because of the active advocacy efforts of Representative Steve Levy, the Highway Division of the Massachusetts Department of Transportation completed a MEMO (see copy, Attachment #2) determining that:

1. When the Commonwealth discontinued its use of this and all the other land constituting Old Lakeside Ave., the land reverted to the County Commissioners of Middlesex County.
2. When Middlesex County was dissolved, that interested reverted to the City of Marlborough.

Now that these title issues have been resolved, my client requests that the City Council:



**MIRICK O'CONNELL**

Councilor Patricia Pope, President

October 25, 2012

Page 2

1. Determine, pursuant to Mass. General Laws Chapter 30B § 16(a) that disposition is appropriate.
2. Determine, pursuant to Chapter 30B § 16(b) that the value of the land is less than \$25,000. An appraisal done for my client back in 2006, before the real estate collapse in this area, determined that the property was worth only \$7,935.
3. Pursuant to General Laws Chapter 40 § 15, authorize the Mayor to convey to my client the property described in the above-mentioned plan for such price, and subject to such conditions, as it deems appropriate.

Thank you for your prompt attention to this matter. I think it is in the interest of all parties to have the matter be resolved before January 1, 2013, after which my client will be assessed and pay taxes on this parcel.

Very truly yours,



Arthur P. Bergeron

APB/alm

ATT #1



# City of Marlborough Office of the City Solicitor

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

*Ronald G. Guest*  
LEGAL ADMINISTRATOR

*Beverly J. Sleeper*  
PARALEGAL

June 20, 2006

Patricia Pope  
Chairman  
Urban Affairs Committee  
Marlborough City Council

RE: Old Lakeside Avenue

Dear Chairman Pope:

Breazzano Properties Corp. ("Breazzano") has petitioned the City Council to discontinue the portion of Old Lakeside Avenue (i.e., a portion of Parcel 80-40A) that fronts Breazzano's properties at 127 Lakeside Avenue (formerly, Rocco's) and at 109 (aka 139) Lakeside Avenue. As part of its discontinuance petition, Breazzano adds language in which the City Council would accept a deed back from Breazzano for a municipal utility easement. Thus, a vote to discontinue would both a) discontinue the City's easement to pass and re-pass, as well as b) accept the municipal utility easement. I will refer to this vote as step 1.

Then, as part of the overall process being proposed by Breazzano, Breazzano would next seek:

2) to have the City petition the Legislature to deed to the City any and all right, title and interest which the Commonwealth may still have in the entire portion of Route 20 discontinued in 1972 (i.e., from Breazzano's properties all the way to the east past McKinnon's property), not just the portion that fronts Breazzano's properties; and

3) to have the City deed to Breazzano any and all right, title and interest which the City (now including the Commonwealth) may still have in the portion of the discontinued Route 20 that fronts Breazzano's properties.

Breazzano's idea behind steps 2 and 3 is that it is theoretically possible that either the Commonwealth or the City still has a fee interest in the land that fronts Breazzano's properties; that any such

fee interest held by the Commonwealth would not have been affected by the 1972 discontinuance of the Commonwealth's easement interest in Old Lakeside Avenue; that, likewise, any such fee interest held by the City would not have been affected by the would-be discontinuance now before the Council; and that therefore steps 2 and 3 are desirable so that Breazzano will definitively be the sole fee owner of the properties.

Massachusetts law is clear that, while it is theoretically possible that "[t]he fee of the land may be taken by [the] public authority or it may be in someone other than the abutter," that situation "is unusual." Opinion of the Justices, 297 Mass. 559, 562 (1937) (emphasis supplied). "Abutting owners ordinarily hold the title to the fee to the center of the public way, subject only to the easement of travelers to pass and repass." Id. (emphasis supplied). See Nylander v. Potter, 423 Mass. 158, 161 (1996) ("When the town of Warwick discontinued Bachellor Road as a town road, the landowners abutting the road had full ownership in the roadbed.")

Given that Massachusetts law thus indicates the likelihood that Breazzano owns the fee interest in the land at issue, it is entirely possible that Breazzano might be content with the vote to discontinue in step 1 -- that is, that Breazzano might never seek to pursue steps 2 and 3. From the City's perspective, the problem with doing only step 1 would be that the City would have no opportunity to place conditions on Breazzano's properties, as the statute governing a vote to discontinue, Mass. Gen. Laws c. 82, § 21, does not appear to give municipalities the power to conditionalize discontinuances. In short, if the Council were to vote to discontinue and accept the municipal utility deed, that vote might be the last say the City would have on the matter.

Accordingly, to the extent the Council may wish to place conditions on Breazzano's properties, I would suggest for your Committee's consideration that the steps above be re-arranged, by having step 2 (Commonwealth deeds to City) come first. Then the City would be in a position to deed to Breazzano all of the City (now including the Commonwealth)'s right, title and interest in the properties, including the easement to pass and re-pass which Breazzano currently petitions to be discontinued, as well as any fee interest that the City or the Commonwealth may have in the properties. With such a deed, the City would then be in a position to place whatever conditions on the properties as might be deemed appropriate by the Council.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

ATT #2

---

MASSDOT - HIGHWAY DIVISION  
DISTRICT # 3 - RIGHT OF WAY BUREAU  
INTEROFFICE MEMORANDUM

---

**TO:** ANN SULLIVAN  
**FROM:** NICHOLAS J. CARDELLICCHIO  
**SUBJECT:** LAKESIDE AVENUE, MARLBOROUGH, MA  
**DATE:** 10/14/2012  
**CC:** BARRY LORION, GARY WARREN, RUSSELL MCGILVRAY

---

**ISSUE**

On February 9, 2012 the District received an inquiry from Representative Steven Levy regarding the process for the disposition of several parcels along the north side of Route 20 abutting property owned by the proprietors of the Allora Restaurant in Marlborough, Massachusetts. The Representative believes that the parcels are still under the ownership of MassDOT. Specifically, Representative Levy, wanted these parcels, either by our procedures for the disposition of surplus land or via special legislation to the present owners of the restaurant.

**QUESTION**

Does MassDOT own the subject parcels in question and if so MassDOT would be agreeable to disposing the parcels to a private entity?

**ANSWER**

Upon review of several documents on file within MassDOT, District # 3, Middlesex South Registry of Deeds and the State Archives it has been determined that the MassDOT does not own the subject parcels in Marlborough, Massachusetts.

First, in accordance with the provision of Massachusetts General Laws, Chapter 81, on January 27, 1931, the Commonwealth of Massachusetts acting by and through its Department of Public Works altered the location of a State Highway (Boston Post Road) in the City of Marlborough, Massachusetts. In an Order of Discontinuance, Layout Number 6003, dated January 5, 1972 the Massachusetts Department of Public Works found it desirable to discontinue a portion of said State Highway (See Middlesex South Registry of Deeds, Book 12102, Page 68, Plan 171 of 1972 recorded on February 25, 1972). In addition to the foregoing, Page 4 of said Discontinuance, the Middlesex County Commissioners on January 18, 1972 approves said discontinuance and their concurrence with the Department of Public Works. Thereby transferring title to said parcels to the Middlesex County Commissioners. (Attachment 1)

Second, a review of the Minutes and Votes of the Middlesex County Commissioners for 1972 on file at the Massachusetts State Archives confirms the following: 1) On January 14, 1972 the County Commissioners received a letter from the Massachusetts Department of Public Works an order and plan for the discontinuance for a portion of Route # 20 (Boston Post Road) in Marlborough,

Massachusetts, Layout Number 6003. 2) On February 29, 1972, the County Commissioners received a Certified copy of the Order of Discontinuance and Plan for a filing with the Clerk of the Courts on the discontinuance of a portion of Route # 20 (Boston Post Road) in Marlborough, Massachusetts. (Attachment 2 & 3)

Third, Section 567 of Chapter 151, Acts and Resolves of 1996 amends Massachusetts General Laws, Chapter 34B and Chapter 82 concerning the abolishment of certain County Governments specifically in this case Middlesex County. Section 6 of Chapter 34B transfers all right, title and interest in real property associated with county roads situated with the boundaries of any abolished county that has not successor of government to the respective city or town in which the roads lie. (Attachment 4)

Fourth, on June 5, 2000, the City Council for the City of Marlborough voted to convey a certain parcel of land, being a portion of Map 80, Parcel 40A, identified as Parcel C containing 7,717 S.F. and Parcel D containing 3,904 S.F. for a combined total of 11,621 S.F. to GNS Realty Trust, Gerald Seymour, Trustee for \$9,600.00 with conditions. Said adopted by the City Council on June 5, 2000 and Approved by then Mayor William J. Mauro, Jr. on June 12, 2000. (Attachment 5)

Fifth, On January 18, 2001, the City of Marlborough, in consideration of \$9,600.00 granted to Gerald Seymour, Trustee of GNS Realty Trust, (under a Declaration of Trust dated August 23, 1993, and recorded in the Middlesex South Registry of Deeds in Book 23617, Page 17), a portion of Map 80, Parcel 40A on Lakeside Avenue, Marlborough, Massachusetts, said deed being recorded in the Middlesex South Registry of Deeds in Book 32791, Page 468 on May 2, 2001. (Attachment 6)

Based upon the foregoing, based upon the Discontinuance of Route # 20 (Boston Post Road), Chapter 151, Section 567 of the Acts of 1996, the City of Marlborough was the owner of the subject parcels of land and had the authority to convey said parcels.

Lombardo DeVellis & Smith LLP  
Attorneys at Law

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CITY OF MARLBOROUGH

2012 NOV -1 A 11: 38

October 31, 2012

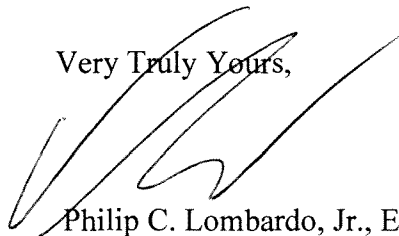
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

Re: Order No. 12-1005081  
Application of: Cumberland Farms, Inc.  
Locus: 412 & 418 Maple Street - Map 93, Lot 68, 66A and 67C

Ladies and Gentlemen:

Cumberland Farms, Inc., the above-named Applicant, hereby agrees to withdraw the above-referenced application without prejudice, conditional upon its most recent application for a special permit, filed this day, be accepted and scheduled for a public hearing. Should you require anything further, please do not hesitate to contact me.

Very Truly Yours,



Philip C. Lombardo, Jr., Esq.

Cc: Kathleen Sousa

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

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CITY OF MARLBOROUGH

**APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT**

2012 OCT 31 P 12:58

1. Name and address of Petitioner or Applicant:

Cumberland Farms, Inc.

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

418 Maple Street, 412 Maple Street, Walker Street (Map 93, Lots 68, 66A, 67C)

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

Scot Properties LLC, 418 Maple Street, Marlborough, MA

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

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

Article X Section 650-17 Paragraph                      Sub-paragraph                      Attachment 1 - Table of Uses

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

CA

7. Specific reason(s) for seeking Special Permit

Applicant proposes the construction of a convenience store with gasoline sales on the subject parcels.

Gasoline filling stations require a Special Permit of the City Council. A summary of the proposed project is attached.

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

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

Legal Representation:

Philip C. Lombardo, Esq.

41 North Road

Bedford, MA 01730

Tel: 781-538-6894

Cumberland Farms, Inc.

By: Kathleen Sousa

Signature of Petitioner or Applicant

Kathleen A. Sousa, Land Planning Manager

Address: 100 Crossing Boulevard

Framingham, MA 01702

Telephone No. 508-270-1466

Date: \_\_\_\_\_

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

Cumberland Farms, Inc.

---

(Name of Petitioner)

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

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



## SPECIAL PERMIT-SUMMARY IMPACT STATEMENT

Applicant's Name: Cumberland Farms, Inc. Address: 100 Crossing Blvd., Framingham, MA 01702

Project Name: Cumberland Farms Address: 412-418 Maple Street/Walker Street

1. PROPOSED USE: (describe) Convenience store with gasoline sales  
\_\_\_\_\_
  
2. EXPANSION OR NEW: New  
\_\_\_\_\_
  
3. SIZE: floor area sq. ft. 3318 sf 1<sup>st</sup> floor 3318 sf all floors 3318 sf  
# buildings one # stories one lot area (s.f.) 33,133 sf
  
4. LOT COVERAGE: 68.5% %Landscaped area: 31.5% %
  
5. POPULATION ON SITE: Number of people expected on site at anytime:  
Normal: \_\_\_\_\_ Peak period: \_\_\_\_\_
  
6. TRAFFIC:  
(A) Number of vehicles parked on site:  
During regular hours: 10 Peak period: 14  
(B) How many service vehicles will service the development and on what schedule?  
Gas deliveries: 2-3 times/week; Cumberland Farms: grocery twice/week; milk/bread: 1/week;  
independent vendors: 1/week; dumpster: 1/week
  
7. LIGHT: How will the development be lit at the exterior? How much light will leave the property  
and enter the abutting property? LED area light poles with shields (8): .7FC max over the property  
line
  
8. NOISE:  
(A) Compare the noise levels of the proposed development to those that exist in the area now.  
No anticipated increase  
(B) Described any major sources of noise generation in the proposed development and include their  
usual times of operation. No major sources of noise generation
  
9. AIR: What sources of potential air pollution will exist at the development? None
  
10. WATER AND SEWER: Describe any unusual generation of waste. None
  
11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will  
this waste be stored? Where? How much will be in storage on a daily basis? How will it be  
disposed? None

**\*Attach additional sheets if necessary**



**CITY OF MARLBOROUGH  
MARLBOROUGH, MASSACHUSETTS 01752**

City Hall

140 Main St.

Marlborough, Massachusetts 01752

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

President and Members City Council

Date: 10/16/2012

**SPECIAL PERMIT APPLICATION  
CERTIFICATION BY PLANNING DEPARTMENT**

Project Name: Cumberland Farms, Inc.

Project Use Summary: Convenience store with gasoline sales

Project Street Address: 412 & 418 Maple Street/Walker Street

Plate: 936 Parcel: 66A, 67C, 68

Applicant/Developer Name: Cumberland Farms, Inc.

Plan Date: 8/22/2012 Revision Date: \_\_\_\_\_

Dear President and Members:

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

Very truly yours,

  
~~Stephen F. Reid~~ *Michael Mendoza*

Building Commissioner

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

\$500.<sup>00</sup>

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



**Lisa M. Thomas  
City Clerk**

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

Cumberland Farms, Inc.

By: *Kathleen A. Sousa*  
Kathleen A. Sousa Land Planning Manager  
Signature of Applicant

---

Attorney on behalf of Applicant, if applicable

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

*Deborah A. Fox*  
Tax Collector

*City of Marlborough*  
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CITY OF MARLBOROUGH  
*Commonwealth of Massachusetts*

2012 OCT 23 A 9:39



September 10, 2012  
7:00 PM

**PLANNING BOARD**

Barbara L. Fenby, Chair  
Colleen M. Hughes, Clerk  
Philip J. Hodge  
Edward F. Coveney  
Clyde L. Johnson  
Sean N. Fay

Carrie Lizotte, Board Secretary

Phone: (508) 460-3769

Fax: (508) 460-3736

Email: CLizotte@marlborough-ma.gov

**The Planning Board for the City of Marlborough met on Monday, August 27, 2012 in Memorial Hall, 3<sup>rd</sup> Floor, City Hall 140 Main Street, Marlborough, MA 01752. Members present: Barbara Fenby, Colleen Hughes, Sean Fay, Edward Coveney and Clyde Johnson. Also present: City Engineer Thomas Cullen.**

**MINUTES**

*August 27, 2012*

On a motion by Mr. Fay, seconded by Mr. Coveney it was duly voted:

To table the minutes until the next meeting.

**CHAIRS BUSINESS**

*City Council Correspondence*  
*Special Permit Application*

The City Council will be holding a special permit hearing to construct a three townhouse condominium project on Monday, October 15, 2012.

On a motion by Ms. Hughes, seconded by Mr. Coveney, it was duly voted:

To accept and file correspondence.

*Amendment to the Zoning Code*

Attorney Gadbois is petitioning the City to change to the Zoning Code of the City of Marlborough Chapter 650 by adding Article VI section to become 650-32 RESULTS WAY MIXED USE OVERLAY DISTRICT.

On a motion by Mr. Johnson, seconded by Ms. Hughes, it was duly voted:

To accept and file correspondence and to set a public hearing date of October 15, 2012 at 7:00 pm.

***40B Project, Ames Street***

The Planning Board has been asked to review the proposal. The Planning Board would like to invite the developer to come in and discuss the project at their next meeting.

**APPROVAL NOT REQUIRED PLAN**

***Slocumb Lane  
Decision***

The City Engineer has reviewed the ANR plan known as "Slocumb Lane" and is in the position to give a favorable recommendation to endorse the plan.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

On a motion by Mr. Fay, seconded by Mr. Coveney it was duly voted:

To accept and endorse a plan of land believed to be Approval Not Required of "Plan of Land" owned by Slocumb Realty, LLC, 120 Quarry Drive, 2<sup>nd</sup> Floor, Milford, MA 01757. Name of Engineer: Guerriere & Hanlon, Inc. PO Box 235, Milford, MA 01757. Deed of property recorded in Worcester District Registry of Deeds Book 43031Page 384, Land Court Book 1285 Page 161.

**PUBLIC HEARING**

**SUBDIVISION PROGRESS REPORTS**

***City Engineer Update***

Mr. Cullen gave a status update on the Mauro Farm Subdivision stating they have installed some of the granite curbing and sidewalks. He also informed the Board that the City Solicitor is in discussions with Urban Affairs regarding the Indian Hill access path.

## *Blackhorse Farms*

### *Lighting*

Donald Seaburg with Benchmark Engineering sent the correspondence that they sent to National Grid for the lighting connections for Slocumb Lane.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

### *Extension*

Mr. Fay stated that he believes that the developer has shown enough good faith to justify the Board taking a vote to extend the subdivision as long as they continue on this path and adhere to the conditions stated in the extension vote. Mr. Fay said he would consider making a motion to extend the approval until the end of December 2013 to allow the developer complete the subdivision and to work with the Board. The Chair polled the members and they were all in agreement that the developer showed good faith by doing some of the work that was discussed at the last meeting. Chairperson Fenby stated that since it is early fall, and the construction season is almost over, that granting an 18 month extension would not be out of the ordinary, however there is work that is still achievable during this construction season.

City Councilor Joseph Delano stated that the Board should consider only granting a 3 month extension because of the terrible record the developer has and prior instances of disregard for the neighborhood. Mr. Fay responded stating that as a condition of the extension, the Board is imposing strict guidelines that must be met on an ongoing basis, and that if the Developer does not fulfill its obligations, that the Board will consider taking action as an enforcement action at that time. Mr. Fay stated that developer is aware that the subdivision needs to be treated as a neighborhood with the street being kept open and that lighting be installed to address problems that are the developer's responsibility to monitor.

On a motion by Mr. Fay, seconded by Mr. Coveney, it was duly voted to grant the subdivision extension until December 31, 2013 on the following conditions and conditioned upon the developer complying with the following:

1. That the developer follow through with the NGRID application and provide proof of payment when National Grid responds with a payment figure for the required lighting;
2. That the developer complete all required plantings by the end of November 2012;
3. That the developer seed lots and level lots where possible by October 15, 2012, and maintain the property in the Spring and Summer of 2013;
4. That the developer install all required granite curbing by end of November 2012;
5. That the developer gravel set of all sidewalks by end of November 2012;

6. That the developer conduct no blasting on the site for the remainder of this year unless the blasting is required to install foundations for new homes in the subdivision; and,
7. That the developer move existing loose rock to the base of the "cliffs" to make the site more stable;

### ***Country Club Estates***

The Board discussed the bond release with the City Solicitor who gave a brief overview of the complete file. When the subdivision was accepted in June of 2006, there was discussion at that time regarding a new bond in the amount of \$300,000 in place of the existing \$246,000 that was left in the subdivision bond. The developer never followed through with the replacement bond.

He also stated that in 2010, Attorney Bergeron came to the Planning Board with an agreement for the taking required by the approved plan. This agreement provided for a partial release of the bond as certain benchmarks were met by the developer.

Mr. Fay stated he had three main concerns: whether the City had adequate access to the land surrounding the roadway should repairs become necessary or if future improvements became necessary, whether the existing water and sewer lines were within the land the City had legal access to, and the areas where the existing roadway encroached on land not owned by the city.

The developer's attorney, Brian Falk, stated there was no pressing case on why the bond should remain. Mr. Fay explained that the Board needed more time to look at the history of the subdivision, what votes were taken, what representations were made by the developer's representatives, and the reason why certain actions were taken, before reaching a conclusion.

Mr. Falk then discussed a letter that was sent to a representative for the developer, from former City Engineer Arsenault, asking about the takings at that time. That letter was not found in the City's files, was copied and passed to the chair.

The Board discussed the possibility of whether an easement takings alone could address the Board's concerns.

The Board further discussed keeping the subdivision listed under unfinished business on their agenda until a solution is agreed upon by both parties. Mrs. Lizotte will be reviewing the files to prepare a timeline to distribute to all parties.

### **PENDING SUBDIVISION PLANS: Updates and Discussion**

### **PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS**

### **DEFINITIVE SUBDIVISION SUBMISSIONS**

## SIGNS

### *Correspondence from Code Enforcement Trombettas*

The Code Enforcement Officer sent correspondence to the owners regarding the illegal use of signage at this site and asking for them to review the illegal signage. Some of the Board members noted some of the signage has been removed; however they are still out of compliance. The Board agreed that while some signage was removed, maybe a letter asking them to appear to discuss them to consider redoing their main sign to allow equal signage for all businesses in that complex.

### *Collection Boxes*

Chairperson Fenby will talk to Ms. Wilderman regarding an update.

## UNFINISHED BUSINESS

### **Master Calendar**

## INFORMAL DISCUSSION

## COMMUNICATIONS/CORRESPONDENCE

On a motion by Ms. Hughes, seconded by Mr. Coveney, it was duly voted:

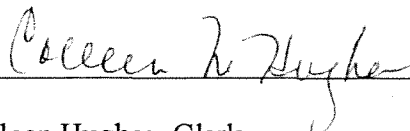
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Ms. Hughes was duly voted:

To adjourn at 8:30 p.m.

**A TRUE COPY**

ATTEST:

  
\_\_\_\_\_  
Colleen Hughes, Clerk



September 25, 2012

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 26 P 4:31



**CITY OF MARLBOROUGH  
OFFICE OF TRAFFIC COMMISSION  
140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752**

Traffic Commission Minutes

The Regular Meeting of the Traffic Commission was held on September 25, 2012 at 10:00 a.m. in the City Council Committee Room, City Hall. Members present: Chairman - Police Chief Mark Leonard, Vice Chairman – DPW Commissioner Ronald LaFreniere, Fire Chief James Fortin and City Clerk Lisa Thomas Also present: City Engineer Thomas Cullen, Asst. City Engineer Tim Collins, City Councilor Rick Jenkins and local resident Ray McCabe. Minutes taken by: Karen Lambert, MPD Records Clerk.

**1- Minutes**

The minutes of the Traffic Commission meeting of Tuesday, August 28, 2012.

MOTION was made, seconded, duly VOTED:  
TO APPROVE

**2-New Business**

**Chief Leonard began by asking for a suspension of rules to discuss an additional item not on the agenda. ALL IN FAVOR**

**Speed limit signs on Stow Road.**

Mr. McCabe was in attendance for this item. He was questioning the lack of signage on Stow Road and requesting that 30 mph signs be put on both sides of the pole in front of his house. Chief Leonard advised that this would be considered a “thickly settled” area where the speed limit is typically 30mph. It would be a yellow sign with black letters. He asked Mr. McCabe if he noticed specific times of day where the speed concern was greatest. Mr. McCabe advised that it is busy in the am, then ebbs off, and picks up again in the evening. He also noted that Stow Rd. gets a lot of foot traffic even though there are no sidewalks. There is also a gradual downhill from Simpson Lane all the way into Hudson which causes speed to increase. He doesn’t know if signs will work but feels it is worth a try.

Commissioner LaFreniere said that he does recognize that Stow Road has its share of traffic for the country nature of the road. He noted that the Commission gets complaints about speed all the time. It is then the Commission's job to determine the best course of action. In this particular case he would give consideration to additional advisory signage. All agreed, however, that the key here is enforcement. Chief Leonard advised that he can get the speed board out there and request directed patrols in the area. Mr. McCabe gave his permission to have the speed board placed on his property.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT for enforcement and to the DPW for appropriate signage.

**2a) Communication from Councilor Jenkins, re: Framingham Rd. @ Walker St. intersection; also BPR East @ Jo-Len.**

**BPE East @ Jo-Len** – Councilor Jenkins indicated that both he and Senator Eldridge have received requests for a traffic light on Rte. 20 at the Jo-Len mobile home park across from Dunkin Donuts. It is very difficult to cross the east bound lane of traffic to go west on Rte. 20. He understands that this is a state owned road and wanted to know the process for making a formal request to the state.

Chief Leonard does agree that it has always been difficult to turn left along this stretch of roadway; however, the city has had difficulty getting the state to agree to such requests. He mentioned that the state is finally considering a light at the intersection of Concord Road and Route 20. There are other businesses along this stretch of roadway that have also been looking for assistance with this same issue. He is not even sure if a traffic signal could be placed at a private driveway.

Commissioner LaFreniere commented that he has been trying to get the intersection of Route 20 and Concord Road signalized for years and this is with an intersection of two public ways. He went on to explain the warrants for a signalized intersection (warrants being the specific criteria for consideration). Tim Collins advised that there are 8 warrants and that only 1 **needs** to be met, however, the state wants to see more than 1 warrant being met. The most important relates to volume, however, they do also look at accident and pedestrian related warrants. Concord Road and Rte. 20 did not meet the volume requirements for years, however, this intersection is now getting busier and busier. Councilor Jenkins asked if he could have something in writing explaining the warrants/requirements.

Commissioner LaFreniere noted that there are lights outside of the fire station that are triggered when fire trucks are exiting the station. They are only activated in an emergency situation. He also pointed out that there would normally be two exits out of an area such as this mobile home park; however, it was constructed back in the 1970's when there were different requirements. Other businesses have also asked about a connector road on the south side that would allow them to move from one business to another and get them to a signalized intersection. Usually they run into one property owner who does not want interconnecting driveways.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING to get the warrant information to Councilor Jenkins.

**Framingham Road & Walker Street Intersection -**

Councilor Jenkins advised that this particular intersection was discussed at their Ward 2 neighborhood meeting. He asked about possible changes to improve the sightline looking west when stopped on Walker Street entering Framingham Road. In his correspondence, he commented on an incline, telephone pole and a stone wall "that hinder a driver's ability to see until the nose of the vehicle is out into the travel lane".

Commissioner LaFreniere said that the City is planning on making improvements to this intersection. Tom Cullen added that funding is not available at this time even though plans have been discussed. Chief Leonard said that the intersection is actually not as bad as it used to be. As long as a vehicle approaches the intersection cautiously it can safely take the turn.

MOTION was made, seconded, duly VOTED to TABLE as intersection improvements and funding are still in planning stages.

**Request for suspension of rules to add another agenda item for Councilor Jenkins. ALL IN FAVOR.**

**Obstructed speed limit signs & line painting.**

Councilor Jenkins advised that he now drives a school bus and has noticed low hanging trees and vegetation blocking the view of speed limit signs around the city. He asked if there are plans to make sure drivers can see signs clearly when needed. He also questioned the timeliness of line painting. He noted that we wait until the fall to paint and then with the sand and salt from the winter, the lines are gone by spring. Commissioner LaFreniere advised that the DPW has done quite a bit of line painting. He asked if Councilor Jenkins was referring to any area in particular. Councilor Jenkins noted that the center line on lower Pleasant Street is almost gone. The Commissioner advised that he will look into this area and asked Councilor Jenkins to let him know if there are any other specific locations in question.

MOTION was made, seconded, duly VOTED to REFER these issues to the DPW as they arise so they can be addressed. Commissioner LaFreniere advised Councilor Jenkins to send him an e-mail directly if he notices any specific issues.

**2b) Communication from Meagan McLean, re: crosswalk sight distance concerns near 655 Farm Road.**

Ms. McClean is requesting that parking along Farm Road right before the crosswalk (across from Trombetta's) not be allowed anymore. She advised that it is impossible for oncoming vehicles to see you in the crosswalk if a truck or van is parked there. She noted in her correspondence that "you have to poke your head around it to see if it's clear to pass."

Tim Collins mentioned that he has also seen a large van with ladders parked here and that there are usually three cars that park there overnight in front of the condos. There is plenty of room in the parking lot of the condo for all vehicles; however, there is no

parking restriction on the street so vehicles can legally park there. Chief Leonard believes that this issue has come up in the past. He said that maybe we should look at restricting parking a certain distance from the crosswalk. It was further discussed that many people do use this roadway to walk and to access Trombetta's. It is unlikely that they would choose to walk further down the street and cross at Broadmeadow. Commissioner LaFreniere advised that there are plans for future improvements in this area; however, they are waiting on state funding. Chief Leonard asked if we can look at a parking restriction now. He requested that Engineering advise as to the correct number of feet from the crosswalk parking should be allowed.

MOTION was made, seconded, duly VOTED to REFER ENGINEERING for recommendations.

**2c) Communication from Kim Harding, re: Request for HP spot on Cotting Ave.**

Ms. Harding is permanently physically disabled and is the mother of two young children. Her driveway only fits one vehicle and there is a fence and metal barrier that makes it difficult for her to get in and out of her vehicle with the children. There is also a telephone pole and fire hydrant blocking her from parking in front of her home. Her neighbor is also a disabled mother of two and would also benefit from a designated handicapped spot on the street near her home. It would relieve a great anxiety to know that she could park close to home when transporting her children.

Chief Leonard said that he is reluctant to put handicapped parking on a public way and questioned if it was something the commission should even be considering. He advised that he could not picture the exact area in question and that he would like to take a look at the location first. Commissioner LaFreniere advised the same. He mentioned that it would be an issue in the winter with the overnight parking restriction. There was further discussion on existing parking restrictions on Cotting Ave. and how that would relate to a handicapped spot. Chief Leonard advised that the winter parking ban is a public safety issue and would need to be followed. There was further discussion on existing regulations for Cotting Ave. Tim Collins mentioned that there are 4 different regulations in the manual and they conflict with each other. It is one of the streets that is up for discussion with the updating of the rules and regulations manual. The whole issue needs to be looked into and addressed.

MOTION was made, seconded, duly VOTED to TABLE for further discussion along with the conflicts in the rules and regulations manual for Cotting Ave.

**2d) Communication from Christian Dumais, re: Parking concerns on High Street.**

Mr. Dumais is a resident of High Street and also the owner of a large salon and day spa on Springhill Ave. (which is off of High Street). He currently has a parking lot for his business; however, he is having a problem with people parking "anywhere and everywhere" in the area. There is a section he referred to as "free land" that is not owned by himself, the condo or the First Congregational Church. He advised that it becomes very dangerous, especially with the Thursday night band concerts. He is looking for assistance with traffic flow and potentially signage that would indicate two way traffic is allowed.

Chief Leonard advised that he is not exactly sure what the issue is here. He has tried to call Mr. Dumais a few times but has not heard back as of yet. Chief Leonard said that he would have an officer check out this area on a Thursday night. Once we understand the issue it may be something that we can try to control. He noted that there is a citywide restriction stating no parking within 20 feet of an intersection. Chief Flynn said that he doesn't think the area is very clearly defined. He noted that Springhill Ave. and High Street all flow into each other. Springhill is a private way but it unclear as to what part is the driveway for the salon vs. the street. Tim Collins said it is really a matter of access and vehicles may be "clogging up" the area. It is something they will have to review in more detail. Both Springhill and High Street are two way streets but not when vehicles are parked on both sides.

Commissioner LaFreniere questioned if there was a site plan review. Usually when there is a change of use the business would need to come before them to work out these issues. Tom Cullen said that he is sure there would be a file in the planning board. It was probably all handled through the building department.

All agreed that the area needs to be looked at in more detail. Tim Collins also asked for clarification on High Street. It is listed as one way from Exchange to Brown.

MOTION was made, seconded, duly VOTED to REFER to ENGINEERING, the DPW and POLICE DEPARTMENT for further review.

### **3-Old Business**

#### **3f) Request for "No Turn on Red" on Chestnut St., eastbound at Pleasant St.**

Chief Leonard presented the amended regulations for Chestnut Street for a vote. The Traffic Commission has already approved the "No Turn of Red" condition and is now approving the wording for the regulations.

MOTION was made, seconded, duly VOTED:  
TO APPROVE – All in favor.

#### **3) Situation with Right-of-Way to the Italian American Club.**

**This item no longer listed on agenda – but update provided.**

Tim Collins advised that the proper signs are now in place. The One Way section on Neil Street has been moved 88 feet north of Zompetti. Chief Leonard presented the amended regulations for a vote.

MOTION was made, seconded, duly VOTED:  
TO APPROVE – All in favor.

#### **3g) Communication from Lewis F. Clark, Jr. re: Traffic concerns on Lower Pleasant St.**

Tim Collins completed a week long speed study on Lower Pleasant Street and presented his findings. He advised that the study was conducted between 8/31/12 and 9/10/12 and the counters were located approx. 20 feet south of Varley Road. The counters are a one piece unit with two sets of tubes filled with air. They are able to calculate the speed and number of vehicles. They count a truck by the weight and speed by the amount of time it takes for all wheels to pass over the tubes. He prepared three charts -one showing the Southbound Traffic, one showing Northbound Traffic and one showing truck traffic. See attached information for specific results. He noted, however, that he found very little traffic actually speeding (less than 1%). He also found truck traffic to be less than 2%. Chief Leonard advised that he has not yet had the opportunity to review the data; however, there does not appear to be a truck or speed issue based on this study. Chief Leonard said that he would forward this information along to Mr. Clark and the Ward Councilor to let them know that the Commission has looked into his concern. The only other thing that can be done at this point is to continue to monitor the situation.

MOTION was made, seconded, duly VOTED to TABLE and continue to monitor the situation.

**3h) Silver St. parking concerns.**

Tim Collins presented a diagram showing in yellow the turn pattern a vehicle would require with a wheel base of 40 and a wheel base of 50. He said that the roadway is 20 to 22 feet wide. The initial concern was whether parking should be restricted near the sharp turn in the road. Commissioner LaFreniere said that we should probably look at the turn pattern in both directions. He noted that the right turn would be more intrusive; however, there would really be nowhere to turn around. Chief Leonard asked if all residents have driveways. Tim advised, yes, but that they did see vehicles parked here. Commissioner LaFreniere said that judging by the width of the road, parking should be restricted. Further discussion went on as to whether parking should be restricted just on the turn or on the entire street. Tim Collins advised that he would take a look at the area again and it can be further discussed at the next meeting.

MOTION was made, seconded, duly VOTED to REFER to the ENGINEERING for further review.

**3) Norwood St. speed signage,**

**This item no longer listed on agenda – but update provided.**

Commissioner LaFreniere advised that the original request was due to excessive speeds through this corridor and lack of signage. He noted that there is a sharp turn condition in the middle of the roadway. Drivers slow down to negotiate the turn and then tend to speed when they come out of it. This acceleration may be misinterpreted for speed. Chief Leonard advised that the Police will continue to monitor the situation. He had initially received a phone call from the resident not an e-mail. He will return the call and advise that he will arrange for the speed board to be placed at this location.

MOTION was made, seconded, duly VOTED to REFER to the POLICE DEPARTMENT for further monitoring.

**3d) Traffic Commission rules and regulations update.**

The Commission reviewed another group of streets from the alphabetical listing on the "conflict list" at the direction of Tim Collins. Streets reviewed were Bolton Street, Brown Street, Causeway Street, Cedar Hill Street and Chestnut Street. It was determined previously that the Commission would review streets with conflicting regulations at each meeting as time permitted and make any necessary revisions. Final regulations for each street will be able to be viewed in the rules and regulations manual upon completion.

MOTION was made, seconded, duly VOTED to REFER to ENGEINEERING to make approved revisions and TABLE for discussion at next meeting.

**Parking Clerk Issues (Not on Agenda)**

The Parking Clerk stopped by the meeting and asked if she could get some clarification on a few issues.

- 1) She noted that on Main Street in front of the Senior Center there are conflicting signs for the same area, 1 indicating 30 minute parking and another indicated 2 hour parking.
- 2) The handicapped parking spots in the parking garage are not clearly marked. She noted that there used to be three spots and now there is only one. There was some discussion about spots being added to the first level and removed from the lower level but that we would need to clarify.

Commissioner LaFreniere advised that Engineering would look into these issues and get back to her so that there is no confusion.

**3a) Municipal off street parking regulation.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3b) High School parking regulations.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3c) Stop signs on Bigelow Street.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3i) Communication from Shawn Butland, re: truck exclusion on Ferrecchia Drive.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

**3k) Problems with Parking on Newton Street.**

**This item was not listed on agenda – but Tim Collins had asked that it be added on again for further discussion.**

MOTION was made, seconded, duly VOTED:  
To TABLE.

That there being no further business of the Traffic Commission held on this date, the meeting adjourned at 11:56 am.

Respectfully submitted,

Karen L. Lambert  
Records Clerk  
Marlborough Police Department

**List of documents and other exhibits used at the meeting:**

-Meeting Agenda for Tuesday, September 25, 2012 (Including City of Marlborough Meeting Posting)

-E-mail from Councilor Jenkins, dated 8/23/12, re: August 28<sup>th</sup> meeting agenda and posting.

-E-mail from Meagan McLean to City Council, dated 8/28/12, re: Crosswalk on Farm Rd. across from Trombetta's. E-mail forwarded to Chief Leonard by Karen Boule on 8/28/12.

-E-mail from Kimberly Harding to Chief Leonard, dated 9/11/12, re: HP parking request for 66 Cotting Ave Marlborough MA along with Chief Leonard's response on 9/12/12.

-E-mail from Christian Dumais to Matt Elder, dated 9/14/12, re: Parking concerns on High Street. E-mail forwarded to Chief Leonard same date.

-E-mail from Ray McCabe to Ron LaFreniere, dated 9/17/12, re: Speed limit signs on Stow Rd. Reply and copy to Chief Leonard, dated 9/19/12.

-Two Amendments to Rules and Regulations Manual regarding "Right Turns on Red" at intersection of Chestnut Street and Pleasant Street.

Two Amendments to Rules and Regulations Manual regarding "One Way Streets", specifically Neil Street

-Copy of Correspondence from Code Enforcement Officer Pam Wilderman to Mr. and Mrs. Cole, Re: Site Distances at the Corner of Curtis and Hildreth Streets.

-E-mail from Tim Collins to Mark Leonard, dated 9/24/12, re: Pleasant Street Traffic Counts along with corresponding graphs.

**Additional Handouts**

-Diagram of Silver Street with vehicle turn pattern indicated in yellow – Note: collected by Tim for further revision.



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

October 22, 2012

2012 OCT 24 A 9:52

**PRELIMINARY NOTICE**

City of Marlborough  
Office of the City Clerk  
City Hall  
140 Main Street, 1<sup>st</sup> Floor  
Marlborough, MA 01752

RE:                    Insured: Edward C Mcmanus  
                              File #: CKAW88/XKCJ64  
                              Date of Loss: 10/8/2012  
                              Responsible Party: City of Marlborough  
                              Reimbursement Due: \$PENDING  
                              Property Damage: \$PENDING  
                              PIP Medical/Wage: \$N/A

Dear Sir or Madam:

Please accept this letter of presentment as required by M.G.L. c. 258. Our investigation reveals that the City of Marlborough is responsible for damages sustained by our insured. City Water Meter attached to our insured's home failed and caused significant water damage to their finished basement.

Supporting papers to follow.

If you have any questions, please call me at 1-800-221-1605, ext. 15645.

Thank you.

Sincerely,

THE COMMERCE INSURANCE COMPANY

*Lisa L. Antocci*  
Lisa L. Antocci, AIC, SCLA

Claim Coordinator, Subrogation

CERTIFIED MAIL

*MIAA C# M12 GL72033*

*Attn: Andria Cirignano*

**The Commerce Insurance Company | Citation Insurance Company**

11 Gore Road, Webster MA 01570 | 800-221-1605 | [www.commerceinsurance.com](http://www.commerceinsurance.com)

*cc: Lisa L*