

REGULAR MEETING  
NOVEMBER 19, 2007

IN CITY COUNCIL  
ABSENT:

CONVENED:  
ADJOURNED:

1. Minutes, City Council Meeting, November 5, 2007.
2. PUBLIC HEARING: On the petition of Mass Electric to install 1-3" PVC conduit from existing transformer 7 to existing secondary manhole 7E on Evelina Dr.
3. PUBLIC HEARING: On the application of NSTAR to install 250' of 2.00" plastic main as a system improvement to supply South St. in Marlborough from 401 South St. easterly to 417 South St.
4. Communication from the Mayor re: transfer request in the amount of \$10,500.00 to provide temporary clerical help.
5. Communication from the Mayor re: transfer request in the amount of \$56,450.00 to fulfill obligations in the new firefighter's labor contract.
6. Communication from the Mayor re: annual payment of \$39,850.24 to Ward Mountain LLC.
7. Communication from Councilor Maura Navin Webster re: letter of resignation effective January 6, 2007.
8. Communication from the Planning Board re: Zoning Amendment Chapter 200-17 - Order No. 07-1001677.
9. Communication from PERAC re: appropriation for Fiscal Year 2009.
10. Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, request the Planning Board accept Danjou Dr. as a public way.
11. Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, request the Planning Board accept Cleversy Dr. as a public way.
12. Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, request the Planning Board accept Balcom Rd. and Miele Rd. as a public way.
13. Communication from the Commonwealth of Massachusetts, Department of Public Utilities, re: Notice of Filing and Public Hearing pertaining to a Petition of NSTAR of a long term natural gas firm transportation agreement.
14. Communication from Richard Murphy re: reasonable gas service prices.
15. Communication from Raymond McCabe, Jr. re: requests made to the City Solicitor to provide answers to questions that have been asked pertaining to Order No. 98-7579 - Eminent Domain for Beaman Lane.
16. Petition of National Grid to install new pole #21-50 and relocate pole #21 on Maple St.
17. Minutes, Planning Board, October 15 & October 29, 2007.
18. TransReport, November 2007.

REPORTS OF COMMITTEES:



**CITY OF MARLBOROUGH**  
**OFFICE OF CITY CLERK**  
Lisa M. Thomas  
140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
(508)460-3775 FAX (508)624-6504  
NOVEMBER 5, 2007

Regular meeting of the City Council held on Monday November 5, 2007 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Katz, Ferro, Juare, Schafer, Webster, Clancy and Towle. Meeting adjourned at 8:27 p.m.

- ORDERED: Minutes, City Council meeting, OCTOBER 29, 2007, **FILE**; adopted.
- ORDERED: Now being the time set for the **PUBLIC HEARING** on the petition of NSTAR to relocate existing vaults in Maple St. with state of the art equipment and to provide non interruptible access to Marlborough Fire Department's parking facility, all were heard who wish to be heard, hearing adjourned at 8:07 p.m., **IN PUBLIC SERVICES COMMITTEE**; adopted.
- ORDERED: That the Massachusetts Department of Revenue has certified the amount of available funds, or "free cash", for the City of Marlborough for FY07 in the amount of \$5,046,562.00, **FILE**; adopted.
- ORDERED: That the Communication from Attorney Bergeron, on behalf of 890 Post Rd. LLC, requesting to withdraw **without prejudice** Order No. 07-1667A pertinent to new automobile dealerships as an allowable use in a business zone, **APPROVE**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Danjou Dr., refer to **PLANNING BOARD**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Cleversy Dr., refer to **PLANNING BOARD**; adopted.
- ORDERED: That the Communication from Linda Fossile, Secretary of Crystal Ridge Realty Trust, re: request for road acceptance of Miele Rd. & Balcom Rd., refer to **PLANNING BOARD**; adopted.
- ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 250' of 2.00" plastic gas main as a system improvement to supply 417 South St, from 401 South St. easterly to 417 South St., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

1/2

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** at as date for a **PUBLIC HEARING** on the application of Massachusetts Electric to install 1-3" PVC conduit from existing transformer 7 to existing secondary manhole 7E on Evelina Dr., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Minutes, Planning Board, May 7, May 21, June 11, June 25, July 9, July 23, August 6, August 20, September 10, and September 24, 2007, **FILE**; adopted.

**Suspension of the Rules requested – granted; adopted.**

ORDERED: That the communication from Sprint Wireless Broadband Company LLC requesting to withdraw **without prejudice** Order No. 07-1709, the application for a Special Permit to modify the existing wireless facility located at 75 Donald Lynch Blvd., **APPROVE**; adopted.

**Suspension of the Rules requested – granted; adopted.**

ORDERED: That the petition by NSTAR to relocate existing vaults in Maple St. with state of the art equipment and to provide non interruptible access to Marlborough Fire Department's parking facility, **APPROVE**; adopted.

ORDERED: That the City Council approve the maximum salary step for Tricia Richard of the Marlborough Fire Department commensurate with her experience and overall length of service, refer back to **FINANCE COMMITTEE**; adopted. Councilor Juaire filed a letter of disclosure with the City Clerk office dated November 5, 2007.

ORDERED: That City Council **APPROVE** the following transfer totaling \$15,200.00 from Reserve for Salaries to Clothing, and from Custodian to Overtime accounts; adopted.

FROM:

Acct. # 11990006-57820 \$3,200.00

Reserve for Salaries

TO:

Acct. # 11920003-51940 \$3,200.00

Clothing

FROM:

Acct # 11920001-50560 \$12,000.00

Custodian

TO:

Acct # 11920001-51300 \$12,000.00

ORDERED: That the City Council **APPROVE** the recommendation of the Finance Committee to accept and place on file the order that the Mayor and City Council consider the feasibility of establishing a "Code Enforcement Team", and that the Mayor be requested to fund a clerical position in the Building Department to assist the "Code Enforcement Team", in the housing code functions to the office. The Mayor was requested to develop a job description for the "Code Enforcement Team" and the requested clerical position, with Councilors to provide the Mayor with input on the job description.; adopted.

**Order No. 07-1001675** - Communication from the Mayor re: amending the existing licensing agreement between the owner(s) of the property at 19 Weed Street and the City of Marlborough. Legal and Legislative Affairs Committee reviewed the Mayor's letter dated September 20, 2007 and a proposed order drafted by the City Solicitor. The Solicitor brought into question City Council's ability to authorize the full extent of the requested amendment as well as the previously granted license as a portion of the layout on Weed Street may, in fact, be owned by the CDA though the Redevelopment Authority. As such, the Solicitor recommended rescinding the previous License and issuing a new License both for the previously approved encroachments along with the new request to the extent City Council has such authority. There was also discussion as to the inclusion of a "hold harmless" clause protecting the city from future claims for damage to the new brick façade as a result of the normal use and maintenance of the sidewalk areas. The Chair was in favor of including the "hold harmless" language; other members were not. **Recommendation of the Legislative and Legal Affairs Committee is to approve 2-1 (Levy opposed) the proposed order rescinding a prior License to Encroach as amended and grant a new License to Encroach for existing footings and handicap access ramp as well as a new brick façade , with no "hold harmless" language.**

**MOTION:** On the recommendation of the Legal and Legislative Affairs Committee to rescind original decision to encroach – **carries.**

**MOTION:** Made by Councilor Levy to include the language provided to you as follows: Further, that the owners of the property at 19 Weed Street shall hold harmless the City of Marlborough from all claims of damage to the new brick façade as a result of the normal use and maintenance of the sidewalk areas adjacent to the building within Court Street and Weed Street – **does not carry.**

**The original language recommended by the Legal and Legislative Affairs Committee is approved as follows:**

**ORDERED:** The City Council **APPROVE**, the License to Encroach granted to the record owner of 19 Weed Street by the Marlborough City Council by Order No. 96-6696A, dated October 7, 1996 (copy attached), as amended by Order 96-6996B dated July 14, 1997 (copy attached), is hereby rescinded;

That the record owner of 17-21 Weed Street is hereby authorized, nunc pro tunc, to:

- 1) encroach on and occupy a portion of the layout of Court Street as well as, to the extent applicable, a portion of the layout of Weed Street, by placement of certain footings in connection with expansion of the building located at 17-21 Weed Street, which placement has already occurred; and
- 2) encroach on and occupy, to the extent applicable, a portion of the layout of Weed Street, by construction of a handicap access ramp, which construction has already occurred; and

That the record owner of 17-21 Weed Street is hereby further authorized to encroach on and occupy a portion of the layout of Court Street as well as, to the extent applicable, a portion of the layout of Weed Street, by installation of a new brick façade treatment to be applied to the exterior of the existing building located at 17-21 Weed Street; adopted.

14

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned 8:27 p.m., **FILE**; adopted.

2



# IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 5, 2007

**ORDERED:**

That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** at as date for a **PUBLIC HEARING** on the application of Massachusetts Electric to install 1-3" PVC conduit from existing transformer 7 to existing secondary manhole 7E on Evelina Dr., be and is herewith refer to **PUBLIC SERVICES COMMITTEE.**

**ADOPTED**

ORDER NO. 07-1001722

3



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 10, 2007

ORDERED:

That there being no objection thereto set **MONDAY, NOVEMBER 19, 2007** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 250' of 2.00" plastic gas main as a system improvement to supply 417 South St, from 401 South St. easterly to 417 South St., be and is herewith refer to **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 07-1001721



4,  
Nancy E. Stevens  
MAYOR

Karen A. Kisty  
EXECUTIVE AIDE

Diane C. Halper  
EXECUTIVE SECRETARY

140 Main Street

Marlborough, Massachusetts 01752

Phone (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

November 15, 2007

City Council President Arthur G. Vigeant  
Marlborough City Council  
Marlborough City Hall – 2<sup>nd</sup> Floor  
140 Main Street  
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

Attached please find a budget transfer request in the amount of \$10,500 which would shift funds from Account No. 100-35900 (Undesignated Funds) to Account No. 11210002-50586 (Temporary Clerical Help). Various City departments – particularly those with few administrative resources - require temporary help to cover for vacations, extended health-related absences, or position vacancies. With the Mayor's approval, this funding, based upon the current fee charged by Randstad Work Solutions' rate of \$20/hour, can be used to provide city-wide temporary clerical help.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens  
Mayor

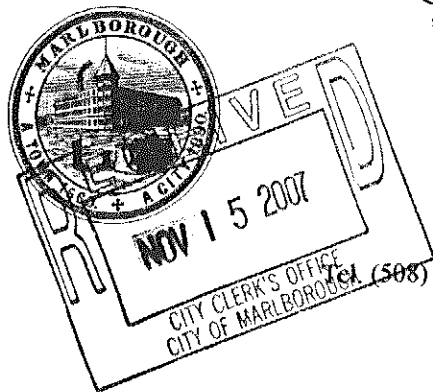


**TRANSFER REQUEST**

Office of the Mayor

FROM ACCOUNT		TO ACCOUNT	
AVAILABLE BALANCE	AMOUNT	AMOUNT	AMOUNT AVAIL
\$ 5,046,562.00	\$ 10,500.00	\$ 10,500.00	\$ -
	100	35900 Undesignated Fund	
		11210002	
		50586 Temp Clerical Help	

Reason: To fund city wide temporary clerical help



# City of Marlborough Office of the Mayor

140 Main Street  
Marlborough, Massachusetts 01752

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

*Nancy E. Stevens*  
MAYOR

*Karen A. Kisty*  
EXECUTIVE AIDE

*Diane C. Halper*  
EXECUTIVE SECRETARY

November 15, 2007

Council President Arthur G. Vigeant  
Marlborough City Council  
Marlborough City Hall -2<sup>nd</sup> Floor  
140 Main Street  
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

I am submitting herewith a budget transfer request in the amount of \$56,450 moving funds from Account No. 11990006-51500 (Fringes) to Account No. 12200003-51412 (Hazmat Pay - \$50,500) and Account No. 12200003-51940 (Clothing - \$5,950). This transfer will fulfill obligations included in the new firefighters' labor contract.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens  
Mayor

# TRANSFER REQUEST

## Fire Contract

FROM ACCOUNT		TO ACCOUNT				
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT ACCOUNT DISCRIP	AMOUNT	OBJECT ACCOUNT DISCRIP	AMOUNT AVAIL
\$ 267,457.75	\$ 50,500.00	11990006	51500 Fringes	\$ 50,500.00	12200003 51412 Hazmat Pay	\$ (50,500.00)
	\$ 5,950.00	11990006	51500 Fringes	\$ 5,950.00	12200003 51940 Clothing	\$ (5,950.00)
	\$ 56,450.00		Total	\$ 56,450.00		

Reason: To fund firefighter labor contract



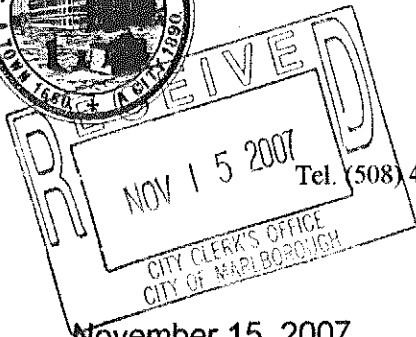
# City of Marlborough Office of the Mayor

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

*Nancy E. Stevens*  
MAYOR

*Karen H. Kisty*  
EXECUTIVE AIDE

*Diane C. Halper*  
EXECUTIVE SECRETARY



November 15, 2007

Council President Arthur G. Vigeant  
Marlborough City Council  
Marlborough City Hall – 2<sup>nd</sup> Floor  
40 Main Street  
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

Per the City's agreement with Ward Mountain LLC, the annual payment of \$39,850.24 for the property is due. To complete this transaction, \$39,850.24 must be transferred from Account No. 836-11520 (Open Space Stabilization) to Account No. 19300006-58170 (Open Space).

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens  
Mayor

### TRANSFER REQUEST

FROM ACCOUNT		TO ACCOUNT	
AVAILABLE BALANCE	AMOUNT	AMOUNT	AMOUNT AVAIL
\$ 823,422.57	\$ 39,850.24	\$ 39,850.24	\$ -
	83600 11520 Open Space Stabilization Fund	19300006 58170 Open Space Acquisition	

Reason: To fund annual land purchase payment for Mt Ward.

63

**Ward Mountain LLC**  
782 Boston Post Road  
Marlborough, MA 01752  
508-229-2488  
Fax: 508-624-7054

October 26, 2007

**INVOICE**

Mr. Tom Able  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752

Dear Mr. Able:

On December 7<sup>th</sup>, 2007, the annual payment of **\$39,850.24** is due to Ward Mountain LLC, per our agreement.

Please mail the check to the above address.

Thank you in advance for your attention in this matter.

Sincerely,



Korina Z. Peltak  
Office Manager

64

Ward Mountain, LLC, a Massachusetts limited liability company,  
 with an address of 782 Boston Post Road, Marlborough, Middlesex County, Massachusetts,  
 in full consideration paid of-----\$500,000.00-----Dollars  
 grant(s) to The City of Marlborough, a Municipal corporation,  
 with an address of 140 Main Street, Marlborough, Middlesex County, Massachusetts,

**WITH QUITCLAIM COVENANTS**

That certain parcel of land situated off of the Northerly side of Boston Post Road,  
 also known as Ward Hill, in Marlborough, Middlesex County, Massachusetts, and being  
 shown as Parcel B-1 on Plan entitled "Compiled Plan of Land in Marlborough, Mass.  
 (Middlesex County), Prepared For: W. M. Associates Realty Trust, Scale : 1" = 200', Jan.  
 12, 1988, The BSC Group-Bedford, Inc., Land Surveyors, Civil Engineers, 18 North Road,  
 Bedford, Mass." recorded with the Middlesex South District Registry of Deeds as Plan No.  
 370 of 1988 in Book 18944, Page 468.

Reference is made to said Plan for a more particular description of said Parcel B-1.

Containing 3,251,482± S.F. (74.65± AC.), all according to said Plan.

Subject to 20' Wide Easement for Tennessee Gas Pipeline Company, as shown on  
said Plan.

Subject to Utility & Drainage Easement, as shown on said Plan.

For title reference see deed dated February 11, 1999, and recorded with said  
Registry of Deeds in Book 29886, Page 335.

PROPERTY ADDRESS: 782 BOSTON POST ROAD, MARLBOROUGH, MASSACHUSETTS 01752  
 MSB 12/12/00 12:39:59 915 25.00

65

WITNESS its hand and seal this 7th day of December, 2000.

Ward Mountain, LLC

By: Janice Meyers  
Janice Meyers, Authorized Agent

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

December 7, 2000.

Then personally appeared the above-named Janice Meyers, Authorized Agent, and acknowledged the foregoing instrument to be the free act and deed of Ward Mountain, LLC,

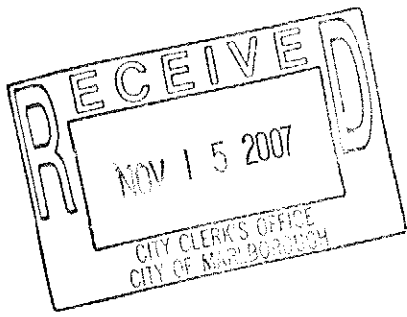
Before me,

Michael J. Norris Notary Public

My commission expires: April 15, 2005.

PROPERTY ADDRESS: 762 BOSTON POST ROAD, MARLBOROUGH, MASSACHUSETTS 01752





CITY OF MARLBOROUGH  
*Maura Navin Webster*  
*Ward Five City Councilor*  
140 Main Street  
Marlborough, Massachusetts 01752  
(508) 460-3711 TDD (508) 460-3610

November 15, 2007

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

Dear Madam Clerk,

It is with mixed emotions that I submit this letter of resignation from my post of Ward 5 City Councilor, effective at midnight on Sunday, January 6, 2007.

I have been offered and accepted a position with the American Heart Association that requires I vacate my position on the Council.

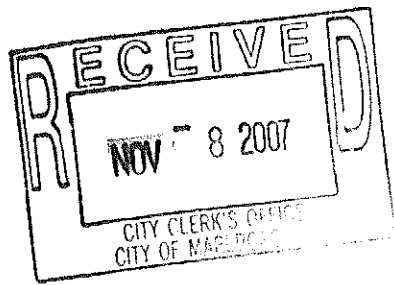
I respectfully ask that the City Council issue a call for a Special Election as soon as possible to ensure that the democratic process take place while costing the least amount to the City. If a call is issued in the near future, Marlborough will be able to take advantage of one of the Presidential Primaries, which looks as though it will be scheduled for February 5, 2008, to schedule the primary for this Special Election.

In addition, I must state that if for some reason I am elected through this process, I will not accept the nomination nor serve at this time.

On a personal note, it has been an honor and a pleasure to serve the residents of our fine city, and I look forward to remaining an active participant in our community.

Sincerely,

Maura Navin Webster



*City of Marlborough*  
*Commonwealth of Massachusetts*

8



**PLANNING BOARD**

Barbara L. Fenby, Chair  
Steve Kerrigan, Clerk  
Philip J. Hodge  
Edward F. Coveney  
Clyde L. Johnson  
Robert Hanson  
Sean N. Fay

Carrie Lizotte, Board Secretary  
Phone: (508) 460-3769  
Fax: (508) 460-3736  
Email: CLizotte@marlborough-ma.gov

November 7, 2007

Arthur Vigeant  
City Council President  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752

RE: Zoning Amendment  
Chapter 200-16

Dear Mr. Vigeant:

At its regular meeting on November 5, 2007, the Planning Board took the following action:

On a motion by Mr. Hanson, seconded by Mr. Fay, with Ms. Fenby, Mr. Hodge and Mr. Johnson opposing it was duly voted:

To **GRANT** the following language to be added to the current Zoning Ordinance Chapter 200-16:

*"All uses not noted in Section 200-17, entitled "Table of Uses," shall be deemed prohibited, except where so to deem would interfere with or annul any other City of Marlborough ordinance, rule, regulation or permit."*

Sincerely,

*Barbara L. Fenby*

Barbara L. Fenby  
Chairperson

Cc: City Clerk  
City Solicitor  
Zoning Officer  
File

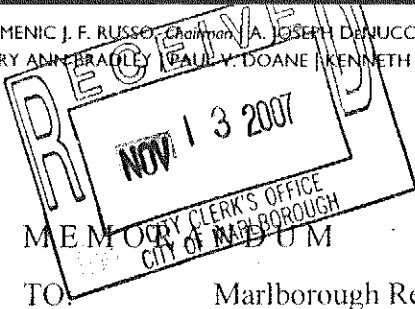
# PERAC

91

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, Chairman | A. JOSEPH DE NUCCI, Vice Chairman  
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, Executive Director



TO: Marlborough Retirement Board  
FROM: Joseph E. Connarton, Executive Director *JEC*  
RE: Appropriation for Fiscal Year 2009  
DATE: November 8, 2007

Required Fiscal Year 2009 Appropriation: **\$6,235,842**

This Commission is hereby furnishing you with the amount to be appropriated for your retirement system for Fiscal Year 2009 which commences July 1, 2008.

Attached please find summary information based on the present funding schedule for your system and the portion of the Fiscal Year 2009 appropriation to be paid by each of the governmental units within your system.

If your System has a valuation currently in progress, you may submit a revised funding schedule to PERAC upon its completion. The current schedule is/was due to be updated by Fiscal Year 2011.

If you have any questions, please contact PERAC's Actuary, Jim Lamenzo, at (617) 666-4446 Extension 921.

JEC/jrl  
Attachments

cc: Office of the Mayor  
City Council  
c/o City Clerk



**Marlborough Retirement Board**

Projected Appropriations

Fiscal Year 2009 - July 1, 2008 to June 30, 2009

Aggregate amount of appropriation: **\$6,235,842**

Fiscal Year	Estimated Cost of Benefits	Funding Schedule (Excluding ERI)	ERI	Total Appropriation	Pension Fund Allocation	Pension Reserve Fund Allocation	Transfer From PRF to PF
FY 2009	\$6,458,266	\$6,235,842	\$0	\$6,235,842	\$6,235,842	\$0	\$222,424
FY 2010	\$6,889,475	\$6,370,663	\$0	\$6,370,663	\$6,370,663	\$0	\$518,812
FY 2011	\$7,348,630	\$6,507,455	\$0	\$6,507,455	\$6,507,455	\$0	\$841,175
FY 2012	\$7,837,540	\$6,646,176	\$0	\$6,646,176	\$6,646,176	\$0	\$1,191,364
FY 2013	\$8,358,136	\$6,786,781	\$0	\$6,786,781	\$6,786,781	\$0	\$1,571,355

The Total Appropriation column shown above is in accordance with your current funding schedule and the scheduled payment date(s) in that schedule. Whenever payments are made after the scheduled date(s), the total appropriation should be revised to reflect interest at the rate assumed in the most recent actuarial valuation. Payments should be made before the end of the fiscal year.

For illustration, we have shown the amount to be transferred from the Pension Reserve Fund to the Pension Fund to meet the estimated Cost of Benefits for each year. If there are sufficient assets in the Pension Fund to meet the Cost of Benefits, this transfer is optional.

**Marlborough Retirement Board**  
 Appropriation by Governmental Unit

Fiscal Year 2009 - July 1, 2008 to June 30, 2009

Aggregate amount of appropriation: **\$6,235,842**

UNIT	Percent of Aggregate Amount	Funding Schedule (excluding ERI)	ERI	Total Appropriation
City of Marlborough	74.27%	\$4,631,360	\$0	\$4,631,360
School Department	24.62%	\$1,535,264	\$0	\$1,535,264
Housing & Community Devel. Authority	1.11%	\$69,218	\$0	\$69,218
<b>UNIT TOTAL</b>	<b>100%</b>	<b>\$6,235,842</b>	<b>\$0</b>	<b>\$6,235,842</b>

The Total Appropriation column shown above is in accordance with your current funding schedule and the scheduled payment date(s) in that schedule. Whenever payments are made after the scheduled date(s), the total appropriation should be revised to reflect interest at the rate assumed in the most recent actuarial valuation. Payments should be made before the end of the fiscal year.

# Crystal Ridge Realty Trust

P.O. Box 676, Marlboro, MA 01752

508-485-9499

CERTIFIED MAIL  
7007 0220 0003 3041 2591

November 7, 2007

Barbara Fenby, Chairperson  
City of Marlborough  
Planning Board  
140 Main Street  
Marlborough, MA 01752

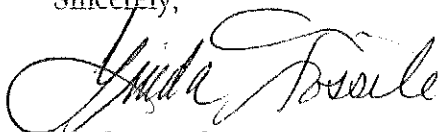
Re: Request Road Acceptance  
Danjou Drive

Ms. Fenby:

We would like to request that the Planning Board consider our request for the acceptance of Danjou Drive as a public way. Since all of the requirements have been met, we would appreciate the reduction of the bond along with the acceptance of the roadway.

If you should have any questions or require additional information, please feel free to contact me. We would appreciate your attention regarding this matter.

Sincerely,



Linda Fossile, Secretary  
CRYSTAL RIDGE REALTY TRUST

cc: Michael J. Norris, Attorney  
Tom Cullen, City Engineer  
City Council

**COPY FOR YOUR  
INFORMATION**

# Elm Farm Realty Trust

P.O. Box 676, Marlboro, MA 01752

508-485-9499

CERTIFIED MAIL

7007 0220 0003 3041 2591

November 7, 2007

Barbara Fenby, Chairperson  
City of Marlborough  
Planning Board  
140 Main Street  
Marlborough, MA 01752

Re: Request Road Acceptance  
Cleversy Drive

Ms. Fenby:

We would like to request that the Planning Board consider our request for the acceptance of Cleversy Drive as a public way. Since all of the requirements have been met, we would appreciate the reduction of the bond along with the acceptance of the roadway.

If you should have any questions or require additional information, please feel free to contact me. We would appreciate your attention regarding this matter.

Sincerely,



Linda Fossile, Secretary  
ELM FARM REALTY TRUST

cc: Michael J. Norris, Attorney  
Tom Cullen, City Engineer  
City Council ✓

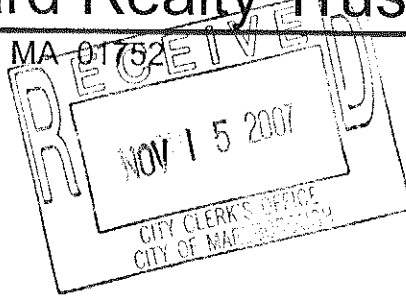
**COPY FOR YOUR  
INFORMATION**

12

# Apple Orchard Realty Trust

P.O. Box 676, Marlboro, MA 01752

508-485-9499



CERTIFIED MAIL  
7007 0220 0003 3041 2591

November 7, 2007

Barbara Fenby, Chairperson  
City of Marlborough  
Planning Board  
140 Main Street  
Marlborough, MA 01752

Re: Request Road Acceptance  
Balcom Road & Miele Road

Ms. Fenby:

We would like to request that the Planning Board consider our request for the acceptance of Balcom Road and Miele Road as public ways. Since all of the requirements have been met, we would appreciate the reduction of the bond along with the acceptance of the roadways.

If you should have any questions or require additional information, please feel free to contact me. We would appreciate your attention regarding this matter.

Sincerely,

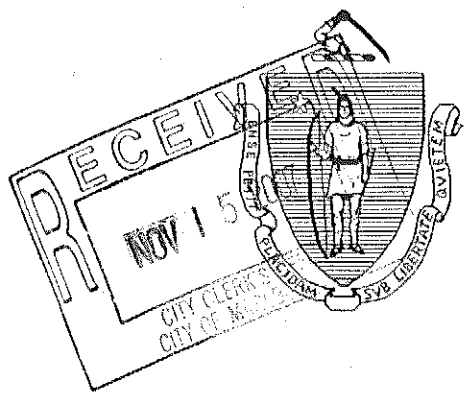
Linda Fossile, Secretary  
APPLE ORCHARD REALTY TRUST

cc: Michael J. Norris, Attorney  
Tom Cullen, City Engineer  
City Council

**COPY FOR YOUR  
INFORMATION**

*[Faint, illegible text at the bottom of the page]*





# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### NOTICE OF FILING AND PUBLIC HEARING

D.P.U. 07-87

November 2, 2007

Petition of NSTAR Gas Company, pursuant to G.L. c. 164, § 94A, for approval by the Department of Public Utilities of a long-term natural gas firm transportation agreement with Algonquin Gas Transmission, LLC.

On October 16, 2007, NSTAR Gas Company (“NSTAR Gas” or the “Company”), filed with the Department of Public Utilities (“Department”), a petition to approve a 20-year firm-transportation contract with Algonquin Gas Transmission, LLC (“Algonquin”) to provide service on a segment of Algonquin’s interstate pipeline system referred to as the J-2 Lateral under the Rate Schedule AFT-CL (the “Lateral Service Agreement”). The Company states that the proposed contract is the culmination of a settlement proceeding conducted by the Federal Energy Regulatory Commission regarding the construction of a parallel pipeline segment or “loop” to backstop Algonquin’s existing J-2 Lateral facilities (the “J-2 Loop”). Local natural gas distribution services are subject to the Department’s jurisdiction under G.L. c. 164. This case has been docketed as D.P.U. 07-87.

According to the Company, it is proposing the Lateral Service Agreement because it is necessary to ensure safe, reliable and continuous service to NSTAR Gas customers in the City of Cambridge and the City of Somerville. It states that without an alternative supply resource in place to backstop the existing J-2 Lateral facilities, customers in these areas would be susceptible to service outages made necessary in order for Algonquin to comply with U.S. Department of Transportation regulations requiring periodic inspections of its interstate pipeline facilities.

Pursuant to the Lateral Service Agreement, NSTAR Gas will be entitled to firm transportation service up to a Maximum Daily Transportation Quantity of 140,000 Dth/day, at a minimum delivery pressure of 190 psig. NSTAR Gas will pay a negotiated rate for this service, which is based on an initial recourse rate for the looping facility. The target in service date for the J-2 Loop is September 1, 2009.

132

According to the Company, the proposed agreement is (1) consistent with the portfolio objectives established in the Company's most recent long-range resource and requirements plan, as approved by the Department in NSTAR Gas Company, D.T.E. 05-46 (2006), and (2) compares favorably to the range of alternatives reasonably available to the Company and its customers based on price and non-price factors.

The Department will conduct a public hearing to receive comments on the Company's petition. The hearing will take place on **November 20, 2007 at 10:00 a.m.** at the Department's offices, One South Station - 2<sup>nd</sup> Floor, Boston, Massachusetts 02110. A procedural conference will take place immediately following the public hearing. Any person who desires to comment may do so at the time and place noted above or submit written comments to the Department not later than the close of business (5:00 p.m.) on **November 19, 2007**.

Any person who desires to participate in the evidentiary phase of this proceeding must file a written petition for leave to intervene with the Department not later than the close of business on **November 13, 2007**. A petition for leave to intervene must satisfy the timing and substantive requirements of 220 C.M.R. § 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 C.M.R. § 1.01(4). To be allowed, a petition under 220 C.M.R. § 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

An original of all written comments or petitions to intervene must be filed with Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station - 2<sup>nd</sup> Floor, Boston, Massachusetts 02110 not later than the close of business on the dates noted above. Seven (7) copies of all written comments and petitions to intervene must also be sent to Laura Koepnick, Hearing Officer, at the Department of Public Utilities. One copy of all written comments or petitions to intervene should also be sent to the Company's attorney, Steven Frias, Esq., Keegan Werlin, LLP, 265 Franklin Street, Boston, Massachusetts 02110-3113.

A copy of the Company's petition is on file at the Department's offices, One South Station, Boston, Massachusetts for public view during normal business hours. Copies are also on file for public view at NSTAR Gas, 800 Boylston Street, Boston, Massachusetts. Any person desiring further information regarding the petition should contact counsel for the Company, Steven Frias, Esq., at (617) 951-1400. Any person desiring further information regarding this notice should contact Laura Koepnick or Julie Westwater, Hearing Officers, Department of Public Utilities, at (617) 305-3500.

All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to [dpu.efiling@state.ma.us](mailto:dpu.efiling@state.ma.us), [laura.koepnick@state.ma.us](mailto:laura.koepnick@state.ma.us) and [julie.westwater@state.ma.us](mailto:julie.westwater@state.ma.us), hearing officers; or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 07-87); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the

filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat (version 7 or higher). Data or spreadsheet responses should be compatible with Microsoft Excel (version 2000). The Department strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. In addition, if the petitioner, applicant, or any other participant has already filed a document relevant to this proceeding, such as the initial petition, application, or filing, without providing an electronic copy of that document, such entity is directed to do so in compliance with the above electronic filing requirements as soon as practicable. All documents submitted in electronic format will be posted on the Department's website:  
<http://www.mass.gov/dpu>.

14



November 5, 2007  
11 Windmill Drive  
Marlboro, MA 01752

Counselor Arthur Vigent  
Marlboro City Hall  
Marlboro, MA 01752

Dear Counselor Vigent,

Late last week, crude oil futures were selling for over \$90.00 a barrel in New York while in Marlboro Fuel Oil was going for \$2.88 a gallon. I have been watching these prices go up for years since we have not been able to get the local Natural Gas monopoly to provide service to Windmill Drive. The reason given by the sales department is that there is not enough volume to warrant the expense.

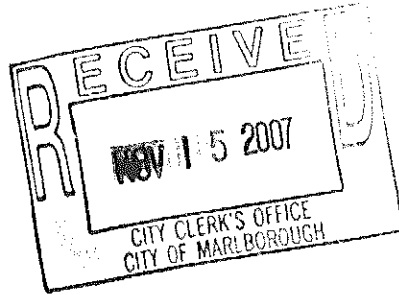
An article in the weekly paper this weekend mentioned that NSTAR was seeking the city's permission to put in a large natural gas service line to the new development off Fitchburg Street. I may have a biased view of the situation, but it seems to me that a monopoly that is consistently permitted by the city to dig up the streets for new large accounts and consistently shut out the smaller marginal applicants is a misuse of power.

Can you and the counsel provide any leverage to help us get gas service at A reasonable price? I don't think those oil prices are going to stop rising soon.

Regards,

A handwritten signature in cursive script that reads "Richard Murphy".

Richard Murphy



November 11, 2007

Mr. Donald V. Rider Jr.  
Marlborough City Solicitor  
City Hall  
140 Main Street, 4<sup>th</sup> Fl  
Marlborough, MA 01752

Mr. Rider:

You have not responded to my March letter or July email, so I will try again to obtain a written answer to questions that I have been asking for the past five years. Below is a recap of my most recent requests for a response:

- 1. Letter dated February 2, 2007
- 2. Letter dated March 7, 2007
- 3. Email dated July 9, 2007


Our conversation on March 6, 2007 related to the City Council order #98-7579 Eminent Domain Order. In 1998 a then City Councilor approached the Mello family for help regarding a lawsuit Smith et al v Marlborough. As a result of the agreement signed by the City and the Mello family, the city was able to finish work on the water main on the unconstructed portion of Beaman Lane. To the best of my knowledge the lawsuit is still under appeal at what cost, one can only guess. In January 2007, the Mello family contacted a lawyer who researched the background of the case and based upon documents, which I sent to you on March 7, 2007 for comment.

The documents clearly infer that due to a failure on the part of the city's consulting counsel to appear at a summary judgment hearing, the judgment was granted. On October 29, 1999 Attorney James A. Scanlon wrote a letter (on behalf of the City of Marlborough) to the Middlesex Superior Court outlying his Title research confirming that the abutters retained Title to the land in question and that the summary judgment never established Title. The Mello family owns the land that was taken by eminent domain in 1998.

The amount of the payment stipulated in the land taking, \$9300. plus interest is not the main issue here. The Mello family has always worked with the city whether it involved waiving an environmental hearing for a sewer line or the sale of land establishing the Mello Family Meadow. The Mello family didn't join the lawsuit against the city and agreed to the Eminent Domain order. The issue today is what does it take to get an answer?

The Mello family has no intention of hiring another lawyer to prompt the City into action. The intent of this letter is to outline our case and requesting a response before taking any other actions.

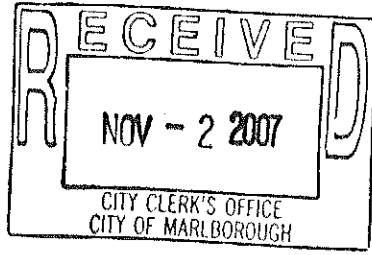
Sincerely,



Raymond L. McCabe

Cc: Mayor Nancy Stevens  
Marlborough City Council

**nationalgrid**



October 31, 2007

To the City Council  
Marlborough, Massachusetts

Council Members:

Enclosed you will find a Petition for Maple Street (Plan # 2007-129).

Description: Install new pole # 21-50 and relocate pole # 21 as per attached plan. Pole location changes are necessary to provide electric service to the new condos being constructed at # 175 Maple Street.

If you have any questions regarding this petition please contact Linda Hagan our petition clerk @ 508-482-1024 or myself at the number provided below.

Respectfully yours,

A handwritten signature in black ink, appearing to read "B. Schuster".

Brian Schuster  
Manager of Distribution Design  
508-482-1251

BS/lh  
Enclosures

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

Hopedale, MA 01747

October 25, 2007

162  
CITY COPY

To the City Council  
of the City of Marlborough, Massachusetts

**MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

request permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary to be owned and used in common by your petitioners, in the following public way or ways:

**Maple Street**

**Install new pole # 21-50 and relocate pole # 21 as per attached plan.  
Pole location changes are necessary to provide electric service  
to the new condos being constructed at #175 Maple Street.**


Wherefore they pray that after due notice and hearing as provided by law, it be granted joint or identical locations for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked: **MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC.**

Plan No. 2007-129 Dated: 09/06/2007

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree to reserve space for one cross arm at a suitable point on each of said poles for the fire, police, telephone and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

**MASSACHUSETTS ELECTRIC COMPANY**

By:   
Brian Schuster  
Manager of Distribution Design

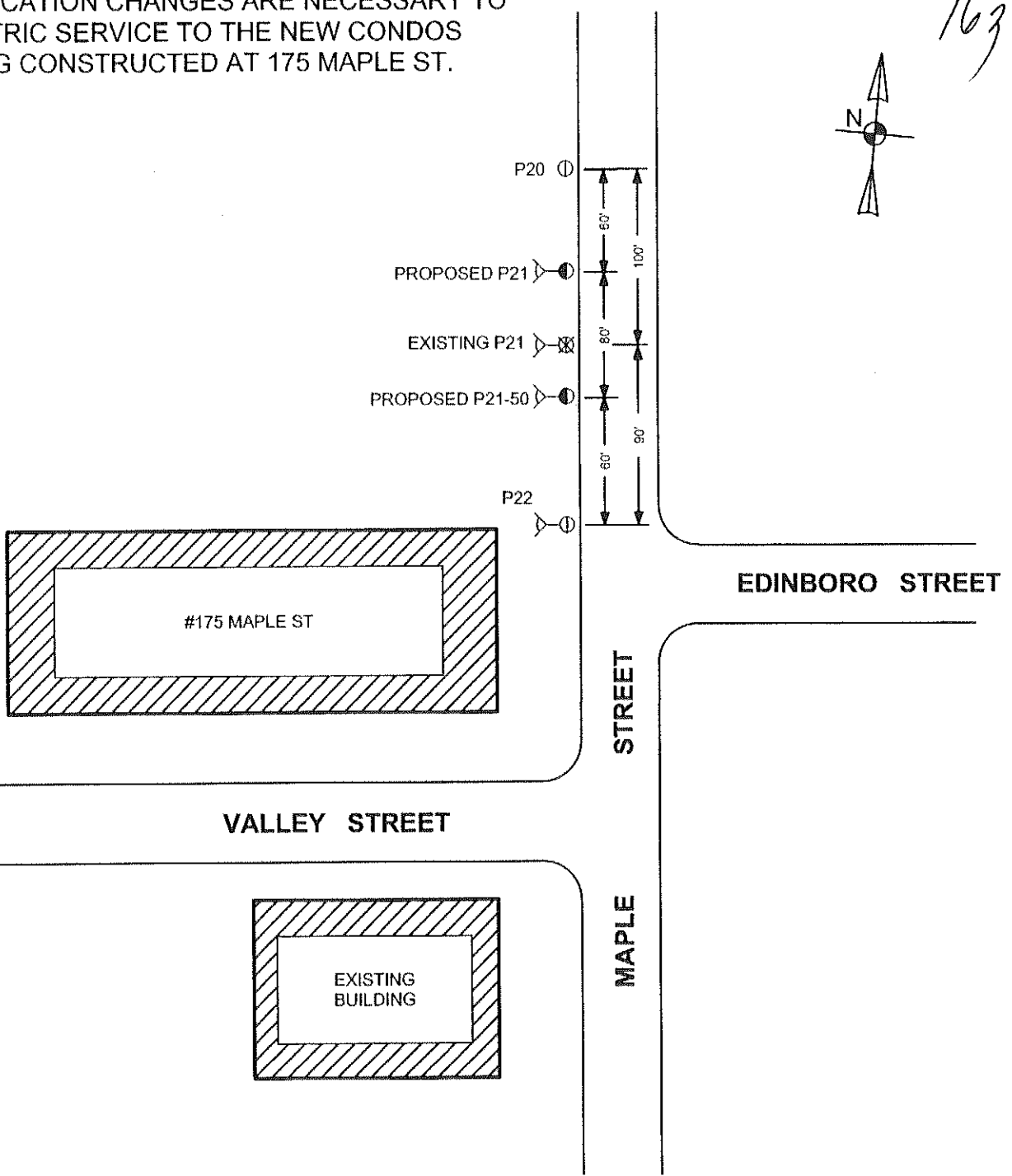
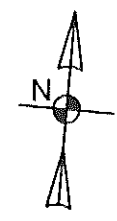
**VERIZON NEW ENGLAND, INC.**

By:   
Manager, R.O.W.  
Stephens TRYCHON



THESE POLE LOCATION CHANGES ARE NECESSARY TO PROVIDE ELECTRIC SERVICE TO THE NEW CONDOS THAT ARE BEING CONSTRUCTED AT 175 MAPLE ST.

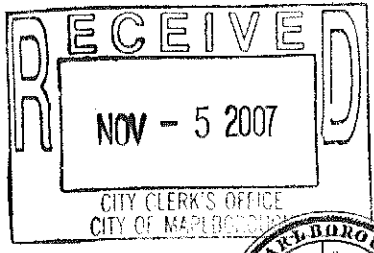
163



<b>JOINT OWNED POLE PETITION</b>	
<input checked="" type="checkbox"/>	Proposed NGRID Pole Locations
<input type="checkbox"/>	Existing NGRID Pole Locations
<input checked="" type="checkbox"/>	Proposed J.O. Pole Locations
<input type="checkbox"/>	Existing J.O. Pole Locations
<input checked="" type="checkbox"/>	Existing Telephone Co. Pole Locations
<input checked="" type="checkbox"/>	Existing NGRID Pole Location To Be Made J.O.
<input checked="" type="checkbox"/>	Existing Pole Locations To Be Removed
<b>DISTANCES ARE APPROXIMATE</b>	

<b>nationalgrid</b> And <b>Verizon New England, Inc.</b>	
Date:	09/06/2007
Plan Number:	2007-129
To Accompany Petition Dated:	October 25, 2007
To The:	CITY Of MARLBOROUGH
For Proposed:	JO Pole: - Location: MAPLE STREET
Date Of Original Grant:	-

*City of Marlborough*  
*Commonwealth of Massachusetts*



**PLANNING BOARD**

- Barbara L. Fenby, Chair
- Steve Kerrigan, Clerk
- Philip J. Hodge
- Edward F. Coveney
- Clyde L. Johnson
- Robert Hanson
- Sean N. Fay

Carrie Lizotte, Board Secretary  
 Phone: (508) 460-3769  
 Fax: (508) 460-3736  
 Email: CLizotte@marlborough-ma.gov

**PLANNING BOARD MINUTES**  
 October 15, 2007  
 7:00 PM

The Planning Board for the City of Marlborough met on Monday, October 15, 2007 in Memorial Hall, 3<sup>rd</sup> floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Edward Coveney, Clyde Johnson, Robert Hanson, and Sean Fay. Also present: City Engineer Thomas Cullen.

**MINUTES**

*Meeting Minutes September 24, 2007*

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

To accept and file the meeting minutes of September 24, 2007 with the appropriate changes.

**CHAIR'S BUSINESS**

*Correspondence from City Council*

The Planning Board received correspondence from the City Council to consider amending Section 200-17 table of uses. A public hearing will be scheduled for November 5, 2007 at 7:30 p.m.

*Pam Wilderman, City Code Enforcement Officer*

Ms. Wilderman spoke to the Planning Board about blight issues that still exist at several subdivisions. She toured 3 in progress subdivisions with Mr. Cullen and many instances of blight. The question was raised of what authority the Planning Board has of asking the developers to complete the necessary work. Mr. Cullen and Ms. Wilderman explained that site plan extensions are sometimes conditioned on completion of requirements prior to extension approval. Ms. Wilderman suggested that it might similarly be possible to require completion of subdivision portions prior to approval of subdivision extension requests.

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

To send correspondence to the City Solicitor asking if the Planning Board has any authority to ask developers to complete portions of their subdivisions prior to any granting of an extension.

ON A MOTION BY MR. KERRIGAN, SECONDED BY MR. COVENEY IT WAS DULY VOTED:

To discuss item 10 B (Signs, Pam Wilderman) at this present time.

**SIGNS**

***Pam Wilderman***

Ms. Wilderman has met with several real estate agencies discussing the current sign ordinance. The agents have asked Ms. Wilderman if it was possible to amend the current sign ordinance to include the regulation of off premise signs at certain times for the agents to conduct open houses. Ms. Wilderman also discussed with the board the issue of the fines. With only a \$50.00 fine penalty many agents and constituents would rather get "caught" with the fine then remove their signs. Ms. Wilderman also discussed the request of the Planning Board to change the sign amendment for changing the wording to include a penalty for any sign contractor who violates the sign ordinance. It was suggested that Ms. Fenby meet with Ms. Wilderman to discuss proposed changes that are needed to the current sign ordinance.

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

To allow Ms. Fenby to meet with Ms. Wilderman to discuss the proposed changes to the current sign ordinance.

**APPROVAL NOT REQUIRED PLAN**

***187 Clover Hill Road***

Mr. Dipersio resubmitted to the Planning Board the necessary changes that were recommended by the City Engineers office. The ANR plan was originally denied without prejudice at the September 24, 2007 meeting. With all conditions approved prior to the meeting, the City Engineer recommended to the Board to approve the ANR plan.

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

To accept and endorse a plan of land believed to be Approval Not Required of Natalie Faddoul of 187 Clover Hill Road, Marlborough, MA 01752. Name of Engineer: Thomas Land Surveyors, 265 Washington Street, Hudson, MA 01749. Deed of property recorded in South Middlesex Registry of Deeds book 30570, page 521. Location and description of property: located at 187 Clover Hill Road property shown on Assessors map 90, parcel 32.

***433 Maple Street***

The City Engineer has reviewed the ANR for 433 Maple Street and recommended that the Board approve the ANR Plan.

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

To accept and endorse a plan of land believed to be Approval Not Required of James V. Farina of 433 Maple Street, Marlborough, MA 01752. Name of Engineer: Inland Survey, dba Zanca Land Surveying, 16 Gleasondale Road, Stow, MA 01775. Deed of property recorded in South Middlesex Registry of Deeds book 5231, page 298 & 299. Location and description of property: Bounded by the north by N/F James V. Farina Trustee of J & L Realty Trust and N/F Gina Mercuri Ippolity; Bounded in the east by Maple Street; Bounded in the west by Mill Street; Bounded in the

south by Maple Street and Mill Street; Located on Maple Street property shown on Assessors map 104, parcel 37.

**Hillside School (Robin Hill Road)**

Peter Ogren, of Hayes Engineering, presented to the Board the ANR plan for Hillside School. Hillside is separating their land into three parcels, one parcel with the school, one open parcel and then the parcel with the farm land. Mr. Ogren asked permission from Dr. Fenby to have engineering review the ANR plan prior to the meeting which was granted via email. Mr. Cullen has reviewed the ANR plan and recommended to the Board to approve the plan.

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

To accept and endorse a plan of land believed to be Approval Not Required of Hillside School, Edward Gotgart of 402 Robin Hill Street, Marlborough, MA 01752. Name of Engineer: Hayes Engineering, Inc., Peter J. Ogren, P.E., 603 Salem Street, Wakefield, MA 01880. Deed of property recorded in South Middlesex Registry of Deeds book 5120, page 399 and book 14206, page 517. Location and description of property: located along Robin Hill Street property shown on Assessors map 52, parcel 1.

**PUBLIC HEARING**

**890 Boston Post Road East  
Amendment to the Zoning Map  
Public Hearing 7:15pm**

The Planning Board of the City of Marlborough held a public hearing on Monday, October 15, 2007 at 7:15 p.m. regarding amending the Marlborough Zoning Ordinance. Members present: Chairperson Barbara L. Fenby, Clerk Steve Kerrigan, Edward Coveney, Robert Hanson, Clyde Johnson and Sean Fay. Also present: City Engineer Tom Cullen.

The Chair introduced the members of the board, the City Engineer, and the Planning Board Secretary. She advised the audience that everyone should direct questions to her and she will direct the questions to the proponent or others.

Mr. Kerrigan read the advertisement into record.

**PLANNING BOARD  
PUBLIC HEARING NOTICE**

Notice is hereby given that the Planning Board of the City of Marlborough will hold a public hearing on Monday, October 15, 2007 at 7:15 P.M., at Memorial Hall, City Hall, and 140 Main Street, Marlborough, MA on the petition of 890 Post Road LLC, which is the owner of the real property which is the subject of this proposal, for Amendment to the Marlborough Zoning Ordinance, Chapter 200, Article III Section 200-08 pursuant to Mass. General Laws Chapter 40A sec. 5 as follows:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by amending the Zoning Map established by Chapter 200, Zoning Ordinance of the City of Marlborough, Section 200-8 "Boundaries Established; Zoning Map" as follows:

That the portion of the land located off Boston Post Road East and shown on the Marlborough Assessors Maps as Map 62 Parcel 1 which is now in a "Rural Residence" zone be rezoned and included in the contiguous "Business" zone.

Per order of the City Council  
#07-1001666

Attorney Arthur Bergeron presented to the Planning Board his clients desire to zone the entire parcel of map 62, parcel 1 Business. It is presently Business in the front portion and Rural Residential in the rear. He showed a diagram of the property and of the abutting property which is all zoned "Business". The back of the property borders the wastewater treatment plant. Mr. Bergeron stated that the three gentlemen in the gallery (Jeff Fasser, of VHB, Stephen Burack, VP of Dealer Operations of Nissan, and Jeff Batta, owner of said property) were all in favor of the plan.

**In Favor**

No one spoke in favor.

**In Opposition**

No one spoke in opposition.

**In General**

Mr. Kerrigan asked if the parcel was not completely rezoned would the owner just keep the parcel with the same layout of Zoning? Mr. Bergeron did state the parcel would remain the same if the amendment was not approved.

The public hearing was closed at 7:25 pm.

**890 Boston Post Road East  
Amendment to the Zoning Map  
Public Hearing 7:30pm**

The Planning Board of the City of Marlborough held a public hearing on Monday, October 15, 2007 at 7:30 p.m. to propose a change to the Marlborough Zoning Ordinance, Chapter 200, Section 200-17 and Section 200-18. Members present: Chairperson Barbara L. Fenby, Clerk Steve Kerrigan, Robert Hanson, Clyde Johnson and Sean Fay. Also present: City Engineer Tom Cullen.

The Chair introduced the members of the Planning Board, the City Engineer and the Planning Board Secretary. She advised the audience that everyone should direct questions to her and she will direct the questions to the proponent or others.

Mr. Kerrigan read the advertisement into record.

**PLANNING BOARD  
PUBLIC HEARING NOTICE**

Notice is hereby given that the Planning Board of the City of Marlborough will hold a public hearing on Monday, October 15, 2007 at 7:30 P.M., at Memorial Hall, City Hall, and 140 Main Street, Marlborough, MA on the petition of 890 Post Road LLC, which is the owner of the real property that would be the proposed change for Amendment to the Marlborough Zoning Ordinance, Chapter 200, Section 200-17 and Section 200-18, as follows:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by:

- 1) adding to Section 200-17 a new Business Use, Entitled "New Motor Vehicle Sales and Service (41)" to be allowed by Special Permit in a Business zone, and
- 2) adding to Section 200-18 a new subsection 41 to read as follows:

"(41) New Motor Vehicle Dealership Sales and Service

New motor vehicle sales and related service and used vehicle sales by an entity which has a valid dealership agreement to sell vehicles on behalf of a known manufacturer of new motor vehicles, provided that said dealership shall as a condition of operation, be appropriately licensed by the Marlborough License Commission pursuant to Mass. General Laws."

Per order of the City Council  
#07-1001667

The owner of Marlboro Nissan, Mr. Batta would like to move his dealership to 890 Boston Post Road East and cannot move the dealership without changing the zoning ordinance. Attorney Arthur Bergeron explained to the Board why the Zoning Ordinance needs to be changed to allow new car sales. Mr. Bergeron is proposing to change the ordinance to allow this. Mr. Batta spoke on how he would like to open another dealership down the street to provide service for new cars only and have the back lot to store the new vehicles. The existing dealership would remain for the used vehicle sales and car repairs.

Mr. Fasser of VHB, Inc. presented a slide show to the board on how the zoning in other communities results in harmonious car dealerships without looking like Route 1 in Norwood. He presented attractive building concepts that Marlborough can aspire too.

Mr. Stephen Burack, Vice President of Dealer Operations for Nissan, Inc., presented some facts on the current location of Marlboro Nissan. He explained how the move to the new site would benefit the fourth largest volume dealer.

Mr. Jeff Batta explained that he would like to keep his dealership here in the city. He explained that to grow in the direction he would like to take his business he needs to move out of the "postage size" lot and to a new lot to have his new vehicle sales flourish.

**In Favor**

No one spoke in favor.

**In Opposition**

No one spoke in Opposition.

**In General**

No one spoke.

The portion of the hearing was closed at 7:52 pm.

**SUBDIVISION PROGRESS REPORTS**

***Update from City Engineer***

Mr. Cullen stated that there were no new updates.

***Berlin Farms (Long Drive)***

Consolidated Design Group sent a revised set of drawings, site plan and details, as well as an updated drainage report to the Planning Board.

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

To accept and file correspondence and to refer all correspondence to the City Engineer for his review and to report back to the Planning Board at its next meeting.

***Forest Grove (Muir Way)***

Ms. Brooks of 39 Muir way sent correspondence to the Planning Board in March 2007 asking if it was possible to approve the subdivision so that she can lobby the school department to have a safer bus route for her children. She stated that when it snows the snow plows pile snow at the bus pick up point and this makes it dangerous for any child to wait at the bus pick up point.

Mr. Cullen stated that the streets do get plowed by the City and not a private contractor by Fafard Development as a courtesy to the constituents.

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

To send Correspondence to the Superintendent of the Schools asking to change the bus pick up location for the Forest Grove subdivision, to copy all necessary parties, and ask them to report back in writing to the Planning Board.

**PENDING SUBDIVISION PLANS: Updates and Discussions**

***Mauro Farm (Cook Lane)***

*Correspondence from 130B Cook Lane*

Mr. and Mrs. Ebert of 130B Cook Lane sent correspondence regarding the proposed retaining wall agreeing to allow Rosewood Construction Corporation and its agents to construct a portion of the stone retaining wall that was shown on sheet C6-B of the "Definitive Subdivision Plan of Mauro Farm".

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

To accept and file correspondence.

*Approval of Definitive Subdivision*

Mr. Fay provided the Chair with a letter disclosing a conflict of interest pursuant to M.G.L. c. 268A, §19(b) (1) and M.G.L. c. 268A, §23(b) (3) prior to the first public hearing. Mayor Stevens stated that Mr. Fay is able to vote without any conflict.

After an extensive review by Mr. Cullen, The City Engineer recommended to the Planning Board approve the "Definitive Subdivision of Mauro Farm". Most waivers were approved with the exception of the allowing a sidewalk on one side of the roadway.

Two members of the Board objected to waiving Section 5.B.2 allowing a road width being smaller the requirement of 32 feet. The City Engineer and the Developers sought to add a 6 foot strip of green areas to all roadways to keep the continued open feel look. With this green area by the between the roadway and the sidewalk the street would be smaller then the requirement. There was some question if the fire safety access would be compromised by a smaller width of roadway

and smaller turning radius of the cul-de-sac, The Fire Chief, David Adams, stated that there was no compromise of safety. Two of the members opposed the creation of a smaller roadway.

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

To **GRANT** a waiver from the Subdivision Rules and Regulations, Section 4.B.5 (a), dead-end streets, to allow the creation of a road way with a dead end length of 831.4 feet and a roadway length of 605.5.

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

To **GRANT** a waiver from the Subdivision Rules and Regulations, Section 4.B.4 (c), grade, to allow the horizontal tangent between vertical curves: allow creation of a roadway with a distance between vertical curves if 49.1 feet along a horizontal curve with a centerline radius of 240.0 feet.

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

To **GRANT** a waiver from the Subdivision Rules and Regulations, Section 4.B.5 (c), slope, to allow the creation of a roadway with a 3.0% cul-de-sac leveling area 34.8 feet in length.

On a motion by Mr. Kerrigan, seconded by Mr. Coveney, with Ms. Fenby and Mr. Fay in favor and Mr. Hanson and Mr. Johnson in opposition it was duly voted:

To **GRANT** a waiver from the Subdivision Rules and Regulations, Section 5.B.2, roadway with for secondary streets, to allow a creation of roadway with a pavement length of 28 feet.

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

To **DENY** the waiver from the Subdivision Rules and Regulations, Section 5.D.1, sidewalks, this will not allow the creation of roadways with sidewalks along one side.

On a motion by Mr. Kerrigan, seconded by Mr. Coveney, with Mr. Hanson and Mr. Johnson opposing it was duly voted:

To approve a Definitive Plan of a Subdivision known as Mauro Farm. Note that there are four approved waivers. The Planning Board will endorse the definitive plans after the twenty (20) day appeal period, provided no appeal has been recorded and a covenant has been submitted and approved by the Planning Board. Name of owner: Ernest A. Mauro, Mauro Family Trust, 150 Cook Lane, Marlborough, MA 01752. Name of Subdivider: Capital Group Properties, 259 Turnpike Road, Suite 100, Southborough, MA 01772. Engineer: Tunison Smith, P.O. Box 73, 115 Main Street, North Easton, MA 01356.

**PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS**

**DEFINITIVE SUBDIVISION SUBMISSIONS**

**SCENIC ROADS**

*Correspondence from Chris White*

Mr. White sent correspondence and pictures of the stumps located at 141 Bigelow Street. The pictures show a dead ash stump with a lateral crack in the center, and decay around the trees and in the last photos. There was concern at the previous meeting due to these trees due to being left off the general list that was voted upon in June.



On a motion by Mr. Kerrigan, seconded by Mr. Coveney, with Mr. Hanson opposing, it was duly voted:

To accept and file correspondence.

*Dorothy Magliozzi (30 Farm Road)*

Ms. Magliozzi is proposing to clear existing stones, brush and tree stumps on her property. Her property is located on a scenic road and she is seeking permission from the Planning Board to perform this work.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To table any decision until all members have viewed the property.

*Margo Reasnor (75 Spoonhill Ave)*

Ms. Reasnor came before the Board as an informal discussion of her scenic road layout. She is looking to remove some trees from the back portion of her property. It was agreed by all members that Ms. Reasnor did not need approval from the Planning Board to work on the landscaping in the rear of her yard.

**SIGNS**

*Sorentos (128 Main Street)*

Correspondence from Stephen Reid

Stephen Reid, the Building Commissioner, sent correspondence to the Planning Board regarding the additional sign request for Sorentos. He stated that the Downtown Sign District is intended to uniformly control the downtown signs and there is not a viable façade frontage to allow another sign. Mr. Reid stated there is no special circumstance that is unique to Sorento's that would justify a variance.

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

To accept and file the correspondence.

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

To **DENY** the request of Sorento's located at 128 Main Street due to the lack of eligible frontage on Court Street.

**INFORMAL DISCUSSION**

*Limited Development Subdivision*

At this time this is no further update.

*Abutters Literature*

At this time no further communication from the City Solicitor.

**COMMUNICATIONS/CORRESPONDENCE**

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

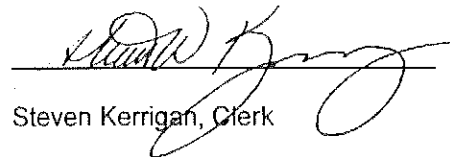
To accept all of the items listed under communications and/or correspondence.

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

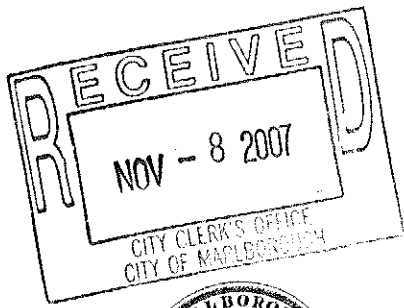
To adjourn at 8:47 p.m.

**A TRUE COPY**

ATTEST:

  
\_\_\_\_\_  
Steven Kerrigan, Clerk

17/10



*City of Marlborough*  
*Commonwealth of Massachusetts*



**PLANNING BOARD**

- Barbara L. Fenby, Chair
- Steve Kerrigan, Clerk
- Philip J. Hodge
- Edward F. Coveney
- Clyde L. Johnson
- Robert Hanson
- Sean N. Fay

**PLANNING BOARD MINUTES**  
October 29, 2007  
7:00 PM

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, October 29, 2007 in Memorial Hall, 3<sup>rd</sup> floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Philip Hodge, Edward Coveney, Clyde Johnson, Robert Hanson, and Sean Fay. Also present: City Engineer Thomas Cullen.

**MINUTES**

*Meeting Minutes October 15, 2007*

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

To accept and file the meeting minutes of October 15, 2007.

**CHAIR'S BUSINESS**

*City Solicitor Correspondence*  
*Subdivision and Blight Ordinance*

The Planning Board received correspondence from City Solicitor Rider in response to the Planning Board's inquiry as to whether or not the Planning Board had any authority to ask developers to cure conditions that were determined by the City's Code Enforcement officer to be in violation of the City's anti-blight ordinance prior to any granting of any such extension. It appears the board, without the consent of a developer, has no such authority. In Mr. Rider's opinion, if the developer did not consent to such a condition in the initial covenant, the Board would have to ask the developer to consent to such a condition in an amended covenant and could not unilaterally impose as condition of the extension that the developers cure the blight. Mr. Rider also stated that since MGL Chapter 41 Section 81U is silent as to any specific timing to complete a subdivision, it was the City's own subdivision rules and regulations that specified a 2 years period. Mr. Rider also stated that no statute of MGL or the City's own subdivision rules and regulations contains a specific reference to extending the time allowed for completion of a subdivision.

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

To accept and file correspondence, and to send correspondence to the City Solicitor thanking him for his detailed response and requesting further direction on three issues: First, if a developer does not complete a subdivision in two years, would prior subdivision approval be null and void; Second, given the absence of specific statutory authority to grant extensions for completion of a subdivision, should the board's rules be amended to include this specific authority; and, Third, is there any specific language that the City Solicitor can recommend to include in all future covenants to secure the advance consent on the part of the developer to tie the curing of any blight to the grant of an extension.

**APPROVAL NOT REQUIRED PLAN**

***259 Hosmer Street***

Thomas Dipersio of Thomas Land Surveying is submitting an ANR approval for 259 Hosmer Street dividing the three common ownership parcels into three separate conforming parcels.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

To accept and refer the proposed plan to the City Engineer for his review and recommendation at the next meeting on Monday, November 5, 2007.

**PUBLIC HEARING**

**SUBDIVISION PROGRESS REPORTS**

***Update from City Engineer***

Mr. Cullen stated that there were no new updates.

***Orchard Estates III (Miele & Balcom Road), Crystal Ridge Estates (Danjou Drive) and Elm Farm Valley Estates (Cleversy Drive)***

The Planning Board received a copy of the correspondence from the Realty Trusts asking for the City Council to accept the streets. The Realty Trusts have not completed or asked from the Planning Board for acceptance, which they need prior to asking the City Council for road acceptance.

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

To accept and file correspondence and to send correspondence to the Realty Trusts informing them they need acceptance from the Planning Board prior to asking for road acceptance from the City Council.

***Howard Estates (Maurice Drive)***

Cindy MacQueen of Hornung and Scimore, P.C. has obtained all information for the lot release of 5 Maurice lot including and affidavit from the person who examined the title and found no documents for a lot release.

On a motion by Mr. Kerrigan, seconded by Mr. Hodge it was duly voted:

To accept and file all correspondence and refer the correspondence to the City Solicitor for his approval.

**PENDING SUBDIVISION PLANS: Updates and Discussions**

***Berlin Farms (Long Drive)***

*Site Plan Modifications*

Mr. Cullen sent correspondence for the site plan modifications back to the developer's representative for the drainage summary report. At this time Mr. Cullen has several issues that need further review and has an appointment with the developer's representative prior to the next Planning Board meeting.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file correspondence and table this matter until the City Engineer has met with the developer's representative.

*Performance Bond*

Charles Freeman, the Developer, is asking for the Planning Board to establish the performance bond.

On a motion by Mr. Hodge, seconded by Mr. Kerrigan, it was duly voted:

To accept and refer to the City Engineer for his recommendation.

***Mauro Farm (Cook Lane)***

*Covenant Submittal*

The attorney for the developers submitted the covenant for review. It was suggested to add the following language:

Developer hereby agrees that any extension of the two (2) year time period for completion of the sub-division shall be conditioned upon all real estate taxes being paid up to date, and the Board receiving a certification from the City's Code Enforcement Officer on or before the specified completion date, that no conditions exist on the subject property that are in violation of the City's so-called Anti-Blight Ordinance. This provision may be waived temporarily by a majority vote of the Board if the Board determines that an extension of no more than thirty (30) calendar days is necessary for the Code Enforcement Officer to examine the property and make a proper determination.

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

To accept and refer the covenant to the City Solicitor for his review with the added language.

**PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS**

**DEFINITIVE SUBDIVISION SUBMISSIONS**

**SCENIC ROADS**

*Dorothy Magliozzi (30 Farm Road)*

After several surveyed the site they did agree that the site needs to be cleared of the brush and debris. They questioned whether the stone wall is repairable or it should be dismantled.

Mr. Johnson made a motion which was seconded by Mr. Kerrigan, but defeated by the other members of the board to grant the owners of Farm Road to clear the existing stones and the debris along the scenic roadway.

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

To send correspondence to Chris White, the City of Marlborough Tree Warden, asking him to make a recommendation to remove or repair the stone wall.

Allen Young  
560 Concord Road  
Correspondence from Tim Collins

Mr. Young is looking to remove several feet of stone wall to allow a second access driveway to the back portion of his property. Mr. Young has spoken to Tim Collins of the Engineering Department regarding the frontage needed for a second driveway. Mr. Collins stated in his correspondence to the Board that since he was removing less than the ten (10) linear feet of stone wall according to our ordinance that it was acceptable and not needing approval of the Planning Board.

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

To accept and file correspondence.

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

To **GRANT** the removal of nine (9) linear feet for the second access driveway according to the rules of the scenic road ordinance and to thank Mr. Young for his continuing effort of restoring the original landscaping to his property.

**SIGNS**

**INFORMAL DISCUSSION**

***Limited Development Subdivision***

At this time this is no further update.

***Abutters Literature***

At this time no further communication from the City Solicitor.

**COMMUNICATIONS/CORRESPONDENCE**

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

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

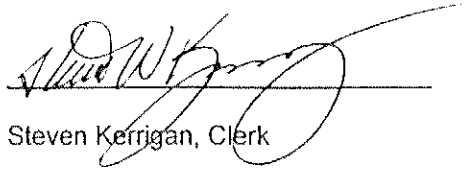
On a motion by Mr. Johnson, seconded by Mr. Kerrigan, it was duly voted:

To adjourn at 8:10 p.m.

1714

A TRUE COPY

ATTEST:



A handwritten signature in black ink, appearing to read 'Steven Kerrigan', is written over a horizontal line. The signature is stylized and cursive.

Steven Kerrigan, Clerk

THE NEWSLETTER OF THE BOSTON REGION METROPOLITAN PLANNING ORGANIZATION

**ROUTE 3 NORTH ANALYSIS**  
Page 3

**MPO FUNDING AVAILABLE**  
Page 5

**MBTA CAPITAL INVESTMENT PROGRAM**  
Page 6

**511 SERVICE**  
Page 6

**AMPO CONFERENCE**  
Page 6

**GREENBUSH SERVICE LAUNCHED**  
Page 7

**MPO ACTIVITIES**  
Page 7

**MEETING CALENDAR**

For the most recent information on the following public meetings and others that may have been scheduled after TRANSPORT went to press, go to [www.bostonmpo.org](http://www.bostonmpo.org) or call (617) 973-7119.

AT THE STATE  
TRANSPORTATION  
BUILDING, 10 PARK  
PLAZA, BOSTON

November 1 (Thursday)

Boston Region MPO Transportation Planning and Programming Committee. Conference Room 4. 10:00 AM

November 13 (Tuesday)

Urban Ring Citizens Advisory Committee. Conference Rooms 2 and 3. 4:00 PM

November 14 (Wednesday)

Regional Transportation Advisory Council Freight Committee. Boston Region MPO Conference Room, Suite 2150. 1:00 PM

Regional Transportation Advisory Council. Conference Room 4. 3:00 PM

November 15 (Thursday)

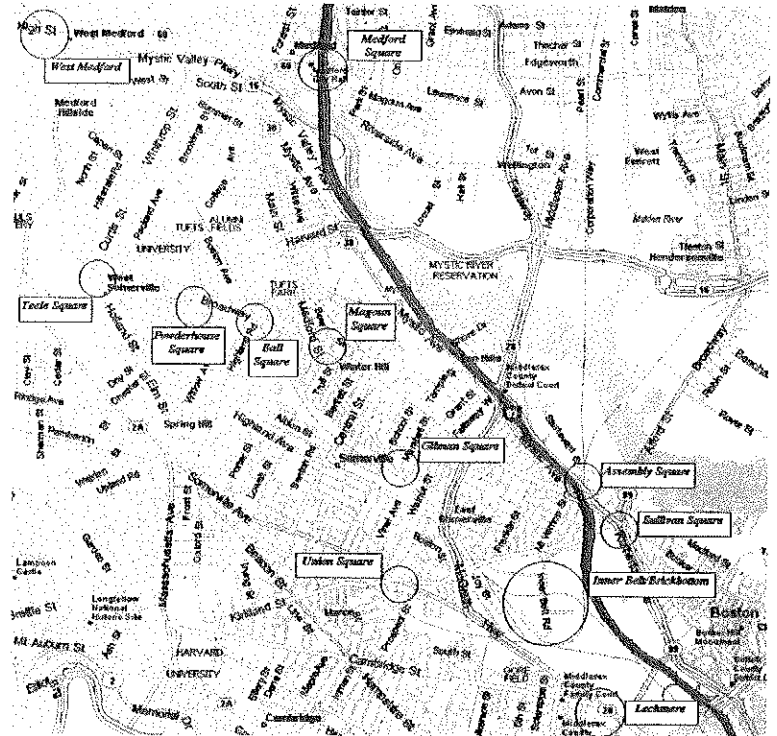
Boston Region MPO Transportation Planning and Programming Committee. Conference Room 4. 10:00 AM

Calendar continued on p. 2

## Green Line Extension to Medford and Somerville Moving Forward

The Green Line Extension to Medford and Somerville, a \$560 million project included in the Boston Region Metropolitan Planning Organization's long-range transportation plan and Unified Planning Work Program, made a significant advance this month. At an event held in Somerville at Gilman Square on October 12, Governor Patrick announced that the Executive Office of Transportation and Public Works (EOTPW) selected a consultant to perform the required environmental review and conceptual engineering. This project, which

• Green Line cont. on p. 6



Green Line extension project neighborhoods

## MPO Releases Alewife-Area Survey Results, Phase II Study Set to Begin

The MPO's technical memorandum "Route 2/Route 16 (Alewife Brook Parkway Eastbound: Traffic Patterns and MBTA Alewife Station Parking Garage Survey" is now available. The purpose of the survey, which laid the groundwork for a new study about to be launched by the MPO, was to identify the AM peak-period origins and destinations of those who use

the Alewife-area roadway network, as well as those who use the MBTA's Alewife Station garage. Cyclists who park at Alewife Station were also surveyed. The information this survey generated will assist operating agencies, planning professionals, and the public in identifying, implementing, and promoting alternatives to driving in the Alewife area.

The survey area, shown in the map on page 2, included neighborhoods in Belmont and North Cambridge between Route 2, Alewife Brook Parkway, and the Eliot Bridge (near Harvard Square).

### SURVEY METHODOLOGY

A license plate survey was conducted at eight locations between 7:00 and 9:00 AM

• Alewife Studies cont. on p. 2

The members of the Boston Region MPO: Executive Office of Transportation, Cities of Boston, Newton, Salem, and Somerville, Federal Highway Administration, Federal Transit Administration, Massachusetts Bay Transportation Authority, Massachusetts Bay Transportation Authority Advisory Board, Massachusetts Highway Department, Massachusetts Port Authority, Massachusetts Turnpike Authority, Metropolitan Area Planning Council, Regional Transportation Advisory Council, Towns of Bedford, Framingham, and Hopkinton