

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: December 7, 2016

Time: 7:00 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2016 DEC -5 A 11:45

17-Oct-2016 – **Order No. 16-1006702:** Proposed Amendment to City Code providing the Zoning Board of Appeals 100 days to file a decision on an appeal or a variance.

- REFER TO LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE
- REFER TO PLANNING BOARD
- PUBLIC HEARING: NOVEMBER 28, 2016.

14-Nov-2016 – **Order No. 16-1006732:** Order of Taking by Eminent Domain of Permanent and Temporary Easements in certain portions of land located on East Main Street and located on land at the intersection of East Main Street and Brown Street, and at the intersection of East Main Street and Sawin Street (hereinafter, collectively, "East Main Street"), for the purpose of the reconstruction, construction, and maintenance of improvements to East Main Street.

- REFER TO LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

OCTOBER 17, 2016

Marlborough, Mass.,

ORDERED:

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 as follows:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FROM THE MARLBOROUGH ZONING BOARD OF APPEALS A SUBMISSION PROPOSING CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting sub-subsection (3) in its entirety and inserting in place thereof the following:-- An appeal from a decision of the Building Commissioner and a petition for a variance shall be filed with the City Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the appeal or petition from the City Clerk and shall render a decision within 100 days from the date of filing.
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting the preamble in sub-subsection (4) in its entirety and inserting in place thereof the following:-- If the Board of Appeals shall fail to act within 100 days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements:

Be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, NOVEMBER 14, 2016.**

ADOPTED

ORDER NO. 16-1006702



IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 14, 2016

ORDERED:

That the PUBLIC HEARING On the Proposed Amendment to City Code providing the Zoning Board of Appeals 100 days to file a decision on an appeal or a variance, Order No. 16-1006702, be and is herewith **CONTINUED UNTIL THE NOVEMBER 28, 2016 CITY COUNCIL MEETING.**

Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaira, Oram, Ossing, & Robey.

ADOPTED

ORDER NO. 16-1006702A

8



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
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DONALD V. RIDER, JR.
CITY SOLICITOR
2016 OCT 13 4:19:21 PM
CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR
ELLEN M. STAVROPOULOS
PARALEGAL

October 13, 2016

Edward Clancy
President
Marlborough City Council

[Handwritten signature]
PH 11/14/16
[Handwritten initials]

RE: Proposed Amendment to City Code –
Providing ZBA with 100 Days to File Decision on an Appeal or a Variance

Dear President Clancy:

Last month my office received the enclosed letter from the chairman of the Marlborough Zoning Board of Appeals. He requests, on behalf of the ZBA, that the City Code be amended so as to come into conformance with MGL c. 40A, § 15 by providing 100 days for the ZBA to file its decision on an appeal of a Building Commissioner decision or on a variance petition. Sections 650-58.C(3) and (4) currently provide only 75 days, which is the same period MGL c. 40A, § 15 formerly provided until it was amended to provide 100 days.

A proposed order reflecting the ZBA's request is also enclosed for the Council's consideration.

Thank you for your attention to this matter.

Very truly yours,

[Handwritten signature of Donald V. Rider, Jr.]

Donald V. Rider, Jr.
City Solicitor

Enclosures

cc: Arthur Vigeant, Mayor
Paul Giunta, Chairman, Zoning Board of Appeals
Douglas Scott, Interim Building Commissioner

**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK
MARLBOROUGH, MASSACHUSETTS 01752**

LEGAL NOTICE

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 as follows:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FROM THE MARLBOROUGH ZONING BOARD OF APPEALS A SUBMISSION PROPOSING CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting sub-subsection (3) in its entirety and inserting in place thereof the following:-- An appeal from a decision of the Building Commissioner and a petition for a variance shall be filed with the City Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the appeal or petition from the City Clerk and shall render a decision within 100 days from the date of filing.
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting the preamble in sub-subsection (4) in its entirety and inserting in place thereof the following:-- If the Board of Appeals shall fail to act within 100 days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements:

***Per Order of the City Council
#16-1006702***

Please publish in the MSJ on Saturday, October 22, 2016 and Saturday, October 29, 2016

Please bill:
City Clerk's Office
140 Main St.
Marlborough, MA 01752
508-460-3775

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FROM THE MARLBOROUGH ZONING BOARD OF APPEALS A SUBMISSION PROPOSING CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting sub-subsection (3) in its entirety and inserting in place thereof the following:-- An appeal from a decision of the Building Commissioner and a petition for a variance shall be filed with the City Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the appeal or petition from the City Clerk and shall render a decision within 100 days from the date of filing.
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting the preamble in sub-subsection (4) in its entirety and inserting in place thereof the following:-- If the Board of Appeals shall fail to act within 100 days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements: .

ADOPTED
In City Council
Order No. 16-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:



City of Marlborough
Zoning Board of Appeals
140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768 Facsimile (508) 460-3747

July 28, 2016

City Council President Edward J. Clancy
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: Zoning Petition to correct a discrepancy between the Marlborough City Code and Massachusetts General Laws Chapter 40A Section 15, Decision of Zoning Board on Variances and Appeals within 100 Days after date of filing

Dear Honorable President Clancy and Councilors:

The Zoning Board of Appeals respectfully requests an amendment to the Code of the City of Marlborough to correct the discrepancy found in City Code Chapter 650-58(C3) and (C4) that requires the Zoning Board to file its decision within 75 days from date of filing of a petition for a Variance or Appeal. Massachusetts General Law Chapter 40A Section 15 provides that the decision of the board shall be made within 100 days after the date of the filing of an appeal, application or petition.

The proposed zoning amendment would correct the Marlborough City Code to reflect the 100 days allowed for ZBA action found in Massachusetts General Law Chapter 40A Section 15.

I have attached copies of the sections of the City Code and MGL Chapter 40A Section 15 for your information and review. If you have any questions, please call me 617-699-0912.

Sincerely,

Paul Giunta
Chairman – Zoning Board of Appeals

City of Marlborough, MA
Thursday, July 28, 2016

Chapter 650. Zoning

Article VIII. Administration

§ 650-58. Provisions for Board of Appeals.

- A. Creation, appointment and organization. A Board of Appeals consisting of five members and five associate members shall be appointed as provided in MGL Chapter 40A, as amended, who shall all be residents or taxpayers of the City of Marlborough, which shall act on all matters within its jurisdiction under MGL Chapter 40A, as amended, and under this chapter in the manner prescribed in said section and subject always to the rule that it shall give due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land and conserving property values, that it shall permit no building or use of land or building that is injurious, noxious, offensive or detrimental to a neighborhood and that it shall prescribe appropriate conditions and safeguards in each case.
- B. Powers and duties. The Board of Appeals shall act as a permit-granting authority and shall have all the powers and perform all the duties conferred or imposed upon it by the provisions of MGL Chapter 40A, and this chapter, as follows:
- (1) Appeals. To hear and decide an appeal taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Building Commissioner under the provisions of MGL Chapter 40A, or of this chapter, by the Metropolitan Area Planning Council or by any person, including an officer or board of the City of Marlborough or of an abutting municipality aggrieved by an order or decision of the Building Commissioner in violation of any provision of MGL Chapter 40A, or of this chapter.
[Amended 10-6-2014 by Ord. No. 141005921A]
 - (2) Variances. To hear and decide a petition with respect to particular land or structures for a variance from the terms of this chapter, where the Board specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the petitioner or

appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter. The Board of Appeals may impose conditions, safeguards and limitations, both of time and use, including the continued existence of any particular structures, but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structure to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the authorization, they shall lapse and may be reestablished only after a new notice and hearing.

C. Procedure.

- (1) In the case of every appeal made to the Board of Appeals and every petition for a variance to said Board under the provisions of this chapter, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the City once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting said notice in the City Hall for a period of not less than 14 days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest, including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property line, including owners of land in another municipality, all as they appear on the most recent applicable tax lists; the Planning Board; and the planning board of every abutting municipality. The Assessors shall certify to the Board the names and addresses of the parties in interest.
- (2) The decision of the Board, including all findings, conditions and safeguards, and a record of the public hearing shall be filed promptly with the City Clerk and at the same time copies transmitted to the Planning Board, Conservation Commission, Building Commissioner and other appropriate City agencies.
[Amended 10-6-2014 by Ord. No. 141005921A]
- (3) An appeal from a decision of the Building Commissioner and a petition for a variance shall be filed with the City Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the petition from the City Clerk and shall render a decision within 75 days from the date of filing.
[Amended 10-6-2014 by Ord. No. 141005921A]
- (4) If the Board of Appeals shall fail to act within 75 days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements:
 - (a) The petitioner, after the expiration of the aforesaid periods, shall file with the City Clerk a copy of his petition and an affidavit stating the date of the public hearing or filing, as the case may be, and the failure of the Board of Appeals to render a decision within the required period.

- (b) Upon receipt of the petition and affidavit, the City Clerk shall give notice of the filing to those persons entitled to a notice of the decision under MGL c. 40A, § 15. The filing of a petition and affidavit in the office of the City Clerk shall be deemed the equivalent of the filing of a decision for purposes of the provisions of MGL c. 40A, §§ 11 and 17.
 - (c) If no appeal is taken within the required statutory period, then the City Clerk shall furnish the petitioner with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under MGL c. 40A, § 11, in lieu of the documents required to be recorded under that section.
- D. Rules. The Board of Appeals shall adopt rules and procedures not inconsistent with this chapter and the provisions of MGL Chapter 40A for the conduct of its business in deciding on appeals and granting variances and shall file a copy thereof with the City Clerk. Such rules shall include provisions for submission of petitions in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons of each decision and for notifying the parties at interest, including the Building Commissioner and the Planning Board, as to each decision. Wherever proceedings under this chapter require the giving of notice by publication in a newspaper, mailing or service by a civil officer, the costs thereof shall be borne by the applicant. The Board of Appeals shall require estimated costs to be advanced by the applicant in accordance with provisions in the rules.
[Amended 10-6-2014 by Ord. No. 14-005921A]

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE VII** CITIES, TOWNS AND DISTRICTS**CHAPTER 40A** ZONING**Section 15** Appeals to permit granting authority; notice; time; boards of appeal hearings; procedure

Section 15. Any appeal under section eight to a permit granting authority shall be taken within thirty days from the date of the order or decision which is being appealed. The petitioner shall file a notice of appeal specifying the grounds thereof, with the city or town clerk, and a copy of said notice, including the date and time of filing certified by the town clerk, shall be filed forthwith by the petitioner with the officer or board whose order or decision is being appealed, and to the permit granting authority, specifying in the notice grounds for such appeal. Such officer or board shall forthwith transmit to the board of appeals or zoning administrator all documents and papers constituting the record of the case in which the appeal is taken.

Any appeal to a board of appeals from the order or decision of a zoning administrator, if any, appointed in accordance with section thirteen shall be taken within thirty days of the date of such order or decision or within thirty days from the date on which the appeal, application or petition in question shall have been deemed denied in accordance with said section thirteen, as the case may be, by having the petitioner file a notice of appeal, specifying the grounds thereof with the city or town clerk and a copy of said notice including the date and time of filing certified by the city or town clerk shall be filed forthwith in the office of the zoning administrator and in the case of an appeal under section eight with the officer whose decision was the subject of the initial appeal to said zoning administrator. The zoning administrator shall forthwith transmit to the board of appeals all documents and papers constituting the record of the case in which the appeal is taken. An application for a special permit or petition for variance over which the board of appeals or the zoning administrator as the case may be, exercise original jurisdiction shall be filed by the petitioner with the city or town clerk, and a copy of said appeal, application or petition, including the date and time of filing, certified by the city or town clerk, shall be transmitted forthwith by the petitioner to the board of appeals or to said zoning administrator.

Meetings of the board shall be held at the call of the chairman or when called in such other manner as the board shall determine in its rules. The board of appeals shall hold a hearing on any appeal, application or petition within sixty-five days from the receipt of notice by the board of such appeal, application or petition. The board shall cause notice of such hearing to be published and sent to parties in interest as provided in section eleven. The chairman, or in

his absence the acting chairman, may administer oaths, summon witnesses, and call for the production of papers.

The concurring vote of all members of the board of appeals consisting of three members, and a concurring vote of four members of a board consisting of five members, shall be necessary to reverse any order or decision of any administrative official under this chapter or to effect any variance in the application of any ordinance or by-law.

All hearings of the board of appeals shall be open to the public. The decision of the board shall be made within one hundred days after the date of the filing of an appeal, application or petition, except in regard to special permits, as provided for in section nine. The required time limits for a public hearing and said action, may be extended by written agreement between the applicant and the board of appeals. A copy of such agreement shall be filed in the office of the city or town clerk. Failure by the board to act within said one hundred days or extended time, if applicable, shall be deemed to be the grant of the appeal, application or petition. The petitioner who seeks such approval by reason of the failure of the board to act within the time prescribed shall notify the city or town clerk, in writing, within fourteen days from the expiration of said one hundred days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest, by mail and each notice shall specify that appeals, if any, shall be made pursuant to section seventeen and shall be filed within twenty days after the date the city or town clerk received such written notice from the petitioner that the board failed to act within the time prescribed. After the expiration of twenty days without notice of appeal pursuant to section seventeen, or, if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated, indicating that such approval has become final, the city or town clerk shall issue a certificate stating the date of approval, the fact that the board failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner. The board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen days in the office of the city or town clerk and shall be a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest designated in section eleven, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be made pursuant to section seventeen and shall be filed within twenty days after the date of filing of such notice in the office of the city or town clerk.



CITY OF MARLBOROUGH
Department of Public Works
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 33200
Facsimile (508) 624-7699 TDD (508) 460-3610

December 5, 2016

Edward Clancy, President
Marlborough City Council
City Hall
Main Street
Marlborough, MA 01752

Re: Order of Taking by Eminent Domain of Permanent and Temporary Easements for the East Main Street Reconstruction Project

Dear President Clancy and Members:

By the proposed Order of Taking, the Department of Public Works is requesting that the City acquire temporary and permanent easements in private land along East Main Street. The easements are necessary for various purposes associated with the upcoming East Main Street reconstruction project. The temporary easements are required to allow for construction activities to take place such as: grading, driveway reconstruction, walkway reconstruction, and stone wall reconstruction. The permanent easements are "aerial" easements to allow for overhead wires to cross portions of private properties due to utility pole relocations.

I thank you for your consideration of this matter. Please contact me directly with any questions.

Sincerely,

Thomas DiPersio, Jr., P.E.
City Engineer

Copy: John L. Ghiloni, Commissioner of Public Works
Cynthia Panagore Griffin, Assistant City Solicitor



IN CITY COUNCIL

NOVEMBER 14, 2016
Marlborough, Mass., PAGE 1

ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in certain portions of land located on East Main Street and located on land at the intersection of East Main Street and Brown Street, and at the intersection of East Main Street and Sawin Street (hereinafter, collectively, "East Main Street"), as more particularly described herein, be taken for the purpose of the reconstruction, construction, and maintenance of improvements to East Main Street, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests or fee simple interest in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

1. **Street address: East Main Street, Marlborough, MA 01752**

Temporary easement for purposes of grading and driveway reconstruction: Being an approximately 232 S.F portion of the property located on East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 323 on the Assessors' Map of the City of Marlborough and shown as Parcel TE-28 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., ~~_____~~ PAGE 2

ORDERED:

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: B.B. Realty Corp.
262 Main Street
P.O. Box 5
Marlborough, MA 01752

2. Street Address: 48 East Main Street, Marlborough, MA

Temporary easement for the purposes of grading, driveway reconstruction, pedestrian walk reconstruction: Being a 703 S.F. portion of the property located at 48 East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 322 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-29 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: U.S. Bank National Association, Trustee
425 Walnut Street
Cincinnati, OH 45202

3. Street Address: 56 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading and driveway reconstruction: Being a 643 S.F. portion of the property located at 56 East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 324 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-27 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.



IN CITY COUNCIL

NOVEMBER 14, 2016
Marlborough, Mass., PAGE 3

ORDERED:

OWNER: William W. George, Trustee, Carlisle Realty Trust
P.O. Box 436
Marlborough, MA 01752

4. Street Address: 60 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading and sidewalk reconstruction: Being a 1,210 S.F. portion of the property located at 60 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 125 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-26 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: William W. George, Trustee, Carlisle Realty Trust
P.O. Box 436
Marlborough, MA 01752

5. Street Address: 59 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 568 S.F. portion of the property located at 59 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 133 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-6 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Michael Triaforos, Trustee
59 East Main Street Realty Trust
49 East Main Street
Marlborough, MA 01752

6. Street Address: 79 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 335 S.F., more or less, portion of the property located at 79 East Main Street, known and numbered as Map 57, Parcel 182 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-4 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., _____ PAGE 4

ORDERED:

OWNER: Todd Uminsky, Trustee
79 East Main Street Realty Trust
Marlborough, MA 01752

7. Street Address: 83-A East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 209 S.F., more or less, portion of the property located at 83-A East Main Street, known and numbered as Map 57, Parcel 184 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-3 on Sheets 3 and 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Glayton DaCruz, Trustee
DaCruz Realty Trust
Marlborough, MA 01752

8. Street Address: 87 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 411 S.F., more or less, portion of the property located at 87 East Main Street, known and numbered as Map 57, Parcel 185 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-2 on Sheets 3 and 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Fred R. Angier, Jr.
87 East Main Street
Marlborough, MA 01752

9. Street Address: 95 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading, driveway reconstruction, and restoration and reconstruction of stonewall: Being a 593 S.F. portion of the property located at 95 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 186 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-5 on Sheet 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., ~~_____~~ PAGE 5

ORDERED:

OWNER: David P. DeCenzo
95 Oakbridge Drive
Pueblo, CO 81001

10. Street Address: 99 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading, driveway reconstruction, and restoration and reconstruction of stonewall: Being a 314 S.F. portion of the property located at 99 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 187 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-2 on Sheet 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: Jeanne Bengiovanni
99 East Main Street
Marlborough, MA 01752

11. Street Address: 114 East Main Street, Marlborough, MA 01752

Permanent easement for purposes of new utility pole installation and aerial utility: Being a 298 S.F., more or less, portion of the property located at 114 East Main Street, known and numbered as Map 57, Parcel 194 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-1 on Sheets 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Cumberland Farms, Inc.
777 Dedham Street
Canton, MA 02021



IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 14, 2016
PAGE 6

ORDERED:

12. Street Address: 19 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, installment of fence, removal of trees: Being a 148 S.F. portion of the property located at 19 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 318 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-20 on Sheet 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: Thomas J. Parks & Cheryl Greska
19 Brown Street
Marlborough, MA 01752

13. Street Address: 21 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, installment of fence, removal of trees: Being a 795 S.F. portion of the property located at 21 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 319 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-18 on Sheet 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: David E. Grant & Tina L. Grant
21 Brown Street
Marlborough, MA 01752



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., _____ PAGE 7

ORDERED:

14. Street Address: 38 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, reconstruction of pedestrian walk: Being a 335 S.F. portion of the property located at 38 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 321 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-35 on Sheets 4 and 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: James C. Thomas & Lauren B. Thomas

31 Ash Street

Hopkinton, MA 01748

15. Street Address: 15 Sawin Street, Marlborough, MA 01752

Permanent easement for purposes of new utility pole installation and aerial utility: Being a 67 S.F., more or less, portion of the property located at 15 Sawin Street, known and numbered as Map 70, Parcel 373 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-5 on Sheets 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: 15 Sawin Street LLC

15 Sawin Street

Marlborough, MA 01752

Said plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County" to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order.



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., _____ PAGE 8

ORDERED:

AWARDS

The City Council hereby makes the following awards for damages for the owner or owners of record:

| <u>OWNERS</u> | <u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u> | <u>AREA (OF TAKING OF EASEMENT)</u> | <u>AWARD</u> |
|---|--|---|--------------|
| B.B. Realty Corp. 262 Main Street P.O. Box 5 Marlborough, MA | 70/323 | 232 S.F. | \$40.00 |
| U.S. Bank National Association, Trustee 425 Walnut Street Cincinnati, OH 45202 | 70/322 | 703. S.F. | \$366.00 |
| William W. George, Trustee, Carlisle Realty Trust P.O. Box 436 Marlborough, MA 01752 | 70/324 | 643 S.F. | \$390.00 |
| William W. George, Trustee, Carlisle Realty Trust P.O. Box 436 Marlborough, MA 01752 | 57/125 | 1,210 S.F. | \$2,130.00 |
| Michael Triaforos, Trustee 59 East Main Street Realty Trust 49 East Main Street Marlborough, MA 01752 | 57/133 | 568 S.F. | \$630.00 |
| Todd Uminsky, Trustee 79 East Main Street Realty Trust Marlborough, MA 01752 | 57/182 | 335 S.F. | \$630.00 |



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., PAGE 9

ORDERED:

| <u>OWNERS</u> | <u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u> | <u>AREA (OF TAKING OF EASEMENT)</u> | <u>AWARD</u> |
|--|--|---|--------------|
| Glayton DaCruz, Trustee DaCruz Realty Trust 26 Hilldale Road Ashland, MA 01721 | 57/184 | 209 S.F. | \$627.00 |
| Fred R. Angier, Jr. 87 East Main Street Marlborough, MA 01752 | 57/185 | 411 S.F. | \$567.00 |
| David P. DeCenzo 95 Oakbridge Drive Pueblo, CO 81001 | 57/186 | 593 S.F. | \$335.00 |
| Jeanne Bengiovanni 99 East Main Street Marlborough, MA 01752 | 57/187 | 314 S.F. | \$545.00 |
| Cumberland Farms, Inc. 777 Dedham Street Canton, MA 02021 | 57/194 | 298 S.F. | \$1,043.00 |
| Thomas J. Parks & Cheryl Greska 19 Brown Street Marlborough, MA 01752 | 70/318 | 148 S.F. | \$161.00 |
| David E. Grant & Tina L. Grant 21 Brown Street Marlborough, MA 01752 | 70/319 | 795 S.F. | \$863.00 |
| James C. Thomas & Lauren B. Thomas 31 Ash Street Hopkinton, MA 01748 | 70/321 | 335 S.F. | \$335.00 |



IN CITY COUNCIL

NOVEMBER 14, 2016

Marlborough, Mass., _____ PAGE 10

ORDERED:

| <u>OWNERS</u> | <u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u> | <u>AREA (OF TAKING OF EASEMENT)</u> | <u>AWARD</u> |
|---|--|---|--------------|
| 15 Sawin Street LLC 15 Sawin Street Marlborough, MA 01752 (Land Court Book 1362, Page 007, Certificate No. 243066) | 70/373 | 67 S.F. | \$117.00 |

Be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 16-1006732



City of Marlborough
 RECEIVED
 CITY CLERK'S OFFICE
 CITY OF MARLBOROUGH
Office of the Mayor

Arthur G. Vigeant
 MAYOR

Nicholas J. Milano
 EXECUTIVE AIDE

Patricia Bernard
 EXECUTIVE SECRETARY

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

2016 NOV -9 A 11:53

November 9, 2016

City Council President Edward J. Clancy
 Marlborough City Council
 140 Main Street
 Marlborough, MA 01752

Re: Order of Taking by Eminent Domain Of Permanent and Temporary Easements for the East Main Street Reconstruction Project

Honorable President Clancy and Councilors:

On behalf of the Department of Public Works, enclosed herewith please find a proposed Order Of Taking By Eminent Domain concerning the East Main Street Reconstruction Project. No appropriation is necessary.

The reconstruction of East Main Street is being funded by the MassWorks grant that the City received in October 2015.

DPW Commissioner John Ghiloni and City Engineer Tom DiPersio will be available to answer any specific questions relative to the project.

Sincerely,

Arthur G. Vigeant
 Mayor

Enclosures



CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

November 9, 2016

Arthur G. Vigeant, Mayor
City Hall
140 Main Street
Marlborough, MA 01752

RE: Order of Taking by Eminent Domain of Permanent and Temporary Easements for the East Main Street Reconstruction Project

Dear Mayor Vigeant:

Attached is an Order of Taking by Eminent Domain that I request you send to the City Council for their action.

By the proposed Order of Taking, the City would acquire permanent and temporary easements in private land located along East Main Street. The purpose of the takings, more fully described in the order, is related to the East Main Street Reconstruction Project.

I am available to answer any specific questions relative to the project.

Sincerely,

John L. Ghiloni
Commissioner of Public Works

Enclosures

cc: Cynthia Panagore Griffin, Assistant City Solicitor
Tom DiPersio, P.E., City Engineer

ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in certain portions of land located on East Main Street and located on land at the intersection of East Main Street and Brown Street, and at the intersection of East Main Street and Sawin Street (hereinafter, collectively, "East Main Street"), as more particularly described herein, be taken for the purpose of the reconstruction, construction, and maintenance of improvements to East Main Street, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests or fee simple interest in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

1. **Street address:** East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading and driveway reconstruction: Being an approximately 232 S.F portion of the property located on East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 323 on the Assessors' Map of the City of Marlborough and shown as Parcel TE-28 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: B.B. Realty Corp.
262 Main Street
P.O. Box 5
Marlborough, MA 01752

2. Street Address: 48 East Main Street, Marlborough, MA

Temporary easement for the purposes of grading, driveway reconstruction, pedestrian walk reconstruction: Being a 703 S.F. portion of the property located at 48 East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 322 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-29 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: U.S. Bank National Association, Trustee
425 Walnut Street
Cincinnati, OH 45202

3. Street Address: 56 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading and driveway reconstruction: Being a 643 S.F. portion of the property located at 56 East Main Street, Marlborough, MA, known and numbered as Map 70, Parcel 324 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-27 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: William W. George, Trustee, Carlisle Realty Trust
P.O. Box 436
Marlborough, MA 01752

4. Street Address: 60 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading and sidewalk reconstruction: Being a 1,210 S.F. portion of the property located at 60 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 125 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-26 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: William W. George, Trustee, Carlisle Realty Trust
P.O. Box 436
Marlborough, MA 01752

5. Street Address: 59 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 568 S.F. portion of the property located at 59 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 133 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-6 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Michael Triaforos, Trustee
59 East Main Street Realty Trust
49 East Main Street
Marlborough, MA 01752

6. Street Address: 79 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 335 S.F., more or less, portion of the property located at 79 East Main Street, known and numbered as Map 57, Parcel 182 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-4 on Sheet 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Todd Uminsky, Trustee
79 East Main Street Realty Trust
Marlborough, MA 01752

7. Street Address: 83-A East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 209 S.F., more or less, portion of the property located at 83-A East Main Street, known and numbered as Map 57, Parcel 184 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-3 on Sheets 3 and 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Glayton DaCruz, Trustee
DaCruz Realty Trust
Marlborough, MA 01752

8. Street Address: 87 East Main Street, Marlborough, MA 01752

Permanent easement for aerial utility purposes: Being a 411 S.F., more or less, portion of the property located at 87 East Main Street, known and numbered as Map 57, Parcel 185 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-2 on Sheets 3 and 4 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Fred R. Angier, Jr.
87 East Main Street
Marlborough, MA 01752

9. Street Address: 95 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading, driveway reconstruction, and restoration and reconstruction of stonewall: Being a 593 S.F. portion of the property located at 95 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 186 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-5 on Sheet 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: David P. DeCenzo
95 Oakbridge Drive
Pueblo, CO 81001

10. Street Address: 99 East Main Street, Marlborough, MA 01752

Temporary easement for purposes of grading, driveway reconstruction, and restoration and reconstruction of stonewall: Being a 314 S.F. portion of the property located at 99 East Main Street, Marlborough, MA, known and numbered as Map 57, Parcel 187 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-2 on Sheet 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNER: Jeanne Bengiovanni
99 East Main Street
Marlborough, MA 01752

11. Street Address: 114 East Main Street, Marlborough, MA 01752

Permanent easement for purposes of new utility pole installation and aerial utility: Being a 298 S.F., more or less, portion of the property located at 114 East Main Street, known and numbered as Map 57, Parcel 194 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-1 on Sheets 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: Cumberland Farms, Inc.
777 Dedham Street
Canton, MA 02021

12. Street Address: 19 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, installment of fence, removal of trees: Being a 148 S.F. portion of the property located at 19 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 318 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-20 on Sheet 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: Thomas J. Parks & Cheryl Greska
19 Brown Street
Marlborough, MA 01752

13. Street Address: 21 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, installment of fence, removal of trees: Being a 795 S.F. portion of the property located at 21 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 319 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-18 on Sheet 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

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OWNERS: David E. Grant & Tina L. Grant
21 Brown Street
Marlborough, MA 01752

14. Street Address: 38 Brown Street, Marlborough, MA 01752

Temporary easement for purposes of grading, construction of retaining wall, reconstruction of pedestrian walk: Being a 335 S.F. portion of the property located at 38 Brown Street, Marlborough, MA, known and numbered as Map 70, Parcel 321 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-35 on Sheets 4 and 5 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to East Main Street.

OWNERS: James C. Thomas & Lauren B. Thomas
31 Ash Street
Hopkinton, MA 01748

15. Street Address: 15 Sawin Street, Marlborough, MA 01752

Permanent easement for purposes of new utility pole installation and aerial utility: Being a 67 S.F., more or less, portion of the property located at 15 Sawin Street, known and numbered as Map 70, Parcel 373 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-5 on Sheets 3 of 6 of a set of plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County."

OWNER: 15 Sawin Street LLC
15 Sawin Street
Marlborough, MA 01752

Said plans, dated July 28, 2016, entitled "Right-Of-Way Plans, East Main Street, in the City of Marlborough, Middlesex County" to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order.

AWARDS

The City Council hereby makes the following awards for damages for the owner or owners of record:

| <u>OWNERS</u> | <u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u> | <u>AREA (OF TAKING OF EASEMENT)</u> | <u>AWARD</u> |
|--|--|---|--------------|
| B.B. Realty Corp. 262 Main Street P.O. Box 5 Marlborough, MA | 70/323 | 232 S.F. | \$40.00 |
| U.S. Bank National Association, Trustee 425 Walnut Street Cincinnati, OH 45202 | 70/322 | 703. S.F. | \$366.00 |
| William W. George, Trustee, Carlisle Realty Trust P.O. Box 436 Marlborough, MA 01752 | 70/324 | 643 S.F. | \$390.00 |
| William W. George, Trustee, Carlisle Realty Trust P.O. Box 436 Marlborough, MA 01752 | 57/125 | 1,210 S.F. | \$2,130.00 |
| Michael Triaforos, Trustee 59 East Main Street Realty Trust 49 East Main Street Marlborough, MA 01752 | 57/133 | 568 S.F. | \$630.00 |
| Todd Uminsky, Trustee 79 East Main Street Realty Trust Marlborough, MA 01752 | 57/182 | 335 S.F. | \$630.00 |
| Glayton DaCruz, Trustee DaCruz Realty Trust 26 Hilldale Road Ashland, MA 01721 | 57/184 | 209 S.F. | \$627.00 |
| Fred R. Angier, Jr. 87 East Main Street Marlborough, MA 01752 | 57/185 | 411 S.F. | \$567.00 |

| <u>OWNERS</u> | <u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u> | <u>AREA (OF TAKING OF EASEMENT)</u> | <u>AWARD</u> |
|---|--|---|--------------|
| David P. DeCenzo 95 Oakbridge Drive Pueblo, CO 81001 | 57/186 | 593 S.F. | \$335.00 |
| Jeanne Bengiovanni 99 East Main Street Marlborough, MA 01752 | 57/187 | 314 S.F. | \$545.00 |
| Cumberland Farms, Inc. 777 Dedham Street Canton, MA 02021 | 57/194 | 298 S.F. | \$1,043.00 |
| Thomas J. Parks & Cheryl Greska 19 Brown Street Marlborough, MA 01752 | 70/318 | 148 S.F. | \$161.00 |
| David E. Grant & Tina L. Grant 21 Brown Street Marlborough, MA 01752 | 70/319 | 795 S.F. | \$863.00 |
| James C. Thomas & Lauren B. Thomas 31 Ash Street Hopkinton, MA 01748 | 70/321 | 335 S.F. | \$335.00 |
| 15 Sawin Street LLC 15 Sawin Street Marlborough, MA 01752 (Land Court Book 1362, Page 007, Certificate No. 243066) | 70/373 | 67 S.F. | \$117.00 |

ADOPTED
In City Council
Order No. 16-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST

RIGHT-OF-WAY PLANS
 EAST MAIN STREET
 IN THE CITY OF
 MARLBOROUGH
 MIDDLESEX COUNTY

INDEX

- 1 TITLE & INDEX SHEET
- 2 LEGEND & GENERAL NOTES
- 3-5 PRELIMINARY RIGHT-OF-WAY PLANS
- 6 PARCEL SUMMARY

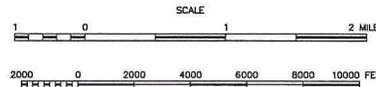
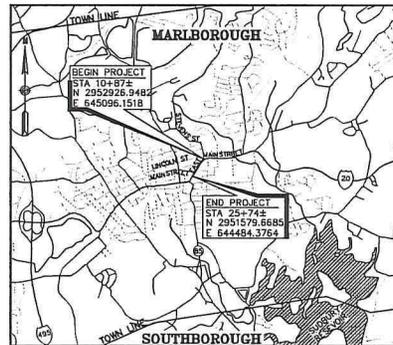
REFERENCE MANUALS

THE MASSACHUSETTS HIGHWAY DEPARTMENT STANDARD SPECIFICATIONS FOR HIGHWAYS AND BRIDGES DATED 1988, AS AMENDED, THE SUPPLEMENTAL SPECIFICATIONS DATED JULY 1, 2015, THE INTERIM SUPPLEMENTAL SPECIFICATIONS DATED MARCH 4, 2016, THE 2014 CONSTRUCTION STANDARD DETAILS, THE 2015 OVERHEAD SIGNAL STRUCTURE AND FOUNDATION STANDARD DRAWINGS, MASSDOT TRAFFIC MANAGEMENT PLANS AND DETAIL DRAWINGS, THE 2009 MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS WITH MASSACHUSETTS AMENDMENTS, THE 1990 STANDARD DRAWINGS FOR SIGNS AND SUPPORTS, THE 1968 STANDARD DRAWINGS FOR TRAFFIC SIGNALS AND HIGHWAY LIGHTING, AND THE LATEST EDITION OF THE AMERICAN STANDARD FOR NURSERY STOCK, WILL GOVERN.

DESIGN DESIGNATION

| | |
|-----------------|--------------|
| DESIGN SPEED | = 30 mph |
| ADT (2006) | = 13,418 vpd |
| ADT (2016) | = 14,822 vpd |
| K | = 8.0% |
| D | = 59% (EB) |
| T (PEAK HOUR) | = 3% |
| T (AVERAGE DAY) | = 3% |
| DHV | = 1,186 vph |
| DDHV | = 706 vph |

PROJECT ENGINEER: _____
 STRUCTURAL REVIEW: _____
 TRAFFIC SIGNAL REVIEW: _____
 HIGHWAY DEPT. AUTHORIZATION: _____
 HIGHWAY TECH. REVIEW: _____
 CONSTRUCTION REVIEW: _____



CONVENTIONAL SIGNS

| | | |
|--------------------------------|-------|--|
| COUNTY, CITY OR TOWN BOUNDARY | _____ | ----- |
| COUNTY, CITY OR TOWN SIDE LINE | _____ | ----- |
| FENCE LINE | _____ | - x - x - x - x - |
| BASE LINE OR SURVEY LINE | _____ | 75 |
| RIGHT OF WAY LINE | _____ | N00°-31'-37"W 132.57 |
| CULVERT | _____ | ===== |
| ELEVATIONS | _____ | EXIST. SURFACE 667.9 PROF. SURFACE 662.10 75 |
| UTILITY POLE | _____ | ⊕ |

LENGTH OF PROJECT: 1487.00 FEET

JULY 28, 2016

GENERAL SYMBOLS

| EXISTING | PROPOSED |
|---------------------------------|---------------------------------|
| CB (OR CL LB) | CB |
| CBCI (OR GCI) | CBCI (OR GCI) |
| EHH | EHH |
| EMH | EMH |
| TMH | TMH |
| WMH | WMH |
| SMH | SMH |
| DMH | DMH |
| GG | GG |
| WG | WG |
| CS | CS |
| Hyd | Hyd |
| FA | FA |
| FM | FM |
| LP | LP |
| UP | UP |
| GUY | GUY |
| | |
| | |
| E | E |
| | |
| | |
| T | T |
| MB | MB |
| Highway Guard | Highway Guard |
| Fence | Fence |
| Highway/Property Bound | Highway/Property Bound |
| City, Town, or County Layout | City, Town, or County Layout |
| State Highway Layout (S.H.L.O.) | State Highway Layout (S.H.L.O.) |
| Easement Line | Easement Line |
| Property Line | Property Line |
| City, Town, or County Boundary | City, Town, or County Boundary |
| State Boundary | State Boundary |
| Base or Survey Line | Base or Survey Line |
| Construction Baseline | Construction Baseline |
| Tree | Tree |
| Approximate Full Depth Area | Approximate Full Depth Area |
| Borings, Pavement Cores | Borings, Pavement Cores |
| Test Pit | Test Pit |
| Haybale | Haybale |

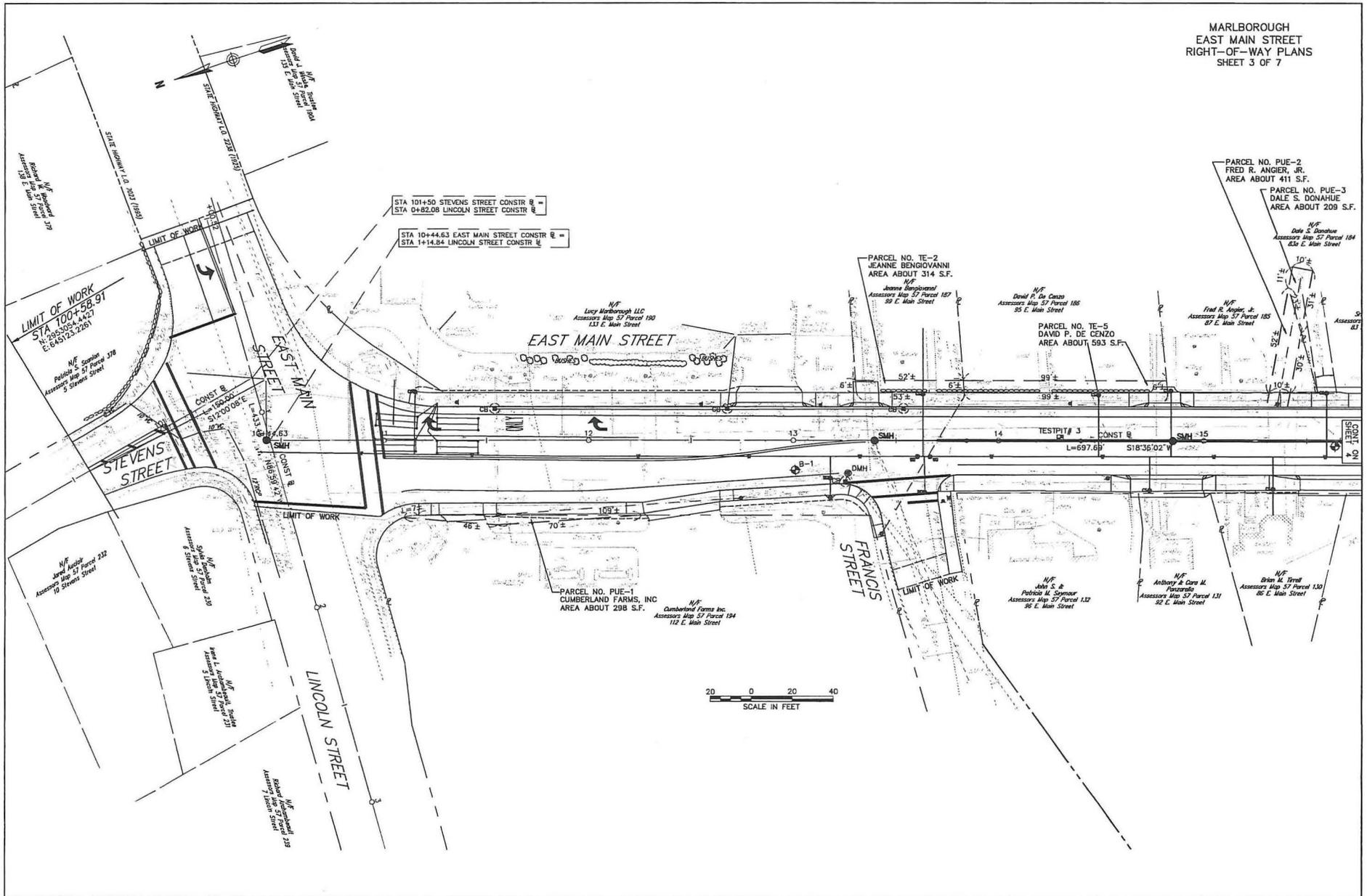
ABBREVIATIONS

| GENERAL | |
|---------|--------------------|
| ABAN | ABANDON |
| ADJ | ADJUST |
| APPROX | APPROXIMATE |
| BIT | BITUMINOUS |
| BOS | BOTTOM OF SLOPE |
| (BO) | BY OTHERS |
| CLF | CHAIN LINK FENCE |
| CONC | CONCRETE |
| C.J. | CONSTRUCTION JOINT |
| ELEV | ELEVATION |
| EOP | EDGE OF PAVEMENT |
| EXIST | EXISTING |
| E.J. | EXPANSION JOINT |
| FND | FOUNDATION |
| GRAN | GRANITE |
| HMA | HOT MIX ASPHALT |
| LOAM | LOAM BORROW |
| LT | LEFT |
| MAX | MAXIMUM |
| MIN | MINIMUM |
| NTS | NOT TO SCALE |
| PGL | PROFILE GRADE LINE |
| PROP | PROPOSED |
| PWMT | PAVEMENT |
| REM | REMOVE |
| REMOD | REMODEL |
| RET | RETAIN |
| R&D | REMOVE AND DISCARD |
| R&R | REMOVE AND RESET |
| R&S | REMOVE AND STACK |
| RT | RIGHT |
| STA | STATION |
| TEMP | TEMPORARY |
| TOS | TOP OF SLOPE |
| TYP | TYPICAL |

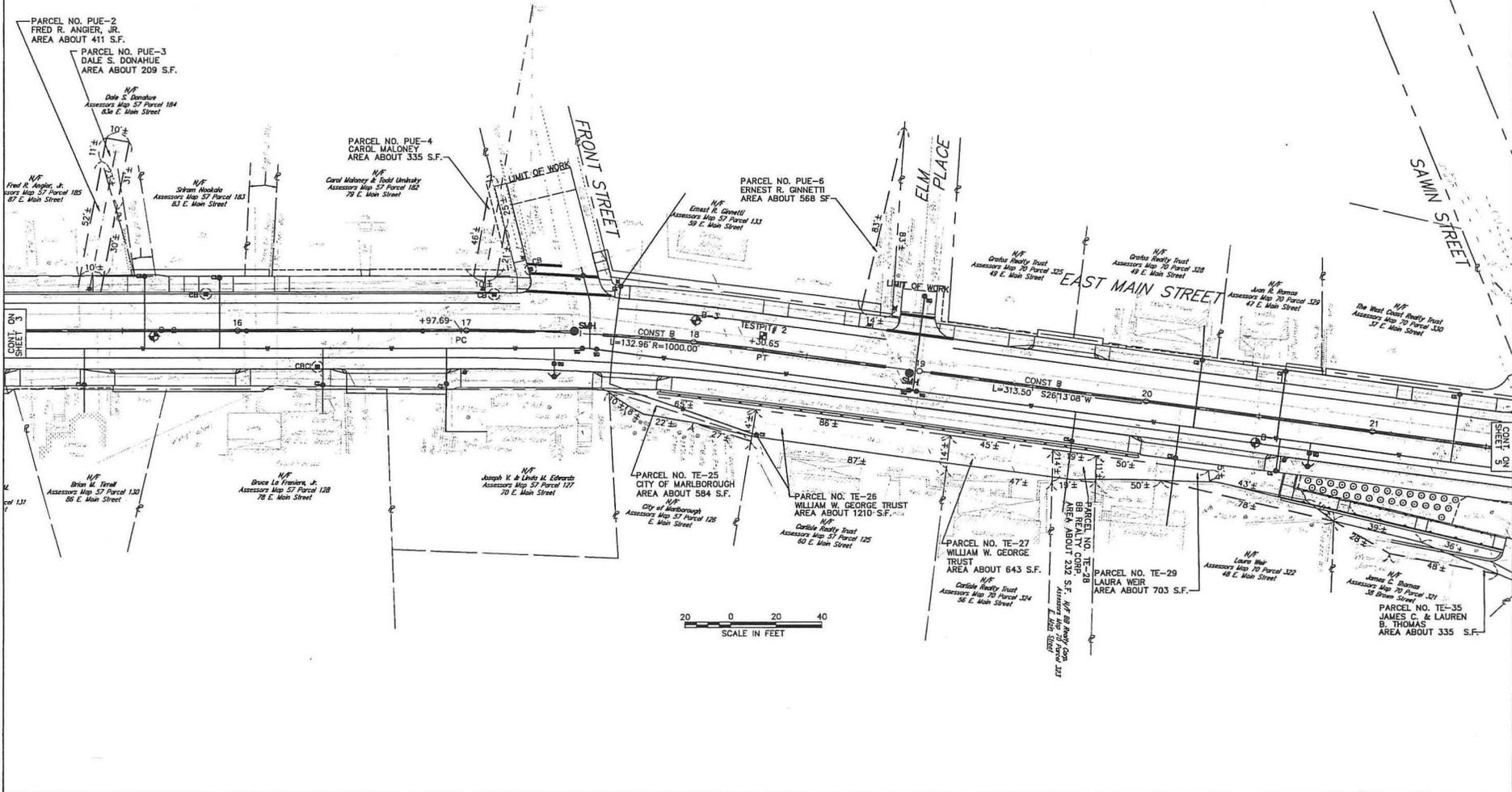
GENERAL NOTES

- TOPOGRAPHICAL INFORMATION FROM A SURVEY BY VANASSE HANGEN BRUSTLIN, INC., WATERTOWN, MASSACHUSETTS DATED MARCH 2006 AND SUPPLEMENTAL SURVEY IN MARCH & JULY 2016. THE HORIZONTAL COORDINATE SYSTEM IS ON THE MASS GRID SYSTEM NAD83 AND THE VERTICAL COORDINATE SYSTEM IS NAVD 1988.
- THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND SHALL BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
- WHERE AN EXISTING UTILITY IS FOUND TO CONFLICT WITH THE PROPOSED WORK, THE LOCATION, ELEVATION AND SIZE OF THE UTILITY SHALL BE ACCURATELY DETERMINED WITHOUT DELAY BY THE CONTRACTOR, AND THE INFORMATION FURNISHED TO THE ENGINEER FOR RESOLUTION OF THE CONFLICT.
- THE CONTRACTOR SHALL ALTER THE MASONRY OF THE TOP SECTION OF ALL EXISTING DRAINAGE STRUCTURES AS NECESSARY FOR CHANGES IN GRADE, AND RESET ALL WATER AND DRAINAGE FRAMES, GRATES AND BOXES TO THE PROPOSED FINISH SURFACE GRADE. REQUIRED NEW MASONRY SHALL BE CLAY BRICK.
- THE CONTRACTOR SHALL MAKE ALL ARRANGEMENTS FOR THE ALTERATION AND ADJUSTMENT OF GAS, ELECTRIC, TELEPHONE, CATV AND ANY OTHER PRIVATE UTILITIES BY THE UTILITY COMPANIES.
- EXISTING UTILITY POLES WILL BE RELOCATED BY OTHERS.
- TREES AND SHRUBS WITHIN THE LIMITS OF GRADING SHALL BE REMOVED ONLY UPON APPROVAL OF THE ENGINEER.
- AREAS OUTSIDE THE LIMITS OF PROPOSED WORK DISTURBED BY THE CONTRACTOR'S OPERATIONS SHALL BE RESTORED BY THE CONTRACTOR TO THEIR ORIGINAL CONDITION AT NO EXPENSE TO THE OWNER.
- THE TERM "PROPOSED" (PROP) MEANS WORK TO BE CONSTRUCTED USING NEW MATERIALS OR, WHERE APPLICABLE, RE-USING EXISTING MATERIALS IDENTIFIED AS "REMOVE AND RESET" (R&S).
- SAWCUT SURFACES ADJUTING THE PAVEMENT TOP COURSE SHALL BE COATED WITH HOT-POURED RUBBERIZED ASPHALT SEALANT.
- ALL EXISTING SIGNS WITHIN THE PROJECT LIMITS SHALL BE RETAINED UNLESS INDICATED OTHERWISE ON THE DRAWINGS. ALL NON-CONFORMING SIGNS WITHIN THE PROJECT LIMITS SHALL BE REMOVED AND REPLACED WITH SIGNS MEETING CURRENT STANDARDS.
- ALL LATERAL DRAIN PIPES SHALL BE INSTALLED WITH A PITCH OF .01 FOOT PER FOOT (MINIMUM) UNLESS NOTED OTHERWISE ON THE DRAWINGS.
- ALL EXISTING GRANITE CURB & CURB CORNERS SHALL BE RE-USED IN THE PROPOSED WORK, EXCEPT CURVED STONES OF A DIFFERENT RADIUS THAN PROPOSED CURB.
- ALL EXISTING STATE, COUNTY, CITY, AND TOWN LOCATION LINES AND PRIVATE PROPERTY LINES HAVE BEEN ESTABLISHED FROM AVAILABLE INFORMATION AND THEIR EXACT LOCATION ARE NOT GUARANTEED.
- ALL UTILITY STRUCTURES TO REMAIN (I.E. MANHOLES, GATES, CURB STOPS, GATE BOXES, ETC.) WITHIN THE PROJECT LIMITS WILL BE ADJUSTED TO MEET FINAL GRADE.
- EXISTING PAVEMENTS TO REMAIN SHALL BE SAWCUT AT ALL OPENINGS FOR UTILITY WORK, FOR NEW OR RESET CURB, AT LIMITS OF PAVEMENT MICHROMILLING AND FULL DEPTH PAVEMENT, SIDEWALK AND DRIVEWAY CONSTRUCTION, AS SHOWN ON THE PLANS AND AS DIRECTED BY THE ENGINEER. PAYMENT FOR THIS WORK SHALL BE INCIDENTAL TOT THE VARIOUS BID ITEMS.

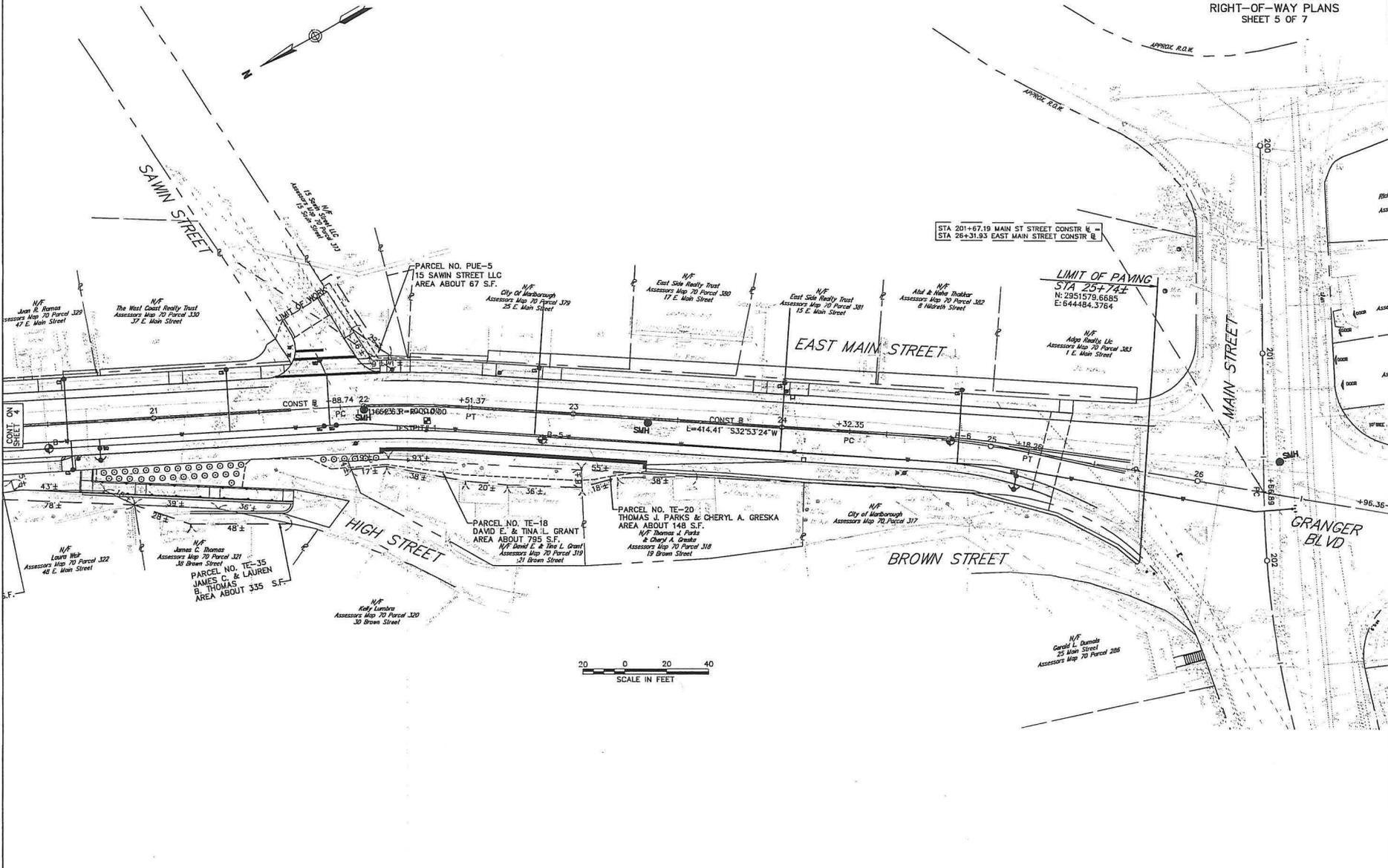
MARLBOROUGH
 EAST MAIN STREET
 RIGHT-OF-WAY PLANS
 SHEET 3 OF 7



MARLBOROUGH
 EAST MAIN STREET
 RIGHT-OF-WAY PLANS
 SHEET 4 OF 7



MARLBOROUGH
 EAST MAIN STREET
 RIGHT-OF-WAY PLANS
 SHEET 5 OF 7



PARCEL SUMMARY

MARLBOROUGH
EAST MAIN STREET
RIGHT-OF-WAY PLANS
SHEET 6 OF 6

| PARCEL NUMBER | SHEET NO. | OWNER | AREA OF TAKING | AREA OF EASEMENT | | REGISTRY OF DEEDS | | REMARKS |
|---------------|-----------|------------------------------------|----------------|------------------|-----------|-------------------|------|--|
| | | | | TYPE | AREA | BOOK | PAGE | |
| PUE-1 | 3 | CUMBERLAND FARMS, INC. | --- | UTILITY | 298 S.F. | 41685 | 392 | INSTALL NEW UTILITY POLE; AERIAL UTILITY EASEMENT |
| TE-2 | 3 | JEANNE BENGIOVANNI | --- | TEMP | 314 S.F. | 27533 | 002 | GRADING; DRIVEWAY RECONST.; R&R STONE WALL |
| TE-5 | 3 | DAVID P. DE CENZO | --- | TEMP | 593 S.F. | 15016 | 35 | GRADING; DRIVEWAY RECONST.; R&R STONE WALL |
| PUE-2 | 3 & 4 | FRED R. ANGIER, JR. | --- | UTILITY | 411 S.F. | 28236 | 291 | AERIAL UTILITY EASEMENT |
| PUE-3 | 3 & 4 | DALE S. DONAHUE | --- | UTILITY | 209 S.F. | 32234 | 127 | AERIAL UTILITY EASEMENT |
| PUE-4 | 4 | CAROL MALONEY | --- | UTILITY | 335 S.F. | 20319 | 006 | AERIAL UTILITY EASEMENT |
| TE-25 | 4 | CITY OF MARLBOROUGH | --- | TEMP | 584 S.F. | 11134 | 119 | GRADING; DRIVEWAY RECONST. |
| TE-26 | 4 | WILLIAM W. GEORGE TRUST | --- | TEMP | 1210 S.F. | 25062 | 480 | GRADING; DRIVEWAY RECONST. |
| TE-27 | 4 | WILLIAM W. GEORGE TRUST | --- | TEMP | 643 S.F. | 25062 | 479 | GRADING; DRIVEWAY RECONST. |
| TE-28 | 4 | BB REALTY CORP. | --- | TEMP | 232 S.F. | 11099 | 14 | GRADING; DRIVEWAY RECONST. |
| TE-29 | 4 | LAURA WEIR | --- | TEMP | 703 S.F. | 56064 | 549 | GRADING; DRIVEWAY RECONST.; PED WALK RECONST. |
| TE-35 | 4 & 5 | JAMES C. & LAUREN B. THOMAS | --- | TEMP | 335 S.F. | 49195 | 047 | GRADING; PED WALK RECONSTO.; BUILD RET. WALL |
| PUE-6 | 4 | ERNEST R. GINETTI | --- | UTILITY | 568 S.F. | 28721 | 424 | AERIAL UTILITY EASEMENT |
| PUE-5 | 5 | 15 SAWN STREET LLC | --- | UTILITY | 67 S.F. | 1283 | 058 | AERIAL UTILITY EASEMENT |
| TE-18 | 5 | DAVID E. & TINA L. GRANT | --- | TEMP | 795 S.F. | 1248 | 13 | GRADING; BUILD RET. WALL; INSTALL FENCE; REM TREES |
| TE-20 | 5 | THOMAS J. PARKS & CHERYL A. GRESKA | --- | TEMP | 148 S.F. | 26269 | 576 | GRADING; BUILD RET. WALL; INSTALL FENCE; REM TREES |