

# CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: October 27, 2015

Time: 6:00 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2015 OCT 20 P 12:16

09-28-15 – **Order No. 15-1006322:** Board of Health Memorandum of Understanding between City of Marlborough and the Latino Health Insurance Program, Inc.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

09-28-15 – **Order No. 15-1006323:** Order of Acceptance of Layout of LaCombe St. as a Public Way and Eminent Domain Order of Taking; Quitclaim Deed for LaCombe St. Cul-de-Sac and Easements, X14-1005847A.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

10-19-2015 – **Order No. 15-1006342:** Proposed Order for a Home Rule Petition Concerning Conveyance by the Division of Capital Asset Management and Maintenance of Permanent Easements to the City of Marlborough.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

10-19-2015 – **Order No. 15-1006343:** Water's Edge Subdivision – Proposed Acceptance of Deed of Open Space Parcels, X04/05-100439A.

-REFER TO LEGISLATIVE AND LEGAL AFFAIRS

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

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 1

ORDERED:

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE LATINO HEALTH INSURANCE PROGRAM, INC.  
and  
THE CITY OF MARLBOROUGH**

1. Purpose of Memorandum of Understanding

The parties enter into this Memorandum of Understanding under the grant from the Massachusetts Department of Public Health Prevention and Wellness Trust Fund ("PWTF"), to the Town of Hudson, to address chronic health conditions in the towns of Hudson, Framingham, Northborough, and the City of Marlborough. The goal of the PWTF is to improve the health of people living with chronic conditions in the towns of Hudson, Framingham, Northborough, and the City of Marlborough, through enhanced care coordination, increasing patient and family education, and establishing clinical-community linkages.

The parties wish to further the clinical-community linkages goal of the PWTF by engaging in case management and referral of people with chronic conditions for assistance, as appropriate, following protocols developed by PWTF.

This Memorandum of Understanding outlines the relationship between The Latino Health Insurance Program, Inc., and the City of Marlborough.

2. No Interference with Existing Agreements

This Memorandum of Understanding sets forth the agreement of the parties as to their rights and obligations under the PWTF and does not alter nor interfere with any existing agreements between the parties.

3. Description of the Parties

The Latino Health Insurance Program, Inc. is a nonprofit, charitable corporation organized under the laws of the Commonwealth of Massachusetts, with principal offices at 276 Union Ave, 2<sup>nd</sup> Floor, Framingham, Massachusetts 01702. The Latino Health Insurance Program, Inc., has three primary goals; to offer Latinos a community-based, culturally-specific program for health insurance enrollment and maintenance; to connect clients to the appropriate health and health care services (including primary care, oral health services, and specialty care); to promote a more effective use of preventive services and to reduce chronic health conditions.



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 2

## ORDERED:

The City of Marlborough, a municipal corporation ("COMMUNITY PARTNER"); provides elder prevention services through referrals to the Community Health Worker.

### 4. Duration

The relationship between the parties as set forth in this Memorandum of Understanding shall begin on **August 3, 2015 and end on June 30, 2017**, unless terminated earlier as set forth in paragraph 11 of this Memorandum of Understanding. This Memorandum of Understanding is not automatically renewable, and may be renewed only upon the written agreement of the parties.

### 5. Responsibilities of the Latino Health Insurance Program, Inc. (LHIP)

- (a) Referrals: LHIP will refer patients with chronic conditions to COMMUNITY PARTNER, in accordance with established PWTF protocols. LHIP will designate a liaison to COMMUNITY PARTNER who will serve as the contact person for the coordination of case management, referrals and advocacy.
- (b) Medical File Confidentiality: LHIP will comply with the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") with respect to Protected Health Information (PHI) and shall treat such information as confidential. LHIP will obtain and document patient consent before referring a patient to COMMUNITY PARTNER.

### 6. Responsibilities of COMMUNITY PARTNER

- (a) Programs: COMMUNITY PARTNER will host and operate [check all that apply]:

- Chronic Disease Self-Management (CDSMP) courses in English
- Tai Chi
- MOB in English
- Home Safety Assessments



# IN CITY COUNCIL

SEPTEMBER 28, 2015  
Marlborough, Mass., PAGE 3

## ORDERED:

- (b) Referrals: COMMUNITY PARTNER will receive referrals from LHIP and be responsible for enrolling those referrals and sending status updates, as agreed by the parties, for each referral. COMMUNITY PARTNER will designate a staff member to serve as a liaison to LHIP for care management and coordination.
- (c) Medical File Confidentiality: COMMUNITY PARTNER will take all reasonable steps to preserve the confidentiality of PHI. LHIP will provide PHI to COMMUNITY PARTNER upon the receipt of the patient's signed authorization.
- (d) Impermissible Disclosure of PHI: If an impermissible disclosure of PHI occurs, COMMUNITY PARTNER agrees to inform LHIP of the disclosure, as soon as practicable after discovering the disclosure.

## 7. Mutual Responsibilities

- (a) Communication: The designated COMMUNITY PARTNER staff shall be accessible to LHIP staff by telephone and email during normal, weekday business hours. LHIP liaison(s) shall be available to COMMUNITY PARTNER by telephone and email during normal, weekday business hours.
- (b) Data: LHIP and COMMUNITY PARTNER will work together to collect and share data throughout the course of the PWTF grant period. Program data will be reported following the confidentiality and data sharing protocols outlined in paragraphs 5(b) and 6(c) and (d) of this Memorandum of Understanding.
- (c) Program Evaluation: COMMUNITY PARTNER and LHIP will promptly and jointly develop evaluation protocols and engage in regular evaluation or program activities and outcomes as required by the PWTF. The parties agree to share outcomes when feasible, with patient consent, while safeguarding PHI.

## 8. No Partnership or Joint Venture

This Memorandum of Understanding shall not create a partnership or joint venture between the parties. Neither party may act as an agent, express or implied, for the other, nor may either party make any commitment, financial or otherwise, on behalf of the other. No employee of the LHIP shall be considered an employee of the COMMUNITY PARTNER. No employee of the COMMUNITY PARTNER shall be considered an employee of LHIP.



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 4

## ORDERED:

9. Indemnification and Hold Harmless Provisions

(a) Indemnification of the COMMUNITY PARTNER

LHIP agrees at all times during the operation of this Agreement to indemnify and hold harmless the COMMUNITY PARTNER against any liability, loss, damages or expenses that COMMUNITY PARTNER may sustain, incur, or be required to pay by reason of any person's personal injury, death, or property loss or damage sustained because of the negligent acts or omissions of LHIP, or any of its employees, officers, agents, volunteers, or representatives, in providing services under the terms of this Memorandum of Understanding, except that the provisions of this clause shall not apply to liabilities, losses, charges, costs or expenses caused solely or resulting solely from the negligent acts or omissions of the COMMUNITY PARTNER or any of the COMMUNITY PARTNER's employees, officers, agents, volunteers, or representatives.

10. Liability Insurance

During the operation of this Memorandum of Understanding, the COMMUNITY PARTNER shall maintain General Liability insurance in amount not less than \$1,000,000 per incident/\$2,000,000 per coverage period. LHIP shall be additional insured only with a limit to \$100,000 Occurrence/\$200,000 General Aggregate on such insurance policy per the municipal liability cap set forth in Chapter 258 of the Massachusetts General Laws. Within ten (10) days of the execution of this Agreement by the COMMUNITY PARTNER, the COMMUNITY PARTNER shall provide the LHIP with a certificate of insurance indicating the coverage as set forth in this paragraph, and indicating LHIP as an additional insured for the limits specified above. The policy of insurance referenced in this paragraph shall provide that the insurer will provide at least thirty (30) days' notice to LHIP if coverage is reduced, expires, or is cancelled. In the event that coverage is reduced, expires or is cancelled during the operation of this Agreement, the LHIP may pay the insurer directly to maintain the policy as in effect at the time of the notice of reduction, termination or expiration. The Partner may deduct the amount of the payment of the full or partial insurance policy premium, from money owed or to be owed, to the Grantee.



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 5

## ORDERED:

### 11. Termination

Either party may terminate this Memorandum of Understanding for any reason, without cause, upon thirty (30) calendar day's prior written notice to the other party. Written notice under this paragraph must be presented to the other party at the address set forth in paragraph 3 of this Memorandum of Understanding, by any of the following means: (a) Certified mail, return receipt requested; (b) By-Hand; (c) Overnight delivery via any mail or delivery service that provides the sender with a record of the date of receipt by the receiving party.

### 12. Applicable Law

This Memorandum of Understanding shall be interpreted and construed by the laws of the Commonwealth of Massachusetts, without regard to conflict of laws provisions.

**THE LATINO HEALTH INSURANCE  
PROGRAM, INC., BY:  
BY:**

**COMMUNITY PARTNER,  
CITY OF MARLBOROUGH**

\_\_\_\_\_  
Signature

Milagros Abreu, President  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Arthur G. Vigeant, Mayor  
Name and Title

\_\_\_\_\_  
Date

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

ADOPTED

ORDER NO. 15-1006322



*City of Marlborough*  
*Office of the Mayor*

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2015 SEP 24 A 11:05

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

4  
*Arthur G. Vigeant*  
MAYOR

*Nicholas Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

September 24, 2015

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

*L x L*

**Re: Board of Health Memorandum of Understanding**

Honorable President Clancy and Councilors:

Enclosed for your review and approval please find a draft Memorandum of Understanding ("MOU") between the City of Marlborough and the Latino Health Insurance Program, Inc. ("LHIP").

As noted in the attached letter from Board of Health Executive Director Cathleen Liberty, this MOU will enable LHIP to refer Marlborough seniors at risk of falls to the City's community health worker. This referral program will enable the community health worker to contact the at-risk seniors and conduct a home assessment to reduce their risk of having a fall in their home.

The MOU has been reviewed by the City's Chief Procurement Officer Beverly Sleeper and the Legal Department.

If you have any questions, please do not hesitate to contact me or Cathleen Liberty.

Sincerely,

**Arthur G. Vigeant**  
Mayor



# CITY OF MARLBOROUGH

## BOARD OF HEALTH

140 Main Street, Lower Level  
Marlborough, Massachusetts 01752  
Facsimile (508) 460-3625 TDD (508) 460-3610

James Griffin, Chairman  
John Curran, MD, Vice Chairman  
Robin Williams, Member  
Tel (508) 460-3751

September 23, 2015

Dear Mr. Mayor,

The City of Marlborough is a member of the MetroWest Prevention & Wellness Partnership (PWTF) and one of only nine groups that were awarded grant funds to improve the health of residents with chronic diseases.

With these grant funds, the City of Marlborough hired a temporary community health worker who works directly with our citizens to offer home safety assessments, referrals to tobacco cessation programs, and to promote smoke-free housing.

However, the parties wish to further the clinical-community linkages goal of the PWTF by engaging in case management and referral of people with chronic conditions for assistance, as appropriate following protocols developed by PWTF with the Latino Health Insurance Program, Inc. (LHIP) a nonprofit, charitable corporation located at 276 Union Ave, 2d Floor, Framingham, Massachusetts 01702.

The community health worker for Marlborough will receive referrals from LHIP and be responsible for enrolling the referrals and sending status updates, as agreed by the parties. For each referral there will be a designated staff member to serve as a liaison to LHIP for care management and coordination.

In closing, a Memorandum of Understanding between the Latino Health Insurance Program, Inc. and the City of Marlborough has been submitted for City Council review and I am requesting that it be submitted to City Council for approval.

Sincerely,

  
Cathleen Liberty  
Director of Public Health

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE LATINO HEALTH INSURANCE PROGRAM, INC.  
and  
THE CITY OF MARLBOROUGH**

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6. Responsibilities of COMMUNITY PARTNER

- (a) Programs: COMMUNITY PARTNER will host and operate [check all that apply]:
  - [ ] Chronic Disease Self-Management (CDSMP) courses in English
  - [ ] Tai Chi
  - [ ] MOB in English
  - [ x ] Home Safety Assessments
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**THE LATINO HEALTH INSURANCE  
PROGRAM, INC., BY:**

**COMMUNITY PARTNER,  
CITY OF MARLBOROUGH BY:**

\_\_\_\_\_  
Signature

Milagros Abreu, President  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Arthur G. Vigeant, Mayor  
Name and Title

\_\_\_\_\_  
Date



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE I

**ORDERED:**

**Acceptance of Layout of LaCombe Street As A Public Way  
AND  
Eminent Domain Order of Taking**

WHEREAS, at a meeting of the City Council of the City of Marlborough held this \_\_\_ day of \_\_\_\_\_ 2015 it is ordered that the City Council, having determined and adjudicated that the common convenience and necessity require that LaCombe Street, Marlborough, MA, the westerly portion of its length being owned by the City of Marlborough (not including the cul-de-sac terminus) and the easterly portion of its length being a privately owned (including the entirety of the cul-de-sac terminus) all of which is laid out in the location hereinafter described and shown on Exhibit "A" hereto, having complied with all the requirements of law relating thereto, become a public way in the entirety of its length and width from Valley Street up to and including the cul-de-sac terminus, title for which cul-de-sac and title to the drainage easement and flow easements shown on Exhibit "A" having been granted to the City of Marlborough in a Quitclaim Deed from LaCombe Business Center, LLC, with a business address at 58 LaCombe Street, Marlborough MA, said deed to be recorded herewith at the Middlesex Couth County Registry of Deeds, did on the \_\_\_ day of \_\_\_\_\_ 2015 lay out such way under provision of law and it was voted following the report of said layout, to accept such way as laid out, effective upon recording of the taking by eminent domain herein; and at the same time;

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience, public welfare, and necessity require that the fee interest in the private portion of the length of LaCombe Street, being the easterly portion of said way as shown on Exhibit "A" hereto, the layout of said way having been accepted by the City Council as described herein, be taken for the purposes of a public way and for each and every municipal purposes including without limitation the repair, construction, maintenance, replacement, operation, alteration, removal, and improvement of public utilities and appurtenant structures, paving, curbs, sidewalks, fixtures, and appurtenant structures, and equipment located in, on, under, and through said way;

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 LaCombe Street as more particularly described herein be taken for said municipal purposes, and for other municipal purposes, and that the taking by Eminent Domain is reasonable and necessary to carry out the aforementioned purposes; and,



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 2

## ORDERED:

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the fee interests in the land for the purposes 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 fee simple interest in the following described land, including all trees and other vegetation thereon.

### DESCRIPTION OF LAND TAKEN

**1. Street address: 48 Valley Street, Marlborough, MA 01752**

Being a 2,566 S.F. portion of the property located at 48 Valley Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 50 on the Assessors' Map of the City of Marlborough, which 2,566 S.F. portion consists of 660 S.F. of vegetated area on LaCombe Street and 1,906 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Elizabete D.S. Costa  
48 Valley Street  
Marlborough, MA

**2. Street Address: LaCombe Street, Marlborough, MA 01752  
(being a separate parcel of 7 Brook Street)**

Being a 1,150 S.F. portion of the property located on LaCombe Street, said property also known and numbered as Map 82, Parcel 48 on the Assessors' Map of the City of Marlborough, which 1,150 S.F. portion consists of 255 S.F. vegetated area on LaCombe Street and 895 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 3

## ORDERED:

Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Foggy Style LLC  
6 Angelica Drive  
Southborough, MA 01772

### 3. Street Address: 11 Brook Street, Marlborough, MA 01752

Being a 1,149 S.F. portion of the property located at 11 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 47 on the Assessors' Map of the City of Marlborough, which 1,149 S.F. portion consists of 250 S.F. of vegetated area on LaCombe Street and 899 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Hersson Villatoro & Sandra Villatoro  
11 Brook Street  
Marlborough, MA 01752

### 4. Street Address: LaCombe Street, Marlborough, MA 01752

Being a 2,304 S.F. portion of the property located on LaCombe Street, said property also known and numbered as Map 82, Parcel 45 on the Assessors' Map of the City of Marlborough, which 2,304 S.F. portion consists of 515 S.F. of vegetated area on LaCombe Street and 1,789 S.F. of paved area of LaCombe Street as shown Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Barbara Lizotte, Trustee, Lizotte Trust, its heirs, assigns or beneficiaries  
46 Westlook Lane  
Westport, MA 02790



## IN CITY COUNCIL

SEPTEMBER 28, 2015

Marlborough, Mass., \_\_\_\_\_ PAGE 4

### ORDERED:

**5. Street Address: 23 Brook Street, Marlborough, MA 01752**

Being a 1,426 S.F. portion of the property located at 23 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 56 on the Assessors' Map of the City of Marlborough, which 1,426 S.F. portion consists of 370 S.F. of vegetated area on LaCombe Street and 1,056 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Francis Cannavino & Celia R. Cannavino  
9 Dunster Avenue  
Wayland, MA 01778

**6. Street Address: 27 Brook Street, Marlborough, MA 01752**

Being a 897 S.F. portion of 27 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 44A on the Assessors' Map of the City of Marlborough, which 897 S.F. portion consists of 230 S.F. of vegetated area on LaCombe Street and 667 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Silas Evangelista & Dinalva Evangelista  
27 Brook Street  
Marlborough, MA 01752

**7. Street Address: 31 Brook Street, Marlborough, MA 01752**

Being a 1,127 S.F. portion of the property at 31 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 44 on the Assessors' Map of the City of Marlborough, which 1,127 S.F. portion consists of 305 S.F. of vegetated area on LaCombe Street and 822 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 5

## ORDERED:

OWNERS: Philip L. Bancroft & Raeanne T. Bancroft  
31 Brook Street  
Marlborough, MA 01752

**8. Street Address: 35 Brook Street, Marlborough, MA 01752**

Being a 3,617 S.F. portion of the property at 35 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 43 on the Assessors' Map of the City of Marlborough, which 3,617 S.F. portion consists of 1,040 S.F. vegetated area on LaCombe Street and 2,577 S.F. of paved area of LaCombe Street as shown on Exhibit "A", being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County) Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Walter Demoorjian, Trustee, Demoorjian Family Trust  
35 Brook Street  
Marlborough, MA 01752

### AWARDS

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

<u>OWNERS</u> <u>AWARD</u>	<u>MARLBOROUGH</u>	<u>AREA</u>
	<u>ASSESSORS'</u> <u>MAP/PARCEL</u>	<u>COMPONENTS</u> <u>(TOTAL AREA)</u>
Elizabete D.S. Costa \$3,960 48 Valley Street Marlborough, MA	82/50	660 S.F. vegetated area  1,906 S.F. paved area (2,566 S.F.)
Foggy Style LLC \$1,275 6 Angelica Drive Southborough, MA 01772	82/48	255 S.F. vegetated area  895 S.F. paved area (1,150 S.F.)



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 28, 2015  
PAGE 6

## ORDERED:

Hersson Villatoro & Sandra Villatoro 11 Brook Street Marlborough, MA 01752	82/47	250 S.F. vegetated area \$0 899 S.F. paved area (1,149 S.F.)
Barbara Lizotte, Trustee, Lizotte Trust \$386 (its heirs, assigns or beneficiaries) 46 Westlook Lane Westport, MA 02790	82/45	515 S.F. vegetated area 1,789 S.F. paved area (2,304 S.F.)
Francis Cannavino & Celia R. Cannavino \$1,850 9 Dunster Avenue Wayland, MA 01778	82/56	370 S.F. vegetated area 1,056 S.F. paved area (1,426 S.F.)
Silas Evangelista & Dinalva Evangelista 27 Brook Street Marlborough, MA 01752	82/44A	230 S.F. vegetated area \$0 667 S.F. paved area (897 S.F.)
Philip L. Bancroft & Raeanne T. Bancroft 31 Brook Street Marlborough, MA 01752	82/44	305 S.F. vegetated area \$0 822 S.F. paved area (1,127 S.F.)
Walter Demoorjian, Trustee, Demoorjian Family Trust 35 Brook Street Marlborough, MA 01752	82/43	1,040 S.F. vegetated area \$0 2,577 S.F. paved area (3,617 S.F.)

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

ADOPTED

ORDER NO. 15-1006323  
X14-1005847A



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
15 SEP 24 A 11:05

# 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  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

5  
*Arthur G. Vigeant*  
MAYOR

*Nicholas Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

September 24, 2015

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

**Re: Order of Acceptance of Layout of LaCombe Street as a Public Way and Eminent Domain Order of Taking; Quitclaim Deed for LaCombe Street Cul-de-Sac and Easements**

Honorable President Clancy and Councilors:

Enclosed please find a proposed Order of Acceptance of Layout of LaCombe Street as a Public Way and Taking by Eminent Domain. As you may know, the City owns the westerly portion of LaCombe Street, but the easterly portion and the cul-de-sac are privately owned. The privately owned easterly portion of LaCombe Street will be obtained by the City through the proposed eminent domain. A separate vote for an appropriation for the damages awards relating to the proposed taking is not necessary, since an appropriation is already available.

With respect to the cul-de-sac portion of LaCombe Street, Mr. Paul DiTullio of LaCombe Business Center, LLC has submitted to the City the attached Quitclaim Deed in fulfillment of his commitment to the Planning Board. The deed not only conveys the cul-de-sac, but it also conveys an appurtenant drainage easement and flow easements.

The Public Works Commissioner and the Engineering Division will be available to answer any specific questions relative to the project. In the meantime, if you have any questions, please do not hesitate to contact me.

Sincerely,

**Arthur G. Vigeant**  
Mayor

Enclosures

**ORDERED:**

**Acceptance Of Layout Of LaCombe Street As A Public Way  
AND  
Eminent Domain Order of Taking**

WHEREAS, at a meeting of the City Council of the City of Marlborough held this \_\_\_ day of \_\_\_\_\_ 2015 it is ordered that the City Council, having determined and adjudicated that the common convenience and necessity require that LaCombe Street, Marlborough, MA, the westerly portion of its length being owned by the City of Marlborough (not including the cul-de-sac terminus) and the easterly portion of its length being a privately owned (including the entirety of the cul-de-sac terminus) all of which is laid out in the location hereinafter described and shown on Exhibit "A" hereto, having complied with all the requirements of law relating thereto, become a public way in the entirety of its length and width from Valley Street up to and including the cul-de-sac terminus, title for which cul-de-sac and title to the drainage easement and flow easements shown on Exhibit "A" having been granted to the City of Marlborough in a Quitclaim Deed from LaCombe Business Center, LLC, with a business address at 58 LaCombe Street, Marlborough MA, said deed to be recorded herewith at the Middlesex Couth County Registry of Deeds, did on the \_\_\_ day of \_\_\_\_\_ 2015 lay out such way under provision of law and it was voted following the report of said layout, to accept such way as laid out, effective upon recording of the taking by eminent domain herein; and at the same time;

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience, public welfare, and necessity require that the fee interest in the private portion of the length of LaCombe Street, being the easterly portion of said way as shown on Exhibit "A" hereto, the layout of said way having been accepted by the City Council as described herein, be taken for the purposes of a public way and for each and every municipal purposes including without limitation the repair, construction, maintenance, replacement, operation, alteration, removal, and improvement of public utilities and appurtenant structures, paving, curbs, sidewalks, fixtures, and appurtenant structures, and equipment located in, on, under, and through said way;

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 LaCombe Street as more particularly described herein be taken for said municipal purposes, 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 fee interests in the land for the purposes 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 fee simple interest in the following described land, including all trees and other vegetation thereon.

## DESCRIPTION OF LAND TAKEN

**1. Street address: 48 Valley Street, Marlborough, MA 01752**

Being a 2,566 S.F. portion of the property located at 48 Valley Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 50 on the Assessors' Map of the City of Marlborough, which 2,566 S.F. portion consists of 660 S.F. of vegetated area on LaCombe Street and 1,906 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Elizabete D.S. Costa  
48 Valley Street  
Marlborough, MA

**2. Street Address: LaCombe Street, Marlborough, MA 01752  
(being a separate parcel of 7 Brook Street)**

Being a 1,150 S.F. portion of the property located on LaCombe Street, said property also known and numbered as Map 82, Parcel 48 on the Assessors' Map of the City of Marlborough, which 1,150 S.F. portion consists of 255 S.F. vegetated area on LaCombe Street and 895 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Foggy Style LLC  
6 Angelica Drive  
Southborough, MA 01772

**3. Street Address: 11 Brook Street, Marlborough, MA 01752**

Being a 1,149 S.F. portion of the property located at 11 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 47 on the Assessors' Map of the City of Marlborough, which 1,149 S.F. portion consists of 250 S.F. of vegetated area on LaCombe Street and 899 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1'=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Hersson Villatoro & Sandra Villatoro  
11 Brook Street  
Marlborough, MA 01752

**4. Street Address: LaCombe Street, Marlborough, MA 01752**

Being a 2,304 S.F. portion of the property located on LaCombe Street, said property also known and numbered as Map 82, Parcel 45 on the Assessors' Map of the City of Marlborough, which 2,304 S.F. portion consists of 515 S.F. of vegetated area on LaCombe Street and 1,789 S.F. of paved area of LaCombe Street as shown Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering

and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Barbara Lizotte, Trustee, Lizotte Trust, its heirs, assigns or beneficiaries  
46 Westlook Lane  
Westport, MA 02790

**5. Street Address: 23 Brook Street, Marlborough, MA 01752**

Being a 1,426 S.F. portion of the property located at 23 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 56 on the Assessors' Map of the City of Marlborough, which 1,426 S.F. portion consists of 370 S.F. of vegetated area on LaCombe Street and 1,056 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Francis Cannavino & Celia R. Cannavino  
9 Dunster Avenue  
Wayland, MA 01778

**6. Street Address: 27 Brook Street, Marlborough, MA 01752**

Being a 897 S.F. portion of 27 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 44A on the Assessors' Map of the City of Marlborough, which 897 S.F. portion consists of 230 S.F. of vegetated area on LaCombe Street and 667 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Silas Evangelista & Dinalva Evangelista  
27 Brook Street  
Marlborough, MA 01752

**7. Street Address: 31 Brook Street, Marlborough, MA 01752**

Being a 1,127 S.F. portion of the property at 31 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 44 on the Assessors' Map of the City of Marlborough, which 1,127 S.F. portion consists of 305 S.F. of vegetated area on LaCombe Street and 822 S.F. of paved area of LaCombe Street as shown on Exhibit "A" hereto, being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County); Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNERS: Philip L. Bancroft & Raeanne T. Bancroft  
31 Brook Street  
Marlborough, MA 01752

**8. Street Address: 35 Brook Street, Marlborough, MA 01752**

Being a 3,617 S.F. portion of the property at 35 Brook Street, Marlborough, MA, said property also known and numbered as Map 82, Parcel 43 on the Assessors' Map of the City of Marlborough, which 3,617 S.F. portion consists of 1,040 S.F. vegetated area on LaCombe Street and 2,577 S.F. of paved area of LaCombe Street as shown on Exhibit "A", being a plan entitled "Plan Of Acceptance Of LaCombe Street; Marlborough, Massachusetts (Middlesex County) Engineering and Design Consultants, Inc., 32 Turnpike Road, Route 9, Southborough, MA 01772; Scale 1"=40'; March 25, 2014," said plan to be recorded herewith.

OWNER: Walter Demoorjian, Trustee, Demoorjian Family Trust  
35 Brook Street  
Marlborough, MA 01752

### 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 COMPONENTS (TOTAL AREA)</u>	<u>AWARD</u>
Elizabeth D.S. Costa 48 Valley Street Marlborough, MA	82/50	660 S.F. vegetated area 1,906 S.F. paved area (2,566 S.F.)	\$3,960
Foggy Style LLC 6 Angelica Drive Southborough, MA 01772	82/48	255 S.F. vegetated area 895 S.F. paved area (1,150 S.F.)	\$1,275
Hersson Villatoro & Sandra Villatoro 11 Brook Street Marlborough, MA 01752	82/47	250 S.F. vegetated area 899 S.F. paved area (1,149 S.F.)	\$0
Barbara Lizotte, Trustee, Lizotte Trust (its heirs, assigns or beneficiaries) 46 Westlook Lane Westport, MA 02790	82/45	515 S.F. vegetated area 1,789 S.F. paved area (2,304 S.F.)	\$386
Francis Cannavino & Celia R. Cannavino 9 Dunster Avenue Wayland, MA 01778	82/56	370 S.F. vegetated area 1,056 S.F. paved area (1,426 S.F.)	\$1,850
Silas Evangelista & Dinalva Evangelista 27 Brook Street Marlborough, MA 01752	82/44A	230 S.F. vegetated area 667 S.F. paved area (897 S.F.)	\$0
Philip L. Bancroft & Raeanne T. Bancroft 31 Brook Street Marlborough, MA 01752	82/44	305 S.F. vegetated area 822 S.F. paved area (1,127 S.F.)	\$0

Walter Demoorjian, Trustee,  
Demoorjian Family Trust  
35 Brook Street  
Marlborough, MA 01752

82/43

1,040 S.F. vegetated area \$0  
2,577 S.F. paved area  
(3,617 S.F.)

ADOPTED  
In City Council  
Order No. 15-  
Adopted

Approved By Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST

2014-087



RECEIVED  
SEP 23 2015

OFFICE OF THE CITY SOLICITOR  
MARLBOROUGH, MA 01752

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

September 22, 2015

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

**RE: Order Of Acceptance of Layout of LaCombe Street As A Public Way And Taking By Eminent Domain; Quitclaim Deed of Paul DiTullio of LaCombe Business Center LLC For LaCombe Street Cul-De-Sac**

Dear Mayor Vigeant:

I request that you send to the City Council, for its action, the attached Order Of Acceptance of Layout of LaCombe Street As A Public Way And Taking By Eminent Domain. As you know, the westerly portion of LaCombe Street is owned by the City. By the proposed Order, the City will own the entire layout of LaCombe Street. The proposed Order acknowledges receipt of the deed for the cul-de-sac portion of LaCombe Street from Paul DiTullio, dba LaCombe Business Center LLC, accepts the street (including the cul-de-sac) as a public way, and takes by eminent domain those portions of the easterly half of LaCombe Street which are held in fee by the abutters.

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

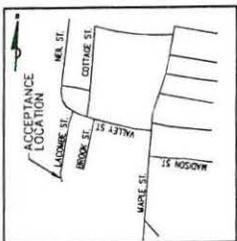
Sincerely,

John L. Ghiloni  
Commissioner of Public Works

Enclosures

Cc: Cynthia Panagore Griffin, Assistant City Solicitor  
Evan Pilachowski, City Engineer

EXHIBIT "A"



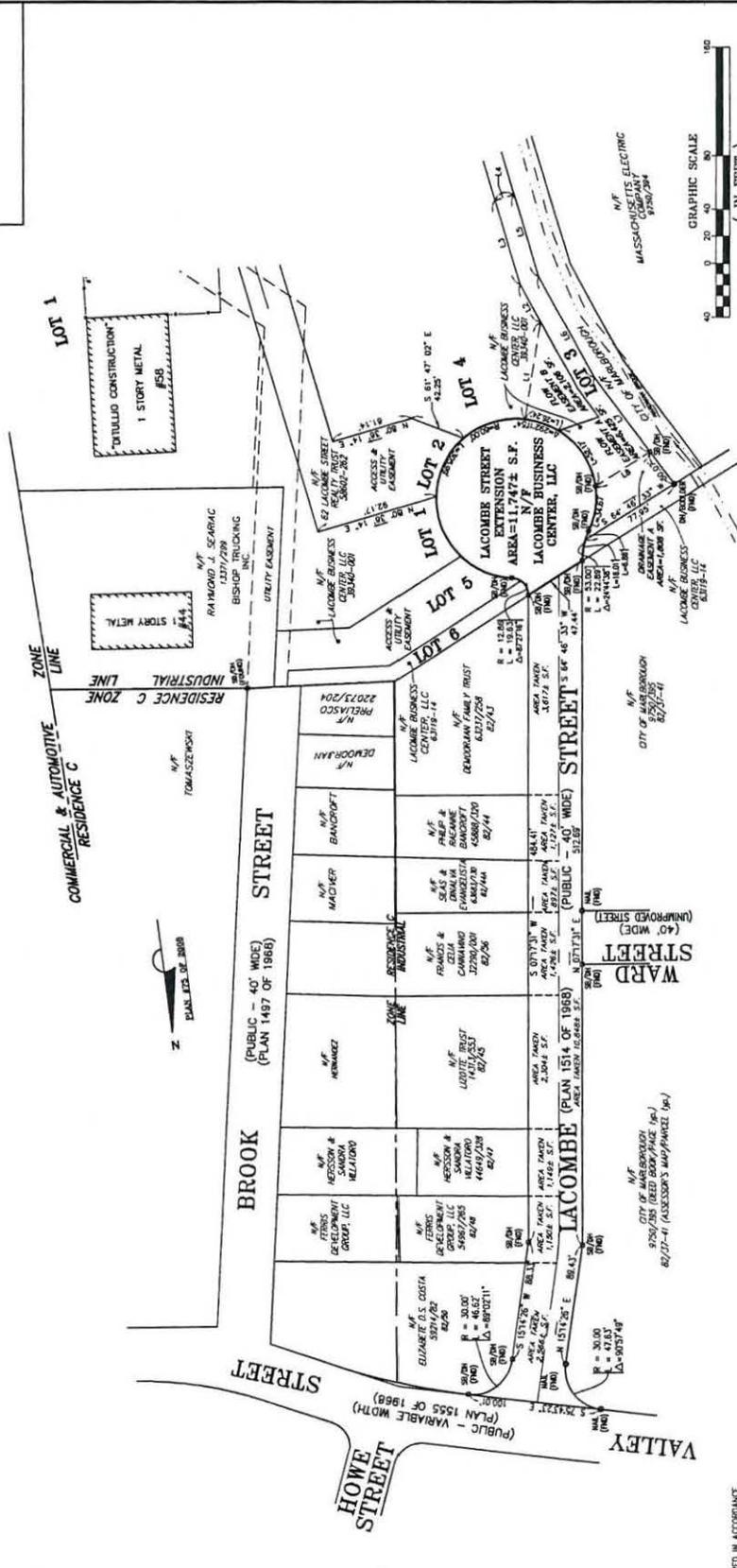
LOCUS MAP (PL 151)

- LEGEND**
- STONE BOUND DRILL HOLE
  - IRON PIN/NOO

**REFERENCES**

MIDDLESEX COUNTY REGISTRY OF DEEDS  
 PLAN 1027 OF 2000  
 493 - 1998  
 1102 - 1981  
 916 - 1979  
 696 - 1979  
 1555 - 1966  
 1497 - 1968  
 676 - 1966  
 1197 - 1955

FILED PLAN No. 72  
 FLOOD INSURANCE RATE MAP, CITY OF MARLBOROUGH, MASSACHUSETTS, COMMUNITY PANEL No. 250203 0015 B, EFFECTIVE DATE 1/6/1982.  
 WARD STREET BUILT BY THE LAND BEING IN MARLBOROUGH, MASS OWNED BY BATTINIA AND ELSA DITULLIO DATED 12/28.



I CERTIFY THAT THIS SURVEY AND PLAN WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 260B OF THE STATUTES OF THE COMMONWEALTH OF MASSACHUSETTS, TITLE 260 CHAPTER 60D.

I FURTHER CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS SHOWN ON THE RECORDS OF THE COMMONWEALTH OF MASSACHUSETTS FOR EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.



REGISTERED LAND SURVEYOR  
 DATE

**Line and Curve Table**

Line #/Curve #	Bearing/Delta	Radius	Length
L1	S16° 11' 02" W		73.75
L2	N27° 23' 46" W		32.03
L3	N° 23' 46" W		65.00
L4	S87° 35' 14" W		15.00
L5	N° 23' 46" W		63.42
L6	N27° 08' 46" W		66.00
L7	N27° 08' 46" W		70.03
L8	S84° 46' 33" W		48.07

PLAN OF ACCEPTANCE OF  
 LACOMBE STREET  
 MARLBOROUGH, MASSACHUSETTS  
 (MIDDLESEX COUNTY)  
 ENGINEERING DESIGN CONSULTANTS, INC.

32 TURNPIKE ROAD  
 MARLBOROUGH, MASSACHUSETTS 01772  
 W.B. EDWARDS  
 DATE: MARCH 25, 2014  
 JOB No. EDC-3017  
 SHEET No. 1 OF 1



## QUITCLAIM DEED

LaCombe Business Center, LLC, a Massachusetts Limited Liability Company, having a business address at 58 Lacombe Street, Marlborough, Massachusetts

for consideration paid of One and 00/100 (\$1.00) Dollar

grants to the City of Marlborough, a Massachusetts municipal corporation, having an address of 140 Main Street, Marlborough, Massachusetts

with Quitclaim Covenants

the land in Marlborough, Middlesex County, Massachusetts shown as "Lacombe Street Extension" on a plan of land entitled "PLAN OF ACCEPTANCE OF LACOMBE STREET MARLBOROUGH, MASSACHUSETTS (MIDDLESEX COUNTY) ENGINEERING DESIGN CONSULTANTS, INC. 32 Turnpike Road, Route 9 Southborough, Massachusetts 01772 Office: 508-480-0225 Web: EDCMA.COM Date March 25, 2014 Scale 1"=40'", recorded with the Middlesex South District Registry of Deeds prior herewith.

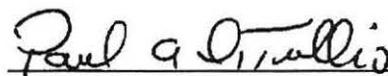
Said Lacombe Street Extension contains 11,747 square feet, more or less, according to said plan.

The above described premises are conveyed with the benefit of Drainage Easement A, Area = 1,808 SF, Flow Easement A, Area = 6,425 SF and Flow Easement B, Area = 2,106 SF, all as shown on said plan.

THIS TRANSFER DOES NOT REPRESENT ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE COMPANY IN THE COMMONWEALTH OF MASSACHUSETTS.

Being a portion of the premises conveyed to Grantor by Deed from NSTAR GAS COMPANY dated December 11, 2013, recorded with the Middlesex South District Registry of Deeds in Book 63119, Page 15 and Deed from Elsa DiTullio dated March 28, 2014, recorded with said Deeds in Book 63421, Page 30.

Witness my hand and seal this 13th day of August, 2015.



Paul A. DiTullio, Manager and person  
authorized to execute real estate documents  
of LaCombe Business Center, LLC

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

August 13, 2015

Before me, the undersigned notary public, personally appeared the above-named Paul A. DiTullio, Manager and person authorized to execute real estate documents of LaCombe Business Center, LLC and proved to me through satisfactory evidence of identification, which were:

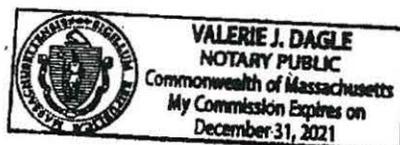
- through personal knowledge
- by oath of a credible witness unaffected by the transaction who personally knows the signatories and is personally known to the undersigned notary public
- picture IDs to wit *MA Drivers License*

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

*Valerie J. Dagle*

Notary Public

My Commission Expires:





# IN CITY COUNCIL

Marlborough, Mass., OCTOBER 19, 2015  
PAGE 1

## ORDERED:

That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:-

AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET  
MANAGEMENT AND MAINTENANCE TO CONVEY PERMANENT  
EASEMENTS IN LAND ORIGINALLY ACQUIRED FOR WATER  
QUALITY PROTECTION FOR THE SUDBURY RESERVOIR IN THE  
CITY OF MARLBOROUGH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 1,006.13 square feet, located in the city of Marlborough and shown as Proposed Easement 1 on a plan of land entitled "Easement Plan of Land in Marlborough, Massachusetts" prepared by Thomas DiPersio Jr. & Associates, Inc., dated September 4, 2015, to be recorded with the Middlesex County South Registry of Deeds, for the purposes of the construction, maintenance, and repair or replacement of pedestrian improvements and a municipal water line, subject to such terms and conditions as the commissioner may prescribe. The parcels described in this section and sections 2 and 3 inclusive are currently used for conservation purposes.

**SECTION 2.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 6,611.26 square feet, located in the city of Marlborough and shown as Proposed Easement 2 on a plan of land entitled "Easement Plan of Land in Marlborough, Massachusetts" prepared by Thomas DiPersio Jr. & Associates, Inc., dated September 4, 2015, to be recorded with the Middlesex County South Registry of Deeds, for the purposes of construction, maintenance, and repair or replacement of pedestrian improvements and a municipal water line, subject to such terms and conditions as the commissioner may prescribe.



# IN CITY COUNCIL

Marlborough, Mass., OCTOBER 19, 2015  
PAGE 2

**ORDERED:**

**SECTION 3.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 2,634 square feet, located in the city of Marlborough and shown as Parcel No. E-9 on a plan of land entitled "Right-of-Way Plans Farm Road in the city of Marlborough, Middlesex County" prepared by Vanasse Hangen Brustlin, Inc., dated October 14, 2014, recorded with the Middlesex County South Registry of Deeds as sheet 7 of Plan 458 of 2015, for the purpose of construction, maintenance, and repair or replacement of drainage improvements, subject to such terms and conditions as the commissioner may prescribe.

**SECTION 4.** The transfers pursuant to section 1, 2 and 3 inclusive, shall be made only if the city of Marlborough acting by and through its city council and mayor, shall convey to the commonwealth for use by the metropolitan district commission or place under conservation restriction a certain parcel of land located in said city and within the watershed of the Sudbury Reservoir. Said parcel shall contain an area greater than or equal to the total area of that land conveyed to the city under sections 1, 2 and 3 subject to such terms and conditions as the city through its mayor and city council may prescribe.

**SECTION 5.** The city of Marlborough shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the property, or for any costs and liabilities of any nature and kind for its development, maintenance or operation. In the event any or all of said parcels of land cease to be used at any time for the purposes contained herein, said parcel of land shall be subject to the provisions of chapter 7C of the General Laws, and any further disposition shall require the approval of the general court.

**SECTION 6.** The commissioner of capital asset management and maintenance shall 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairman on the joint committee on state administration at least 15 days prior to execution.

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

ADOPTED

ORDER NO. 15-1006342



City of Marlborough

RECEIVED  
CITY CLERK  
CITY OF MARLBOROUGH  
**Legal Department**  
140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

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

3  
**DONALD V. RIDER, JR.**  
CITY SOLICITOR

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

**ELLEN M. STAVROPOULOS**  
PARALEGAL

October 15, 2015

Edward Clancy  
President  
Marlborough City Council

RE: Proposed Order For A Home Rule Petition Concerning Conveyance By The Division Of Capital Asset Management And Maintenance Of Permanent Easements To The City Of Marlborough

Dear President Clancy and Members:

Enclosed for your consideration is a proposed order concerning a Home Rule Petition which would authorize the conveyance of certain permanent easements by the Division Of Capital Asset Management And Maintenance to the City Of Marlborough. The easement areas, originally acquired by the commonwealth of Massachusetts for water quality protection of the Sudbury Reservoir, are necessary for the proposed construction by the Department of Public Works of drainage improvements on Farm Road, and a municipal water line and pedestrian improvements on Walker Street.

I am available at your convenience to discuss this matter more fully with you. The Commissioner and/or Engineering Division will also be available to answer any specific questions relative to the proposed construction projects.

Thank you for your attention to this matter.

Very truly yours,

Cynthia M. Panagore Griffin  
Assistant City Solicitor

Enclosure

Cc: Arthur Vigeant, Mayor  
John Ghiloni, Commissioner, Department of Public Works  
Evan Pilachowski, City Engineer

ORDERED:

That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:-

AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT  
AND MAINTENANCE TO CONVEY PERMANENT EASEMENTS IN LAND  
ORIGINALLY ACQUIRED FOR WATER QUALITY PROTECTION FOR THE  
SUDBURY RESERVOIR IN THE CITY OF MARLBOROUGH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 1,006.13 square feet, located in the city of Marlborough and shown as Proposed Easement 1 on a plan of land entitled "Easement Plan of Land in Marlborough, Massachusetts" prepared by Thomas DiPersio Jr. & Associates, Inc., dated September 4, 2015, to be recorded with the Middlesex County South Registry of Deeds, for the purposes of the construction, maintenance, and repair or replacement of pedestrian improvements and a municipal water line, subject to such terms and conditions as the commissioner may prescribe. The parcels described in this section and sections 2 and 3 inclusive are currently used for conservation purposes.

**SECTION 2.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 6,611.26 square feet, located in the city of Marlborough and shown as Proposed Easement 2 on a plan of land entitled "Easement Plan of Land in Marlborough, Massachusetts" prepared by Thomas DiPersio Jr. & Associates, Inc., dated September 4, 2015, to be recorded with the Middlesex County South Registry of Deeds, for the purposes of construction, maintenance, and repair or replacement of pedestrian improvements and a municipal water line, subject to such terms and conditions as the commissioner may prescribe.

**SECTION 3.** The commissioner of capital asset management and maintenance, in consultation with the metropolitan district commission, may, notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General Laws, convey by deed to the city of Marlborough a permanent easement in a certain parcel of land containing approximately 2,634 square feet, located in the city of Marlborough and shown as Parcel No. E-9 on a plan of land entitled "Right-of-Way Plans Farm Road in the city of Marlborough, Middlesex County" prepared by Vanasse Hangen Brustlin, Inc., dated October 14, 2014, recorded with the Middlesex County South Registry of Deeds as sheet 7 of Plan 458 of 2015, for the purpose of construction, maintenance, and repair or replacement of drainage improvements, subject to such terms and conditions as the commissioner

may prescribe.

**SECTION 4.** The transfers pursuant to section 1, 2 and 3 inclusive, shall be made only if the city of Marlborough acting by and through its city council and mayor, shall convey to the commonwealth for use by the metropolitan district commission or place under conservation restriction a certain parcel of land located in said city and within the watershed of the Sudbury Reservoir. Said parcel shall contain an area greater than or equal to the total area of that land conveyed to the city under sections 1, 2 and 3 subject to such terms and conditions as the city through its mayor and city council may prescribe.

**SECTION 5.** The city of Marlborough shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the property, or for any costs and liabilities of any nature and kind for its development, maintenance or operation. In the event any or all of said parcels of land cease to be used at any time for the purposes contained herein, said parcel of land shall be subject to the provisions of chapter 7C of the General Laws, and any further disposition shall require the approval of the general court.

**SECTION 6.** The commissioner of capital asset management and maintenance shall 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairman on the joint committee on state administration at least 15 days prior to execution.

ADOPTED  
In City Council  
Order No. 15-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:

MARLBOROUGH  
FARM ROAD  
RIGHT-OF-WAY  
PROPERTY PLANS  
SHEET 7 OF 12

General Notes

- 1) THE RIGHT-OF-WAY LINES SHOWN ON THIS PLAN ARE BASED UPON AN ACTUAL FIELD SURVEY CONDUCTED BY MARSHALL REYNOLDS, INC. IN MARSHALL REYNOLDS, INC. IS NOT RESPONSIBLE FOR ANY DISCREPANCIES THAT MAY BE NOTED BETWEEN THIS PLAN AND ANY RECORD MAPS OR RECORD PLANS.
- 2) HORIZONTAL DATUM IS BASED ON MASS. GRID SYSTEM, NAD 1983.
- 3) THE PURPOSE OF THIS PLAN IS TO SHOW PROPOSED LAND TO BE TAKEN FOR PUBLIC PURPOSES, ALONG WITH PERMANENT AND TEMPORARY EASEMENTS.



458 OF 8015  
RECORDED FOR PUBLIC USE ONLY  
(20-APR-15 2015)

CLARKE DRIVE  
(COUNCIL ORDER 1/17/83)  
PUBLIC

PARCEL NO. TE-30  
RALPH P & DIANE L. 917  
CHERRY LANE  
AREA ABOUT 725 S.F.

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I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES & REGULATIONS OF THE REGISTRARS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

9/22/15 *Robert J. Parente*  
 DATE REG. PROF. LAND SURVEYOR

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY LINES THAT ARE THE LINES OF EXISTING OWNERSHIP AND THE LINES OF STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

9/22/15 *Robert J. Parente*  
 DATE REG. PROF. LAND SURVEYOR

**GENERAL NOTES:**

- 1) CITY OF MARLBOROUGH ASSESSORS MAP 83
- 2) DEED REFERENCES AS NOTED
- 3) PLAN REFERENCES:

"BOSTON WATERWORKS PLAN OF TAKING OF LANDS ALONG BROOK IN MARLBOROUGH", JULY 1882. "CITY OF MARLBOROUGH FRED PLAN 01 LAYOUT OF WALKER STREET, 1961 RELOCATION" DECEMBER, 1961

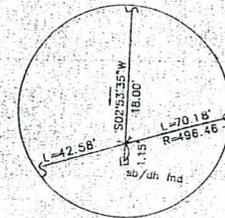
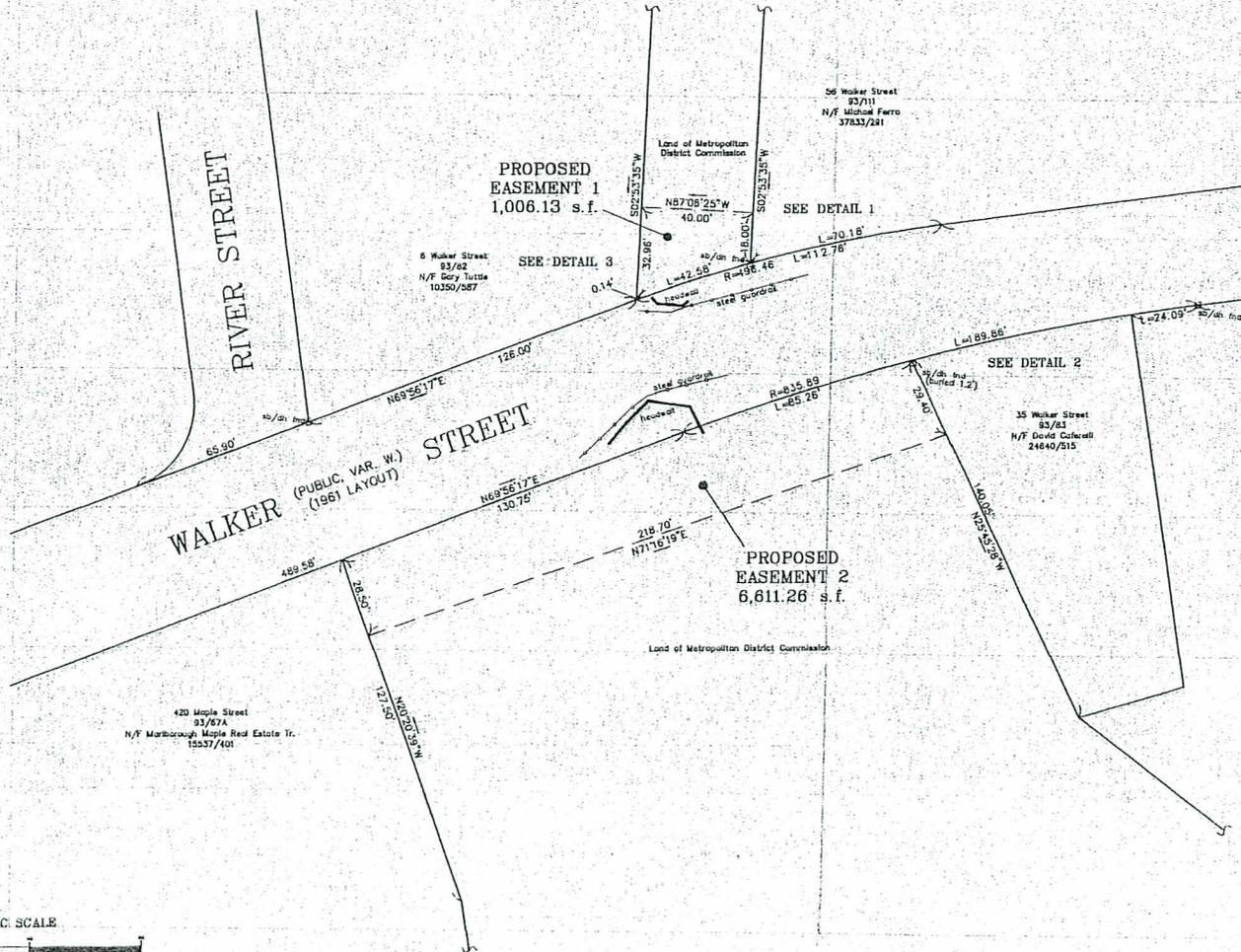
MCRD PLAN No. 1483 OF 1965

MCRD PLAN No. 417 OF 1984

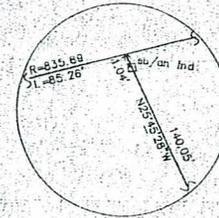
MCRD PLAN No. 75 OF 2003

1" = 10' - STONE BOUND/DRILL HOLE FOUND

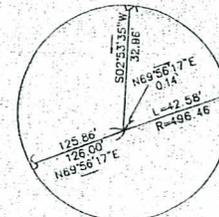
FOR REGISTRY USE



DETAIL 1 (N.T.S.)



DETAIL 2 (N.T.S.)



DETAIL 3 (N.T.S.)



ROBERT J. PARENTE, P.L.S.  
 LICENSE #35787

No.	Date	Description	Revisions

Prepared for:  
 CITY OF MARLBOROUGH  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 155 NEIL STREET  
 MARLBOROUGH, MA 01752

Owned by:  
 COMMONWEALTH OF MA  
 METROPOLITAN DISTRICT  
 COMMISSION

Prepared by:  
**THOMAS**  
 DISPENSA, JR.  
 & ASSOCIATES, INC.  
 LAND SURVEYORS & CIVIL ENGINEERS  
 40 STATE STREET, SUITE 200  
 MARLBOROUGH, MA 01752

The  
**EASEMENT PLAN**  
 OF LAND IN  
 MARLBOROUGH, MA

SCALE	1"=20'
DRAWN	TD
CHECKED	JMP
FILE NAME	JMP150915Easement Plan.dwg
PLOTTED	
ISSUE DATE	SEPTEMBER 4, 2015
DWG NO.	2718

GRAPHIC SCALE





# IN CITY COUNCIL

Marlborough, Mass., OCTOBER 19, 2015

## ORDERED:

That the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

Said open space is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

Acceptance of this open space is subject to all terms and conditions of a Special Permit granted on or about May 5, 1997 by the Planning Board of the City of Marlborough and a covenant approved on February 9, 1998 by the Planning Board of the City of Marlborough, both of which are attached hereto and incorporated herein by reference.

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

**Councilor Oram abstained.**

ADOPTED

ORDER NO. 15-1006343  
X04/05-100439

5



# City of Marlborough Legal Department

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
DONALD V. RIDER, JR.  
CITY SOLICITOR

2015 OCT 15

CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS  
PARALEGAL

October 15, 2015

*Handwritten notes:*  
for conservation  
ORAM  
abstained

Edward Clancy  
President  
Marlborough City Council

RE: Waters Edge Subdivision – Proposed Acceptance of Deed of Open Space Parcels  
Order No. X04/05-100439

Dear President Clancy and Members:

In 1997, the Planning Board granted an open space special permit to Ansari Builders, Inc. concerning a subdivision now known as Waters Edge. This subdivision is located off Stevens Street, and consists of Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive.

The approved special permit called for the developer to set aside 9.33 acres of open space, in 3 parcels. In fact, the open space acreage totals 10.54 acres. A copy of a plan showing the 3 parcels (Parcels A, B and C), along with a trail easement connecting Stevens Street to Parcel A, is enclosed.

While the open space parcels had originally been submitted to the City Council for its acceptance in 2004, the matter was eventually tabled in 2005, apparently because of back taxes then owed on those parcels (Order No. X04/05-100439). Property taxes have most recently been paid through June 30, 2015, and the developer's attorney has represented to me that his client will be paying the applicable FY 2016 taxes so that this conveyance to the City can be completed.

Accordingly, enclosed for your consideration is a signed deed for the 3 open space parcels and the trail easement. Also enclosed is a proposed order, along with the open space special permit and the subdivision covenant which are referenced in the order.

Thank you for your attention to this matter.

Very truly yours,

*Donald V. Rider, Jr.*  
Donald V. Rider, Jr.  
City Solicitor

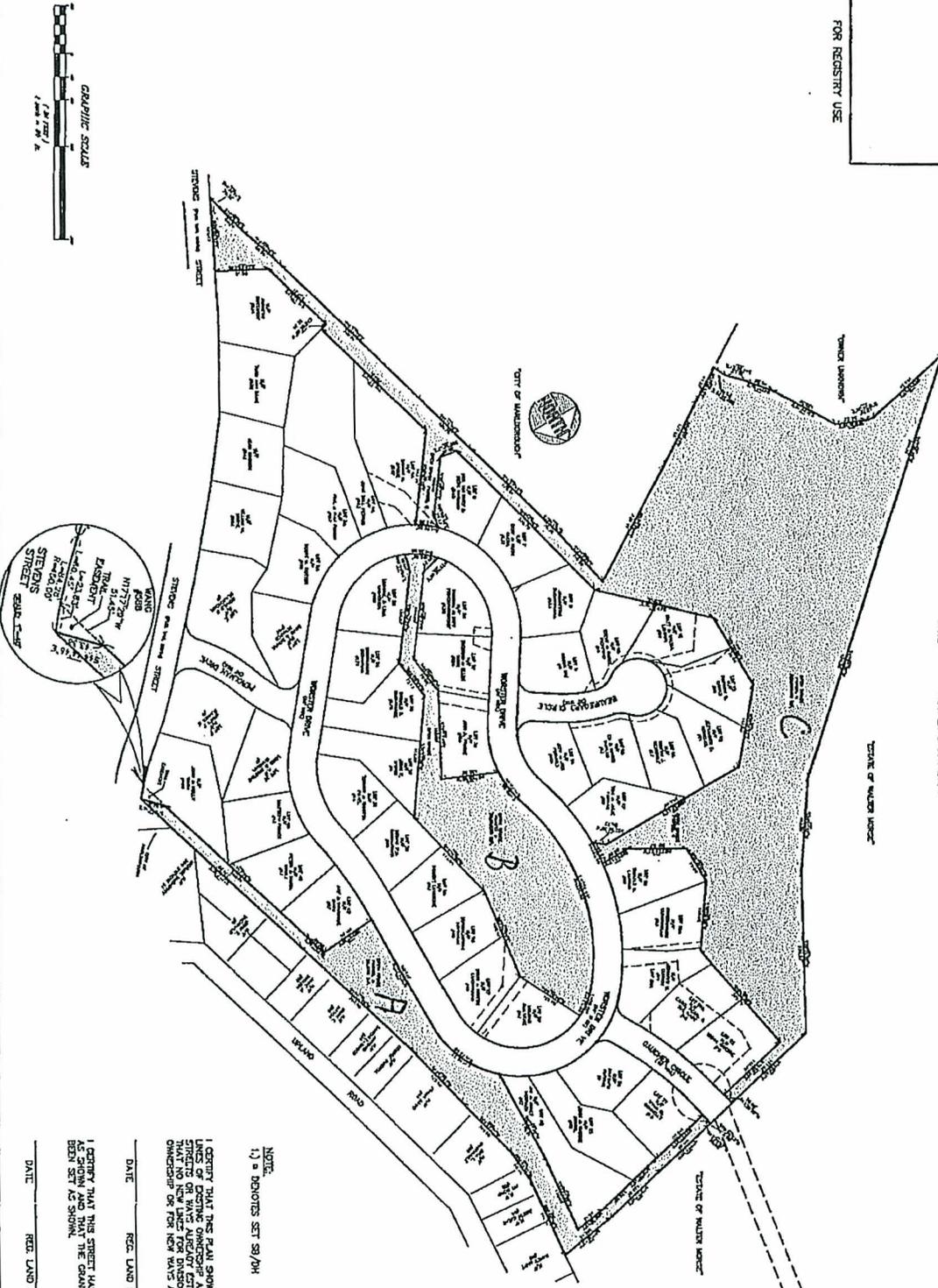
Enclosures

- cc: Christopher Flood, Esquire  
Planning Board
- Evan Pilachowski, City Engineer
- Timothy Collins, Assistant City Engineer
- Priscilla Ryder, Conservation Officer

FOR REGISTRY USE

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES, REGULATIONS AND ORDINANCES OF THE OFFICE OF THE COMMONWEALTH OF MASSACHUSETTS.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_



NOTE:  
1) = DENOTES SET 30/04

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY LINES OF THE LOTS AND THE LINES OF THE STREETS OR TRAILS AS SHOWN AND THAT THE GRANT DIVISIONS HAVE BEEN SET AS SHOWN.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_

I CERTIFY THAT THIS STREET HAS BEEN Laid OUT AS SHOWN AND THAT THE GRANT DIVISIONS HAVE BEEN SET AS SHOWN.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_

THOMAS DEPERON, PLS  
LICENSED PLS

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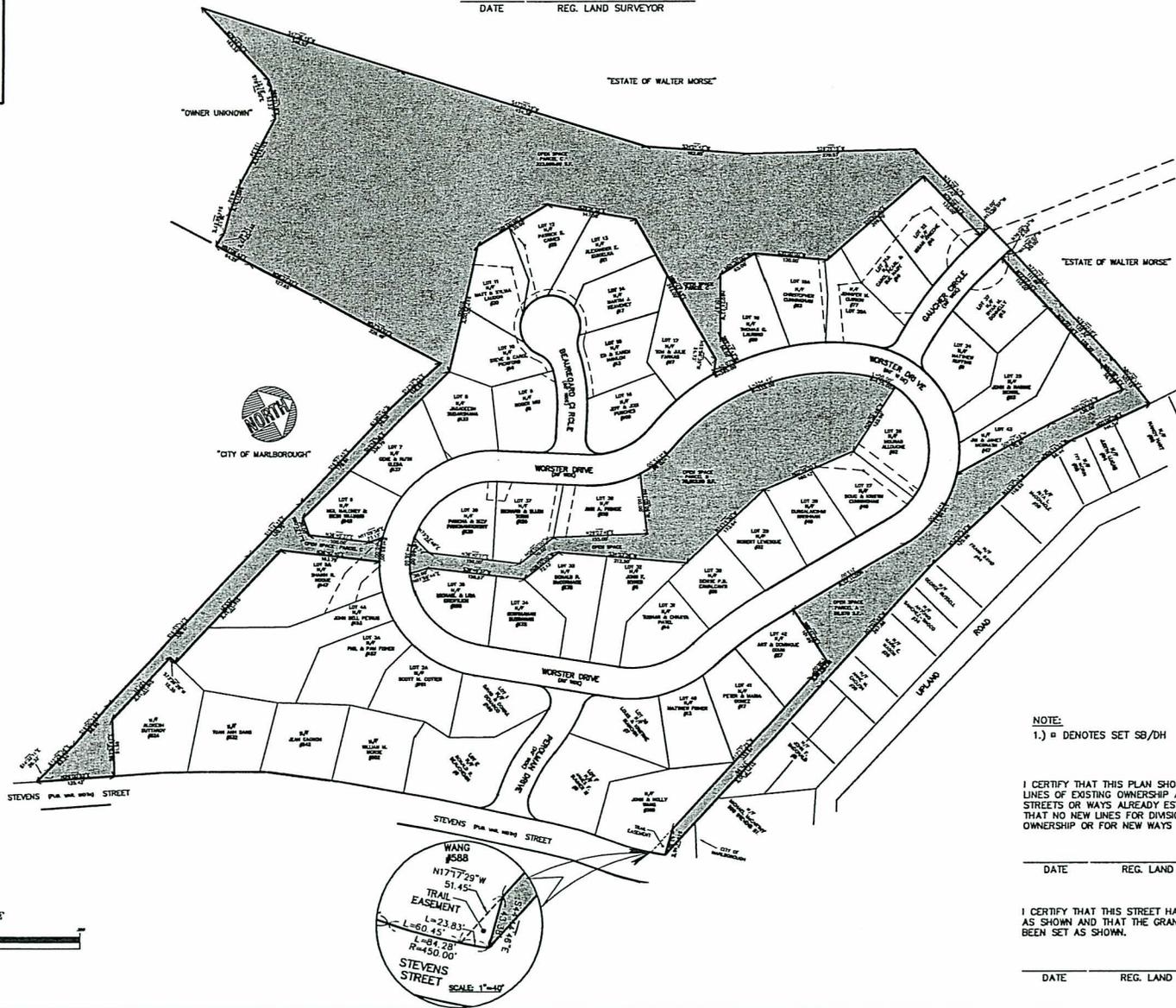
THOMAS DEPERON, PLS  
LICENSED PLS

SHEET 3 OF 3  
510-C

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED  
IN CONFORMITY WITH THE RULES & REGULATIONS  
OF REGISTERS OF DEEDS OF THE COMMONWEALTH  
OF MASSACHUSETTS.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_

FOR REGISTRY USE



THOMAS DIPERSIO, P.L.S.  
LICENSE #29864

No.	Date	Description
6	2/2/12	Add lot numbers
5	8/22/11	Label private easements
4	10/2/11	See. Easemt. label Sh. 2
3	1/7/11	ABUTTER REVISIONS
2	12/18/10	ABUTTER REVISIONS
1	1/29/07	Final Corrections

Prepared for:  
ANSARI BUILDERS  
6 EDGEWOOD DRIVE  
WESTBOROUGH, MA

Property of:  
  
(AS NOTED)

Prepared By:  
THOMAS LAND SURVEYORS  
& Engineering Consultants, Inc.  
100 Worcester Street, Worcester, MA 01609  
Tel: 508-853-1111 Fax: 508-853-1112  
www.thomasland.com

THIS PLAN OF ACCEPTANCE  
OF  
EASEMENTS, OPEN SPACE,  
WORSTER DRIVE, BEAUREGARD CIRCLE,  
GAUCHER CIRCLE & PEROLMAN DRIVE  
IN  
MARLBOROUGH, MA

SCALE	1"=40'
DRAWN BY	MP
CHECKED BY	TD
FILE NAME	1\2006\10\10-CLDUP\PLAN
PLOTTED	
ISSUE DATE	MAY 18, 2006
JOB NO.	510-C

SHEET 3 OF 3  
510-C

NOTE:  
1.) □ DENOTES SET SB/DH

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY  
LINES OF EXISTING OWNERSHIP AND THE LINES OF  
STREETS OR WAYS ALREADY ESTABLISHED AND  
THAT NO NEW LINES FOR DIVISION OF EXISTING  
OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_

I CERTIFY THAT THIS STREET HAS BEEN LAID OUT  
AS SHOWN AND THAT THE GRANITE BOUNDS HAVE  
BEEN SET AS SHOWN.

DATE \_\_\_\_\_ REG. LAND SURVEYOR \_\_\_\_\_

Open Space Parcels "A," "B," and "C," Worster Drive, Marlborough, MA 01752

**DEED**

A.A. Farooq Ansari, Trustee of the Waters Edge Realty Trust, u/d/t dated March 18, 1998 and recorded at the Middlesex County South District Registry of Deeds in Book 28328, page 129, of 6 Edgewood Road, Westborough, MA 01581,

in consideration of One Dollar (\$1.00), and in accordance with the subdivision approval by the Planning Board of the City of Marlborough of the subdivision known as Waters Edge,

grants to the City of Marlborough, a municipal corporation having a principal place of business at City Hall, 140 Main Street, Marlborough, MA 01752,

with QUITCLAIM COVENANTS

The open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded (hereinafter, the "Plan").

Said property is conveyed to said City under the provisions of Mass. Gen. Laws c. 40, § 8C and is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

This conveyance is subject to and together with all rights, easements, covenants and agreements of record. This grant of land is intended to fulfill, in part, the terms and conditions of a special permit granted by the Marlborough Planning Board to Ansari Builders, Inc. by vote dated May 5, 1997 and recorded on March 3, 1998 in Book 28328, Page 147.

Also conveyed by this deed, with quitclaim covenants, is the following easement:

A trail easement in the City of Marlborough as shown on sheet 3 of the Plan.

The grantor certifies a) that he is the sole duly authorized trustee of the above-referenced Trust, and the Trust allows reliance on this deed and the facts stated therein; b) that the Trust is in full force and effect and has not been altered, amended, revoked, or terminated, and no beneficiary is a minor or corporation; and c) that he has been directed by all beneficiaries to execute and deliver this deed on behalf of the Trust.

Being a portion of the premises conveyed to the grantor by Deed recorded at the Middlesex County South District Registry of Deeds in Book 28328, Pages 134 and 144.

IN WITNESS WHEREOF, this 1<sup>st</sup> day of October, 2015.

  
A.A. Farooq Ansari, Trustee of the  
Waters Edge Realty Trust

**COMMONWEALTH OF MASSACHUSETTS**

County of: Middlesex Oct 1, 2015

On this 1<sup>st</sup> day of October, 2015, before me, the undersigned notary public, personally appeared A.A. Farooq Ansari, Trustee of the Waters Edge Realty Trust, and proved to me through satisfactory evidence of identification, which was a Massachusetts Operator's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



  
Notary Public

ORDERED:

That the City Council of the City of Marlborough (GRANTEE), pursuant to the provisions and conditions of Mass. Gen. Laws c. 40, § 8C, does hereby accept from A.A. Farooq Ansari, Trustee of Waters Edge Realty Trust (GRANTOR), the open space in the City of Marlborough known as Open Space Parcel "A," Open Space Parcel "B," and Open Space Parcel "C," as shown on sheet 3 of a 3-page plan entitled "Plan of Acceptance of Easements, Open Space, Worster Drive, Beauregard Circle, Gaucher Circle and Perolman Drive, in Marlborough, MA," prepared by Thomas Land Surveyors and Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, prepared for Ansari Builders, 6 Edgewood Road, Westborough, MA., dated May 16, 2006 (on sheet 3), with latest revision date of February 2, 2012, Scale 1" = 80' (on sheet 3), as more fully described on the said plan which is to be recorded.

Said open space is to be managed and controlled by the Marlborough Conservation Commission for the purposes of the promotion and development of natural resources, watershed protection, passive recreation, and conservation of open space. The open space parcels of land are intended to remain in their natural state, in perpetuity, except as the Marlborough Conservation Commission may deem appropriate as to trail development for non-motorized vehicles.

Acceptance of this open space is subject to all terms and conditions of a Special Permit granted on or about May 5, 1997 by the Planning Board of the City of Marlborough and a covenant approved on February 9, 1998 by the Planning Board of the City of Marlborough, both of which are attached hereto and incorporated herein by reference.

ADOPTED

In City Council

Order No. 15-

X04/05-100439

Adopted

Approved by Mayor

Arthur G. Vigeant

Date:

A TRUE COPY

ATTEST:

GRANTING OF SPECIAL PERMIT  
CONCEPT PLAN OPEN SPACE DEVELOPMENT

DECISION

The Planning Board of the city of Marlborough voted to GRANT a Special Permit to Ansari Builders, Inc. on May 5, 1997 under Ch. 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

NAME OF APPLICANT: Ansari Builders, Inc.  
6 Edgewood Road  
Westborough, MA 01581

NAME OF OWNER: Walter Morse, Joyce Morse & Morse Estates  
Francis Russell, Mountain, Dearborn & Whiting  
370 Main Street  
Worcester, MA 01608

NAME OF SURVEYOR: Thomas DiPersio  
Thomas Land Surveyors & Engineering Consultants Inc.  
118 Forest Street  
Hudson, MA 01749

LANDSCAPE ARCHITECT: Ron Wood  
Guidelines  
4B Damonmill Square  
Concord, MA 01742

LOCATION OF PROPERTY: 29.9 acres of land on the northwesterly side of Stevens Street adjacent to Holt's Grove and across from Lodi Road. Assessor's Map 18, Parcels 93, 133 & 134.

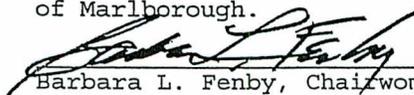
VOTE: In Favor:  
In Opposition:  
Abstained:

DECISION FILED WITH  
CITY CLERK:

May 20, 1997

APPEALS

Appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough.

  
Barbara L. Fenby, Chairwoman

CITY OF MARLBOROUGH  
PLANNING BOARD

SPECIAL PERMIT DECISION

The Planning Board of the City of Marlborough hereby grants a Special Permit to Ansari Builders, Inc. of 6 Edgewood Road, Westborough, Massachusetts, hereinafter referred to as the Applicant, under Chapter 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

FINDINGS OF FACT

1. Ansari Builders, Inc., a Massachusetts corporation with a principal place of business at 6 Edgewood Road, Westborough, Massachusetts is the Applicant.
2. The Applicant on or about May 20, 1996 filed with the Planning Board and the City Clerk of the City of Marlborough an application for a Special Permit under Chapter 200 (Zoning) of the Code of the City of Marlborough, Article VI, Section 200--25.3, Open Space Development.
3. The proposed location of the so-called "Water's Edge" project is a 29.9 acre parcel of land located on the northerly side of Stevens Street, comprised of two parcels, one owned by Walter Morse and Joyce Morse and the other by Francis Russell, Esquire, duly appointed Commissioner by the Middlesex Probate Court; and said property is identified as Parcels 93, 133 & 134 on Assessors' Map 18.
4. The Applicant filed a concept plan entitled, "Water's Edge, Stevens Street, Marlborough, MA", dated May 22, 1996, and stamped by Ronald P. Wood, Registered Landscape Architect, Thomas P. DiPersio, Registered Professional Land Surveyor, and Joseph H. Rego, Registered Professional Engineer.
5. The Planning Board held a public hearing pursuant to the requirements of Massachusetts General Laws Chapter 40A on June 24, 1996. The notice of the public hearing was advertised in the Marlborough Enterprise, and notices were sent to abutters as required by law.
6. The Applicant presented testimony at the public hearing describing the project and compliance with the requirements of Chapter 200--25.3. Testimony from abutters present was also heard.
7. A report from the City of Marlborough Conservation Commission has been received and reviewed as required under Section H(6) of Chapter 200--25.3. Written comments have also been received and reviewed from the City Engineer, Fire Chief, and Police Lieutenant.
8. The Conservation Commission has determined that the plan will require the filing of either a Notice of Intent or Request for Determination of Applicability as there are wetlands on the

property which fall within 100 feet of the proposed lots and proposed roadway which may require protection under the Massachusetts Wetland Protection Act.

9. The Water's Edge Subdivision is a proposed 50 lot subdivision, of which seven of the lots on Stevens Street, an existing public way in the City of Marlborough.
10. Lots will be located within the A-2 zoning district.
11. The Applicant proposes to set aside 9.33 acres of open space which represents 34.9 percent of the total project site. The open space as shown on said plan satisfies the open space dimensional requirements of Section F(6) of Chapter 200--25.3.
12. Subsequent to submission, the concept plan has been revised, most recently on May 2, 1997. The most recently revised plan shows the following:
  - (a) Addition of drainage and sewer to profile views.
  - (b) Addition of water main locations to plan views.
  - (c) Preparation of plan and profile of Steven Street modification.
  - (d) Minor adjustments to lot lines to accommodate required rectangle shape in the lots fronting on Stevens Street.
  - (e) Adjustment to the roadway to increase the open space area on the southeast side of the project and the addition of a planting strip.
  - (f) Addition of note regarding zoning compliance at the Definitive Plan stage.

#### DECISION, CONDITIONS AND FINDINGS

13. The Planning Board approves the creation of 50 building lots of which 7 lots front on Stevens Street; said approval pursuant to the provisions of Section C(4) of Chapter 200--25.3.
14. Final decisions on request for waivers from the Subdivision Rules and Regulations shall be made during the Definitive Plan Approval process.
15. The Applicant shall submit a written commitment from the entities identified in Section 200--25.3(G) regarding the acceptance of the open space parcel. If the City is not the accepting entity, the requirements of Section 200--25.3(G)(2) shall be satisfied. The Applicant shall demonstrate to the Planning Board's satisfaction that the entity if other than the City is institutionally and financially capable of maintaining the open space parcel. If the City of Marlborough is the accepting entity for the Open Space, the amount of Five Thousand and 00/100ths (\$5,000.00) Dollars shall be placed by the Applicant in the City of Marlborough Conservation Commission's Maintenance Fund on or before such time as the lots are released for sale or building thereon. The Applicant shall submit the Conservation restriction, maintenance program and maintenance agreement described in Section 200--

25.3(G)(2)(b), (c) and (d), to the Planning Board for review at the time of submission of the Definitive Subdivision Plan. The Planning Board shall be satisfied that the intent of Section 200--25.3 of the zoning ordinance is satisfied before approving the Definitive Plan.

- 16. Title to the Open Space Parcel must be clear and a site assessment for hazardous waste pursuant to the provisions of Massachusetts General Laws Chapter 21E shall be performed prior to transferring Open Space ownership from the Applicant. The Applicant shall be responsible for paying for said 21E assessment.
- 17. The Definitive Subdivision Plan shall adequately address the concerns of Police Lieutenant Either's as stated in letter dated September 6, 1996.
- 18. The Planning Board finds that the proposed project as conditioned by this Special Permit will meet the objectives of Chapter 200--25.3 and the design criteria of Section H(8)(b) of that Chapter will not have a substantial or unduly adverse effect upon adjacent property or the character of the neighborhood.

Planning

Upon a vote of Board taken on May 5, 1997, the Marlborough Planning Board grants this Special Permit for Open Space Development.

Marlborough Planning Board

IN FAVOR of Special Permit:

OPPOSED to Special Permit:

*Charles E. Stratford*  
 \_\_\_\_\_  
 Charles E. Stratford

*Clyde F. Johnson*  
 \_\_\_\_\_  
 Clyde F. Johnson

*Edward W. Covey*  
 \_\_\_\_\_  
 Edward W. Covey

*Philip J. Hoyle*  
 \_\_\_\_\_  
 Philip J. Hoyle

*Barbara L. Fenby*  
 \_\_\_\_\_  
 Barbara L. Fenby, Chairperson

*Colleen M. Hughes*  
 \_\_\_\_\_  
 Colleen M. Hughes, Clerk

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

Middlesex, ss.

On this 19th day of May, 1997, before me personally appeared the above-named, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

*Denise H. Paul*  
 \_\_\_\_\_  
 Denise H. Paul  
 Notary Public

My Commission Expires: 1/20/2000

## COVENANT

The undersigned, A. A. Farooq Ansari, Trustee of Waters Edge Realty Trust, hereafter referred to as the Covenantor, having submitted to the Marlborough Planning Board a definitive plan of a subdivision entitled, "Definitive Plan of Waters Edge Subdivision of Land in Marlborough, Mass.", dated June 13, 1997 and revised through January 13, 1998, drawn by Thomas Land Surveyors and Engineering Consultants, Inc., 118 Forest Street, Hudson, MA (said plan being hereinafter called the "Plan"), in accordance with the conditions of Approval as voted by the Planning Board on December 8, 1997, does hereby covenant and agree with said Planning Board, pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81-U, as amended that:

1. The Covenantor is the owner of the record of the premises shown on the "Plan", which is to be recorded in the Middlesex South District Registry of Deeds and is referred to herein.
2. This Covenantor shall run with the land and be binding upon the successors and assigns of the Covenantor and its successors in title to the premises shown on the "Plan".
3. The construction of ways and the installation of municipal services shall be provided to serve any and all lots in accordance with the applicable rules and regulations of said Planning Board before any such lot may be built upon or conveyed, other than by mortgage deed; provided, however, that a mortgagee who acquires title to the mortgaged premises or any part thereof may sell any such lot, subject only to that portion of this Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot.
4. Nothing herein shall be deemed to prohibit a conveyance subject to this Covenant, by a single deed, of the entire parcel of land shown on the "Plan" or all lots not previously released by the Planning Board without first providing such ways and services. A deed of any part of the premises shown on the "Plan" in violation of any portion of the above referenced statute shall be voidable by the grantee prior to the release of the Covenant, but not later than three (3) years from the date of such deed.
5. The Covenantor agrees to the easements shown on the "Plan" and will grant to the City of Marlborough the easements shown. Further, the Covenantor will submit to the City Solicitor's Office a written Attorney's Certification of Title to such easements to the City of Marlborough, specifying that the Covenantor has good and marketable title to said easements and that said easements are free and clear of all encumbrances as of the time of conveyance to the City. Said Certificate shall be required precedent to consideration by the City to accept and streets, ways, or roads as shown on the "Plan".
6. Prior to the release by the Planning Board of any lots shown on the "Plan" from the terms of this Covenant, the Covenantor

shall deposit with the City of Marlborough a Performance Bond in an amount to be determined by the Planning Board, said bond to be secured by the posting of cash, or by surety company bond or by such other form of security as may be approved by the Planning Board. Said bond shall be to secure the performance by the Covenantor of the construction of the ways and the installation of municipal services as required by the Approval of the "Plan", within the time requirements as stipulated herein. The amount of the bond may be reduced from time to time by said Planning Board. However, due to present and anticipated future inflationary conditions, the amount of the Performance Bond is subject to annual redetermination by the Planning Board.

7. Pursuant to Rules and Regulations of the Planning Board, Section III (B)(7)(a), as amended, such bond or security, when filed or deposited shall be reviewed as to form and manner of execution by the City Solicitor's Office, and as to sureties by the City Treasurer.
8. No lot shall be built upon until such time as it has been approved by the Marlborough Board of Health.
9. No lot shall be sold or built upon until released by the Planning Board after acceptable bonding. If at any time said bonding as required in Paragraph 6 expires, then all lot releases of lots not transferred to third party purchasers or mortgaged subsequent to release, shall be void.
10. Pursuant to Massachusetts General Laws (Ter. Ed.) Chapter 41, Section 81R, as amended, the Planning Board has not agreed to waive compliance with its Rules and Regulations, except as follows:
  - (a) To grant a waiver from the Subdivision Rules and Regulations Section IV.4.(b) - Grade - to allow a sight distance not less than 185 feet, in lieu of the required 200', at the intersection of Stevens Street and Perolman Drive;
  - (b) To grant a waiver from the Subdivision Rules and Regulations Section IV.2.(a) - Alignment - to allow a 130 feet centerline offset in lieu of the required 150 feet;
  - (c) To grant a waiver from the Subdivision Rules and Regulations Section IV.4.(b) - Grade - to allow the increase of the roadway grade on Worster Drive from 8% to 8.5% from sta. 3+50 to sta. 6+00 and to 9% from sta. 18+00 to sta. 20+25;
  - (d) To grant a waiver from the Subdivision Rules and Regulations Section III.2.(k) - Comparative Impact Analysis, such that no Comparative Impact Analysis is required;

(e) To grant a waiver from the Subdivision Rules and Regulations Section II.F.2.(b) - Adequate Access - Stevens Street - in lieu of the requirements listed in this section, the developer shall be responsible for resurfacing the full width of Stevens Street from curb to curb for any limit of work associated with the Waters Edge project which disturbs pavement in Stevens Street in conjunction with the project.

Said Planning Board has made these waivers after determining that such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law and with the Planning Board Rules and Regulations.

11. The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Planning Board within a period of two (2) years from the date of approval of the "Plan". Failure to so complete or to obtain an extension shall automatically rescind approval of the "Plan" as to lots not yet released from this Covenant and full re-application for approval of such lots will be required.
12. Upon the proper completion of all improvements and their approval by the City Engineer, and if said improvements comply with all then applicable state laws, city ordinances, and Planning Board Rules and Regulations and requirements, the City may then, and only then, accept the improvements.
13. The Covenantor will retain ownership of the fee interest in and all streets, ways and roads in the subdivision as shown on the "Plan" until such time as said streets, ways and roads may be accepted as public ways by the City Council of the City of Marlborough.

The Covenantor agrees to include the following paragraph in all deeds to lots within the subdivision:

"Grantor reserves to his or her benefit, the fee simple in the proposed rights-of-way within the subdivision and also reserves to his or her benefit any easements within the proposed lots of the subdivision which are shown on the "Plan". Grantor also reserves the right, upon written approval of the Planning Board, to relocate easements shown on the "Plan", within a lot, as conditions and local regulation require and permit.

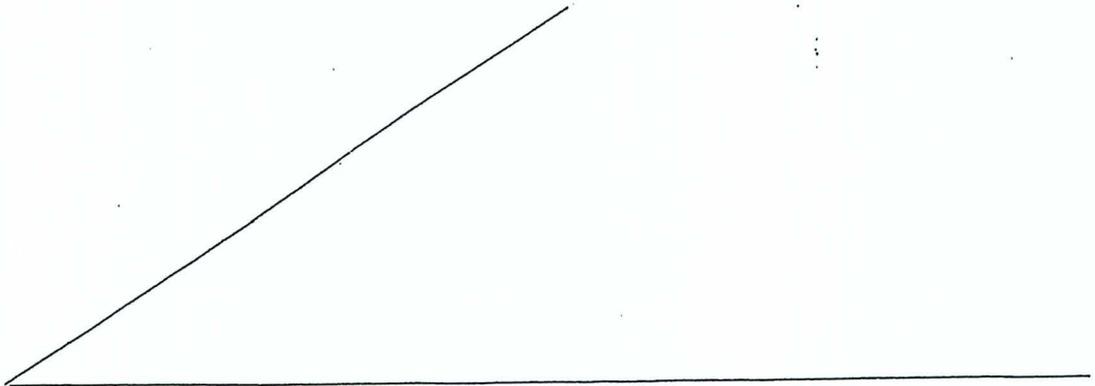
14. The Covenantor shall prepare a grant of authority to the Marlborough Police Department to enforce all traffic regulations dictated by the traffic signage approved and shown on the "Plan", during the period the roads are private ways.
15. The City of Marlborough shall not be responsible for the maintenance and care of streets, ways, or roads or other improvements, until the same have been accepted. In emergency situations as determined by the City Engineer, the City of Marlborough may take steps to correct a condition(s) within

the subdivision which, if not corrected, would jeopardize public health and safety. In these instances, any and all costs so incurred by the City to correct said condition(s), shall be reimbursed to the City within thirty (30) days of notice to the Covenantor. Failure to reimburse the City within this period of time will be considered cause to rescind approval of the subdivision "Plan".

16. All as-built plans and profiles pertaining to the above-described "Waters Edge" shall be submitted to the City Engineer soon after the completion of said subdivision, the streets, ways, and roads of which will not be considered for acceptance until such plans and profiles have been approved by the City Engineer. Copies of all the site plans prepared for each of the individual building lots shall be forwarded to the Streets and Engineering Division and to the Planning Board at the time they are submitted to the Building Inspector for a Building Permit.
17. Prior to the execution of this Covenant, the Covenantor agrees to submit a work schedule, and a progress report every month after the commencement of work, to the City Engineer, with copies to the Planning Board, until said subdivision has been completed. Said progress reports shall be delivered to the Planning Board prior to the third Monday of each and every month.
18. If the City, by its Planning Board, determines that there is a violation of the applicable state laws, city ordinances, Planning Board Rules and Regulations and/or the terms and provisions of this Covenant, it shall seek a cease and desist order after proper application to a court of competent jurisdiction, and it shall seek any and all other equitable and legal relief it deems necessary. If in the opinion of the Covenantor, there has not been a violation of said applicable state laws, city ordinances, Planning Board Rules and Regulations, or the terms and provisions of this Covenant, nothing herein shall be construed as the Covenantor's consent to cease and desist from work on the Subdivision without Court Order.
19. The Covenantor's applications, all plans and profiles, calculations, and other supporting data relating to the "Plan", state laws, city ordinances, Planning Board Rules and Regulations and all terms, provisions, and conditions of final approval of the "Plan" are incorporated herein by reference, as if set forth in full, except as expressly modified herein.
20. This Covenant shall take effect upon the approval of the "Plan".
21. Reference to this Covenant shall be entered upon said "Plan" and the Covenant shall be recorded prior to the "Plan". The Covenantor further agrees that it shall cause two certified copies of this Covenant as recorded at the Middlesex South District Registry of Deeds to be delivered to the City

Solicitor's Office and the Planning Board Office, City Hall,  
Marlborough, Massachusetts.

22. The provisions of this Covenant are severable, and if any of these provisions shall be held to be illegal or unconstitutional by any Court of competent jurisdiction, then the remaining provisions of this Covenant shall continue in effect.
23. Prior to the release of any lots the applicant shall deed to the City of Marlborough those parcels of land shown as "Open Space" on the Definitive Subdivision Plan, and said parcels are to be used for conservation and passive recreation purposes.
24. The Covenantor shall comply with the terms, requirements, and conditions of the Special Permit - Concept Plan Open Space Development as approved by the City of Marlborough Planning Board on May 5, 1997, under Chapter 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments. The terms, requirements and conditions of said Special Permit are incorporated herein by reference as an integral part of this Covenant.
25. A walking trail shall be provided for in Open Space A, B and C according to said plan. The trail shall be planned and constructed by the applicant in accordance with instructions from the Conservation Commission. Vehicle barriers shall be provided if deemed necessary by the City Engineer. Wooden signs shall be placed at each trail head entrance on the roadway, and along the trail, if needed, to identify the open space and note any use restrictions. Signs shall be constructed by the applicant in accordance with instructions from the Conservation Commission.



EXECUTED AS A SEALED INSTRUMENT this 9<sup>th</sup> day of February, 1998.

Covenantor: A.A. Farooq Ansari  
A. A. Farooq Ansari  
Trustee, Waters Edge Realty Trust

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

February 9, 1998

Then personally appeared the above-named A. A. Farooq Ansari, Trustee and acknowledged the foregoing instrument to be the free act and deed of Waters Edge Realty Trust, before me.

David H. Davidson  
DAVID H. DAVIDSON, Notary Public  
My Commission Expires: 3/28/2003

Approved and Accepted: February, 1998  
Marlborough Planning Board, City of Marlborough

Richard L. Feld \_\_\_\_\_  
Philip J. Hodge \_\_\_\_\_  
Francis R. Mele \_\_\_\_\_  
D. Johnson \_\_\_\_\_

Being a Majority