

FIRST MEETING OF THE MONTH
TOWN BOARD TOWN OF MARLBOROUGH
21 MILTON TURNPIKE, MILTON NY
FEBRUARY 12, 2024 7:00 PM
MINUTES OF MEETING

Present: Supervisor Corcoran
Councilman Molinelli
Councilman Zambito
Councilwoman Sessa
Councilman Cauchi

Colleen Corcoran, Town Clerk

Also Present: Howard Baker, Resident/Cultural Resource Survey Chair
Neil Larson, Neil Larson & Associates
Marissa Marvelli, Neil Larson & Associates
Mici Simonofsky, Resident/CAC Chair

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda

Councilwoman Sessa made a motion to approve the agenda. Motion seconded by Councilman Zambito.

Yeas: 5 Nays: 0 Carried

ITEM #4 Motion to approve minutes

A). Motion to approve minutes from the January 22, 2024 Town Board Meeting

Councilman Molinelli made a motion to approve minutes from the January 22, 2024 Town Board Meeting. Motion seconded by Councilman Cauchi.

Yeas: 5 Nays: 0 Carried

ITEM #5 Authorize payment of bills

Councilman Cauchi made a motion to authorize payment of the abstract in the amount of \$2,166,490.27. Motion seconded by Councilman Molinelli.

Yeas: 5 Nays: 0 Carried

ITEM #6 Comments on the agenda

No comments on the agenda.

ITEM #7 Report of Departments and Boards

No comments or questions.

ITEM #8 Report of Committees

Councilman Molinelli made a motion to move report of committees to the second meeting of the month. Motion seconded by Councilman Cauchi.

Yeas: 5 Nays: 0 Carried

ITEM #9 Presentations

A). Howard Baker-Cultural Resource Survey

Supervisor Corcoran invited Howard Baker, who got the project started, up to speak about the Cultural Resource Survey.

Howard Baker explained that the project was started to document the older buildings and structures in the town. Experts were hired. Funding came from grants that were awarded by the Preservation League of New York State, the Town and private donations. Mr. Baker thanked Matt Kierstead, Ellen Stewart, John Scott, Al Lanzetta, Emily Amodeo, Steve Clarke, and Rosemary Wein for all the various way they have helped.

Neil Larson explained the following information that was presented as a slide show:

Phase 1 » Completed 2021 » Identified over 50 individual properties appearing historically or architecturally significant. » Nine historic industrial sites » Four potential historic districts: Marlboro Hamlet Old Post Road Milton Hamlet North Road

Phase 2 » Completed 2023 » Focused on farm landscapes and infrastructure » Worked with a GIS specialist to create maps » Identified over 60 individual properties that appear to be significant dating between 1750 and 1970; no historic districts

There were three maps and key example showing properties with buildings constructed between 1750 and 1819, between 1860 and 1889 and farm properties with cold storage buildings.

All properties have been entered into a New York State database.

Survey Takeaways: 1. Marlborough retains its distinctive “sense of place” through its landscape and architecture. 2. There are numerous buildings worthy of greater interpretation and preservation, and have a vital role to play in agricultural tourism and the community. 3. This integrity is threatened by new development and unknowing property owners.

Recommendations: » Adopt a historic preservation ordinance creating a town preservation commission. » Work towards preparing National Register (NR) nominations for historic districts. » Further document town’s industrial and riverfront archeology » Further document Marlborough’s agricultural heritage. » Work with willing owners of historic properties to prepare NR nominations and local designations. » Identify vulnerable and threatened properties. » Create a self-guided driving tour and events that highlight significant farms, buildings and natural features of Marlborough. » Promote the historic rehabilitation tax credit programs including the NYS Barn Tax Credit. Properties listed in the National Register qualify for state and federal tax incentives.

Mr. Larson thanked the Town Board for their support.

Marissa Marvelli explained the Historic Tax Credit Program which is incorporated into the minutes as follows:

NYS Historic Homeowner Tax Credit Program

»Applicable to privately-owned residences listed in the National Register (individually or as part of a district) »20% of eligible expenses credited back to owner in state income taxes or as direct reimbursement if adjusted gross household income is less than \$60k » Can claim credit value up to \$50k per year » At least 5% of expenditures must be expended on exterior » Work must be approved by NY SHPO prior to claiming credit

Federal & NYS Historic Commercial Tax Credit Program

»Applicable to privately-owned income-producing properties listed in the National Register (individually or as part of a district) »20% federal tax credit and a matching 20% state credit (or 30% for projects under \$2.5M) of the qualified rehabilitation expenditure (QRE) » All work **MUST** be pre-approved by NY SHPO and the National Park Service » All work must adhere to the Secretary of the Interior's Preservation Standards

NYS Barn Tax Credit

» 25% credit of the total QRE total that exceeds \$5,000 » Barn/Carriage House does NOT need to be listed » Structure must pre-date 1946 » Credit not applicable to conversion projects; project must not alter appearance of structure » Photograph before & after conditions » Qualifying expenses: Roof repair/replacement, siding, sheathing repair/replacement, painting, foundation drainage, painting, shoring, carpentry, flooring work, etc.

Supervisor Corcoran thanked the whole team who worked on the project. The Phase 1 and Phase 2 studies and the presentation are on the Town website. The Town also has a couple of hard copies.

B). CAC-Ridgeline Overview

Mici Simonofsky read the following script as a slideshow was presented:

Slide 1

Report on Proposed Amendment

Thank you for the opportunity to present our comments to you and the public. A full written report in pdf format has been given to you as well. We hope this presentation summarizes information we researched and received from many sources and from interested members of our community.

Both versions will be made available for the Town website and the public is encouraged to review them.

For those who don't know, the Ridgeline in discussion is clearly defined in Town Code 155-41.1A(3): "The ridgeline protection area is defined as the area on the map known as the "Town of Marlborough Ridgeline Protection Map," adopted with this code, and any subsequent amendments. The ridgeline of the Town of Marlborough shall be generally viewed as the high points of the ridge commonly known as the "Marlborough Mountains" as viewed from the east in a westerly direction".

Slide 2

A Neutral Partner

We want to emphasize that the CAC is a neutral entity. We serve as a partner to the Town Board and none of our comments are intended to favor any individual or any one specific point of view. Rather, we have gathered as much information

as possible in the few weeks we have had to help the Town Board create a better code. That is our job.

Slide 3

Overview

We are confident in telling the Board that:

An enhanced and improved code will serve the entirety of our community:

Individual landowners, living both on and under the Ridgeline,

the Planning Board,

our Town Engineers,

and all enforcement agencies and departments.

Slide 4

Amendment

On December 11, the Town Board presented an amendment to Local law 155 for a public hearing. Two clauses in that code are suggested to be amended. The CAC placed our attention on the removal of the 50 foot height restriction on the Ridgeline which would impact our natural resources.

Slide 5

Public Hearing

As is the law, the Town Board opened a public hearing on January 8 when many comments from diverse members of the community were heard. Several people asked why this change was needed. Many pointed out that our Comprehensive Master Plan dictates protection of the Ridgeline. The Town Board extended the public hearing as part of our request to give the CAC additional time to prepare comments.

Slide 6

CAC Meetings

All of the CAC meetings are open meetings. But we met to center on this subject on January 11 and again on January 20 when the public was specifically invited. Both were well attended. The insights and suggestions of our residents are valuable to the Board's understanding of the public thought. They are much appreciated.

Slide 7

Three Areas of Concern

The public remarks have been recorded and have been made available by the CAC for the Town website. In addition, our written report includes various written comments we received.

All centered on three areas in regards to conservation issues.

Aesthetic Concerns

Environmental Concerns

Comprehensive Master Plan

Slide 8

Comprehensive Master Plan

The CAC carefully reviewed the 2002, 2017 and 2022 versions of the Master Plan. These plans were very expensive to prepare, utilized professional and legal advice, and had extensive public input. They are the legally adopted standard to be used for all planning, zoning, coding, and enforcement needs of the Town. They were confirmed and agreed to three times by three different Town Boards. It is the Master Plan that must be followed in any additional or changed wording of any Town Code. This is especially important to today's issue.

Slide 9

Master Plan Defines Ridgeline

All 3 versions of the Master Plan clearly define the Ridgeline as being one of Marlborough's most valuable natural resources. They place the Ridgeline with equal importance to our farmlands and agritourism, always the main economic drivers for the Town. That is why the original Master Plan states on pp 52-53

Slide 10

Master Plan Defines Ridgeline

"When development occurs on ridgelines, an unnatural element is introduced which interrupts the horizon and is unaesthetic."

"Any new construction on hillsides should occur below the tops of ridges such that structures do not appear on the horizon."

Slide 11

Protect Our Resources

Also on p 52 it states: "Natural resources are significant for the local economy. The unique combination of natural conditions that occur locally (soils, climate, slopes) are ideal for the production of orchard crops and are the reason why the apple industry became established in Marlborough. In addition to being important to the local economy, the natural resources of Marlborough provide an aesthetic landscape which is an asset to the community."

Public comments in favor of protecting our water sources, waterways, drainage, soil quality for our farmlands, wildlife, and forestry issues were voiced as well as the importance of the value of the aesthetics of a continuous uninterrupted ridgeline.

Slide 12

Treeline vs Ridgeline

Residents respectfully shared their views but helpful visuals were volunteered as well. This one illustrates the difference between treeline and ridgeline, perhaps the two words presenting the confusion in the present code. Example "B" shows the intent of the Master Plan and reflects our present wording.

Slide 13

Over the Treeline

The second graphic compares a structure that sits below the treeline on the left and on top of the ridgeline on the right. A structure extending higher than the ridgeline is clearly not the intent of the CMP.

Slide 14

Precise Baseline Measurement

Equally important was an explanation and a suggestion of a potential code improvement that would give a qualifying measurement to be used for the baseline measurement for structures. There is an easily available app called MY ALTITUDE that could be used as a planning and an enforcement tool. The gentleman found it in the National Geological Maps Database.

Slide 15

OTHER COMMUNITY APPROACHES

We have submitted references of 7 different approaches that other communities have adopted as ridgeline protection. Wording from their codes could be integrated into improved code wording for our Town.

Slide 16

Comments From Governmental Agencies

CAC members reviewed comments from the

Town of Marlborough Planning Board

The Ulster County Planning Board

*Ulster County Department of Soil Conservation
Those documents are included in our written report.*

Slide 17

Scenic Hudson

We viewed Comments from Scenic Hudson. Perhaps their strongest statement is “Removing the specific numerical guideline currently imposed by the law would risk creating further uncertainty in enforcement and potentially weaken the law’s protections.”

This is clearly not the Board’s intention—you have stated you want clarity in any new wording.

Slide 18

Maps

We reviewed several maps. These visuals can help us to see how much land and what types of properties are affected by the ridgeline properties themselves.

Slide 19

Financial Impact

The CAC is focused on issues concerning our natural resources and we have centered on environmental issues. However, the Ridgeline IS one of our natural resources as stated in the Master Plan.

Public sentiment repeatedly voiced concern that taxpayers will bear the cost if appropriate measures are not included to protect the ridgeline from clearing and deforestation.

Slide 20

Financial Impact

Potential litigation costs to taxpayers was a topic of discussion brought up by many. It would be wrong not to consider potential financial consequences for the taxpayer.

Slide 21

Recommendations

The CAC is recommending that the Town Board discard the wording of the Ridgeline Protection Code as proposed at the Public Hearing and continue to investigate wording that will enhance and strengthen our code. We suggest that:

- *The Board should propose two separate amendments to consider for adoption*
- *In regards to the Ridgeline Protection Code, The Board should discard the present amendment as worded altogether and create an improved, non-ambiguous code with the guidance of our Town Engineer, Town Attorney(s), and qualified professionals*
- *Wording should follow the intent of the CMP*

Slide 22

Recommendations

- *The Code should include clear definitions for ridgeline, treeline, structure, buffers, and especially include a point of measurement*
- *Qualifying and/or quantifying language for enforcement standards should be included*
- *Please Consider neighboring communities’ ridgeline protection laws for specificity and language to use within our own code*

A strengthened code will place safeguards and directions for the protection of the Ridgeline while giving applicants, landowners, the Town Planning Board, and enforcement officers the guidelines to follow to ensure proper development and land use outlined in our Comprehensive Master Plan and its updates.

Slide 23

Thank you

Thank you for your attention. Our written report will provide much more data and information and has been provided to you.

We hope you find our work useful.

We also thank the Marlborough community for sharing their comments with us and participating in this process.

There was a brief discussion with Councilman Zambito and Mici Simonofsky regarding confusion between the words ridgeline and treeline as stated in the code.

Councilwoman Sessa explained how most people are envisioning the ridgeline as one continuous slope and just measuring 50 feet. It's not that easy to determine because of the varying distances. The Board doesn't just want to develop on the ridge or are they plotting to cover the ridge with homes or development; they want to make the law clearer so it can be fair to all the residents in Marlboro and so everyone understands the rules.

Supervisor Corcoran stated that there are not that many areas where you can build on the ridge. There are many other building codes and requirements that need to be met just like any other property in the Town. The slope percentage is one of the requirements. Since the code was updated there have not been many houses built on the ridge. The Board is looking at both sides of this.

There were drawings shown and it was agreed that "B" was the correct drawing according to the current code.

Supervisor Corcoran took a few comments from the audience at this time.

Mici Simonofsky questioned the process of how the laws are being introduced and re-introduced.

Supervisor Corcoran stated that the codes are all being re-introduced with no changes except for the cannabis law. The change that was proposed was keeping cannabis establishments 1,500 feet away from schools etc., but the New York State regulations do not permit the restriction from being greater than 500 feet. In that law, they added 500 feet from Town buildings and parks. The ridgeline law will take a longer time and is not going to be rushed. It will be introduced again. The Town attorney said this is the way it should be done.

Supervisor Corcoran allowed a five minute break for those who wanted to leave.

Councilman Zambito left the meeting at this time which is reflected in the voting hereinafter.

ITEM #10 Old Business

A). Tomvac Rehabilitation Update

The community center is coming along. He thanked Chief Cocozza and Gary Lazaroff for being there to help out.

ITEM #11 New Business

A). Highway Items out for bid

Councilman Cauchi made a motion to allow the Highway Department to post the following items for sale on an auction site: 2013 Ford F250 Pickup with plow, 2003 Smith Series 11 sander, 2004 Smith Series 11 sander. Motion seconded by Councilwoman Sessa.

Yeas: 4 Nays: 0 Carried

B). CSX agreement -Milton Landing Park

Supervisor Corcoran stated that a construction agreement with CSX needs to be signed for Nicky Diggs to begin the construction project at the Milton Landing since it is in their right of way. CSX is requiring their crew to be on site and they need an escrow account set up in the amount of \$42,631.00 for professional services.

Councilman Cauchi made a motion to sign the CSX construction agreement and set up escrow for \$42,631.00. Motion seconded by Councilman Molinelli.

Yeas: 4 Nays: 0 Carried

ITEM #12 Correspondence

Supervisor Corcoran read correspondence from the Marlboro High School Class Advisors requesting use of the Train Station for an event for students to receive gently used prom attire on March 2nd or 9th.

Councilman Molinelli made a motion to allow the Marlboro High School Class Advisors to use the Train Station on the date(s) requested at no charge for an event for students to receive gently used prom attire. Motion seconded by Councilwoman Sessa.

Yeas: 4 Nays: 0 Carried

Supervisor Corcoran read correspondence from the Marlboro Elementary School PTA requesting use of the Town Park for a Touch a Truck event to fundraise on June 22nd with a rain date of June 23rd at no charge.

Councilwoman Sessa made a motion to allow use of the Town Park for the Marlboro Elementary School PTA to host a Touch a Truck event at no charge on June 22nd with a rain date of June 23rd. Motion seconded by Councilman Molinelli.

Yeas: 4 Nays: 0 Carried

ITEM #13 Public Comments

Supervisor Corcoran stated that he went to the State of the County Address with Jen Metzger; it was a nice event.

The DOT will be installing sidewalks along Route 9W from Bayside Drive to King Street in the spring/summer 2025.

GPI Engineering is getting estimate together for turning lanes on Route 9W.

They are still working on Old Indian Trail.

ITEM #14 Resolutions

A). Resolution #26 To accept a Perpetual Easement and Right-of-Way for public highway purposes over certain portions of Cubbard Drive, and authorizes the Supervisor to sign the appropriate forms.

B). Resolution #27 To re-introduce a Local Law of the year 2024 of the Town of Marlborough, Ulster County, New York, amending chapter 155 “zoning” article vi “supplementary regulations governing certain uses” section 155-31 “site plan review” of the Marlborough town code.

C). Resolution #28 To re-introduce a Local Law of the year 2024 of the Town of Marlborough, Ulster County, New York, amending chapter 155 “zoning” article ix “administration and enforcement” section 155-41.1 “ridgeline and steep slope protection” of the Marlborough town code.

D). Resolution #29 To re-introduce a Local Law of the Town of Marlborough, Ulster County, New York, amending various provisions of chapter 155 “zoning” of the Marlborough town code as follows: amending section 155-1 adding definitions for “cannabis”, “cannabis establishment”, “cannabis on-site consumption establishment”, “cannabis products” and “cannabis retail dispensary”, section 155-12 “use regulations”, and adding section 155-32.5 “cannabis/marijuana retail sales and lounges.”

ITEM #15 Adjournment

Councilman Molinelli made a motion to adjourn the meeting at 9:17 p.m. Motion seconded by Councilman Cauchi.

Yeas: 4 Nays: 0 Carried

*Respectfully submitted,
Danielle Cherubini
Deputy Town Clerk*

February 12, 2024

A). Resolution #26 To accept a Perpetual Easement and Right-of-Way for public highway purposes over certain portions of Cubbard Drive, and authorizes the Supervisor to sign the appropriate forms.

Supervisor Corcoran proposes the following:

WHEREAS, the Town Board has received a Proposed Easement for Highway Purposes, as well as a New York State TP-584 pertaining to a grant of a perpetual Easement and Right-of Way for public highway purposes over certain portions of Cubbard Drive in association with a site plan application for Keebomed, Inc.

NOW, THEREFORE BE IT RESOLVED,

1. The Town Board accepts the grant of a perpetual easement and right-of-way for public highway purposes over certain portions of Cubbard Drive as more specifically described in Schedule “A” as attached to the proposed easement agreement, and authorizes the Supervisor to sign the TP-594, subject to the following conditions being fulfilled by March 1, 2024, absent which the acceptance of the grant of the easement shall be a nullity:
 - a. Properly executed and recordable instruments as follows:
 - i. Easement for highway purposes filed with the Ulster County Clerk; and
 - ii. TP-584;
 - b. Payment of any outstanding expenses of the Town and deposit of sums sufficient to cover costs of recording instruments with the Clerk of Ulster County.
2. The acceptance of the aforementioned easement shall be effective February 12, 2024, in the event of the fulfillment of the conditions set forth in paragraph “1” hereinabove.

The foregoing resolution was voted upon with all members of the Council voting as follows:

| | |
|----------------------|--------|
| Supervisor Corcoran | Yes |
| Councilman Cauchi | Yes |
| Councilwoman Sessa | Yes |
| Councilman Molinelli | Yes |
| Councilman Zambito | Absent |

DATED: Milton, New York
February 12, 2024

COLLEEN CORCORAN, TOWN CLERK

February 12, 2024

B). Resolution #27 To re-introduce a Local Law of the year 2024 A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING CHAPTER 155 “ZONING” ARTICLE VI “SUPPLEMENTARY REGULATIONS GOVERNING CERTAIN USES” SECTION 155-31 “SITE PLAN REVIEW” OF THE MARLBOROUGH TOWN CODE.

Supervisor Corcoran proposes the following:

WHEREAS, on or about December 11, 2023, the Town Board of the Town of Marlborough introduced a proposed Local Law of the Town of Marlborough proposing to amend various provisions of Chapter 155 “Zoning” of the Marlborough Town Code as follows: Amending Section 155-31 “Site Plan Review”, and Section 155-41.1 “Ridgeline and Steep Slope Protection” (the “Combined Local Law”); and

WHEREAS, on or about December 12, 2023, the Combined Local Law was referred to the Ulster County Planning Board; and

WHEREAS, on or about January 3, 2024, the Ulster County Planning Board submitted comments to the Town Board on both proposed amendments in the Combined Local Law; and

WHEREAS, with respect to the proposed amendments to Section 155-31 of the Marlborough Town Code presented in the Combined Local Law, the Ulster County Planning Board recommended as follows:

“Rather than give all projects four years, the Ulster County Planning Board (UCPB) recommends granting the Planning Board discretion to determine the completion time frame or better yet, setting thresholds within the law (square footage, area or disturbance, SEQRA impacts, etc.) whereby the four-year completion time frame would be triggered and give applicants and the public a greater sense of transparency in the review process.

Not all projects necessitate a four-year completion window.”

WHEREAS, the Town Board of the Town of Marlborough referred the Combined Local Law to the Town of Marlborough Planning Board in accordance with Town Code § 155-49, with comments being received dated January 8, 2024; and

WHEREAS, on or about January 8, 2024, Public Hearings were held for the Combined Local Law; and

WHEREAS, substantial changes have been proposed to the Combined Local Law, resulting in the separation of the proposed amendments into two separate proposed local laws; and

WHEREAS, the Town Board of the Town of Marlborough re-introduces these proposed amendments to Section 155-31 of the Town of Marlborough Code as set forth herein.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-31(K) of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

K. Expiration of approval. Site plan review and approval shall be void if construction is not started within one year and completed within ~~two~~ four years of the date of the final site plan approval. Each of these respective periods of expiration may be extended in the Planning Board's discretion for up to ~~two~~ three additional periods of one year each. The Planning Board's authority to extend the respective periods of expiration shall apply to any project which requested such an extension, in writing, filed with the Town no later than on or after January 1, 2008.

Section 2. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 3. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 4. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is a Type I Action under the New York State Environmental Quality Review Act (SEQRA).

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.

WHEREAS, the Town Board has already referred these amendments to the Ulster County Planning Board for review as set forth above with comments having been received; and

WHEREAS, the Town Board has already referred this matter to the Town of Marlborough Planning Board with comments having been received as set forth above.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on February 26, 2024, at 7:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on February 26, 2024 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. ____ of the Year 2024, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING CHAPTER 155 "ZONING" ARTICLE VI "SUPPLEMENTARY REGULATIONS GOVERNING CERTAIN USES" SECTION 155-31 "SITE PLAN REVIEW" OF THE MARLBOROUGH TOWN CODE.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 12, 2024

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

| | |
|----------------------|--------|
| Supervisor Corcoran | Yes |
| Councilman Molinelli | Yes |
| Councilman Cauchi | Yes |
| Councilman Zambito | Absent |
| Councilwoman Sessa | Yes |

DATED: Milton, New York
February 12, 2024

COLLEEN CORCORAN, TOWN CLERK

February 12, 2024

C). Resolution # 28 To re-introduce a Local Law of the year 2024 of the Town of Marlborough, Ulster County, New York, amending chapter 155 “zoning” article ix “administration and enforcement” section 155-41.1 “ridgeline and steep slope protection” of the Marlborough town code.

WHEREAS, on or about December 11, 2023, the Town Board of the Town of Marlborough introduced a proposed Local Law of the Town of Marlborough proposing to amend various provisions of Chapter 155 “Zoning” of the Marlborough Town Code as follows: Amending Section 155-31 “Site Plan Review”, and Section 155-41.1 “Ridgeline and Steep Slope Protection” (the “Combined Local Law”); and

WHEREAS, on or about December 12, 2023, the Combined Local Law was referred to the Ulster County Planning Board; and

WHEREAS, on or about January 3, 2024, the Ulster County Planning Board submitted comments to the Town Board on both proposed amendments in the Combined Local Law; and

WHEREAS, the Town Board of the Town of Marlborough referred the Combined Local Law to the Town of Marlborough Planning Board in accordance with Town Code § 155-49, with comments being received dated January 8, 2024; and

WHEREAS, on or about January 8, 2024, Public Hearings were held for the Combined Local Law; and

WHEREAS, substantial changes have been proposed to the Combined Local Law, resulting in the separation of the proposed amendments into two separate proposed local laws; and

WHEREAS, the Town Board of the Town of Marlborough re-introduces these proposed amendments to Section 155.41.1 of the Town of Marlborough Code as set forth herein.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-41.1(F)(4) of the Marlborough Town Code is amended to read as follows [deletions are stricken and additions are underscored]:

(4) Applicants for construction on properties to which this section applies shall demonstrate to the reviewing board or Town Engineer, as the case may be, that the proposed buildings or structures will not extend above the predominant treeline. ~~No structure that is the subject of this section shall be located closer than 50 feet in elevation to the ridgeline affected by the application, as determined by the Town Engineer.~~

(a) If, in the Town Engineer's opinion, such requirements would render an existing lot unbuildable, the Town Engineer may recommend the issuance of, and the Building Department may issue, a construction permit for an existing lot of record which does not meet the requirements of this section upon his determination that no suitable conforming location is available.

~~(b) There shall be no disturbance within this fifty foot area except for access driveways when said driveway cannot be reasonably located outside the fifty foot area.~~

Section 2. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 3. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 4. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is a Type I Action under the New York State Environmental Quality Review Act (SEQRA).

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.

WHEREAS, the Town Board has already referred these amendments to the Ulster County Planning Board for review as set forth above with comments having been received; and

WHEREAS, the Town Board has already referred this matter to the Town of Marlborough Planning Board with comments having been received as set forth above.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilman Molinelli, who moved its adoption:

WHEREAS, on February 12, 2024, Supervisor Corcoran has re- introduced this local law for the Town of Marlborough, to be known as “Town of Marlborough Local Law No. ____ of the Year 2024, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING CHAPTER 155 “ZONING” ARTICLE IX “ADMINISTRATION AND ENFORCEMENT” SECTION 155-41.1 “RIDGELINE AND STEEP SLOPE PROTECTION” OF THE MARLBOROUGH TOWN CODE.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on February 26, 2024, at 7:00 o’clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on February 26, 2024 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. ____ of the Year 2024, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING CHAPTER 155 "ZONING" ARTICLE IX "ADMINISTRATION AND ENFORCEMENT" SECTION 155-41.1 "RIDGELINE AND STEEP SLOPE PROTECTION" OF THE MARLBOROUGH TOWN CODE.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 26, 2024

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

| | |
|----------------------|--------|
| Supervisor Corcoran | Yes |
| Councilman Molinelli | Yes |
| Councilman Cauchi | Yes |
| Councilman Zambito | Absent |
| Councilwoman Sessa | Yes |

DATED: Milton, New York
February 12, 2024

COLLEEN CORCORAN, TOWN CLERK

February 12, 2024

D). Resolution #29 To re-introduce a Local Law of the Town of Marlborough, Ulster County, New York, amending various provisions of chapter 155 “zoning” of the Marlborough town code as follows: amending section 155-1 adding definitions for “cannabis”, “cannabis establishment”, “cannabis on-site consumption establishment”, “cannabis products” and “cannabis retail dispensary”, section 155-12 “use regulations”, and adding section 155-32.5 “cannabis/marijuana retail sales and lounges.”

Supervisor Corcoran proposes the following:

WHEREAS, this proposed local law was introduced on or about December 11, 2023; and

WHEREAS, on or about December 12, 2023, this proposed local law was referred to the Ulster County Planning Board with comments being received on or about January 3, 2024; and

WHEREAS, the Town Board of the Town of Marlborough referred this matter to the Town of Marlborough Planning Board in accordance with Town Code § 155-49, with comments being received dated January 8, 2024; and

WHEREAS, on or about January 8, 2024, Public Hearings were held for the proposed Local Law; and

WHEREAS, substantial changes have been proposed to the proposed local law, any changes are shown below in red, resulting in its re-introduction.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-1 of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

CANNABIS

As used herein, cannabis shall have the same definition as that found in New York Cannabis Law (Chapter 7-A of the Consolidated Laws of New York) in § 3 thereof. Cannabis may also be referred to as “marijuana” or “marihuana.”

CANNABIS ESTABLISHMENT

A single physical location where a licensed Cannabis retailer engages in the retail of cannabis, any other type of licensed cannabis-related business, or any combination thereof.

CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT

A single location where an entity or individual licensed by the New York State Office of Cannabis Management to allow for the on-site consumption of cannabis products on the premises. A “cannabis on-site consumption establishment” does not include a “cannabis retail dispensary.”

CANNABIS PRODUCTS

Cannabis, concentrated cannabis, and cannabis-infused products, and includes made or manufactured products that contain either cannabis or concentrated cannabis and other ingredients and are intended for personal use or consumption.

CANNABIS RETAIL DISPENSARY

An establishment that is licensed by the New York State Office of Cannabis Management to sell or otherwise distribute cannabis products directly to consumers for use off the premises. A cannabis retail dispensary may be licensed to operate as an adult-use cannabis retail dispensary or as a medical cannabis dispensary, or both. A “cannabis retail dispensary” does not include a “cannabis on-site consumption establishment.”

A. CANNABIS DISPENSARY, MEDICAL

A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to registered practitioners, certified patients, or designated caregivers for medical use in accordance with Title 5-A of Article 33 of the New York Public Health Law and Article 3 of the New York Cannabis Law.

B. CANNABIS RETAIL DISPENSARY, ADULT-USE

A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to consumers for non-medical use in accordance with Article 4 of the New York Cannabis Law.

Section 2. Section 155-12(E)(4) of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

(n) Cannabis On-Site Consumption Establishment.

(o) Cannabis Retail Dispensary.

Section 3. Section 155-32.5 of the Town Code of the Town of Marlborough is added to read as follows [deletions are stricken and additions are underscored]:

Section 155-32.5 Cannabis/marijuana retail sales and lounges

Each owner of a Cannabis Retail Dispensary or Cannabis On-Site Consumption Establishment must be licensed in accordance with New York State Law, must obtain an annual operating permit

from the Building Department, must pay any related permitting/inspection fees, and shall comply with each of the requirements of this section.

- A. Findings. The Town of Marlborough finds that the orderly development of commercial business is essential to maintaining and protecting the health, safety and welfare of the residents of the Town. The Town also finds that businesses which cater to adults should be located and regulated to minimize the potential adverse impact to residents.
- B. Purpose. The purpose of this section is to regulate the siting, design, placement, security, safety, monitoring and modification of cannabis establishments to insure the placement of cannabis establishments in appropriate locations and to minimize the adverse impacts of cannabis establishments on residential neighborhoods, schools and other such places where children commonly frequent and congregate.
- C. Applicability. These regulations shall apply to all structures and uses of retail sales and/or consumption lounges where cannabis can be purchased and/or consumed.
- D. General Requirements.
 - (1) No Cannabis Establishment shall be operated except in compliance with the provisions of this chapter.
 - (2) When a Cannabis Establishment is proposed to be in an existing building, regardless of any prior site plan approval (including but not limited to approval for retail sales on the property), the owner shall be required to obtain a special use permit/site plan approval for cannabis related use, retail or onsite consumption establishments.
 - (3) The location of Cannabis Establishments shall be authorized in conformity with § 155-12, Use Regulations, of the Town of Marlborough Zoning Code.
 - (4) A Cannabis Establishment shall be wholly contained within a building or structure. No outdoor onsite consumption establishments shall be permitted.
 - (5) The hours of operation of Cannabis Establishments shall be set by the Town of Marlborough Planning Board as a condition of the special use permit and/or site plan approval.
 - (6) Cannabis Establishments shall not be located within a 500-foot radius from:
 - (a) Any school pre-k through grade 12;
 - (b) Any day-care center, or any facility where children commonly congregate. A facility is not, however, limited to a building. Such a facility may include but is not limited to: a public park; a playground; a public swimming pool; a library; or a center or facility where the primary purpose of which is to provide recreational opportunities or services to children or adolescents;
 - (c) Any other Cannabis Establishment;
 - (d) Any drug or alcohol rehabilitation facility;
 - (e) Any correctional facility, half-way house or similar facility; or
 - (f) Any building containing a place of worship; or
 - (g) Any Town building or Town park.
 - (7) No Cannabis Establishment shall be located inside a building containing residential units, including transient housing which includes but is not limited to hotels, motels, dormitories, bed and breakfasts and short-term rentals.
 - (8) Cannabis Establishments shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure.

- (9) No outside storage of Cannabis, related supplies or promotional materials shall be permitted. Any signage must be in conformity with this chapter.
- (10) On-site consumption of Cannabis Products is prohibited within or on the grounds of a permitted Cannabis Retail Dispensary.
- (11) Cannabis-related land uses shall not be permitted as home occupations or accessory uses in any zoning district.
- E. Approvals required.
 - (1) All Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries shall be subject to the granting of a special use permit pursuant to § 155-32 of this Chapter.
 - (2) All Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries shall be subject to site plan review pursuant to § 155-31 of this Chapter.
- F. Additional requirements for Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries.
 - (1) Provide sufficient lighting during and after hours of operation.
 - (2) Adequate facilities and personnel for secure disposal of trash and other debris.
 - (3) Continuing maintenance of the exterior of the building and the grounds, including landscaping, signs and policing of litter.
 - (4) Sales product and paraphernalia items related to the preparation or consumption of cannabis products shall not be visible offsite or from a public right of way.
 - (5) Outdoor use of sound reproduction devices, including but not limited to loudspeakers and amplifiers on the premises shall be prohibited.
- G. Signs.
 - (1) Any signs shall be governed by the signage requirements applicable to the zoning district where the Cannabis Establishment is located pursuant to § 155-28 of this Chapter.
 - (2) No image depicting any part of a marijuana plant or any product or use of the marijuana plant shall be allowed on any outdoor signage.
- H. State approval. All Cannabis Establishments approved pursuant to this section must be licensed in accordance with Article 4 of the New York State Cannabis Law. An expiration or revocation of a license by the State shall be deemed to automatically terminate the special use permit or other Planning Board approvals permitting use.

Section 4. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 5. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 6. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is a Type I Action under the New York State Environmental Quality Review Act (SEQRA); and.

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law; and

WHEREAS, the Town Board has previously referred this matter to the Ulster County Planning Board for review and recommendation having received comments on or about January 4, 2024 as set forth above; and

WHEREAS, the Town Board has previously referred this matter to the Town of Marlborough Planning Board pursuant to Town Code § 155-49 having received comments dated January 8, 2024 as set forth above.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on February 26 2024, at 7:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on February 26, 2024 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. ____ of the Year 2024, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 ADDING DEFINITIONS FOR "CANNABIS", "CANNABIS ESTABLISHMENT", "CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT", "CANNABIS PRODUCTS" AND "CANNABIS RETAIL DISPENSARY", SECTION 155-12 "USE REGULATIONS", AND ADDING SECTION 155-32.5 "CANNABIS/MARIJUANA RETAIL SALES AND LOUNGES."

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 12, 2024

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

| | |
|----------------------|--------|
| Supervisor Corcoran | Yes |
| Councilman Molinelli | Yes |
| Councilman Cauchi | Yes |
| Councilman Zambito | Absent |
| Councilwoman Sessa | Yes |

DATED: Milton, New York
February 26, 2024

COLLEEN CORCORAN, TOWN CLERK