

3.6 Land Use and Zoning

3.6.1 Land Use

3.6.1.1 Existing Conditions

Existing Land Use - Project Site

The project site is comprised of three tax parcels with the following existing uses: vacant land formerly used for mining, a two-family dwelling on the north side of Dock Road, and vacant property on the south side of Dock Road. A private road, Hudson Way, provides access to the two-family dwelling. An informal parking area used as overflow parking for the “Falcon” entertainment venue is located on the project site near its frontage with U.S. Route 9W.

Existing Land Use - Study Area

The project site is located within the Marlboro hamlet area. Specifically, it is located just east of the hamlet’s central business district and west of the Hudson River shoreline. East of the project site along Dock Road, the project site adjoins or is in close proximity to a marina boat storage site and marina parking, and Marlborough Yacht Club which are situated along the Hudson River. To the south of the site, land is primarily vacant between Lattintown Creek and Dock Road. The Marlboro wastewater treatment plant is located immediately south of the project site and abutting the property. To the north, the Marlboro Central School District operates an elementary and intermediate school on property directly adjoining the project site. At the northeast corner of the property, single-family residences abut the property. West of the project site, a mix of commercial and residential uses abut or are in proximity to the site. Land uses to the west include a property with a billboard sign, a gas station and convenience mart, office space, and residences. On the west side of U.S Route 9W close to Dock Road is an automotive garage, residences, vacant property, and farther north, the Marlboro Middle School. The Falcon is situated at the southeast corner of Dock Road’s intersection with U.S. Route 9W. Existing land uses are presented in Figure 3.6-1.

Land Use Plans

The project site is situated within the Marlboro hamlet which was the subject of a master plan completed in 2010. The project site is located within a “hamlet expansion” area - these areas are proposed for residential use. Traditional neighborhood design elements are recommended for incorporation into new residential developments.

3.6.1.2 Potential Impacts

The applicant will construct 137 townhouse (also referred to herein as “townhome”) dwellings on the subject property. The proposed land use, residential, would be compatible with its surrounds or otherwise “buffered” from nonresidential uses. The residential land use is anticipated to be compatible with the adjoining school properties to the north of the site. To the east, the project site adjoins a boat storage yard. This yard does not generate noise or involve activities that would be incompatible with residential uses. Further, only two residential buildings would be located near the shared property line with the boat storage yard - the dwellings would be

located no less than 140 feet to the property. Lastly, these dwellings are elevated above the grade of the boat yard which also helps buffer the residential uses from the storage yard.

On the south side of Dock Road and south of the site, the properties along Lattintown Creek are presently vacant. For the most part, this land use will continue as much of the land is presently constrained by various environmentally sensitive features, including but not limited to federal- and state-regulated wetlands, the 100-year floodplain associated with Lattintown Creek, and steeply sloping topography down to the creek.

To the west, the property abuts a mix of land uses. The two nearest residential buildings are located no less than 160 feet to the rear property line of the properties fronting to U.S. Route 9W and are separated from these properties by the natural gas easement that traverses the project site from north to south. These residential buildings will be buffered to a large extent by existing woodlands - this buffer specifically buffers the residential development from the billboard and gas station uses. Supplemental landscaping to the rear of the residential buildings and the grade change will help buffer the residential development from the remaining mixed residential/office uses. The mix of residential/office uses are also much more compatible with the proposed residential development.

Land Use Plans

The project site is situated within the Marlboro hamlet which was the subject of a master plan completed in 2010. The project site is located within a "hamlet expansion" area. With regard to land use, the hamlet plan recommends residential development within hamlet expansion areas. The project complies with the land use plan for the hamlet.

3.6.1.3 Mitigation Measures

As the Project is anticipated to be compatible with land use plans and adjoining land uses, or is otherwise buffered from adjoining nonresidential uses, no mitigation measures are proposed.

3.6.2 Zoning

The project requires a zone map amendment to rezone the property on the north side of Dock Road from the "R-1" and "I" zones to the "R" zoning district. The existing zoning of the project site is described in Section 3.6.2.1 below, and the proposed rezoning is described in Section 3.6.2.2.

3.6.2.1 Existing Conditions

The project site is located presently within two zoning districts - The Residential or "R-1" district, and the Industrial or "I" zoning district. Tax Lot 109.1-3-14.2 is 5.13 acres and is occupied presently with a two-family dwelling - the parcel is zoned "R-1". Tax Lot 109.1-3-13 consists of approximately 19.99 acres and is a vacant, reclaimed sand and gravel mine that is

zoned "I". A third property located on the south side of Dock Road, Tax Lot 108.4-3-29.1, consists of 2.07 acres of vacant property and is zoned R-1.

The total project site consists of 27.19 acres. The portion of the property zoned "R-1" is 7.2 acres, and the portion of the site zoned "I" is 19.99 acres. The existing zoning of the site is shown in Figure 3.6-2.

As per Section 155-12.B of the Town's zoning ordinance, the purpose of the R-1 district is as follows:

"...to provide reasonable standards for the development of residential area in the vicinity of established residential centers, to encourage a greater variety of lot sizes and housing types, to control activities not compatible with moderate-density residential development and otherwise to create conditions conducive to carrying out the purposes of this chapter."

As per Section 155-12.B of the Town's zoning ordinance, the purpose of the I district is as follows:

"...to encourage the orderly expansion of industry in the Town in such fashion as to be harmonious with adjacent land uses and to contribute to the soundness of the Town's economic base and to otherwise further the general purpose of this chapter."

Table 3.6-1 presents the uses that are allowed presently within these zoning districts - uses that are allowed in the "R" district are also presented.

Table 3.6-1 Town of Marlborough Zoning Ordinance - Uses Allowed by Zoning District			
Land Use	R-1	I	R (proposed)
One-family or two-family detached dwellings	P		P
House of worship and related residences	P		P
Parks and playgrounds	P		P
Education and instructional uses	P		P
Agricultural uses with a minimum parcel size of 10 acres	P		
Community building, clubs, lodges and fraternal organizations	SU		SU
Essential Services	SU	SU	SU
Residential cluster developments	SU		SU
Multiple dwellings (townhouses allowed - proposed use)			SU
Private schools	SU		
Home occupations	SU		SU
Adult multiple dwellings	SU		
Affordable senior citizen housing	SU		SU
Nursery schools, preschools and similar activities	SU		
Bed and breakfast	SU		SU
Professional office	SU		SU
Neighborhood stores			SU
Mobile home parks			SU
Recreation uses with a minimum parcel of 10 acres	SU		
Resort hotel with a minimum parcel size of 10 acres	SU		
Light mechanical or industrial operations not offensive, obnoxious, or detrimental to neighboring uses....		P	
Buildings for wholesale business, storage buildings or		P	

Table 3.6-1			
Town of Marlborough Zoning Ordinance - Uses Allowed by Zoning District			
warehouses, including outside storage of building material and other material in large quantities			
Waterfront parks		SU	
Junkyards with a minimum lot size of 20 acres		SU	
Experimental laboratories		SU	
Printing plants		SU	
Cold storage plants, creameries, ice cream plants, bottling or central distribution stations, baking plants, or dyeing plants.		SU	
The establishment and maintenance of quarries, including any processing or natural products extracted on the premises and storage of same...		SU	
Industries or businesses engaged in the manufacturing, processing, packaging, or warehousing of cement, asphalt, concrete, and related products.		SU	
Laundries and drycleaning plants		SU	
Notes: P = Principal Permitted Use. SU - Special Use.			
Source: Chapter 155, Zoning, of the Town of Marlborough Zoning Code, 2011.			

As is evident from Table 3.6-1, with the exception of “essential services”, there is little overlap between the uses allowed in the I and R-1 zoning districts. The R and R-1 district allow similar uses, except that the R-1 district allows “adult” multiple dwellings while the R district allows “multiple dwellings”.

Each district also allows accessory uses. The R-1 and R districts allow: home gardening, signs, private garages, parking and loading areas, other accessory uses and structures appurtenant to a principal permitted use. The I District allows: storage of trucks and other equipment, storage of gasoline, fuel oil and related products, living quarters for caretakers of structures and equipment, other accessory uses customarily appurtenant to a permitted use.

The bulk requirements that apply to uses within these districts are identified in Table 3.6-2. The bulk requirements applicable to multiple dwellings in the “R” district are described below.

Table 3.6-2		
Town of Marlborough Zoning Ordinance - Bulk Requirements		
Bulk Requirements	R-1	I
Minimum lot area	1 acre	5 acres
Minimum front yard	35 feet	75
Minimum rear yard	50 feet	75
Minimum side yard	35 feet	25
Minimum side yard, both	70 feet	50
Minimum lot width	150 feet	200
Minimum lot depth	200 feet	200
Maximum building coverage	20%	30%
Maximum height		
Stories	2.5	2.5
Height	35 feet	35 feet
Source: Chapter 155, Zoning, of the Town of Marlborough Zoning Code, 2011.		

There are a variety of other supplemental bulk and use requirements set forth in the Town's zoning ordinance that regulate various uses.

3.6.2.2 Potential Impacts

Zone Amendment

The project sponsor is requesting a zone map change to rezone the portion of the site located on the north side of Dock Road to the "R" district in order to construct multiple dwellings. In total, 25.12 acres would be rezoned to the "R" district. As per the Town zoning ordinance, the purpose of the "R" district is as follows:

"...to provide for the orderly growth of established residential centers, to prevent overcrowding of the land, to regulate those uses which are not compatible with residential neighborhoods and to create conditions which are otherwise conducive to carrying out the purposes of this chapter."

Among the uses allowed by special permit in the "R" district is: multiple dwellings. As described below, multiple dwellings specifically include "townhouse" dwellings, the housing type that the applicant seeks to construct. It is noted that the applicant does not propose to rezone land on the south side of Dock Road as the only structure that would be constructed on that site is a stormwater basin which would be accessory to the principal multiple dwelling use.

The applicant is also offering to dedicate land to the Town on which the existing gravel overflow parking is situated. This is not a use specifically related to the townhouse development, and it is anticipated that the applicable parcel of land would be subdivided out from the parent parcel, if the Town Board deems this an acceptable arrangement.

Article X of the Town zoning ordinance regulates zoning amendments. The Town Board, on petition, may amend the zoning ordinance, including the zoning map attached thereto. As stated in the land use section, the proposed project conforms to the Marlboro Hamlet Plan recommendation to allow residential uses within this hamlet transition area.

The zoning petition must be referred to the Planning Board for report prior to any public hearing on the subject zoning petition. The Planning Board is required to issue a report to the Town Board within 30 days of the time the amendment is referred to it. Article X does not set forth any standards applicable to consideration of zone changes - zone changes are entirely at the discretion of the Town Board.

In order to construct the proposed Dockside at Marlborough, the applicant would also seek a special use permit, site plan and subdivision approval from the Marlborough Planning Board.

Special Use Permit

Multiple dwellings are regulated in accordance with Section 155-30 of the Town zoning ordinance, as amended by Local Law 3 of 2011. Townhouses were specifically added as a type of multiple dwelling allowed in the zoning ordinance. A townhouse is defined as:

"TOWNHOUSE - A dwelling unit in a multiple dwelling consisting of a row of three or more attached dwelling units wherein each unit is intended for single family occupancy. Each unit shall share a common wall with one or more other units and shall not share a

common floor or ceiling. Ownership of the townhouse dwelling shall include the land on which the unit is placed.”

The proposed Dockside dwellings meet the definition set forth above and therefore constitute multiple dwellings regulated in accordance with Section 155-30 of the Town zoning ordinance.

For multiple dwellings, the following lot, yard and density regulations apply:

Table 3.6-2 Town of Marlborough Zoning Ordinance - Bulk Requirements		
Bulk Requirements for Multiple Dwellings	Required	Provided
Minimum lot area	3 acres	27.19 acres
Minimum lot width	200 feet	> 200 feet
Maximum lot coverage	15%	11.6 %
Lot shall be served by and utilize public water and sewer.	yes	yes
Minimum front yard setback	40 feet	40 feet
Minimum side yard setback, each	30 feet	130 feet
Minimum rear yard	30 feet	70 feet
Maximum density	6 dwellings/acre	< 6 du/acre
Source: Chapter 155, Zoning, of the Town of Marlborough Zoning Code, 2011.		
Notes:		
Front property line and yard setback measured along Dock Road and U.S. Route 9W.		
Rear property line and yard setback measured along northerly property boundary with school district property.		
All other lot lines are side lot lines and side yard setbacks.		
The minimum acreage required for 137 townhouse units, at 6 dwelling units per acre, is 22.83 acres.		

The provisions set forth in Section 155-30.A apply to the overall site. Based on the foregoing, the project site meets these requirements.

With regard to the project’s density, the minimum acreage required to construct the 137 dwelling units is 22.83 acres, or 4.36 acres less than the acreage available. A deed overlap area exists along the easterly end of the property, and the applicant anticipates that a portion of the lot may be subdivided in order to dedicate land to the Town for a municipal parking lot. The residential buildout has been estimated conservatively to exclude these two potential areas from the calculations.

Section 155-30.B includes additional design standards that would apply to the proposed dwellings. Subsection (1) requires that no more than eight (8) units be contained in a single structure - this requirement is met as the maximum number of units in a structure would be six (6) units.

Subsection (2) in 155-30.B. requires that the minimum distance between two or more structures on a single lot be no less than twice that of a minimum side yard, i.e., 60 feet. The Dockside development proposes that the minimum separation distance between buildings be 30 feet - depending on how this provision is interpreted, a variance may be required from the Zoning Board of Appeals. The proposed distance between the buildings provides adequate access to the rear of the structures, and is reasonable for the R district. Specifically, Schedule I, Lot Yard and Height Regulations, of the Town zoning ordinance, requires that a minimum side yard setback of 10 feet be provided in the R district, and both side yards shall be no less than 25 feet - the other side yard would be required to be no less than 15 feet. If the two larger side yards

were placed together in the R district, the total separation distance for two buildings would be a minimum of 30 feet. This is the same separation distance provided between buildings within the Dockside development. In the opinion of the applicant, this variation is substantially consistent with the general side yard requirements in the R district.

Subsection (3) in 155-30.B. addresses off-street parking requirements - 1.5 spaces are required for multiple dwellings. Based on 137 dwelling units, a total of 206 parking spaces are required. The applicant proposes two parking spaces per dwelling unit - one space would be located in the single car garage, and the other parking space is provided in the driveway to each unit. Residential dwellings are provided a total of 274 dwelling units. Additional off-street parking is provided for guests and visitors next to Buildings 20 and 23, as well as in front of the clubhouse. A total of 33 parking spaces are provided for guests meeting the requirements of Subsection (3).

As per Local Law 3 of 2011, there is no limitation on the number of bedrooms that are allowed within an individual townhouse unit. The project, which proposes three bedrooms per dwelling, conforms to this requirement.

In summary, the project complies with the requirements of Section 155-30 with the exception of the minimum separation distance being provided between buildings.

Other Zoning Requirements

As per Section 155-16.H of the zoning ordinance, the retaining wall proposed along Road A near the wastewater treatment plant will require the approval of the Building Inspector or the Town Engineer. The outside face of the retaining wall will be 3 feet from the property line as required by the zoning ordinance.

Site Plan/Subdivision Review

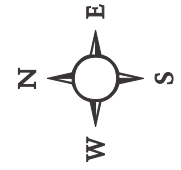
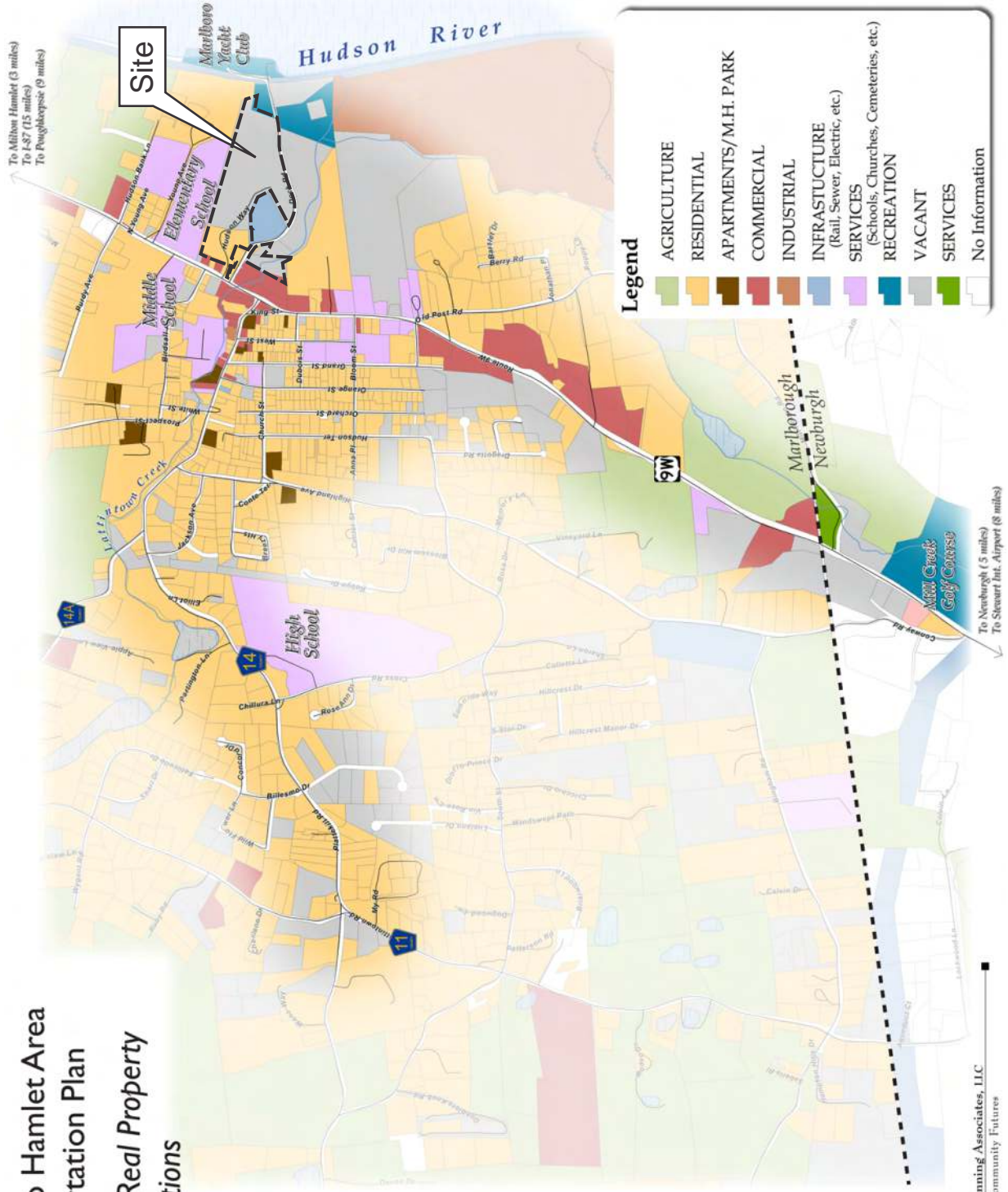
In addition to a special use permit application, the applicant will be required to submit applications to the Planning Board for site and subdivision approval. As part of its review, the Planning Board will consider the development's conformity with a number of standards, regulations and guidelines as set forth in Section 155-31.B(2) related to consistency with the comprehensive plan and drainage requirements, etc.

Lastly, the subdivision plan will be required to adhere to the standards set forth in Chapter 134 of the Town Code. In particular, 134-9, preliminary plats, Subsection H, includes standards that specifically apply to the platting of lots on which multiple dwellings are situated. The project will conform to these requirements. In particular, a homeowners association would be established to maintain the common areas associated with the overall development.

3.6.2.3 Mitigation Measures

The project is not anticipated to have any significant adverse impact on land use or zoning. Mitigation measures are not proposed.

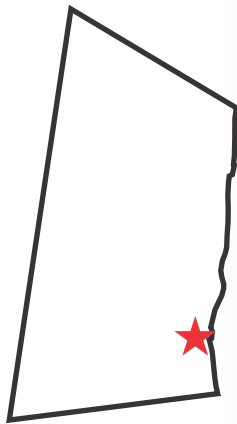
**Marlboro Hamlet Area
Transportation Plan
Map 1 - Real Property
Classifications**



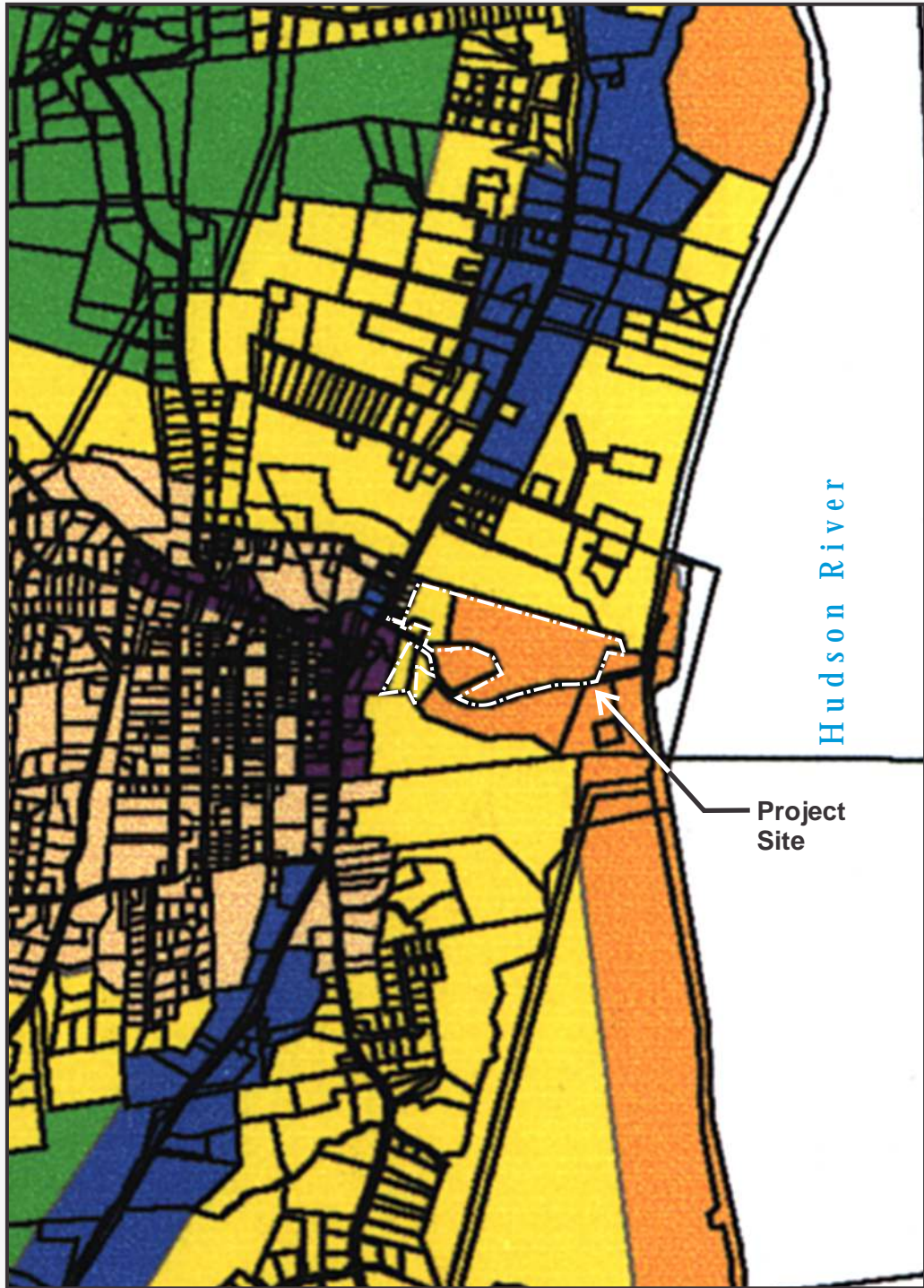
Project Site Boundary

Figure 3.6-1: Existing Land Use
Docks at Marlborough
Town of Marlborough, Ulster County, New York
Map Source: Behan Planning, LLC
Approx. Scale: 1" = 2,000'

Map prepared by:
Behan Planning Associates, LLC
Planning Community Futures



Town of Marlborough



Hudson River

Project Site

Map Legend	
	Parcels
Marlborough Zoning	
<all other values>	
ZONE	
	C
	C-2
	HD
	ND
	R
	R-1
	RAG-1

Zoning Map Detail

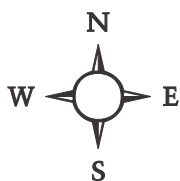
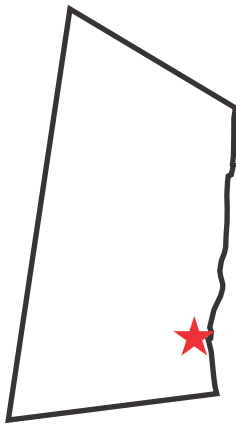
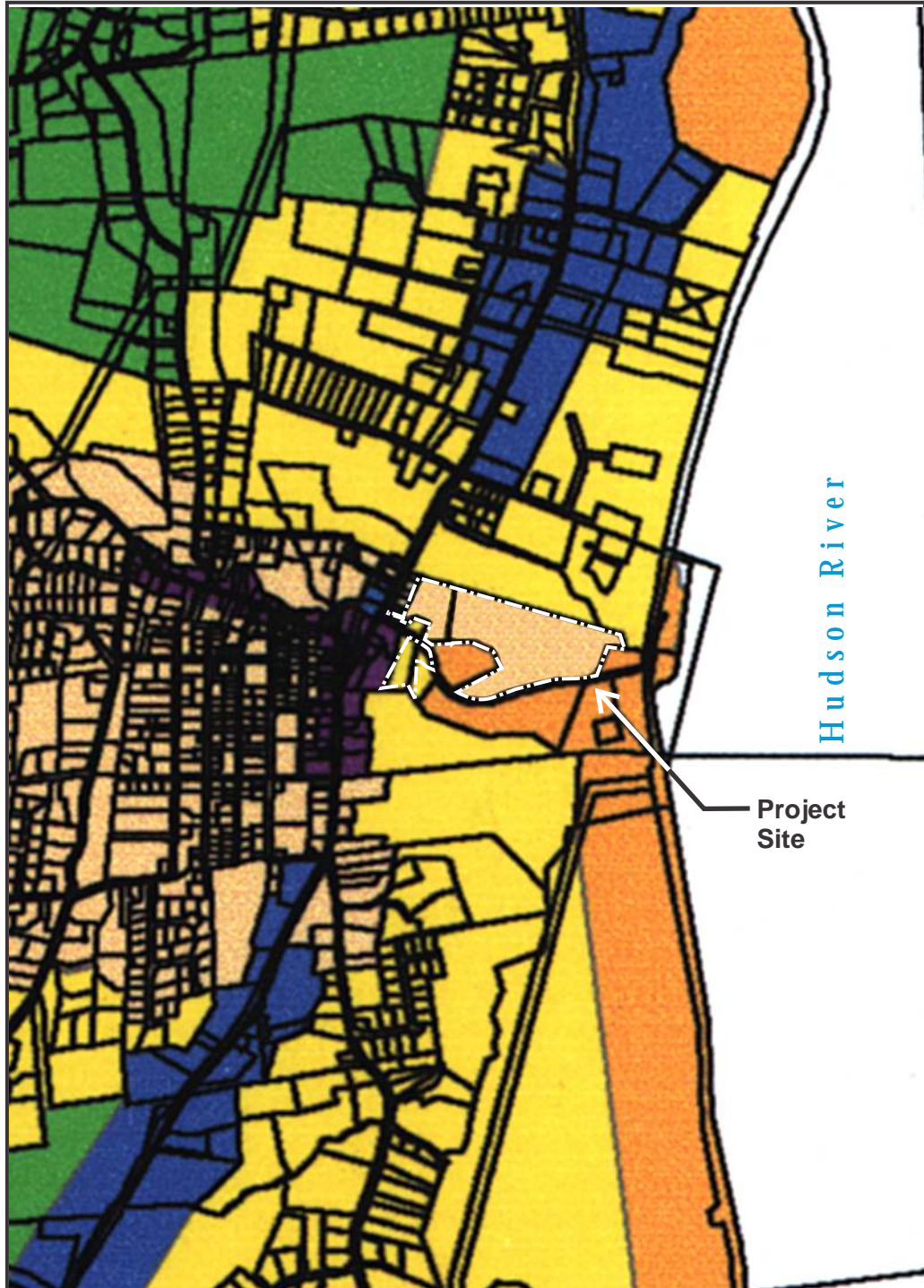


Figure 3.6-2: Existing Zoning Map
 Dockside at Marlborough
 Town of Marlborough, Ulster County, New York
 Map Source: Town of Marlborough, April 2001
 Approx. Scale: 1" = 1,500'



Town of Marlborough



Hudson River

Project Site

Map Legend	
	Parcels
Marlborough Zoning	
<all other values>	
ZONE	
	C
	C-2
	HD
	ND
	R
	R-1
	RAG-1

Zoning Map Detail

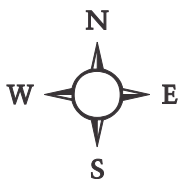


Figure 3.6-3: Proposed Zoning Map
Dockside at Marlborough
Town of Marlborough, Ulster County, New York
Map Source: Town of Marlborough, April 2001
Approx. Scale: 1" = 1,500'