



**CITY OF MARLBOROUGH  
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**JANUARY 8, 2018**

Regular meeting of the City Council held on Monday, January 8, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Ossing, Robey, Delano, Doucette, Dumais, Tunnera, Irish and Landers. Absent: Oram. Meeting adjourned at 9:16 PM.

ORDERED: That the Minutes of the City Council meeting DECEMBER, 18, 2017, **FILE**; adopted.

ORDERED: That the Minutes of the City Council meeting JANUARY, 1, 2018, **FILE**; adopted.

ORDERED: That the Communication from City Council President Clancy re: 2018 City Council Regular Meeting Schedule and City Council Committee Assignments for Legislative Year 2018, **FILE**; adopted.

ORDERED: That the PUBLIC HEARING On the Proposed Ordinances in which Article IV, Section 328-4 of the Code of the City of Marlborough, as Amended, be further amended as follows: Delete from Article IV, §328-4 of the Code of the City of Marlborough, entitled Fee Schedule for Other City Departments, the fee amount of "\$50.00" respecting Lodging Houses (M.G.L. c. 140, § 34) and insert in place thereof the fee amount of "\$500 for first 20 lodging units" and "\$50 per additional lodging unit over 20", & Inserting a New Chapter 421 as it pertains to Lodging Houses and Boarding Houses Order No. 17-1007097-1A & 2A, all were heard who wish to be heard, hearing closed at 8:07 PM.

**Councilors Present: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juaire, Ossing & Robey.**

**Absent: Oram.**

**Councilor Dumais recused.**

**MOTION made by Councilor Delano to remove this item from the Urban Affairs Committee and refer to LEGISLATIVE & LEGAL AFFAIRS COMMITTEE – Carries.**

ORDERED: That the CONTINUED PUBLIC HEARING On the Application for Special Permit to construct an Ancillary Residential Community in a single 28-unit building to be built at 615 Williams Street in conjunction with the Village at Crane Meadow Retirement Community, Order No. 17-1007054B, all were heard who wish to be heard, hearing closed at 8:58 PM.

**Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juaire, Ossing & Robey.**

**Absent: Oram.**

ORDERED: That the Communication from Mayor re: Appointment of Jeffrey Cooke as Building Commissioner, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Apex Sign Requests (2) Signs, Batteries and Bulbs, 58 Apex Drive, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Apex Sign Request, MindTrek Sign, 11-169 Apex Drive, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, JANUARY 8, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was **ORDERED ADVERTISED** as follows:

AMENDMENT TO THE CITY CODE BY ADDING TO ARTICLE VI, SECTION 650-36 COMMERCIAL VILLAGE OVERLAY DISTRICT AS FOLLOWS:

## **ARTICLE VI**

### **§650-36 - COMMERCIAL VILLAGE HOUSING OVERLAY DISTRICT**

#### **A. Purpose and Objectives**

The Commercial Village Housing Overlay District (herein, also a “CV Housing Overlay”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval (hereinafter any reference to City approval shall be deemed to mean approval by the City Council) as an alternative to land use controls that exist in the underlying zoning district(s). The establishment goals of the CV Housing Overlay are to enhance land use development and encourage desired residential growth patterns for the benefit of the public health, safety and welfare and to allow for the development of higher density housing in close proximity to commercial property and uses consistent with the stated economic development objectives of the City. The CV Housing Overlay shall be applicable to the property identified as Map 100, Parcels 24, 25, 26, and 15 (including the private way “Atkinson Drive”) and Map 89, Parcels 80-99 City of Marlborough Assessor’s map dated September 21, 2012 (formerly the property shown on Map 100, Parcels 14 and 15 as shown on City of Marlborough Assessor’s Map in effect on May 2006) and as further described on Exhibit “A” annexed hereto. The CV Housing Overlay shall be superimposed on the other zoning districts existing at the time that any land in any said underlying district is also included in the CV Housing Overlay.

#### **B. Authority of Permit Granting Authority**

The City Council shall be the Permit Granting Authority for the Master Plan approval (defined below) and for any Special Permit to be issued in the CV Housing Overlay. In all instances, a development which proceeds under the CV Housing Overlay is subject to Site Plan Approval in accordance with §270-2 of the Marlborough City Code, with the exception that the City Council shall be the Permit Granting Authority for any Special Permit approval in the CV Housing Overlay.

The City Council may elect to vary the dimensional and parking requirements of this Section by Special Permit if, in their opinion, such change shall result in a substantially improved project and will not nullify or substantially derogate from the intent or purpose of this section. This authority continues subsequent to development and occupancy.

Special Permits within the CV Housing Overlay shall be approved by a super majority (2/3) vote of the City Council. Amendments to any Special Permits issued by the City Council shall be per the requirements of this Section (§650-36 et. seq.).

C. Master Plan

The property owner/developer of the CV Housing Overlay shall, prior to, or simultaneously with, the first application for approval of a site plan and/or special permit for the CV Housing Overlay, file the following with the City Council for approval:

- (1) A Master Plan, or preliminary project plan, inclusive of the following:
  - (a) A project narrative describing the proposed development including, without limitation, the number of units, format, restrictions, if any, of the proposed project.
  - (b) A Master Concept Plan (“Master Plan”) which shall in a general manner show:
    - (i) The location and areas of proposed development;
    - (ii) Proposed open space (usable and natural);
    - (iii) Proposed site access curb cuts off of public ways; and
    - (iv) Proposed building “envelope(s)” where construction is anticipated to occur.
  - (c) The following information for the proposed development:
    - (i) Total land area of each development area (building envelope area);
    - (ii) Total development limitations, if any, of uses in any developable area;
    - (iii) Total maximum development (number of units; square footage/use limitations); and
    - (iv) A report/memorandum discussing site circulation and traffic impacts.

The Master Plan shall be approved by a majority vote of the City Council in order to proceed with the proposed development and, if approved, shall thereafter become the general development plan governing development at the CV Housing Overlay. The Master Plan may be amended from time to time by a majority vote of the City Council by application from the property owner/developer to reflect changing development conditions.

- (2) A Development Agreement in recordable form binding upon the developer/property owner. The Development Agreement shall be approved by a majority vote of the City Council prior to the issuances of the first permit/site plan approval for development within the CV Housing Overlay, which Development Agreement may contain, without limitation:
- (a) Required mitigation (including any traffic demand management initiatives), if any, to address the impacts arising out of the use and occupancy of the proposed project, or if at the time of execution such impacts are not known, the methodology for assessing and addressing such impacts as the development of the CV Housing Overlay progresses.
  - (b) Restrictions on development areas and such other development limitations as may be agreed upon such as, but not limited to, age restrictions and provision for affordable housing units and/or contributions, if any.
  - (c) Proposed phasing of the development of the CV Housing Overlay, if any.
  - (d) Obligations with respect to pedestrian and vehicular interconnectivity within the CV Housing Overlay, if any, to facilitate pedestrian access and circulation efficiencies.
  - (e) The authority of the City Council to retain the necessary professionals to assist in their review of development applications, if needed.

The Development Agreement shall govern the implementation of the Master Plan and development at the CV Housing Overlay.

D. Exclusivity/Control

Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this Section (§650-33 et. seq.) shall continue to remain in full force and effect, provided however that the City Council shall be the Special Permit Granting Authority, if applicable. This Section (§650-36 et. seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the CV Housing Overlay and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District). In the event of any conflict between the provisions of this Section (§650-36 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-36 et. seq.) shall govern and control.

### E. Eligible Uses

Except as specifically set forth below, all uses permitted in Residence Districts (RR, A-1, A-2, A-3, RB, RC, and RCR) either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance are permitted in the CV Housing Overlay. If a use requires a special permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this Section.

- (1) The following additional uses are also permitted BY-RIGHT in the CV Housing Overlay:
  - (a) Multi-family dwelling – up to 120 dwelling units within the entire CV Housing Overlay Zoning if said units are age restricted/targeted dwelling units
  - (b) Consumer service and retail establishments complimentary to the other principal uses at the property
  - (c) Restaurant, café with or without table service (including outside seating and service)
  - (d) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities
- (2) The following additional uses are also permitted BY-SPECIAL PERMIT in the CV Housing Overlay:
  - (a) Multi-family dwelling within the entire CV Housing Overlay Zoning District including, without limitation, age restricted dwelling units in excess of 120 units
- (3) Single family detached residential use is prohibited in the CV Housing Overlay

### F. Dimensional Requirements

The CV Housing Overlay shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:

- (1) The CV Housing Overlay may consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the CV Housing Overlay so long as a CV Housing Overlay district shall be no less than 10 contiguous acres.
- (2) Minimum Lot Frontage measurement shall be no less than twenty (20) feet for any lot wholly located within the boundaries of the CV Housing Overlay.
- (3) Minimum Front Yard measurement shall be no less than twenty (20) feet for any lot wholly located within boundaries of a CV Housing Overlay.
- (4) No less than fifteen (15) feet shall separate the structural side wall of any two or more structures within the CV Housing Overlay, even if on separate lots. No less than fifteen (15) feet shall separate any area behind and or between structures, and fire suppression vehicles shall have clear and adequate access to all structures.
- (5) Maximum building height in CV Housing Overlay shall not exceed 60 feet; a structure located within 50 feet from the property line of a directly abutting parcel in a residentially zoned district shall not exceed 40 feet in height.

- (6) Maximum Lot Coverage shall be calculated on the entire land area of the CV Housing Overlay and not on an individual lot basis, and shall not exceed 65% percent of the total area of the CV Housing Overlay.

G. Parking and Curb Cut Requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 and §650-49 of the Zoning Ordinance.

- (1) General - In the CV Housing Overlay adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose.
- (2) Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to permitted uses.
- (3) Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit. Where feasible, sharing of parking shall be encouraged among the various uses in the CV Housing Overlay.
- (4) Granting of Relief from Parking Regulations - The City Council may waive any of the foregoing requirements or the requirements of Section §650-48 if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

H. Signage

Except as otherwise provided in this Mixed Use Ordinance, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code – the Sign Ordinance.

- (1) Granting of Relief from Signage Regulations - The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the CV Housing Overlay.

I. Application

An application for a Special Permit for a development in the CV Housing Overlay shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance. In the matter of a Site Plan Approval, the application shall comply with the requirements of the City Code, Article II, Permits and Approvals, §270-2 et. seq.

The City Council in connection with a Special Permit application shall review such applications with respect to the following design criteria:

- (i) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
- (ii) Street façade and exterior walls visible from public ways;
- (iii) Public space;
- (iv) Scale of buildings; and
- (v) External Lighting

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A building elevation shall be submitted prior to the close of the public hearing/meeting.

J. Standards for Roadways and Drainage

- (1) Roadways – Internal CV Housing Overlay roadways shall be private ways and shall be maintained by the owners/developers of the CV Housing Overlay and portions thereof. Private ways within the CV Housing Overlay, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional or material requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.
- (2) Storm Water Management System - The CV Housing Overlay shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended. This system shall be privately maintained.

K. Amendments

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a Special Permit may be made by a simple majority of the City Council at a public meeting. A major amendment shall be approved by a super majority (2/3) vote of the City Council at a public hearing. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a minor or major amendment. In general, a minor modification shall not produce more than an immaterial increase in the scale of a project nor produce more than an immaterial increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a Special Permit are not minor, per Section 650-59 of the Zoning Ordinance, an application for a revised Special Permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of Section 650-59.

**SET A PUBLIC HEARING FOR APRIL 2, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD; adopted.**

ORDERED: That the Communication from Attorney Falk on behalf of Vincenza Sambataro, re: Proposed Amendment to Site Plan Approval, Marlborough on Main, 163-175 Main Street, X16-1006668, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, JANUARY 8, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was **ORDERED ADVERTISED** as follows:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING MAP ESTABLISHED BY CHAPTER 650 ZONING ARTICLE III ESTABLISHMENT OF DISTRICTS SECTION 650-8 "BOUNDARIES ESTABLISHED; ZONING MAP". SAID ZONING MAP IS AMENDED BY SUPERIMPOSING THE RETIREMENT COMMUNITY OVERLAY DISTRICT OVER ASSESSORS MAP 73, PARCELS 52 AND 53, AND ASSESSORS MAP 85, PARCELS 14 AND 15, 685 FARM ROAD (MARLBORO AIRPORT PROPERTY).

**SET A PUBLIC HEARING FOR MARCH 19, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD**; adopted.

ORDERED: At a regular meeting of the Marlborough City Council held on Monday, JANUARY 8, 2018 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was **ORDERED ADVERTISED** as follows:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by adding a new Section 650-37 as follows:

## **ARTICLE VI**

### **§650-37 – RAIL TRAIL OVERLAY DISTRICT**

#### **A. Purpose and Objectives**

- (1) The Assabet River Rail Trail Overlay District (herein, the "ARRTOD") allows the application of supplemental land use controls within the boundaries of a certain overlay district as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the ARRTOD are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting pedestrian and bicycle friendly development complimentary to the Assabet River Rail Trail.
- (2) For the purposes of this section, the ARRTOD shall be superimposed on the other districts existing at the time of the adoption of this Section. The ARRTOD consists of (i) the Assabet River Rail Trail property, and (ii) the parcels identified in Exhibit A annexed hereto and incorporated by reference herein.



B. Authority of Permit Granting Authority

- (1) The City Council shall be the Permit Granting Authority for Special Permit Approval in the ARRTOD. In all instances, a development which proceeds under the ARRTOD is subject to Site Plan Approval in accordance §270-2 of the Marlborough City Code.
- (2) The City Council may, by special permit in accordance with Section 650-59, permit a “Rail Trail Development”, defined in Subsection C, on any lot or combination of lots located in the ARRTOD (a “Development Parcel”) provided that the Rail Trail Development compliments the Assabet River Rail Trail by improving the appearance of the Development Parcel as seen from the Assabet River Rail Trail, encourages the use of the Assabet River Rail Trail, and provides certain public amenities (including, but not limited to, landscaping, trash receptacles, public safety enhancements, or other benefits) that enhance the Assabet River Rail Trail, either at the Development Parcel or, in the discretion of the City Council, at other locations along the Assabet River Rail Trail.

C. Eligible Uses, Dimensional Controls:

- (1) A Rail Trail Development shall include any use allowed in the underlying zoning district, either as of right or by special permit, in addition to the following:
  - a. Retail sales and services, up to 5,000 square feet of gross floor area per establishment.
  - b. Restaurant, café with or without table service (including outside seating and service) without drive-thru, up to 5,000 square feet of gross floor area per establishment.
  - c. Residential uses, with such density as seemed appropriate by the City Council.
- (2) A Rail Trail Development may include multiple uses, which may be commingled into a single structure or structures or may be located in multiple separate structures on one building lot.
- (3) A Rail Trail Development shall be subject to the dimensional, parking and landscaping requirements of the underlying zoning district and for the use or combination of uses of the Rail Trail Development, provided, however, that the City Council may elect to vary dimensional, lot coverage, and parking requirements by Special Permit if, in the City Council’s opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this Section. This authority shall continue subsequent to initial occupancy.

**EXHIBIT A**

The newly established Assabet River Rail Trail Overlay District shall include all or portions of the properties shown on the Zoning Map existing at the passage of this Ordinance, which properties include the following parcels of land:

1. The Assabet River Rail property, from the Marlborough-Hudson municipal boundary line to the intersection of Highland and Lincoln Streets.
2. Assessors Map 43, Parcel 29 (19 Ash Street).
3. Assessors Map 56, Parcel 125 (269 Mechanic Street).
4. Assessors Map 56, Parcel 96 (3-7 Longley Street).
5. Assessors Map 56, Parcel 85 (297 Lincoln Street).
6. Assessors Map 69, Parcel 345 (283 Lincoln Street).
7. Assessors Map 69, Parcels 340, 341, 342 and 343 (293 Lincoln Street).

**SET A PUBLIC HEARING FOR MARCH 5, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD.;** adopted.

ORDERED: That the Minutes, Board of Health, September 12, 2017 & October 10, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, November 14, 2017, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, November 14, 2017 & November 28, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Conservation Commission, November 16, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, December 4, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission Minutes, October 24, 2017 & November 28, 2017, **FILE**; adopted.

ORDERED: That the Minutes, License Board, November 29, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, November 7, 2017 & December 12, 2017, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- a. Unmesh Gundewar, 8 Flint Drive, residential mailbox claim (2a).
- b. James Burgarella, 76 O'Grady Road, residential mailbox claim (2b).
- c. Robert Luke, 218 West Main Street, other property damage.

Reports of Committees:

**THERE WERE NO REPORTS OF COMMITTEE.**

ORDERED: That the City Council Urban Affairs Committee meet with DPW Commissioner Ghiloni and Police Chief Giorgi to consider replacing the seasonal (winter) all night parking ban in the City of Marlborough with an ordinance providing for a Declaration of a Snow Emergency during which no parking of vehicles would be allowed on any streets or ways that are plowed by the City. The objective would be to make life easier for city residents by allowing them to park on the streets during the winter season, except during snow events or other hazardous conditions requiring that the streets be clear of vehicles, be and is herewith refer to **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE & TRAFFIC COMMISSION.**

Submitted by Councilors Juairé and Delano

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:16 PM.