

**CITY OF MARLBOROUGH
PLANNING BOARD**

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LEGAL NOTICE

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Public Hearing –Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed Use Overlay District (RMUOD).

Notice is hereby given that the City of Marlborough Planning Board will hold a Public Hearing on **Monday, April 5, 2021 at 7:00 PM** to amend Chapter 650 §33 Results Way Mixed Use Overlay District.

PLEASE NOTE: Due to the Covid-19 pandemic and State of Emergency in Massachusetts, this hearing will be conducted by remote participation. Instructions on how to participate will be posted on the Planning Board agenda found on the Planning Board page at <https://www.marlborough-ma.gov/planning-board>. Any questions, please contact the Office of the Planning Board.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

Chapter 650 §33 – Results Way Mixed Use Overlay District

A. Purpose and objectives.

- (1) The Results Way Mixed Use Overlay District (herein, also RWMUOD) 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 district(s). The establishment goals of the Results Way Mixed Used Overlay District are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare by promoting integrated, pedestrian-friendly, mixed use development to allow for the development of housing, retail and workplaces within close proximity of each other consistent with the stated economic development objectives of the City (collectively, herein mixed use developments or MUD).
- (2) For the purposes of this section, the RWMUOD shall be superimposed on the other districts existing at the time that any land in any said underlying district is also included in the RWMUOD. The RWMUOD is adjacent to Simarano Drive ~~to the west, and~~ Forest Street ~~to the north, and Puritan Way and Results Way to the east~~ as indicated on the City Zoning Map and more particularly described in Exhibit A annexed hereto and incorporated by reference herein.¹

- (3) For the purposes of the Zoning Ordinance, a mixed use development or MUD shall include any eligible use set forth in Subsection E, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site subject to any restrictions and/or limitations set forth in the development agreement described in Subsection C(2) below. Accordingly, mixed use developments shall benefit the public health, safety and welfare through the sharing of parking lots and driveway curb cuts to minimize the amount of impervious paved parking areas, to reduce traffic congestion, to reduce automobile trips, and accordingly to improve air quality.

B. Authority of permit granting authority.

- (1) The City Council shall be the permit granting authority for special permit and site plan approval in the RWMUOD. In all instances, a development which proceeds under the RWMUOD 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 special permit and site plan approval in the RWMUOD.
- (2) The City Council may elect to vary the dimensional and parking requirements of this section by special permit if, in its 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 occupancy.

C. Master concept plan; development agreement. ~~The~~A property owner/developer ~~of~~within the RWMUOD shall, prior to or simultaneously with the first application for approval of a site plan and/or special permit for a MUD within the RWMUOD, file the following with the City Council for approval:

- (1) Master concept plan.
 - (a) A master concept plan (master plan) which shall in a general manner show:
 - [1] The location and areas of proposed development;
 - [2] Proposed open space (usable or natural);
 - [3] Proposed site access curb cuts off of Simarano Drive and Forest Street; and
 - [4] Proposed building envelope(s) where construction is anticipated to occur (excluding internal site driveways).
 - (b) A table showing approximate acres and calculations of the following:
 - [1] Total land area of each development area (building envelope area);
 - [2] Total development limitations, if any, of uses in any developable area;
 - [3] Total maximum development (square footage/use limitations); and
 - [4] Approximate number of parking spaces ~~for the entire RWMUOD District.~~
 - (c) The master plan shall be approved by a super majority (2/ 3) vote of the City Council at a public meeting and shall thereafter become the general development plan governing development at the ~~RWMUOD~~MUD. The master plan may be amended from time to time by a super majority vote (2/3) 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.

(a) The development agreement shall be approved by a super majority (2/3) vote of the City Council prior to the issuances of the first permit/site plan approval for development within the ~~RWMUOD~~MUD, which shall contain, without limitation:

- [1] Required mitigation (including traffic demand management initiatives) 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 ~~RWMUOD~~MUD progresses.
- [2] Restrictions on development areas and such other development limitations as may be agreed upon.
- [3] Proposed phasing of the development of the ~~RWMUOD~~MUD.
- [4] Obligations with respect to pedestrian and vehicular interconnectivity within the ~~RWMUOD~~MUD to facilitate pedestrian access and parking efficiencies.
- [5] The authority of the City Council to retain the necessary professionals to assist in its review of development applications.
- [6] An agreement by the property owner/developer of the residential component of the property to make a onetime financial contribution to the City per residential unit developed at the ~~RWMUOD~~MUD for which a building permit is issued. This payment shall be due at the time of the issuance of the building permit for the unit(s). This amount is to be used by the City acting by and through the City Council to assist in the identification and implementation of zoning, economic and other strategies to foster professional, retail and commercial development initiatives as well as the development of affordable housing which may include, without limitation, the preparation of a housing production plan in accordance with the rules and regulations of the Massachusetts Department of Housing and Community Development (760 CMR 56.03(4)) and the funding of the implementation of the goals and objectives set forth in such plan.

(b) The development agreement shall govern the implementation of the master plan and development at the MUD.

(c) Notwithstanding anything contained in any current or future development agreement to the contrary, each development agreement shall only apply to the applicable MUD and shall not govern any development of other MUDs within the RWMUOD.

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 and site plan approval authority, if applicable. This section (§ 650-33 et seq.) of the Zoning Ordinance exclusively controls the establishment, development, and design of any MUD undertaken in the RWMUOD and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District, provided that the maximum total impervious surface coverage for the RWMUD shall be 60% calculated on the entire land area of the ~~RWMUOD~~each MUD and not on an individual lot basis). In the event of any conflict between the provisions of this section (§ 650-33 et seq.) and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.

E. Eligible uses. Except as specifically set forth below, all uses permitted in the Industrial and Limited Industrial Districts either as of right or by special permit in accordance with § 650-17 of the Zoning Ordinance are permitted in the RWMUOD. 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 RWMUOD:

- (a) Research and experimental labs (33). (NOTE: Numbers in parentheses correspond to subsection numbers in § 650-18, Conditions for Uses, as noted in § 650-17, Table of Use Regulations.) Research and development includes, without limitation, laboratories engaged in research, experimental and testing activities, including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, pharmaceuticals, medicine and physics.
- (b) Medical office and diagnostic medical laboratories appurtenant to offices of physicians and dentists.
- (c) Associated/accessory research uses (35). (NOTE: Numbers in parentheses correspond to subsection numbers in § 650-18, Conditions for Uses, as noted in § 650-17, Table of Use Regulations.)
- (d) Advanced manufacturing, which shall include high technology manufacturing, such as, but not limited to, laser technology, robotics, nanotechnology and computer-associated design and software development.
- (e) Multifamily dwelling: up to ~~350 dwelling units within the entire RWMUOD Zoning District~~the maximum amounts set forth on Exhibit A including, without limitation, age-restricted dwelling units.
- (f) Retail sales and services: up to ~~75,000 square feet of total gross floor area; up to 10,000 square feet of gross floor area per establishment~~the maximum amounts set forth on Exhibit A.
- (g) Hotels and motels.
- (h) Hotels with conference facilities and commercial uses.
- (i) Car parking lots, garages: a structure or a group of structures that facilitate the parking of vehicles at ground level, above or below grade and shall include area for the parking of vehicles at, above and/or below grade under a building or otherwise integrated into another structure.
- (j) Consumer service establishments complementary to the other principal uses at the property.
- (k) Restaurant, cafe with or without table service (including outside seating and service).
- (l) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities.
- (m) Self-service laundry.
- (n) Dry cleaning (pickup and dropoff only).

(2) The following additional uses are also permitted by special permit in the RWMUOD:

- (a) Multifamily dwelling — more than ~~350 dwelling units within the entire RWMUOD Zoning District~~the maximum amounts set forth on Exhibit A including, without limitation, age-restricted dwelling units.
- (b) Drive-through facilities associated with retail (e.g. banks; pharmacies) and food services.

(3) The foregoing subsections notwithstanding, the uses set forth as follows are expressly prohibited in the RWMUOD:

- (a) Adult entertainment, including an adult bookstore, video store, paraphernalia store, movie theater, or live entertainment establishment.
- (b) Tattoo and body piercing parlors and shops.

- (c) Dye works.
 - (d) Biosafety Level 4 laboratories, as defined by the United States Center for Disease Control and Prevention.
 - (e) Establishments for construction in such services as, but not limited to, building, building maintenance, plumbing, landscaping, electrical, masonry, carpentry, well drilling.
 - (f) Electroplating, metal finishing except by special permit as an accessory use to an otherwise permitted principal use.
 - (g) Hazardous and toxic chemical manufacturing, except in accordance with applicable state and federal regulations.
 - (h) Trucking terminal and distribution center.
 - (i) Automotive sales and/or service.
 - (j) Retail gasoline, oil and lubrication stations.
 - (k) Commercial bakeries.
 - (l) On-site sales and rental of heavy machinery and vehicles.
 - (m) Laundry and dry cleaning establishment, except dropoff and pickup operations and facilities designed to service residents of multifamily dwelling.
 - (n) Any activity or use directly or indirectly involving, without limitation, the dispensing, use, sale, growing, storage or transportation of medical marijuana, including any medical marijuana treatment center.
 - (o) Any on-site facility or clinic devoted to the treatment of substance addiction, including any narcotic detoxification and/or maintenance facility.
- F. Dimensional requirements. The RWMUOD shall be subject to the dimensional standards in accordance with Article VII of the Marlborough Zoning Ordinance with the following exceptions:
- (1) The RWMUOD shall consist of one or more lots. There is no minimum acreage requirement for a lot to be a part of the Results Way Mixed Use Overlay District.
 - (2) Minimum lot frontage measurement shall be no less than 50 feet for any lot wholly located within the boundaries of the RWMUOD.
 - (3) Minimum front yard measurement shall be no less than 30 feet for any lot wholly located within boundaries of a RWMUOD.
 - (4) No less than 15 feet shall separate the structural side wall of any two or more MUD structures. No less than 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 RWMUOD shall not exceed 80 feet, provided that:
 - (a) Residential structures shall not exceed 70 feet; and
 - (b) No structure located within 120 feet from the center line of Forest Street shall exceed 50 feet.
 - (6) Maximum lot coverage shall be calculated on the entire land area of the RWMUODMUD and not on an individual lot basis, and shall not exceed 60% of the total area of the RWMUODMUD.
- G. Parking and curb cut requirements. Except as otherwise provided in this section, parking and circulation requirements shall conform to the provisions of §§ 650-48 and 650-49 of the Zoning Ordinance.

- (1) General. In the RWMUOD 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. In implementing this goal the City Council shall consider complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.
- (2) Parking locations. Parking may be provided at ground level, underground or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses.
- (3) Parking spaces for each dwelling unit. There shall be a minimum of 1.5 parking spaces for each dwelling unit.
- (4) Granting of relief from parking regulations. The City Council may waive any of the foregoing requirements or the requirements of § 650-48 if it makes a finding that to do so will enhance the overall design of the RWMUOD.

H. Signage.

- (1) Except as otherwise provided in this mixed use section, signage shall conform to the provisions of Chapter 526 of the Marlborough City Code, the Sign Ordinance.
- (2) 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 RWMUOD.

I. Application.

- (1) An application for a special permit for a use in the mixed use development in the RWMUOD 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, Chapter 270, Article II, Permits and Approvals, § 270-2 et seq.
- (2) The City Council in connection with a special permit and/or site plan application shall review such applications with respect to the following design criteria:
 - (a) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;
 - (b) Street facade and exterior walls visible from public ways;
 - (c) Public space;
 - (d) Scale of buildings; and
 - (e) External lighting.
- (3) 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 final building elevation shall be submitted prior to the close of the public hearing/meeting.

J. Standards for roadways and drainage.

- (1) Roadways. Internal RWMUOD roadways shall be private ways and shall be maintained by the owners/developers of the RWMUOD and portions thereof. Private ways within the RWMUOD, 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 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) Stormwater management system. ~~The~~Each MUD within the RWMUOD shall have a stormwater management system designed in accordance with the applicable Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended.

- K. Amendments. After approval, ~~the~~an owner/developer may seek amendments to the approved permits. Minor amendments to a special permit and major or minor amendments to a site plan approval may be made by a super majority (2/3) vote of the City Council. 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 major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material 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 § 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 § 650-59.

EXHIBIT A – CHAPTER 650 §33

The RWMUOD shall comprise two separate subdistricts, as described below. Within each subdistrict, one MUD shall be permitted, which shall be subject to a separate development agreement and master plan, and which may contain up to the maximum number of units of multifamily dwellings and gross floor area of retail sales and services uses set forth below.

		<u>Included Parcels</u> <u>[NOTE: To be confirmed by Assessor].</u>	<u>Total number of dwelling units permitted as-of-right (subject to site plan approval as set forth herein)</u>	<u>Total gross floor area of retail sales and services uses allowed</u>
<u>RWMUOD Subdistrict 1</u>	<ul style="list-style-type: none">• <u>PID# 100-1</u>• <u>PID# 100-1B</u>• <u>PID #100-2</u>• <u>PID #100-3</u>• <u>PID #100-1A</u>• <u>PID #101-2B</u>	<ul style="list-style-type: none">• <u>350 dwelling units as-of-right</u>	<ul style="list-style-type: none">• <u>75,000 square feet of total gross floor area (up to 10,000 square feet of gross floor area per establishment)</u>	
<u>RWMUOD Subdistrict 2</u>	<ul style="list-style-type: none">• <u>PID #100-19</u>• <u>PID #111-1</u>• <u>PID #111-2</u>	<ul style="list-style-type: none">• <u>100 dwelling units as-of-right</u>	<ul style="list-style-type: none">• <u>75,000 square feet of total gross floor area (up to 10,000 square feet of gross floor area per establishment)</u>	

Per Order of the City Council
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