

**CITY OF MARLBOROUGH
PLANNING BOARD
MARLBOROUGH, MASSACHUSETTS 01752**

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LEGAL NOTICE

2021 MAY 25 P 12:01

Public Hearing –Proposed Zoning Amendment to Chapter 650 to add a new Section to create the “Commercial Village Overlay District”.

Notice is hereby given that the Planning Board of the City of Marlborough will hold a **PUBLIC HEARING** on **Monday, June 21, 2021 at 7:00 PM** to amend Chapter 650 to add a new Section to create the “Commercial Village Overlay District.

The materials will be available online at <http://www.marlborough-ma.gov/planning-board> under Public Hearing Notices in addition they are also available in the Office of the City Clerk, City Hall, 140 Main Street, Marlborough, MA 01752, Telephone 508-460-3775.

PLEASE NOTE: Due to the Covid-19 pandemic and State of Emergency in Massachusetts, this hearing may be conducted by remote participation or in person. If this hearing is to be held remotely, instructions on how to participate will be posted on the Marlborough Planning Board agenda which can be found on the Planning Board page at www.marlborough-ma.gov/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:

§650 – “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 with potential accessory uses and in close proximity to commercial 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 the City Council. Amendments to any Special Permits issued by the City Council shall be per the requirements of this Section (§650-35 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 and associated uses;
 - (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 (§650-35 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 (§650-35 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-35 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 or age targeted (by design) dwelling units
 - (b) Consumer service and retail establishments accessory and complimentary to the other principal uses at the property
- (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/ age targeted 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 CV Housing Overlay, 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 with approval by the City Code Enforcement Officer. A major amendment, consisting of any changes not approved as a minor amendment, shall be approved by a majority vote of the City Council at a public hearing. If amendments are referred to the City Council by the Code Enforcement Officer, 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 amended 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.

Exhibit "A"

- A) Lots 1-23 as shown on a plan entitled a Definitive Subdivision Plan "Commonwealth Heights in Marlborough, MA. Endorsed by the City of Marlborough Planning Board on April 9, 2007 and recorded with the Middlesex South Registry of Deeds as Plan 549 of 2007; and
- B) The property on Forrest Avenue shown on the above referenced plan as being owned by "N/F David E. Silva"

Per Order of the City Council
#21-1008293

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