

**MINUTES**  
**MARLBOROUGH PLANNING BOARD**  
**MARLBOROUGH, MA 01752**

**Call to Order**

**March 19, 2018**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3<sup>rd</sup> Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, Phil Hodge, George LaVenture, and Chris Russ. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

**1. Meeting Minutes**

**A. March 5, 2018**

Mr. Fay noted that the February 5<sup>th</sup> minutes were tabled at the March 5 meeting. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the minutes of March 5<sup>th</sup> as amended. The February 5<sup>th</sup> Planning Board minutes will appear for vote on the next agenda, April 2. Motion carried.

**2. Chair's Business**

Chairperson Fenby informed the Board that she recently met with Mayor Vigeant to discuss the volume of proposed zoning amendments appearing on recent Planning Board agendas – particularly, developer introduced overlay districts. Meredith Harris, Executive Director of the Marlborough Economic Development Corporation (MEDC) was also present. She will be invited to an upcoming Planning Board meeting to introduce herself and the organization to new members, and to discuss overlay districts.

- A. Set Public Hearing Date: Proposed Zoning Amendment Article III Establishment of Districts Section 650-8 "Boundaries Established; Zoning Map", Extension of the Marlborough Village District. Council Order No. 18-1007195. **The public hearing was set for the April 23, 2018 Planning Board Meeting.**
- B. Set Public Hearing Date: Proposed Zoning Ordinance to amend Section 650-22, **Retirement Community Overlay District**, several subsections as it pertains to "purpose" and "permitted uses". Council Order No. 18-1007198. **The public hearing was set for the May 7, 2018 Planning Board Meeting.**

**3. Approval Not Required (None)**

**4. Public Hearings**

**A. PUBLIC HEARING: Proposed Zoning Amendment, Section 650-8, Retirement Community Overlay District, ORDER NO. 18-1007136 (Marlborough Airport Property) 7:05 pm**

Public Hearing Monday, March 19, 2018 – Proponent, Arthur Bergeron, Mirick O'Connell. Also present were Brian Falk, Mirick O'Connell and Bobby Depietri, Capital Properties Group.

Chairperson Fenby opened the hearing at 7:05 p.m. Mr. Fay read the public hearing legal notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

**Presentation:**

Attorney Bergeron reminded members that this was the second public hearing on the proposed overlay district zoning amendment at the airport property. He noted two changes from the previous proposal.

- 1) The new conceptual plan contains an access road into the parcel from Broadmeadow Rd.

The proponent explained that City Councilors had expressed that access from both Broadmeadow and Farm Road was important. Attorney Bergeron informed the Board that this access is just conceptual, because he has been unable to reach the current owner to begin discussions. Attorney Bergeron also indicated that Councilor Doucette had expressed a desire for "Garden-Style" units, not just "Townhouse-Style". 2) A depiction of a new "Garden-Style" building was provided in the PowerPoint presentation. The two "Garden-Style" buildings were shown in the "front" of the development, near the Farm Road entrance. Attorney Bergeron noted that the zoning language of the Retirement Community Overlay District would need to be modified. Presently, the ordinance only allows for "Townhouse-Style" detached units.

Attorney Bergeron compared potential tax revenue of a limited industrial development utilizing current zoning of industrial and limited industrial vs revenue in a residential Retirement Community Overlay District. As currently zoned, the estimated tax revenue of a scenario of an eight-building limited industrial development = \$180,000. Developed with 114 senior housing condominiums (townhouse-style) = \$523,000. Developed with two garden-style buildings (34 units) with an additional (90) townhouse-style condominiums = \$509,000 annually.

Mr. Bergeron said that there is currently no demand for multi-story office buildings in Marlborough. He indicated that the 495 corridor has ample inventory of (limited industrial/industrial property).

**Speaking in Favor of the Amendment:**

No person spoke in favor of the proposed amendment.

**Speaking in Opposition to the Amendment:**

Gina DiMatteo of 721 Farm Rd. owns limited industrial property at 729 Farm Rd. She feels this proposal has no positives for industrial property owners in the area. She fears that long-term owners of industrial property will be viewed negatively by new residential owners adjacent to their parcels. She speculated that new residents would quickly complain about their industrial neighbors. Aesthetics of industrial operations, noise associated with the tenants' businesses, hours of operation for deliveries and heavy equipment usage may be touchpoints for poor neighbor relations.

Michael Montero, industrial property owner at 667 Farm Rd. and resident of 20 Western View Dr. in Marlborough, also expressed his concerns. He recounted a story of an industrial property owner in Southborough that was situated near one of these types of developments. Soon after the residential development was built, residents united to oppose the property owner, who was forced to legally defend his business operation against his new neighbors.

Chairperson Fenby declared that portion of the Public Hearing closed.

**Questions and Comments from the Planning Board:**

Member Chris Russ asked for further clarification of the makeup of the 114 proposed units, particularly with respect to the garden-style buildings. Attorney Bergeron described two buildings with a total of (17) 1 to 3-bedroom condos in each building. Chairperson Fenby spoke on behalf of Ms. Hughes who was absent due to illness. I am concerned that many residents of Marlborough (in the target age demographic) may not be able to afford these units. Attorney Bergeron said that 15-20 % would be designated as affordable. He indicated that the Department of Housing and Community Development (DHCD) sets this percentage of affordable units required. Chairperson Fenby also asked what kinds of senior design accommodations the units would contain. She used shower grab bars as an example of a design consideration for older seniors. Mr. Depietri indicated that most commonly, these types of senior-friendly designs are adapted as retrofits. Ms. Fenby requested that the units contain the necessary structural elements to accommodate the addition of grab bars. Shower stalls require wall construction that will allow anchoring of adapted support bars. Mr. Depietri thought that was a reasonable suggestion.

Ms. DiMatteo asked permission to address the developer. She asked whether there were any traffic studies done to determine the traffic impact of this retirement community? She expressed that at certain times traffic gets backed up, making turning difficult. A: The traffic signal at Broadmeadow has improved traffic flow. Traffic studies would be completed during the special permit process. Ms. Fenby declared the Public Hearing closed. (7:24 p.m.)

**B. PUBLIC HEARING: On the Proposed Zoning Amendment, adding the Assabet River Rail Trail Overlay District, (ARRTOD), ORDER NO. 18-1007137**

Public Hearing Monday, March 19, 2018 – Proponent, Arthur Bergeron, Mirick O’Connell on behalf of his client David Skarin (19 Ash St.)

Chairperson Fenby opened the hearing at 7:24 p.m. Mr. Fay read the public hearing legal notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

**Presentation:**

Attorney Bergeron explained that the premise of the Rail Trail Overlay District was to encourage development that is complimentary to the rail trail. While Mr. Bergeron was clear that his primary focus is his client’s property at 19 Ash St., he explained that he had received advice from the Metropolitan Area Planning Council (MAPC) on how to define the overlay district. Their advice was to pick the parcels that have City consensus for development. Parcels included are the Johnson-Claflin building, the old Lakeside Towing property, the brick building right along the trail (perhaps encouraging an alternate use) and the Skarin site at 19 Ash St., which contains an old house and a landscaping business. His client’s plan is to restore the house and add residential units overlooking the rail trail. The number of included parcels was limited to four owner parcels. He explained that there was a concern that by including other parcels, there might be requests for further developments, particularly requests for special relief (including increased density) from other players.

**Speaking in Favor of the Amendment:**

David Skarin of 19 Ash St. spoke in favor of the proposed amendment. He explained that his family has operated the landscaping business at 19 Ash St. for many years, and now the time has come to move on. He feels that the Rail Trail Overlay District will reduce blight and improve the site by adding a development that better fits the surrounding neighborhood.

Kathy Terwedow of 53 Forbes Avenue spoke in favor of the amendment. She frequently uses the trail and considers the rail trail a tremendous City resource. She favors any development that compliments and improves the properties along the trail.

John Skarin of 19 Ash St. also spoke in favor of the overlay. He echoed the views of his brother David. He feels that the condo development is a much better use of their family’s property and the development will be a more proper use for 19 Ash St.

**Speaking in Opposition to the Amendment:**

No person spoke in opposition to the proposed amendment.

**Questions and Comments from the Planning Board:**

Mr. Fay did not understand the concept of restricting the size of the overlay district to the named parcels. He said that stopping at the Johnson-Claflin property and not including the old Niel Fassile property is a serious omission. He feels all properties from the trail to Mechanic St. should be included. He doesn’t see the logic in discouraging development by limiting the included parcels. Mr. Bergeron used the Universal Aluminum property as an example of a large parcel that wasn’t included. If developed, it could be a large-scale project that may negatively impact the trail.

City Engineer DiPersio asked a question about access from the properties. He wondered if the rail trail deed allowed direct access from properties. Attorney Bergeron said that any necessary language can be included during the special permit process. The hearing was declared closed at 7:45 p.m.

On a motion by Mr. Fay, seconded by Mr. LaVenture, the board voted to move to item 5 to address additional agenda items prior to the 8:00 pm public hearing in Council Chambers. Motion carried.

**5. Pending Subdivision Plans - Engineer's Report**

A. Subdivision Status Report – No additional changes to status report. City Engineer DiPersio deferred to item B.

B. Letters to Developers – Review of Remaining Major Completion Items: Mauro Farms, Cider Mill Estates, Blackhorse Farms (Slocumb), Walker Brook Estates, Howe's Landing

On a motion by Mr. Fay and Seconded by Mr. LaVenture, the Board voted to accept and file the five letters from Assistant City Engineer Collins. Motion Carried. The Board expressed appreciation for the summaries. The letters will provide a valuable reference to track the outstanding completion items on the named subdivisions. Ms. Fenby asked whether there were any issues to worry about. Mr. DiPersio said some projects are difficult to close out. When the City agrees to plow private ways before the developer completes the acceptance plans (allowing the City to accept the streets as public ways), there is little incentive for developers to complete the required paperwork. Q: Aren't the remaining bonds being held by the City incentive enough? A: No, not without any actual impact being felt by the developer, the projects stall and outstanding items linger.

**6. Preliminary/Open Space / Limited Development Subdivisions (None)**

**7. Definitive Subdivision Submission (None)**

**8. Signs (None)**

**9. Informal Discussion (None)**

**11. Correspondence: (None)**

**12. Public Notices of other Cities and Towns:**

On a motion made by Mr. Fay seconded by Mr. Hodge, item 12 was voted accepted and placed on file. Motion carried.

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to recess to attend the joint public hearing on the proposed recreational marijuana moratorium. The meeting will reconvene following the public hearing. Motion Carried.

**4. Public Hearings (Continued)**

**C. JOINT PUBLIC HEARING WITH PLANNING BOARD on the Proposed Zoning Amendment to Chapter 650 §5 & §38, Recreational Marijuana Moratorium with letter of support from the Mayor, Order No. 18-1007177, X12/13/14-1005247I 8:00 pm City Council Chambers**  
Councilor Juairé recused himself.

A motion was made and seconded to reconvene the City Council meeting. The motion carried. Planning Board Chairperson Fenby stated in accordance with Chapter 40A § 6 of MGL and hereby declared this part of the public hearing open. City Clerk Thomas read the notice of public hearing into the record.

Councilor Delano thanked the Planning Board Chairperson and Members for attending the joint public hearing requested by the Mayor. They were acting with an abundance of caution due to imminent deadlines associated with the retail recreational marijuana implementation. A motion was made by Councilor Delano, and seconded, to request a suspension of the rules to allow Mayor Vigeant to speak. The motion carried.

**Public Speaking in Favor:**

Mayor Vigeant previously spoke with Councilor Delano regarding the April 1<sup>st</sup> deadline for recreational marijuana as no one knows what will happen on that date. The Mayor attended several meetings on the topic in Boston and it was suggested if municipalities did not have their ordinances in place by April 1<sup>st</sup>, then those communities should enact a moratorium until their ordinances are ready. The recreational marijuana moratorium was before both the City Council and Planning Board as a precautionary measure. The moratorium would be in effect until December 31, 2018, or until City ordinances are in place, whichever occurred first.

There is no one else speaking in favor. That part of the Public Hearing is closed.

**Questions from the Public:**

There are no questions from the public. That part of the Public Hearing is closed.

**Public Speaking In Opposition:**

There is no one speaking in opposition. That part of the Public Hearing is closed.

**Questions from the City Council:**

Councilor Oram was in favor of the moratorium but questioned the sale of marijuana accessories like those already for sale as tobacco accessories. Councilor Delano responded they would ensure all ancillary uses are denied except for those they explicitly approve. They would keep moving the process forward and approving per the voter's wishes.

Councilor Delano anticipated the Planning Board would return to their regular meeting location and vote on the moratorium. They would send down a notice if they had done so, and if they had any changes or recommendations to the moratorium. Councilor Delano moved the Proposed Zoning Amendment to Chapter 650 §5 & §38, Recreational Marijuana Moratorium, to Reports of Committee to allow the Planning Board time to act prior to the end of the City Council Meeting.

Councilor Oram requested further clarification on his previous question. A motion was made by Councilor Oram, and seconded, to request a suspension of the rules to allow City Solicitor Donald Rider to speak. The motion carried. City Solicitor Rider stated the moratorium was drafted to include marijuana accessories such as defined in the proposed order. Councilor Oram had concerns because tobacco shops already sell products for multiple uses, either marijuana or tobacco, and whether the moratorium ordinance is clear enough to the vendors selling products for tobacco consumption that they can continue selling those products only for tobacco use.

City Solicitor Rider stated the moratorium referenced products that were intended or designed for use relative to marijuana and Councilor Oram was speaking of products designed for use with tobacco, a different situation. Those products can be retrofitted, no doubt, but the moratorium is specific to marijuana.

Councilor Doucette completely supported the moratorium. There are already vape shops in Marlborough and Councilor Doucette did not want to see the strict enforcement of the law to adversely affect existing businesses.

There are no further questions from members of City Council. That part of the Public Hearing is closed.

Chairperson Fenby asked if there were any questions or comments from the members of the Planning Board, there were none.

That ends the entire Public Hearing. This is currently in Reports of Committee.

A motion was made and seconded to recess. The motion carried.

On a motion by Mr. LaVenture seconded by Mr. Russ the Board moved to reconvene the meeting of the Planning Board. Motion carried.

#### **9. Unfinished Business**

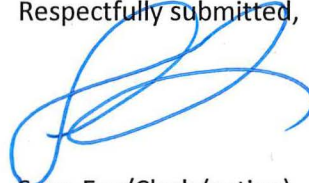
The Board was asked to provide a recommendation to the City Council that evening on the proposed recreational marijuana moratorium. The Board discussed that on April 1<sup>st</sup>, the State will begin accepting applications for recreational marijuana establishments. It was felt that since the final regulations of the Cannabis Commission were just recently released, the City has not had enough time to fully evaluate its proposed ordinances.

On a motion by Mr. Fay and seconded by Mr. Hodge, the Board voted to make a favorable recommendation to the City Council on the proposed recreational marijuana moratorium as set forth in item number 8 on the City Council's March 19, 2018 agenda. The moratorium will provide the City with time to engage in a deliberative process of formulating a comprehensive recreational use zoning ordinance based on best zoning and municipal practices. The moratorium is necessitated, in part, by the delay in receipt of final regulations from the Commonwealth's Cannabis Control Commission. Motion carried unanimously.

Adjournment: On a motion made by Mr. LaVenture, seconded by Mr. Fay, it was voted to adjourn at 8:50 pm. Motion carried.

/kih

Respectfully submitted,



Sean Fay/Clerk (acting)