

# CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: June 5, 2018

Time: 5:30 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2018 MAY 31 A 11: 37

Continued Review:

01-08-2018 – **Order No. 18-1007136 (X17-1006963C)**: Communication from Attorney Falk on behalf of Capital Group Properties LLC, regarding Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road.

-REFER TO URBAN AFFAIRS & PLANNING BOARD

-PUBLIC HEARING: MARCH 19, 2018

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



## IN CITY COUNCIL

Marlborough, Mass., JANUARY 8, 2018

### 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).

Be and is herewith **SET A PUBLIC HEARING FOR MARCH 19, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD.**

ADOPTED

ORDER NO. 18-1007136  
X17-1006963C



*City of Marlborough*  
*Commonwealth of Massachusetts*

**PLANNING BOARD**

Barbara L. Fenby, Chair  
Colleen Hughes  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Greg Gallagher  
Christopher Russ

Krista Holmi, Administrator  
Phone: (508) 624-6910 x33200

Email: [planning\\_board@marlborough-ma.gov](mailto:planning_board@marlborough-ma.gov)  
[kholmi@marlborough-ma.gov](mailto:kholmi@marlborough-ma.gov)

April 24, 2018

Edward Clancy, President  
Marlborough City Council  
140 Main St.  
Marlborough, MA 01752

RE: Council Order#18-1007136 Proposed Zoning Amendment, Section 650-8 Boundaries Established;  
Zoning Map. Retirement Community Overlay District (Airport Property).

Honorable President Clancy and Councilors:

At its regularly scheduled Planning Board meeting on April 23, 2018, the Board took the following action regarding the above referenced Council order:

On a motion by Mr. Hodge and seconded by Ms. Hughes, the Board voted to make a negative recommendation (without prejudice) to the City Council for the proposed zoning amendment. Motion Carried with Mr. Fay voting in opposition.

In its decision, the Board cited the uncertainty presented by an additional proposed zoning amendment to Section 650-22 - Retirement Community Overlay Districts. The Board is currently unable to evaluate the potential impact of expanding the District under Council order 18-1007136; the Planning Board's public hearing on Council order 18-1007198 is scheduled for May 7. Mr. Fay voted in opposition stating that the Board should evaluate the proposed Overlay District as presented and as potentially affected by the second pending Council order.

Sincerely,

Barbara L. Fenby  
Chairperson

cc: City Clerk  
File



*City of Marlborough*  
*Commonwealth of Massachusetts*

**PLANNING BOARD**

Barbara L. Fenby, Chair  
Colleen Hughes  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Greg Gallagher  
Christopher Russ

**Krista Holmi, Administrator**

**Phone: (508) 624-6910 x33200**

**Email: [planning\\_board@marlborough-ma.gov](mailto:planning_board@marlborough-ma.gov)**

**[kholmi@marlborough-ma.gov](mailto:kholmi@marlborough-ma.gov)**

May 22, 2018

Edward Clancy, President  
Marlborough City Council  
140 Main St.  
Marlborough, MA 01752

RE: Council Order#18-1007198 Proposed Zoning Amendment, Article VI Section 650-22, Retirement Community Overlay District.

Honorable President Clancy and Councilors:

At its regularly scheduled Planning Board meeting on May 21, 2018, the Board took the following action regarding the above-referenced Council order:

On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to make a *conditional* favorable recommendation to the City Council for the proposed zoning amendment. Motion Carried.

The Board provided the following reasons in reaching its recommendation:

- The developer established that the proposed overlay district would result in a development meeting a demonstrated need for a diversified housing stock in the City of Marlborough;
- The developer established that the proposed overlay district would benefit the City by providing an age-restricted (Age 55+) housing option with a positive fiscal impact to the City of Marlborough;
- The developer established to the Board's satisfaction that the proposed overlay district fits into the neighborhood, and in the Board's opinion, approval of the overlay district for this area would not unduly burden abutters.

While the Planning Board favorably views the amendment of the Retirement Community Overlay District for the Crowley Drive area, the Planning Board recommends additional restrictions to provide further City protections:

- In Section 3.D. (2) The Planning Board favors restricting units to studio, one (1), two (2) and two (2) bedroom with a study;
- In Section 3 D. (5) *No part of any principal building in a multifamily retirement community shall be less than 25 feet from any exterior lot line or less than 50 feet from a public way.* The Board's consensus is that these limits may be appropriate for the proponent's development, but the restriction provides too little protection for potential abutters in other areas of the City.

- In Section 3. D. (10) *A minimum of 1.0 parking space per dwelling unit shall be provided in a multifamily retirement community.* The Board's consensus is that (1) parking spot per dwelling unit is inadequate.
- The Board would prefer a proposal that would apply only to contiguous parcels in the Crowley Drive neighborhood, and not one that would allow the contemplated multi-family units in other parts of the City. Although the consensus of the Board was that the developer met its burden as outlined above, the Board did not favor an amendment that would apply to other areas of the City, and members expressed concern that the proposed amendment could be used as basis for less desirable multi-family units that would not be appropriate in other areas of the City.

Sincerely,

*Barbara L. Fenby /ICH*

Barbara L. Fenby  
Chairperson

cc: City Clerk  
File



# IN CITY COUNCIL

Marlborough, Mass., MARCH 19, 2018

PAGE 1

**ORDERED:**

That the PUBLIC HEARING On the Communication from Attorney Falk on behalf of Capital Group Properties LLC, re: Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18-1007136, X17/18-1006963C, all were heard who wish to be heard, hearing closed at 8:40 PM.

**Councilors Present: Delano, Doucette, Dumais, Irish, Clancy, Landers, Juaire; Oram & Ossing.**

**Absent: Tunnera & Robey.**

## **PUBLIC SPEAKING IN FAVOR**

Attorney Arthur Bergeron spoke on behalf of Capital Group Properties, the developer of the land with the assent of the land owner. The presentation was the same as the one previously given October 16, 2017 with the addition of two slides. The purpose of the proposal is to create an overlay district, more specifically a Retirement Community Overlay District. If the overlay district is approved by the City Council, then his client would request a special permit to build a retirement community at the airport location.

Mr. Bergeron reviewed several slides (available in the City Clerk's Office for viewing) including a proposed layout for the property. Several suggestions were made at the last public hearing and his client could redesign the site if certain layouts were the preference of the Council. The previous proposal was two to three townhouse style units clustered throughout the property for a total of one-hundred-fourteen units. The developer could include garden style and elevated units however the City's overlay district ordinance would require modification as it currently only allows townhouses.

Mr. Bergeron explained they have attempted to contact the owner of a strip of land where they could connect the development to Broadmeadow Street. However, they have not been able to reach the property owner and it would require a zoning change as that property is zoned as Business. A retirement community overlay can only occur on land zoned as either Industrial or Limited Industrial.

Mr. Bergeron reviewed a slide for a "By Right Industrial Building Concept Plan" and the type of buildings one could expect at the site. He stated there would be no four-story office building as those would be more likely closer to Route 495. He then discussed the "Projected New Tax Revenue Retirement Community versus Industrial Use" and how a Limited Industrial use would have a tax revenue growth of about \$155,882 per year while a Retirement Community use would be about \$498,789 and net revenue positive due to the lack of children at those residences. Mr. Bergeron continued to explain the differences between a development with all townhouse units and one with a mix of townhouse and garden style units.



## IN CITY COUNCIL

Marlborough, Mass., MARCH 19, 2018

PAGE 2

ORDERED:

Mr. Bergeron concluded his presentation as the reason for this project is the decline of the private airport. The property will not stay an airport and it was the Council's decision as to whether it would be developed as a Limited Industrial site or a proposed retirement community. Its proximity to Wayside Athletic Club, Trombetta's, and open space via the Panther Trail makes it an ideal location for this type of development.

Sandra Stetson, primary owner of Marlborough Airport property, spoke in favor of this proposal. She was reluctant to sell but as the numbers show, the airport has not had a profit in many years. She is getting older and would like to retire and thought this was one of the best solutions for the property, and she hoped the Council would support the proposal.

Colum O'Donnell's family has owned Spring Hill Farm, 506 Broadmeadow Street, for almost seventy years and thought this was a wonderful project. He is a pilot and flew in and out of Marlborough Airport many times. This proposal will bring a lot of peace to the area in terms of noise. It is also positive due to its location near Callahan State Park and the kind of people most likely to buy into this facility will enjoy the park and perhaps Spring Hill Farm.

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

Gina DiMatteo, property owner at 721 and 729 Farm Road, spoke against the proposal. Although she understood the over-55 community would be a potentially good use for the property, her larger concern was the insertion of residential units into and between existing Limited Industrial properties where there may be conflicts between the residents and the current Industrial property owners. She thought this should be brought to the community's attention.

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



## IN CITY COUNCIL

Marlborough, Mass., MARCH 19, 2018

PAGE 3

### ORDERED:

#### QUESTIONS FROM THE CITY COUNCIL

✓ Councilor Doucette supported this proposal and thought it would be a great addition to Ward 2. He appreciated they incorporated feedback into their revised proposal. The access road to Broadmeadow Street is important due to safety concerns for emergency vehicles and more than one access to the property would reduce traffic on Farm Road. If it is just an access road, why does the zoning need to be changed? Mr. Bergeron explained a well-known case, the Textron case, in which there was industrial land in the back and residential land in the front with a driveway going through the residential area to the industrial area. The question was whether that driveway was an industrial use and the answer from the Supreme Judicial Court was yes.

✓ Councilor Juairé was confused about the access road and whether it would be emergency use only or a driveway used all the time? Mr. Bergeron indicated it was intended as a driveway to have access from both Farm Road and Broadmeadow Street. Councilor Juairé then asked if it was just an emergency access road, would they still have to change the zoning? Mr. Bergeron thought it was an interesting point and introduced his colleague, Brian Falk, for a more detailed explanation. Mr. Falk stated emergency access counts as a passive access route only versus a primary or secondary driveway which is part of a primary use. It is a zoning interpretation question which means it is safest to rezone whether it is an emergency or driveway access.

✓ Councilor Landers thought an access to Broadmeadow Street whether it was a driveway or pedestrian trail would be ideal to make it easier to reach Callahan State Park.

✓ Councilor Oram supported the secondary access road especially if the front access onto Farm Road was clogged. He asked if a traffic study was performed for the main entry. Mr. Bergeron indicated it had not been done as it was premature without the zoning in place and would be part of their special permit application process.

Councilor Oram referenced their prior discussion on the topic and his interest in reasonably priced housing for those downsizing into smaller housing units. Mr. Bergeron gave an approximation of the townhouse cost based upon their figures for estimated tax revenue and the garden style units would be less expensive since they cost less to produce.

✓ Councilor Ossing reminded everyone they are voting on the overlay district and not specific townhouses, condominiums, or access roads. They are solely deciding whether to rezone to an overlay district or not, and the applicant would need to come back and ask for approval for the project. Do they want to approve an overlay district on that parcel?





## IN CITY COUNCIL

Marlborough, Mass., MARCH 19, 2018

PAGE 4

### ORDERED:

Councilor Ossing recognized Ms. DiMatteo had a valid concern, it being no different than people buying houses near the airport property. Airports make noise, they cannot complain after the fact knowing the airport was there first. He suggested there could be a notation in the covenant acknowledging the property is located on limited industrial land and it was known to them at purchase.

✓ Councilor Delano agreed with the comments by Councilor Ossing. He also stated they can zone the extra driveway, but it does not mean it will happen if the developer cannot come to an agreement with the property owner.

✓ Councilor Landers commented when there is a public hearing for overlay zoning, he prefers to hear about a proposed project so he knows what a developer is planning when they move forward to the next phases.

✓ President Clancy clarified whenever they as a Council change an ordinance, it is far reaching and applies City wide.

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

That ends the entire Public Hearing. This is currently in the Urban Affairs Committee.

ADOPTED

ORDER NO. 18-1007136A  
X17/18-1006963C

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CITY OF MARLBOROUGH

05/30/2018

2018 MAY 30 P 4:28

Please find attached an additional signature page for the written protest attached and related to the proposed zoning amendment, 650-8 for the retirement overlay district order no 18-1007136(marlborough airport,

Signature page is for Levon R. Gulbankian

regards,

Gina DiMatteo

A handwritten signature in black ink, appearing to be "Gina DiMatteo", with a long horizontal flourish extending to the right.

4/11/2018

RECEIVED  
CITY CLERK'S OFFICE 9-2  
CITY OF MARLBOROUGH

Parties in Interest (see attached signatures)

RECEIVED  
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CITY OF MARLBOROUGH

2018 APR 17 A 8:45

City of Marlborough

Office of the Mayor, City Council, Urban Affairs committee, Planning Board and City Clerk,  
140 Main Street  
Marlborough, MA 01752

Re: The Proposed Zoning Amendment, Section 650-8, Retirement Community Overlay District, ORDER NO. 18-1007136(Marlborough Airport Property) and Special Permit

As the property owners of the land immediately adjacent (within 300') and in accordance with, MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws; procedure), we are writing to place on file, prior to final action by the council, a written protest against such change and to force a  $\frac{3}{4}$  vote of all members.

We feel strongly that the proposed amendment is not in the best interest of the surrounding community. This includes: business operations, existing residents or the prospective "New" residents.

1. This change is inconsistent. The proximity of the purposed development is dis-similar in character to adjacent properties. As previously expressed this will potentially cause conflict between LI /BUSINESS property owners, hosted businesses and "New" residents.
2. It is unclear, from a landowner's perspective, how the new requirements of the " Retirement Community Overlay" will affect the future use of our existing properties zoned Limited Industrial / Business.
3. Traffic on Farm Road is already a problem. An additional High-Density community will only exacerbate the problems for existing residents and businesses.
4. **No Communication to Parties in interest.** The overlay is in-consistent with LI and zoning districts. According to table of use, LI requires **Special Permit**. There is no Special Permit. Had there been a special permit request, Chapter 40a, Section 11. Requires written notification to parties in interest, **"notice shall be sent by mail, postage prepaid.** "Parties in interest" as used in this chapter includes abutters, and abutters to the abutters within three hundred feet of the property line.
5. A public hearing is scheduled on Monday May 7, 2018 for proposed changes to the zoning ordinance chapter 650-22. Though they are being proposed for a different community. The changes, if approved, would apply to this one. The proposed changes have the potential to significantly impact the final design of this residential community. Including, changes in the unit style and density. The impacts of which cannot be effectively assessed at this time by effected residents and business owners.



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CITY OF MARLBOROUGH

Signature Page:

In accordance with MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws), I am signing to "protest the proposed zoning changes" related to:

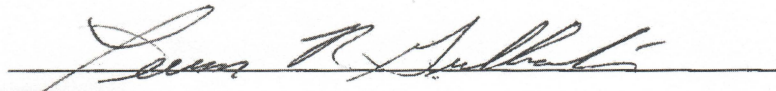
Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18- 1007136, XI 7/18-1006963C

Business Name or Resident and Address:

Gulbanhian Mobile Home Village  
1038 Broadmeadow st. Marlboro MA. 01752

Representative: <Please Print>

Levon R Gulbanhian



Signature

4/11/2018

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CITY OF MARLBOROUGH  
2018 APR 17 A 8:45

Parties in Interest (see attached signatures)

City of Marlborough

Office of the Mayor, City Council, Urban Affairs committee, Planning Board and City Clerk,  
140 Main Street  
Marlborough, MA 01752

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Signature Page:

In accordance with MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws), I am signing to "protest the proposed zoning changes" related to:

Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18- 1007136, XI 7/18-1006963C

Business Name or Resident and Address:

The 729 Farm Rd TRUST  
729 Farm Rd  
Richard C Dimatteo, TRUSTEE

Representative: <Please Print>

A handwritten signature in black ink, appearing to read "Richard C. Dimatteo", written over a horizontal line.

Signature

Page 1 73-49

Signature Page:

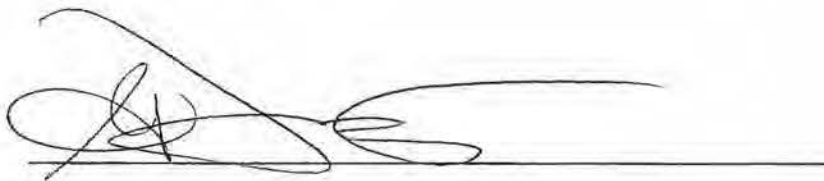
In accordance with MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws), I am signing to "protest the proposed zoning changes" related to:

Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18- 1007136, XI 7/18-1006963C

Business Name or Resident and Address:

Gina A. DiMatteo  
721 Farm Rd  
Marlborough MA 01752

Representative: <Please Print>

A handwritten signature in black ink, appearing to read 'Gina A. DiMatteo', is written over a horizontal line.

Signature

Parcel 73-50

Signature Page:

In accordance with MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws), I am signing to "protest the proposed zoning changes" related to:

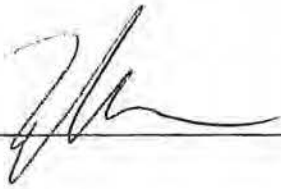
Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18- 1007136, XI 7/18-1006963C

Business Name or Resident and Address:

MICHAEL MONTEIRO, TR  
MONTEIRO REALTY TRUST  
667 FARM RD.  
MARLBOROUGH, MA 01752

Representative: <Please Print>

Signature

A handwritten signature in black ink, appearing to read 'Michael Monteiro', is written over a horizontal line.

Parcel 85-13



Signature Page:

In accordance with MGL chapter 40A (Zoning) Section 5 (adoption or changes of zoning ordinances or by-laws), I am signing to "protest the proposed zoning changes" related to:

Proposed Zoning Amendment to Chapter 650 §8, Retirement Community Overlay District, 685 Farm Road, Order No. 18- 1007136, XI 7/18-1006963C

Business Name or Resident and Address:

TROMBETTA FAMILY LIMITED PARTNERSHIP  
655 FARM ROAD  
MALDEN, MA. 01752

Representative: <Please Print>

A handwritten signature in dark ink, appearing to read "Anthony Trombetta", is written over a horizontal line.

Signature

Parcel 85-12

Signature Page:

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2018 APR 17 P 12:03

I am signing in support of the Vote "NO" on the proposal for 685-685R Farm Road Retirement  
Community Overlay District that is before you.

Business Name or Resident and Address:

32 Virginia St  
Marlborough

Representative: <Please Print>

Lee Atherton

A handwritten signature in black ink, appearing to read "Lee Atherton", is written over a horizontal line.

Signature

Note: This page is an addendum to the attached letter originally submitted to the city.