

RED SPRING ROAD OVERLAY
DISTRICT

ADDITIONAL INFORMATION

PROVIDED BY ATTORNEY FALK

Steven Kerrigan

From: City Council
Sent: Wednesday, November 29, 2023 7:12 PM
To: Mike Ossing; Kathleen Robey; Samantha Perlman; Mark Oram; Karen Boule; Christian Dumais; John Irish; Sean Navin; Teona Brown; David Doucette; Laura Wagner; Don Landers
Cc: Steven Kerrigan; Wilson Chu; Jason Grossfield; Brian R. Falk
Subject: From Atty Falk: Additional Info for the Urban Affairs November 30,2023 Meeting—Red Spring Road Zoning Overlay
Attachments: Red Spring Road Overlay District - Revised 11-29-2023 (A8540984x7A575).PDF; ATT00001.htm; Red Spring Road Overlay District - Revised 11-29-2023 (A8540571x7A575).DOCX; ATT00002.htm; Red Spring Rd- Exhibit A (A8519062x7A575).PDF; ATT00003.htm

From: "Falk, Brian R." <bfalk@MirickOConnell.com>
Date: November 29, 2023 at 4:32:08 PM EST
To: City Council <citycouncil@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>, Jason Grossfield <jgrossfield@marlborough-ma.gov>, Bob Durand <bob@durandanastas.com>
Subject: RE: Posting Notice for the Urban Affairs November 30,2023 Meeting—Review of Zoning Overlays

Greetings,

Attached for your review is a redline of the proposed Red Spring Road Overlay District Ordinance, tracked against the version originally submitted to the Council.

These edits reflect comments and questions from Councilors, the Planning Board, and neighbors through the public hearing process. The primary changes are as follows:

1. Exclude 10 acres of undeveloped common area from the overlay district, so that existing A2 Zone dimensional controls remain in place for that area.
2. Cap exclusive use areas in the overlay district at 29 (same as existing).
3. Require that any new parcels of land subdivided from the overlay district must comply with A2 Zone dimensional controls.
4. Expand the setback from the boundaries of the overlay district from 15 feet to 30 feet.

I will bring color copies for distribution at tomorrow night's Urban Affairs Committee meeting and look forward to reviewing these changes with the Committee.

Thanks,

Brian

MIRICK O'CONNELL

ATTORNEYS AT LAW

BRIAN R. FALK

Partner

Mirick, O'Connell, DeMallie & Lougee, LLP

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bfalk@MirickOConnell.com



Please visit our website: www.mirickoconnell.com

From: City Council <citycouncil@marlborough-ma.gov>

Sent: Wednesday, November 22, 2023 12:34 PM

To: Falk, Brian R. <bfalk@MirickOConnell.com>; William Pezzoni Esq. <wpezzoni@daypitney.com>

Cc: Karen Boule <kboule@marlborough-ma.gov>; City Council <citycouncil@marlborough-ma.gov>

Subject: Posting Notice for the Urban Affairs November 30,2023 Meeting—Review of Zoning Overlays

FYI—

KB

<https://www.marlborough-ma.gov/sites/g/files/vyhlf7576/f/events/urbanaffairsposting.11.30.23.pdf>

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ORDERED:

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 adding a new §650-50, Red Spring Road Overlay District, as follows:

§650-50 – RED SPRING ROAD OVERLAY DISTRICT

- A. Purpose and Objectives. The Red Spring Road Overlay District (“RSR”) 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 districts. The establishment goals of the RSR are to encourage improvements to existing structures and regulate modifications to a unique lakeside residential community.
- B. Location of RSR; Underlying Zoning.
1. For the purposes of this Section (§650-50 et. seq.), the RSR is located on the southerly side of Fort Meadow Reservoir along Red Spring Road between Reservoir Street and Cullinane Drive containing approximately ~~50~~40 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
 2. Except as specifically provided herein, the provisions of the Zoning Ordinance relating to the underlying zoning districts not otherwise impacted by this Section (§650-50 et. seq.) shall continue to remain in full force and effect. In the event of any conflict between the provisions of this Section (§650-50 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-50 et. seq.) shall govern and control.
- C. Authority of Permit Granting Authority.
1. The City Council shall be the special permit granting authority in the RSR.
 2. At the request of an applicant, the City Council may elect to vary the dimensional, parking, design, and landscaping requirements applicable to a use or structure by special permit upon finding that such change shall result in an improved design and will not nullify or substantially derogate from the intent or purpose of this Section (§650-50 et. seq.).
- D. Use Regulations.
1. The following uses are permitted as of right in the RSR:
 - a. Single-family dwellings.
 - ~~b. Up to one (1) boat club.~~

~~e.b.~~ Uses allowed as of right in the underlying zoning district, as set forth in the Table of Use Regulations.

~~d.c.~~ Accessory buildings and accessory uses.

2. Uses allowed by special permit in the underlying zoning district may be allowed by special permit in the RSR.
3. All uses not specified in ~~Subsection-Section 650-50.D.1~~ and ~~Subsection-Section 650-50.D.2~~ above shall be deemed prohibited in the RSR.

E. Dimensional Regulations for Lots in a Condominium Form of Ownership.

1. Within the RSR, multiple principal and accessory buildings and uses may be located on the same lot under a condominium form of ownership, provided that: (i) each principal building shall be located within an exclusive use area of at least 8,000 square feet, (ii) there shall be no yard setbacks or landscaped strips required as to exclusive use areas or minimum distances between structures, (iii) any building permit application for a new structure or expansion of an existing structure shall be accompanied by evidence that such work is authorized by the governing condominium organization, and (iv) the maximum number of exclusive use areas in the RSR shall be 29.

1.2. Notwithstanding any provisions of the Zoning Ordinance to the contrary, developmenta lot under a condominium form of ownership in the RSR shall be subject to the following dimensional standardsrequirements:

- a. Minimum Lot Area: 18,000 square feet.
- b. Minimum Lot Frontage: none.
- c. Minimum Front, Side, and Rear Yards: none (See Section 650-50.E.23).
- d. Maximum Building Height: 2 ½ stories.
- e. Maximum Lot Coverage: 30%, over the entire RSR.
- f. Maximum Gross Floor Area of a Single-Family Dwelling: 3,000 square feet.

2.3. With the exception of structures erected prior to July 1, 2023, all structures on a lot under a condominium form of ownership in the RSR shall be set back a minimum of 15-30 feet from the RSR district boundary line, ~~excluding the boundary line adjacent to the Fort Meadow Reservoir.~~

~~3. Within the RSR, multiple principal and accessory buildings and uses may be located on the same lot under a condominium form of ownership with each principal building located within an exclusive use area of at least 8,000 square feet, and there shall be no yard setbacks or landscaped strips required as to exclusive use areas or minimum~~

~~distances between structures, provided that any building permit application for a new structure or expansion of an existing structure shall be accompanied by evidence that such work is authorized by the governing condominium organization.~~

4. ~~Parking Requirements.~~ Parking for single-family dwellings ~~and boat club~~ on a lot under a condominium form of ownership in the RSR shall be provided as feasible. Parking for other uses within the RSR shall conform with the provisions of §650-48.A of the Zoning Ordinance.
5. Driveways and ~~Roadways.~~ ~~Driveways and~~ roadways ~~located within~~ servicing a lot under a condominium form of ownership in the RSR shall be maintained to provide safe access and egress for vehicular and pedestrian traffic and emergency services, but shall not be subject to the design standards set forth in §650-49 of the Zoning Ordinance or subdivision standards.

F. Dimensional Regulations for Other Lots. Lots not under a condominium form of ownership in the RSR and lots created after the effective date of this Section 650-50 shall be subject to the dimensional requirements of the underlying zoning district.

EXHIBIT A

The Red Spring Road Overlay District shall ~~include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):~~ consist of

Assessors Map 30, Parcel 10, with the exception of a portion of said parcel with an area of approximately 10 acres, as shown on the plan entitled "Plan of Land to be Excluded from 'The Red Spring Road Overlay District' " dated November 8, 2023.

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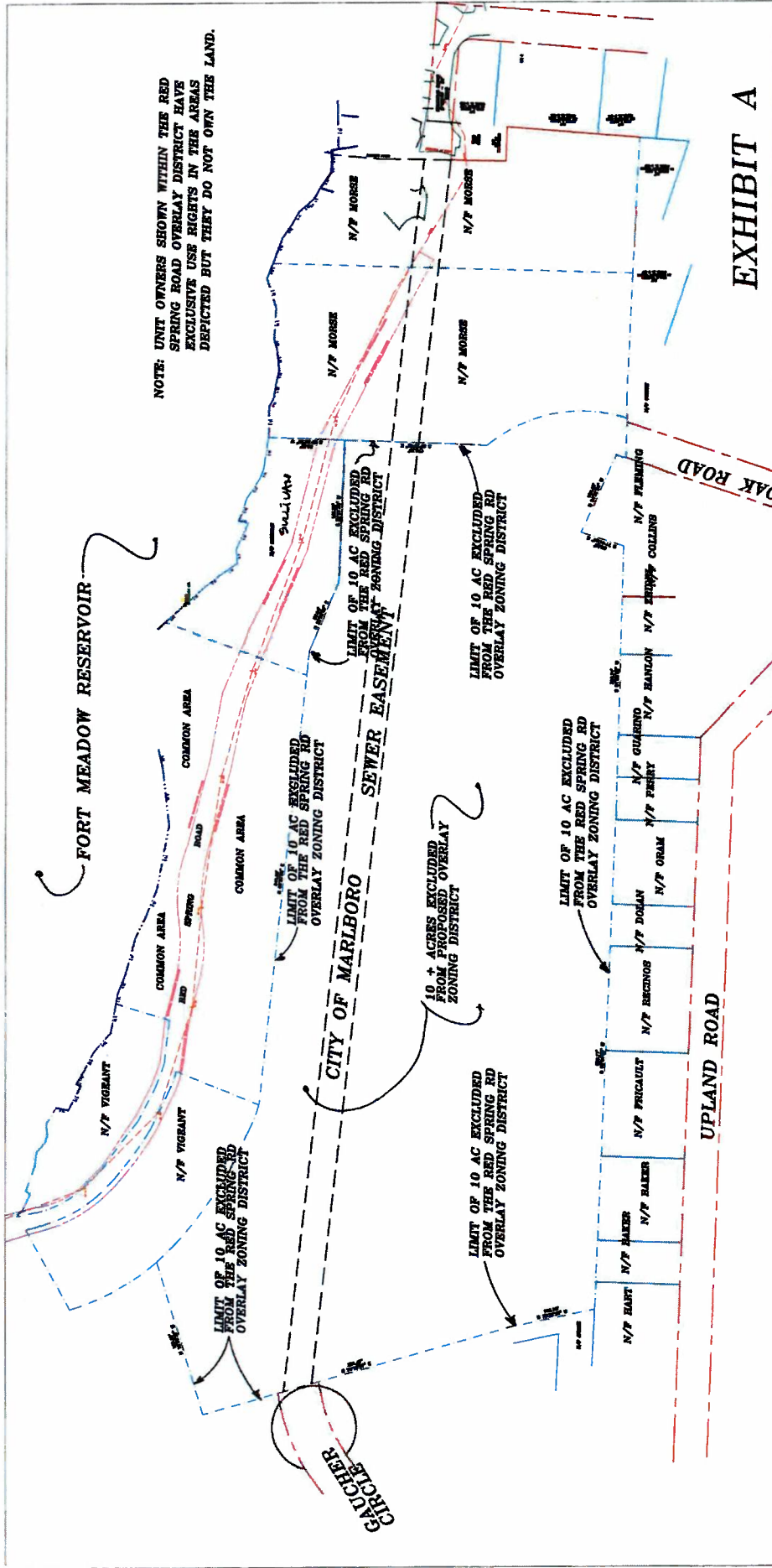


EXHIBIT A

PLAN OF LAND TO BE EXCLUDED FROM THE "RED SPRING ROAD OVERLAY DISTRICT" IN MARLBOROUGH, MASSACHUSETTS

OWNED BY: RED SPRING ROAD HOMEOWNERS ASSOC.
 ASSESSORS MAP 30 PARCEL 10
 PREPARED BY: ROBERT J. PARENTE, P.L.S.
 DATE: NOV. 6, 2023 SCALE: 1"=180'

