

RETIREMENT COMMUNITY
OVERLAY DISTRICT

ADDITIONAL INFORMATION

PROVIDED BY ATTORNEY FALK

Steven Kerrigan

From: City Council
Sent: Wednesday, November 29, 2023 7:38 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; Brian R. Falk; Jason Grossfield
Subject: From Atty Falk for the Urban Affairs November 30,2023 Meeting—Robin Hill Road Zoning
Attachments: RCO Zoning Amendment Order - revised 11-29-2023 (A8540939x7A575).PDF; ATT00001.htm; RCO Zoning Amendment Order - revised 11-29-2023 (A8540441x7A575).DOCX; ATT00002.htm

From: "Falk, Brian R." <bfalk@MirickOConnell.com>
Date: November 29, 2023 at 4:18:15 PM EST
To: City Council <citycouncil@marlborough-ma.gov>
Cc: Karen Boule <kboule@marlborough-ma.gov>, Jason Grossfield <jgrossfield@marlborough-ma.gov>, Mark Mastroianni <Mark.Mastroianni@PulteGroup.com>, Essek Petrie <Essek.Petrie@PulteGroup.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 amendments to the Retirement Community 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. Limit the extent of a combination townhouse/multifamily retirement community to the parcels along Robin Hill Street owned by Denali Belle LLC.
2. Clarify the density and dimensional controls applicable to a combination townhouse/multifamily with an expanded Section 650-22(C)(3).

The redline edits to Section 650-22(C)(2) revert that section back to its current version, so that any changes to the multifamily retirement community component is limited to a combination townhouse/multifamily retirement community. Such a combination community would only be allowed on the Robin Hill Street parcels and not available elsewhere in the City.

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

A T T O R N E Y S A T L A W

BRIAN R. FALK

Partner

Mirick, O'Connell, DeMallie & Lougee, LLP

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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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PROPOSED CITY COUNCIL ORDER

ORDERED:

Be it ordained by the City Council of the City of Marlborough that the Zoning Ordinance of the City of Marlborough, as amended, be further amended as follows:

1. By amending the Zoning Map established by Section 650-8, "Boundaries Established; Zoning Map", by superimposing the Retirement Community Overlay District, Combined RCO-D/T and RCO-MF, over Assessors Map 39, Parcels 5 and 26B; and
2. By amending certain provisions of Section 650-22, "Retirement Community Overlay Districts", as follows (new text underlined, deleted text in ~~strikethrough~~):

§ 650-22. Retirement Community Overlay Districts.

- A. Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community.
[Amended 4-8-2019 by Ord. No. 18/19-1007452G]
- B. Location. For the purposes of this section, a Retirement Community Overlay District shall be considered superimposed on the other districts existing at the time that any land in any said underlying district is also included in the Retirement Community Overlay District. The rezoning of any or all of the land included in the Retirement Community Overlay District from one underlying zoning classification to another shall not affect its inclusion in the Retirement Community Overlay District, unless said land is specifically removed from the said Retirement Community Overlay District.
- C. Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified or as otherwise approved by the City Council as part of the Special Permit process. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a retirement community-detached and townhomes, ~~or and~~ a retirement community-multifamily, as defined in § 650-5, or a combined retirement community-except as otherwise set forth herein, consistent with the following provisions:
[Amended 3-10-2003 by Ord. No. 03-9944B; 4-25-2011 by Ord. No. 11-1002806-1A; 4-8-2019 by Ord. No. 18/19-1007452G]

(1) Retirement community - detached and townhomes (RCO-D/T).

- (a) No building in an RCO-D/T community shall be more than 2 1/2 stories in height.
- (b) Each building in an RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by airline distance between the nearest points of the buildings.
- (c) No dwelling in an RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.
- (d) All dwelling units in an RCO-D/T community shall be detached from the others or attached only along side walls in the so-called "townhouse" style.
- (e) The lot or lots on which an RCO-D/T community is located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.
- (f) No part of any principal building in an RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.
- (g) Each dwelling unit in an RCO-D/T community shall have its own attached yard area.
- (h) Required off-street parking for each dwelling unit in an RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in an RCO-D/T community, either entirely or except

in designated locations, of boats, boat trailers, campers, or other recreational vehicles.

- (i) Maximum combined lot coverage in an RCO-D/T community shall not exceed 40% of the total lot size.
- (j) Each lot or contiguous lots upon which an RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.
- (k) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in an RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (l) The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (m) No unit in an RCO-D/T community shall have more than three bedrooms.
- (n) If an RCO/DT community is proposed which contains at least 30 acres of land, the following provisions shall supersede those found elsewhere in § 650-22:
 - [1] The lot or lots on which an RCO/DT community is located shall contain at least 5,000 square feet per unit in the RCO/DT community;
 - [2] Maximum lot coverage in the RCO/DT community shall not exceed 50% of the total lot size, excluding from the lot size any land which, prior to development of the site as a RCO/DT community, would be defined as a

"resource area," as that term is defined in MGL c. 131, § 40.

[3] Each lot or contiguous set of lots upon which a RCO/DT community is located shall have total frontage on an existing public way, or on a private way laid out by the City Council pursuant to MGL c. 82, § 21, of at least 250 feet; provided, however, that said frontage need not be continuous.

(2) Retirement Community - Multifamily (RCO-MF).

- (a) The total area of the tract of contiguous parcels to be developed as an RCO-MF shall not be less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located: ~~(i)~~ within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Route 85/290 Connector Road; then west along the Route 85/290 Connector Road to the intersection of Route 495; then south along Route 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with West Hill Road; then easterly along West Hill Road to the intersection with Pleasant Street; then north along Pleasant Street to the intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Route 85/290 Connector Road, all of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Route 495 and Route 290; ~~or (ii) within an area designated by the City Council through an amendment to the Zoning Map.~~
- (b) An RCO-MF may contain one- and two-bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barbershop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.
- (c) No building in an RCO-MF shall be more than ~~three~~ ~~four~~ ~~three~~ stories in height. ~~Subsurface parking levels shall not be considered a story, and there shall be no limitation on building height beyond the maximum of four stories.~~
- (d) The total number of multifamily dwelling units in an RCO-MF shall be limited to 12 units per acre, ~~which may be located in multiple multifamily buildings within an RCO-MF and on a single parcel.~~

- (e) No part of any principal building in an RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any ~~municipal~~ public way.
- (f) Maximum combined lot coverage in an RCO-MF, including any permitted accessory structures, shall not exceed 40% of the tract or contiguous parcels.
- (g) The tract or contiguous parcels upon which an RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.
- (h) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (i) The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (j) A minimum of 1.0 parking space per dwelling unit shall be provided in an RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (k) No dwelling unit in ~~a multifamily building with three or more stories in~~ an RCO-MF shall contain less than 500 square feet of living area or more than ~~1,300 1,600 1,300~~ square feet of living area.
- (l) No building in an RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from

the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.

- (m) In an RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas, such as vegetated areas, woodlands, wetlands and floodplain areas.

(3) Retirement Community – Combined RCO-D/T and RCO-MF.

- (a) **The City Council may, by special permit, authorize a retirement community development with combined RCO-D/T and RCO-MF components on a single parcel or more than one contiguous parcel.**
- (b) **The total area of the tract of contiguous parcels to be developed as a combined RCO-D/T and RCO-MF shall not be less than 10 acres. The underlying zoning district for all said land shall be Limited Industrial and all said land shall be limited to Assessors Map 39, Parcels 5 and 26B.**
- (c) **Except as provided in this Section 650-22(C)(3), the dimensional, open space, and parking requirements for detached and townhome structures in a combined RCO-D/T and RCO-MF shall be as set forth in Section 650-22(C)(1).**
- (d) **Multifamily buildings in a combined RCO-D/T and RCO-MF may contain one- and two-bedroom units and studio units.**
- (e) **Multifamily buildings or accessory structures in a combined RCO-D/T and RCO-MF may include services and amenities for its residents, including but not limited to common rooms, activity rooms, exercise rooms, and recreation facilities.**
- (f) **No multifamily building in a combined RCO-D/T and RCO-MF shall be more than four stories in height or more than 48 feet in height.**
- (g) **The total number of multifamily and detached/townhome dwelling units in a combined RCO-D/T and RCO-MF shall be limited to 8 units per acre, which may be located in multiple multifamily and or detached/townhome buildings on a single parcel.**

- (h) No part of any principal building in a combined RCO-D/T and RCO-MF shall be less than 25 feet from any exterior lot line or less than 50 feet from any municipal public way. No part of any multifamily building in a combined RCO-D/T and RCO-MF shall be less than 50 feet from any exterior lot line or less than 500 feet from any municipal public way.
- (i) Maximum combined lot coverage in a combined RCO-D/T and RCO-MF, including any permitted accessory structures, shall not exceed 40% of the tract or contiguous parcels.
- (j) The tract or contiguous parcels upon which a combined RCO-D/T and RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 250 feet.
- (k) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (l) The City Council may, as a permit condition, require that a proposed combined RCO-D/T and RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (m) A minimum of 1.0 parking space per multifamily dwelling unit shall be provided in a combined RCO-D/T and RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (n) No dwelling unit in a multifamily building with three or more stories in a combined RCO-D/T and RCO-MF shall contain less than 500 square feet of living area or more than 1,600 square feet of living area.
- (o) In a combined RCO-D/T and RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include

undisturbed natural areas, such as vegetated areas, woodlands, wetlands and floodplain areas.

(p) A combined RCO-D/T and RCO-MF shall be subject to Section 650-26, Affordable Housing, of the Zoning Ordinance.

(b)(g) The City Council may, by special permit, elect to vary the dimensional, parking, design, open space, and landscaping requirements applicable to a combined RCO-D/T and RCO-MF retirement community development 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 (§ 650-22 et seq.). This authority continues subsequent to occupancy.

ADOPTED
In City Council
Order No. 23-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

PROPOSED CITY COUNCIL ORDER

ORDERED:

Be it ordained by the City Council of the City of Marlborough that the Zoning Ordinance of the City of Marlborough, as amended, be further amended as follows:

1. By amending the Zoning Map established by Section 650-8, "Boundaries Established; Zoning Map", by superimposing the Retirement Community Overlay District, Combined RCO-D/T and RCO-MF, over Assessors Map 39, Parcels 5 and 26B; and
2. By amending certain provisions of Section 650-22, "Retirement Community Overlay Districts", as follows (new text underlined, deleted text in ~~strikethrough~~):

§ 650-22. Retirement Community Overlay Districts.

- A. Purpose. The purpose of the Retirement Community Overlay District shall be to advance the public health, safety and welfare by providing for the development of retirement communities that provide housing choices for persons aged 55 or over on sites which are otherwise zoned for other purposes but which, because of the size of the parcel being developed and its proximity to other residential neighborhoods and/or residential amenities and supportive services, will provide an appropriate environment for a retirement community.
[Amended 4-8-2019 by Ord. No. 18/19-1007452G]
- B. Location. For the purposes of this section, a Retirement Community Overlay District shall be considered superimposed on the other districts existing at the time that any land in any said underlying district is also included in the Retirement Community Overlay District. The rezoning of any or all of the land included in the Retirement Community Overlay District from one underlying zoning classification to another shall not affect its inclusion in the Retirement Community Overlay District, unless said land is specifically removed from the said Retirement Community Overlay District.
- C. Permitted uses. All permitted uses must comply with the appropriate provisions of Article V and Article VII, except as otherwise specified herein or as otherwise approved by the City Council as part of the Special Permit process. In addition to those uses which are allowed, either as of right or by special permit, in the underlying district of any land which has been included in the Retirement Community Overlay District, the City Council may, by special permit in accordance with § 650-59, permit a retirement community-detached and townhomes, ~~or and~~ a retirement community-multifamily, as defined in § 650-5, or a combined retirement community-except as otherwise set forth herein, consistent with the following provisions:
[Amended 3-10-2003 by Ord. No. 03-9944B; 4-25-2011 by Ord. No. 11-1002806-1A; 4-8-2019 by Ord. No. 18/19-1007452G]

(1) Retirement community - detached and townhomes (RCO-D/T).

- (a) No building in an RCO-D/T community shall be more than 2 1/2 stories in height.
- (b) Each building in an RCO-D/T community shall face either upon an existing street or upon a public or private way constructed within said RCO-D/T community and shall have a minimum front yard of no less than 20 feet from the edge of the paved way to the closest point of the structure and a side yard of not less than 10 feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 10 feet distant from any other building by airline distance between the nearest points of the buildings.
- (c) No dwelling in an RCO-D/T community shall contain less than 1,000 square feet of living area or more than 2,400 square feet of living area.
- (d) All dwelling units in an RCO-D/T community shall be detached from the others or attached only along side walls in the so-called "townhouse" style.
- (e) The lot or lots on which an RCO-D/T community is located shall contain, on a consolidated basis, at least 7,000 square feet per housing unit.
- (f) No part of any principal building in an RCO-D/T community shall be less than 25 feet from any exterior lot line or less than 50 feet from the side of any public way.
- (g) Each dwelling unit in an RCO-D/T community shall have its own attached yard area.
- (h) Required off-street parking for each dwelling unit in an RCO-D/T community shall be adjacent thereto. Each unit shall be required to provide at least one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit. The City Council may, as a condition of its special permit, require additional off-street parking areas to be used in common by dwelling unit owners and their invitees. In addition, the City Council may, as a condition of the special permit, require the adoption of legally enforceable condominium bylaws or other similar regulations to limit or prohibit the presence in an RCO-D/T community, either entirely or except

in designated locations, of boats, boat trailers, campers, or other recreational vehicles.

- (i) Maximum combined lot coverage in an RCO-D/T community shall not exceed 40% of the total lot size.
- (j) Each lot or contiguous lots upon which an RCO-D/T community is located shall have total frontage on an existing public way of at least 250 feet. Each lot or combination of lots shall have a total size of not less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial.
- (k) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-D/T community regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in an RCO-D/T community and limiting or prohibiting the presence in a RCO-D/T community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (l) The City Council may, as a permit condition, require that a proposed RCO-D/T community be constructed entirely on one lot, and that, from and after the date of the issuance of the building permit for said community or any portion thereof, no subdivision of said lot shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (m) No unit in an RCO-D/T community shall have more than three bedrooms.
- (n) If an RCO/DT community is proposed which contains at least 30 acres of land, the following provisions shall supersede those found elsewhere in § 650-22:
 - [1] The lot or lots on which an RCO/DT community is located shall contain at least 5,000 square feet per unit in the RCO/DT community;
 - [2] Maximum lot coverage in the RCO/DT community shall not exceed 50% of the total lot size, excluding from the lot size any land which, prior to development of the site as a RCO/DT community, would be defined as a

"resource area," as that term is defined in MGL c. 131, § 40.

[3] Each lot or contiguous set of lots upon which a RCO/DT community is located shall have total frontage on an existing public way, or on a private way laid out by the City Council pursuant to MGL c. 82, § 21, of at least 250 feet; provided, however, that said frontage need not be continuous.

(2) Retirement Community - Multifamily (RCO-MF).

- (a) The total area of the tract of contiguous parcels to be developed as an RCO-MF shall not be less than 10 acres. The underlying zoning district for all said land shall be either Industrial or Limited Industrial and be located: ~~(i)~~ within the area that lies within the perimeter of the following roadways: commencing at the Fitchburg Street intersection at the Route 85/290 Connector Road; then west along the Route 85/290 Connector Road to the intersection of Route 495; then south along Route 495 to where it passes over the intersection with Berlin Road; then southeasterly along Berlin Road to the intersection with West Hill Road; then easterly along West Hill Road to the intersection with Pleasant Street; then north along Pleasant Street to the intersection with Fitchburg Street; then north along Fitchburg Street to the intersection with the Route 85/290 Connector Road, all of said land being in reasonable proximity to the UMass Memorial Marlborough Hospital and the interstate highway intersection of Route 495 and Route 290; ~~or (ii) within an area designated by the City Council through an amendment to the Zoning Map.~~
- (b) An RCO-MF may contain one- and two-bedroom units and studio units for independent living persons, and may include services and amenities for its residents, including but not limited to, dining facilities, in-unit kitchens, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barbershop, personal banking services, offices and accessory uses or structures, concierge and valet services, third-party vendor services, and recreation facilities.
- (c) No building in an RCO-MF shall be more than ~~three~~ ~~four~~ ~~three~~ stories in height. ~~Subsurface parking levels shall not be considered a story, and there shall be no limitation on building height beyond the maximum of four stories.~~
- (d) The total number of multifamily dwelling units in an RCO-MF shall be limited to 12 units per acre, ~~which may be located in multiple multifamily buildings within an RCO-MF and on a single parcel.~~

- (e) No part of any principal building in an RCO-MF shall be less than 50 feet from any exterior lot line or less than 100 feet from any municipal public way.
- (f) Maximum combined lot coverage in an RCO-MF, including any permitted accessory structures, shall not exceed 40% of the tract or contiguous parcels.
- (g) The tract or contiguous parcels upon which an RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 200 feet.
- (h) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding RCO-MF regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (i) The City Council may, as a permit condition, require that a proposed RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (j) A minimum of 1.0 parking space per dwelling unit shall be provided in an RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (k) No dwelling unit in a multifamily building with three or more stories in an RCO-MF shall contain less than 500 square feet of living area or more than ~~1,300~~ 1,600 ~~1,300~~ square feet of living area.
- (l) No building in an RCO-MF need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from

the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot. The point of measurement of the average distance shall be from the closest point of the principal building to the street or public way regardless of parcel ownership.

- (m) In an RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include undisturbed natural areas, such as vegetated areas, woodlands, wetlands and floodplain areas.

(3) Retirement Community – Combined RCO-D/T and RCO-MF.

- (a) **The City Council may, by special permit, authorize a retirement community development with combined RCO-D/T and RCO-MF components on a single parcel or more than one contiguous parcel.**
- (b) **The total area of the tract of contiguous parcels to be developed as a combined RCO-D/T and RCO-MF shall not be less than 10 acres. The underlying zoning district for all said land shall be Limited Industrial and all said land shall be limited to Assessors Map 39, Parcels 5 and 26B.**
- (c) **Except as provided in this Section 650-22(C)(3), the dimensional, open space, and parking requirements for detached and townhome structures in a combined RCO-D/T and RCO-MF shall be as set forth in Section 650-22(C)(1).**
- (d) **Multifamily buildings in a combined RCO-D/T and RCO-MF may contain one- and two-bedroom units and studio units.**
- (e) **Multifamily buildings or accessory structures in a combined RCO-D/T and RCO-MF may include services and amenities for its residents, including but not limited to common rooms, activity rooms, exercise rooms, and recreation facilities.**
- (f) **No multifamily building in a combined RCO-D/T and RCO-MF shall be more than four stories in height or more than 48 feet in height.**
- (g) **The total number of multifamily and detached/townhome dwelling units in a combined RCO-D/T and RCO-MF shall be limited to 8 units per acre, which may be located in multiple multifamily and or detached/townhome buildings on a single parcel.**

- (h) No part of any principal building in a combined RCO-D/T and RCO-MF shall be less than 25 feet from any exterior lot line or less than 50 feet from any municipal public way. No part of any multifamily building in a combined RCO-D/T and RCO-MF shall be less than 50 feet from any exterior lot line or less than 500 feet from any municipal public way.
- (i) Maximum combined lot coverage in a combined RCO-D/T and RCO-MF, including any permitted accessory structures, shall not exceed 40% of the tract or contiguous parcels.
- (j) The tract or contiguous parcels upon which a combined RCO-D/T and RCO-MF is located shall have a minimum total frontage on an existing public or private way of at least 250 feet.
- (k) The City Council may, as a permit condition, require that all proposed condominium bylaws or similar binding regulations which may be relevant to the issuance of the permit, including but not limited to bylaw provisions prohibiting the presence of children residing in a retirement community and limiting or prohibiting the presence in a retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit and that any change to or failure to enforce said provisions shall be a violation of said special permit.
- (l) The City Council may, as a permit condition, require that a proposed combined RCO-D/T and RCO-MF be constructed entirely on one tract and that, from and after the date of the issuance of the building permit for said community no subdivision of said tract shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units within the area covered by said deed shall be allowed.
- (m) A minimum of 1.0 parking space per multifamily dwelling unit shall be provided in a combined RCO-D/T and RCO-MF. Attached and detached garages shall count toward this parking requirement.
- (n) No dwelling unit in a multifamily building with three or more stories in a combined RCO-D/T and RCO-MF shall contain less than 500 square feet of living area or more than 1,600 square feet of living area.
- (o) In a combined RCO-D/T and RCO-MF, there shall be provided with each multifamily building a landscaped area equal to the greatest single floor area of the building, provided that such landscaped area may include

undisturbed natural areas, such as vegetated areas, woodlands, wetlands and floodplain areas.

(p) A combined RCO-D/T and RCO-MF shall be subject to Section 650-26, Affordable Housing, of the Zoning Ordinance.

(b)(q) The City Council may, by special permit, elect to vary the dimensional, parking, design, open space, and landscaping requirements applicable to a combined RCO-D/T and RCO-MF retirement community development 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 (§ 650-22 et seq.). This authority continues subsequent to occupancy.

ADOPTED
In City Council
Order No. 23-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

November 21, 2023

Essek Petrie, AICP, ENV SP
Pulte Homes of New England LLC
1900 West Park Drive, Suite 180
Westborough, MA 01581

Re: Marlborough Residential (582 Robin Hill Street)
Marlborough, Massachusetts

Dear Essek:

MDM Transportation Consultants, Inc. (MDM) offers the following transportation overview to facilitate City Council and Planning Board deliberations for potential rezoning of property at 528 Robin Hill Street. We specifically address traffic and safety characteristics of Robin Hill Street; trip generation characteristics of current allowed industrial/commercial uses versus residential programming; and potential improvements to Robin Hill Street that may be considered and advanced by Pulte should rezoning of the property be successful. A more detailed transportation impact assessment and mitigation plan will be advanced upon rezone of the subject property as part of the local review and approval process.

In summary,

- **Low volume roadway Characteristics.** Roadway Robin Hill Street is characterized as a low volume local collector roadway; this classification is based on criteria published by AASHTO for low volume roads. *As described herein, this classification does not change as a result of potential property rezoning for age restricted residential use.*
- **Principal Traffic Generator: Hillside School.** The principal generator along this roadway is Hillside School which accounts for approximately 50 percent of peak hour traffic (40-50 trips), excluding the additional trips generated by its commercial farmstand operation that is open daily to the public.
- **Low Crash Rate/Crash History.** No specific safety countermeasures are warranted along Robin Hill Street based on the latest available 5-years of crash data. Over the past 5-year period, Robin Hill Street has two (2) reported crashes - both involving single vehicle property-damage-only crashes due to driver inattention or driver distraction. The calculated crash rate over the 1.7 mile length of Robin Hill Street between Boundary Street and Bigelow Street is *4 times lower than average* rates for similar roadway types in Massachusetts. No specific crash pattern or trend is evident from available records on the portion of Robin Hill Street between Boundary Street and Bigelow Street that would justify the need for specific safety countermeasures or improvements.

- **By-Right Traffic Development Alternatives.** Under current zoning, limited industrial development alternatives similar to the Airport Industrial Park on Farm Road are allowed with anticipated building area ranging from 200,000 to 300,000 SF. Such uses would by definition generate larger commercial vehicles/types with trip estimates of approximately 60-70 vehicles during peak hours or more. Alternatively, an allowed daycare use would generate twice this amount of traffic. Development of a prototypical daycare facility at the property with student enrollment of 160 children would generate in excess of 120 vehicle-trips per hour during peak hours. Development of daycare would not obligate off-site mitigative measures or actions other than proper site access design and on-site circulation; whereas allowed industrial use would likely trigger need for roadway design that accommodates heavy commercial vehicle traffic.
- **Age-Restricted Rezoning Traffic Generation.** Age-Restricted zoning of the property as envisioned for the subject property is among the lowest residential generating land use categories available – almost exclusively comprising passenger vehicles but for occasional delivery/service trips common to residential uses. A local example of such development, Villages at Crane Meadow – a 91-unit development served by a single point of access along Williams Street – was observed to generate between 14 and 22 vehicle-trips during peak hours in November 2023. When extrapolated to reflect 207 units of 55+ residences anticipated under property rezoning, this local empirical data translates to an equivalent of 40 to 50 vehicle-trips during peak hours – trip levels that are also highly consistent with age-restricted industry standard trip rates published by the Institute of Transportation Engineers. Further, the majority of such trips would likely be oriented to/from east of the property – generating fewer than 10 hourly trips along the vast majority portion of Robin Hill Street that exists west of the property. In summary, rezoning would allow a residential use of the property that is a significantly lower generator than allowed daycare and that also avoids heavy commercial trip activity associated with allowed industrial development along a residential-oriented roadway.

MDM emphasizes that modest traffic increases associated with rezoning of the subject property to allow age-restricted residential use will not change the characterization of Robin Hill Street as a low-volume local roadway as defined by AASHTO. Accordingly, guidance for any roadway improvements are appropriately referenced in the AASHTO Guidelines for Geometric Design of Low Volume Roadways¹.

- **Corridor Improvement Needs/Objectives.** There are improvement scenarios for Robin Hill Street that would be beneficial for safety enhancement purposes. While exempt properties such as Hillside School – a primary traffic generator and roadway user -

¹ *Guidelines for Geometric Design of Low-Volume Roads, Second Edition*, American Association of State Highway Transportation Officials (AASHTO), Washington DC (2019)

cannot be made to effect needed improvements, rezoning of the property provides an opportunity to tie its eventual developer to reasonable safety-based initiatives working in collaboration with the City. Following good industry practices outlined in the AASHTO Guidelines for Geometric Design of Low Volume Roadways, the lack of any specific crash pattern along the portion of Robin Hill Street between Boundary Street and Bigelow Street indicates that major geometric improvements are not warranted or justified. However, a range of potential improvements aimed at enhancing safety along the road may be advisable that include measures to address existing needs for roadway rehabilitation (i.e., maintenance actions), encourage lower travel speeds, and improved roadway marking and signage to improve driver guidance. Specific improvements are subject to more detailed study and evaluation; potential types of improvements are outlined later in this letter.

ROBIN HILL STREET TRANSPORTATION CHARACTERISTICS

Robin Hill Street is an east-west roadway under City jurisdiction that is classified by MassDOT as an urban collector roadway. Roadway width varies from approximately 23 feet in proximity to Boundary Street, 17 feet in the vicinity of Hillside School, and 18 to 20 feet wide along the subject property frontage near Jacobs Steet. Key traffic and safety characteristics of the roadway are as follows:

Traffic Volumes

Traffic-volume data used in this study were obtained using an automatic traffic recorder (ATR) along Robin Hill Street adjacent to the Site over a 24-hour period in November 2023 and is summarized in Table 1.

**TABLE 1
 BASELINE TRAFFIC VOLUME SUMMARY (November 2023)
 ROBIN HILL STREET EAST OF HILLSIDE SCHOOL MAIN DRIVE**

Time Period	Daily Volume (vpd) ¹	Percent Daily Traffic ²	Peak Hour Volume (vph) ³	Peak Flow Direction ⁴	Peak Hour Directional Volume (vph)
Weekday Morning Peak Hour	983	10%	101	54% WB	55
Weekday Evening Peak Hour	983	12%	120	51% WB	61

¹Two-way daily traffic expressed in vehicles per day without adjustment.

²The percent of daily traffic that occurs during the peak hour.

³Two-way peak-hour volume expressed in vehicles per hour.

⁴EB = Eastbound, WB = Westbound

As summarized in Table 1, daily traffic volumes on Robin Hill Street east of Hillside School main driveway are less than 1,000 vehicles daily and range from 100 to 120 two-way vehicle trips during morning and evening peak hours.

As a point of context, the Hillside School generates approximately 100 vehicle-trips hourly during weekday morning and evening peak hours, roughly split equally east and west of the school, representing the major traffic generator along Robin Hill Street and accounting for approximately 50 percent of traffic on this roadway during peak hours. This volume excludes the additional trips generated by its commercial farmstand operation that is open daily to the public.

Travel Speeds

Vehicle speeds were obtained for Robin Hill Street along the site frontage in July 2023 for the eastbound and westbound travel directions by using fixed-mount speed radar equipment. Table 2 summarizes the average and 85th percentile speeds for Robin Hill Street adjacent to the Site. The speed data provides a basis for determining appropriate sight line criteria for the site driveways.

**TABLE 2
SPEED STUDY RESULTS – ROBIN HILL STREET**

Travel Direction	Travel Speeds		
	Regulatory ¹	Mean ²	85 th Percentile ³
Eastbound	30	32	37
Westbound	30	30	34

¹Regulatory Speed – Prima Facie (mph)

²Arithmetic mean (mph)

³The speed at or below which 85 percent of the vehicles are traveling (mph).

As summarized in Table 2, the mean (average) travel speed on Robin Hill Street traveling eastbound is 32 mph and the 85th percentile travel speed is 37 mph. In the westbound direction, the mean travel speed is 30 mph and the 85th percentile travel speed is 34 mph. The observed 85th percentile travel speeds in both directions are higher than the regulatory speed limit of 30 mph.

In summary, speed survey results indicate general conformance with regulatory speed limits but higher eastbound speeds suggest potential benefit of placing radar speed feedback sign to encourage lower travel speeds.

Crash Data

Review of MassDOT crash portal database for the latest available 5-year period (2018-2022) for Robin Hill Street between Boundary Street and Bigelow Street indicates only two (2) reported crashes - both involving single vehicle property-damage-only crashes due to driver inattention or driver distraction. The calculated crash rate over the 1.7-mile length of Robin Hill Street between Boundary Street and Bigelow Street is 0.66 crashes per million miles travelled versus statewide an average crash rate of 2.33 - *a crash rates that is 4 times lower than average rates* for similar roadway types in Massachusetts. No specific crash pattern or trend is evident from available records on the portion of Robin Hill Street between Boundary Street and Bigelow Street that would warrant the need for specific safety countermeasures or improvements.

TRIP GENERATION, CURRENTLY ALLOWED COMMERCIAL USES

The site is currently zoned Limited Industrial, allowing a range of commercial uses, including for instance industrial uses similar to those recently approved at the Airport Industrial Park along Farm Road (a 300,000 sf business park), warehousing, light manufacturing uses that include research and development, and daycare use. For context, trips for several potential development scenarios under current zoning are presented in Table 3 based on application of industry standard trip rates for various land use scenarios as published by the Institute of Transportation Engineers (ITE) in *Trip Generation*². As a conservative measure, commercial development scenarios are based on 200,000 sf of building area which is readily achievable based on known site acreage and environmental constraints – even though a higher development density may be possible. Daycare use is based on a prototypical daycare operation which comprises a facility with student enrollment of 160 children.

² *Trip Generation, 11th Edition*; Institute of Transportation Engineers; Washington, DC; 2021.

**TABLE 3
 TRIP-GENERATION COMPARISON – ALTERNATE USES**

Peak Hour/Direction	Mixed Use Pharma (200,000 sq.ft.)¹	Day Care (160 Students)²	Industrial Park (200,000 sq.ft.)³
<i>Weekday Morning Peak Hour:</i>			
Entering	44	66	55
<u>Exiting</u>	<u>15</u>	<u>58</u>	<u>13</u>
Total	59	124	68
<i>Weekday Evening Peak Hour:</i>			
Entering	12	59	15
<u>Exiting</u>	<u>56</u>	<u>67</u>	<u>53</u>
Total	68	126	68

¹Based on ITE Trip Generation trip rates for a Mixed-Use facility containing both Warehousing and Research & Development uses. Trip Generation summarized in a Transportation Due Diligence from TEC dated September 15, 2021.

²Based on ITE Trip Generation 11th Edition trip rates for LUC 565 – Day Care Center applied to 160 Students.

³Based on ITE Trip Generation 11th Edition trip rates for LUC 130 – Industrial Park applied to 200,000 square feet.

Commercial uses at the property under current zoning uses would by definition generate larger commercial vehicles/types. As presented in Table 3, trip estimates for such use scenarios would generate approximately 60-70 vehicles during peak hours, or more for allowed development density at the property. Alternatively, an allowed daycare use would generate twice this amount of traffic. Development of a prototypical daycare facility at the property with student enrollment of 160 children would generate in excess of 120 vehicle-trips per hour during peak hours. Development of daycare would not obligate off-site mitigative measures or actions other than proper site access design and on-site circulation; whereas allowed industrial use would likely trigger need for roadway design that accommodates heavy commercial vehicle traffic.

TRIP GENERATION, AGE-RESTRICTED RESIDENTIAL PROGRAM

Age-Restricted zoning of the property as envisioned for the subject property is among the lowest residential generating land use categories available – almost exclusively comprised of passenger vehicles except occasional delivery/service trips common to residential uses. A local example of such development, Villages at Crane Meadow – a 91-unit development served by a single point of access along Williams Street – was counted in November 2023 with results presented in Table 4 below. Observed peak-hour trip generation for the Village at Crane Meadow ranges from 14 to 22 vehicle-trips during peak hours in November 2023, confirming the modest nature of traffic activity associated with age-restricted residential based on local characteristics.

TABLE 4
OBSERVED TRIP-GENERATION SUMMARY – VILLAGES AT CRANE MEADOW

Peak Hour/Direction	Observed (91 Units) ¹
<i>Weekday Morning Peak Hour:</i>	
Entering	3
<u>Exiting</u>	<u>14</u>
Total	17
<i>Weekday Evening Peak Hour:</i>	
Entering	13
<u>Exiting</u>	<u>9</u>
Total	22

¹Based on observed Villages at Crane Meadow 55+ housing development; count conducted November 8, 2023.

The trip generation estimates for the proposed development of the Site are provided for the weekday morning and weekday evening periods, which correspond to the critical analysis periods for the proposed use and adjacent street traffic flow. Traffic generated by a 207-unit age-restricted residential project is estimated based on (a) extrapolation of observed trip rates for the local age-restricted residences at the Village at Crane Meadow, and (b) trip rates published in ITE's *Trip Generation*³ Land Use Code (LUC) 252 – Senior Adult Housing - Multifamily. Table 5 presents a summary of the site trip generation for the proposed use of the Site under a rezoning scenario.

³*Trip Generation*, 11th Edition; Institute of Transportation Engineers; Washington, DC; 2021.

**TABLE 5
 TRIP-GENERATION SUMMARY – SENIOR ADULT HOUSING**

Peak Hour/Direction	Senior Adult Housing	
	Empirical (207 Units) ¹	ITE (207 Units) ²
<i>Weekday Morning Peak Hour:</i>		
Entering	7	14
<u>Exiting</u>	<u>32</u>	<u>40</u>
Total	39	54
<i>Weekday Evening Peak Hour:</i>		
Entering	30	29
<u>Exiting</u>	<u>20</u>	<u>23</u>
Total	50	52

Source: ITE *Trip Generation*, 11th Edition; 2021 with no reduction for alternative transportation modes.

¹Based on observed Villages at Crane Meadow 55+ housing development; trip generation extrapolated from 91 to 207 Units.

²Based on ITE *Trip Generation* 11th Edition trip rates for LUC 252 – Senior Adult Housing - Multifamily applied to 207 units.

As presented in Table 5, when extrapolated to reflect 207 units of 55+ residences anticipated under property rezoning, this local empirical data translates to an equivalent of 40 to 50 vehicle-trips during peak hours – trip levels that are also highly consistent with age-restricted industry standard trip rates published by the Institute of Transportation Engineers. Further, the majority of such trips would likely be oriented to/from east of the property – generating fewer than 10 hourly trips along the vast majority portion of Robin Hill Street that exists west of the property.

In summary, rezoning would allow a residential use of the property that is a significantly lower generator than allowed daycare and that also avoids heavy commercial trip activity associated with allowed industrial development along a residential-oriented roadway.

MDM emphasizes that modest traffic increases associated with rezoning of the subject property to allow age-restricted residential use will not change the characterization of Robin Hill Street as a low-volume local roadway as defined by AASHTO; daily trip activity along Robin Hill Street will remain below 2,000 vehicles per day. Accordingly, guidance for any roadway improvements are appropriately referenced in the AASHTO *Guidelines for Geometric Design of Low Volume Roads*.

MITIGATION CONSIDERATIONS – ROBIN HILL STREET


There are improvement scenarios for Robin Hill Street that would be beneficial for safety enhancement purposes. While exempt properties such as Hillside School – a primary traffic generator and roadway user - cannot be made to effect needed improvements, rezoning of the property provides an opportunity to tie its eventual developer to reasonable safety-based initiatives working in collaboration with the City. Following good industry practices outlined

in the AASHTO Guidelines for Geometric Design of Low Volume Roadways, the lack of any specific crash pattern along the portion of Robin Hill Street between Boundary Street and Bigelow Street indicates that major geometric improvements are not warranted. However, a range of potential improvements aimed at enhancing safety along the road may be advisable to include measures to address existing needs for roadway rehabilitation (i.e., maintenance actions), encourage lower travel speeds, and improved roadway marking and signage to improve driver guidance. Specific improvements are subject to more detailed study and evaluation, but may include, for instance the following:

- Driver speed radar feedback signs to reinforce speeds to be in line with posted limits (industry research indicates such equipment reduces speeds by approximately 4 mph);
- Speed advisory signs at certain sections for roadway where curvature or width dictates lower travel speeds are prudent;
- High visibility/reflective centerline and roadway edge line pavement markings to provide improved driver guidance - particularly in cases of nighttime driving and inclement weather conditions such as dense fog or wet/snowy conditions.
- Shoulder hardening or repair at select locations where roadway width is reduced to less than 18 feet due to wear or erosion - locations limited to those areas that do not require tree removal or impact wall features.
- Repair or rehabilitation of select segments of roadway that exhibit excessive damage, rutting, cracking or failure (typically encompassed as part of normal municipal maintenance program).

Sincerely,

MDM TRANSPORTATION CONSULTANTS, INC.


Robert J. Michaud, P.E.
Managing Principal

MDM