

# DAY PITNEY LLP

## MEMORANDUM

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**TO:** City of Marlborough Planning Board  
**CC:** City of Marlborough City Council Urban Affairs Committee and City of Marlborough Conservation Commission  
**FROM:** William M. Pezzoni  
**CC:** Trammell Crow Company and Goulston & Storrs  
**DATE:** November 7, 2023  
**RE:** **Memorandum in Support of the Proposed Sasseville Way Residential Overlay District**

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This memorandum presents additional information in support of the proposed amendment of Chapter 650 of the Marlborough Zoning Ordinance (the “**Zoning Ordinance**”) to create the Sasseville Way Residential Overlay District (“**SWROD**”) and the related Project (as defined below) proposed by Trammell Crow Company and its affiliates (the “**Developer**”). Since proposing the adoption of SWROD zoning earlier this year, the Developer has listened to feedback received from municipal officials, neighbors, and members of the general public. The Developer is committed to incorporating this feedback into the SWROD zoning, as well as into the design, construction, and operation of the Project.

### A. PROJECT DESCRIPTION

The Developer is proposing to add a new Section 39A to the Zoning Ordinance to create the SWROD within 23.3 acres of property located along Sasseville Way, Marlborough, Massachusetts, Assessors’ Map and Parcel Number 29-23 (the “**Property**”). The Property is bounded by Sasseville Way and the Assabet River Rail Trail (the “**Rail Trail**”) to the south, the Boston Scientific Corporation’s headquarters office campus to the southeast, Blaiswood Avenue to the northeast, and undeveloped land along all other boundaries. The Property is in an ideal location for a multifamily development because it is in close proximity to a variety of retail offerings and employment centers, including the abutting Boston Scientific Corporation headquarters campus.

The Developer is proposing to develop: (i) seven (7) multifamily apartment buildings, ranging in height from three (3) to four (4) stories<sup>1</sup> with basement levels that walk out to grade at the rear of the buildings, and containing approximately 286 residential units, (ii) approximately 551 parking spaces in surface lots, two (2) freestanding garages, and garages located within residential buildings, (iii) up to approximately 8,000 square feet (“**SF**”) of space for retail or a

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<sup>1</sup> Due to the topography and natural grading of the Property, building stories are counted from the side of each building facing Sasseville Way.

single restaurant user, and (iv) clubhouse/leasing office space, all as shown on the updated Site Plan attached hereto as Exhibit A (collectively, the “**Project**”). The Project will also include residential amenities comparable in quality and type to those of other premier multifamily developments, such as a fitness center, outdoor grill areas, and an outdoor pool with associated seating areas. Project design has favored several low-rise buildings instead of a smaller number of larger buildings in order to create a more authentic neighborhood and community aesthetic.

The main access for ingress and egress to and from the Property will be by Sasseville Way. Secondary emergency-only access to and from Blaiswood Avenue will be restricted by a locked gate and available only for emergency vehicles. At the front of the Property, adjacent to Sasseville Way and the Rail Trail, the Project will include a gear garage providing bicycle maintenance and repair services for both the Project residents and the public. The public component of the gear garage will contain a bike fix-it station and a water station intended for users of the Rail Trail. The Project will incorporate a safe vehicle crossing of the Rail Trail at its entrance on Sasseville Way and will include appropriate signage on the Rail Trail alerting users to the approaching vehicle crossing.

## **B. EVOLUTION OF THE PROJECT AND THE PROPOSED SWROD ZONING**

On July 12, 2023, the Developer petitioned the City Council to adopt a Proposed Amendment to Zoning Ordinance Article VI, Section 650-39A: Sasseville Way Residential Overlay District (the “**Zoning Amendment**”). On September 11, 2023, the City Council held an initial public hearing on the Zoning Amendment at which the Developer received feedback from the City Council, the Marlborough Conservation Commission, neighbors on Blaiswood Avenue and members of the general public. Based on this feedback, the Developer committed to further discussions with the neighboring residents of Blaiswood Avenue and the Conservation Commission:

- On September 27, 2023, the Developer organized a meeting with the Conservation Agent and the City Engineer to address issues raised at the September 11 City Council hearing and review related Project design and engineering details.
- On September 29, 2023, the Developer met with the Marlborough Fire Chief to discuss the Project and the specific details of the Project’s emergency access.
- On October 10, 2023 and October 18, 2023, the Developer organized meetings with the residents of Blaiswood Avenue at which the Developer team answered questions and received additional, specific feedback on the Project.
- On October 19, 2023, the Developer made an informational presentation to the Conservation Commission to discuss and answer questions about the mitigation of Project impacts on nearby resource areas.
- On October 23, 2023, the Marlborough Planning Board held a public hearing on the Project at which the Developer received additional feedback and questions

from the general public and the Planning Board members. The Developer has provided answers to the questions received at the October 23, 2023 Planning Board meeting, which are attached hereto as Appendix A.

- On November 6, 2023, the City Council's Urban Affairs Committee held a hearing about the Zoning Amendment and the Developer team answered questions from Councilors on the Committee.
- Over the course of these meetings the Developer continued to meet with the Conservation Agent and the City Engineer to address specific concerns and discuss improvements to the proposed Zoning Amendment text.

During the public process thus far, members of the public and City officials have consistently sought to ensure that the Project will account for the sensitivity of the Property and in particular for any potential stormwater and water quality impacts from the Project. In response, the Developer has made several changes to both the Project design and the proposed Zoning Amendment, and the Developer can commit to additional mitigation measures and design priorities for the Project. These changes are summarized as follows:

1. Project Design Changes

The Developer has modified the conceptual design of the Project to (1) move the multifamily buildings farther away from Blaiswood Avenue toward the interior of the Property, thereby creating a more generous setback from the Blaiswood neighborhood, (2) provide a larger setback from Blaiswood Avenue to the proposed infiltration basin along the northeast boundary of the Property, (3) redesign the emergency access road to be less intrusive to Blaiswood Avenue residents while visually blending more into the adjacent tree line, (4) include more extensive landscaping efforts to eliminate any view from Blaiswood Avenue through the emergency access road to the multifamily buildings on the Property, and (5) move walls and parking surfaces to be wholly outside of the 200'-0" Riverfront Setback Area and all wetland buffer areas. As discussed below, additional design changes will be considered as site investigation and permitting of the Project advance.

2. Rezoning Language Modifications

The Developer is proposing certain modifications to the Zoning Amendment text, which are shown in the format of a redline comparison to the July 12, 2023 submission and attached hereto as Appendix B. **Importantly, a development proceeding under the SWROD will be required to receive a special permit and comply with the requirements of § 650-59 et seq. of the Zoning Ordinance.** In addition, undeveloped land remaining after initial development within the SWROD must be left in its natural state. Other proposed modifications to the draft Zoning Amendment are summarized in the following chart:

<u><i>Provision</i></u>	<u><i>Previous Language (submitted July 2023)</i></u>	<u><i>Updated Language (submitted November 7, 2023)</i></u>
<i>Maximum SF of Business use</i>	<i>Not restricted</i>	<i>8,000 SF</i>
<i>Of the Business use, maximum SF of a consumer service establishment complementary to other principal uses</i>	<i>10,000 SF</i>	<i>8,000 SF</i>
<i>Of the Business use, maximum SF of a restaurant serving food indoors and/or outdoors, or café with or without table service, or brew pub</i>	<i>10,000 SF</i>	<i>8,000 SF</i>
<i>Of the Business use, maximum SF of a health, sports and fitness clubs and related facilities</i>	<i>10,000 SF</i>	<i>8,000 SF</i>
<i>Percentage of affordable dwelling units</i>	<i>10%</i>	<i>12%</i>
<i>Measurement of Building Height</i>	<i>Roof structures that are not occupiable are not included in the overall height measurement</i>	<i>Height shall be measured to the average height between plate and ridge of a gable, hip or gambrel roof<sup>2</sup></i>
<i>Setbacks</i>	<i>Minimum front and side yard setback of 50 feet</i>	<i>Minimum front, side and rear yard setback of 50 feet, except a minimum front yard setback of 25 feet for a Business use</i>
<i>Maximum combined lot coverage</i>	<i>50%</i>	<i>45%</i>
<i>Maximum Residential Density</i>	<i>15 dwelling units per acre</i>	<i>13 dwelling units per acre</i>

<sup>2</sup> We note that this formula is consistent with the definition of “Building Height” in the Zoning Ordinance.

<u><i>Provision</i></u>	<u><i>Previous Language (submitted July 2023)</i></u>	<u><i>Updated Language (submitted November 7, 2023)</i></u>
<i>Maximum number of three-bedroom dwelling units</i>	<i>Not restricted</i>	<i>10</i>
<i>Maximum number of dwelling units</i>	<i>Not restricted</i>	<i>286</i>
<i>Maximum number of restaurants serving food indoors and/or outdoors, or cafés with or without table service, or brew pubs</i>	<i>Not restricted</i>	<i>1</i>

3. Project Mitigation and Design Commitments

The Developer is committed to adopting additional mitigation measures and design priorities for the Project. Several of these are evident in the proposed modifications to the Zoning Amendment. By reducing the maximum residential density and maximum lot coverage, the Developer intends to reduce the impervious area of the Project while increasing the amount of undisturbed natural landscape. By establishing a maximum amount of three-bedroom dwelling units, the Developer intends to limit the number of units likely to house school-aged children and thereby mitigate impacts on the City’s school system. The Developer is also committed to providing more affordable housing and has proposed to increase the number of affordable dwelling units in the Project from 10% to 12%.

The Developer is committed not to disturb the area of the Property located within the 200-foot Riverfront Area or the 100-foot Wetlands Buffer Area, even though current law would permit the Developer to develop within these areas. Under current regulations, ten percent (10%) of the 200-foot Riverfront Area (or 29,400 SF) is developable. There is also no minimum setback requirement imposed by the Massachusetts Wetlands Protection Act for work adjacent to wetlands, but the Developer is committed to preserving the 243,500 SF of such land on the Property in its natural undisturbed state. The Project’s design intends to leave undisturbed the vegetation between the Project and the Rail Trail therefore causing minimal visual impact from the Project’s buildings to the Sasseville Way and Rail Trail view corridors. In total, the Project will leave approximately 7.94 acres of land undisturbed and in its natural state. In addition, the Project will include 6.90 acres of landscaping within the disturbed area of the Property, in which all plantings by the Developer will be native species.

The Developer is committed to building a Project that will meet high standards for reducing environmental impacts and maximizing future resiliency. The Developer is designing the Project with a target of LEED Silver or better. The stormwater design of the Project will utilize the best available rainfall precipitation data from NOAA 14 Atlas and/or Cornell

University specific to the Marlborough region rather than TP-40 rainfall data per MassDEP Stormwater regulations, in order to appropriately size the stormwater system.

## C. MARLBOROUGH PLANNING BOARD ZONING STANDARDS

### 1. Standards for Evaluating Proposed Zoning Changes

Pursuant to that certain Memorandum from the Planning Board dated September 14, 2022, the Planning Board considers the following factors when evaluating proposed zoning changes: (a) is the proposed change in keeping with the character of the neighborhood; (b) does the proposed change negatively impact the neighbors; (c) does the proposed change benefit the City, or provide a use not permitted elsewhere; and (d) is the proposed change in keeping with the intent and purposed of the City's zoning ordinances.

### 2. Grounds for the Proposed Zoning Change

The Zoning Amendment satisfies the Planning Board's zoning standards as follows:

#### a. *Is the proposed change in keeping with the character of the neighborhood.*

The Project is designed to provide generous setbacks from the nearest residential abutters, a robust revegetation design within the planned landscaped areas, and familiar residential architectural forms reflecting New England architecture. With the Property comprising more than 1 million square feet of land area, the Project will have a floor area ratio of approximately 0.4. This compares favorably with the allowed density within the abutting Residential A-2 zoning district. The planned retail amenity will provide services and amenities to users of the Rail Trail, employees of Boston Scientific Corporation, as well as local area residents. The intended design of this development will respect the existing character of nearby neighborhoods while enhancing the existing uses in the area.

#### b. *Does the proposed change negatively impact the neighbors.*

Current zoning allows limited industrial use throughout most of the Property including within close proximity to Blaiswood Avenue. Not only would the proposed Zoning Amendment enable residential use throughout the Property, it would also require, regardless of whether the Project is constructed, a special permit for any limited industrial development within 200 feet of a residential structure. This would create a larger buffer between residential neighbors and any potential limited industrial operations.

The Project's design includes a generous buffer from the existing Blaiswood Avenue neighborhood and additional native plantings to fill in this area. These design changes have ensured that there will be minimal to no visual impact from the Project's buildings through the Blaiswood Avenue view corridor. The Project's commitment not to disturb the 200'-0" riverfront setback or any wetland buffer zones will effectively preserve those areas as undisturbed land buffering Fort Meadow Reservoir. The Project's

design is also intended to protect existing cold-water resources currently existing within the Property.

The final stormwater infiltration system will be designed to minimize any impact to and preserve the Fort Meadow Reservoir as a resource to the entire surrounding community. The Developer's Operations & Maintenance plan will require monitoring of both sedimentation and temperature for infiltrated water onsite. Additional improvements to Blaiswood Avenue sewer, stormwater management systems, and roadway design have been discussed and will be reviewed throughout the schematic design for the Project with the intention of improving the current condition.

*c. Does the proposed change benefit the City, or provide a use not permitted elsewhere.*

The demand for quality housing options continues to increase within the Commonwealth and the greater New England region. The Project responds to this need by providing high quality options for renters who would like to live in Marlborough. The Project's fiscal impact study shows that the City will benefit from tax revenue generated by the Project, including taxes from the commercial component of the Project, that are expected to significantly outweigh any increased cost to the City for municipal services required by the Project.

*d. Is the proposed change in keeping with the intent and purposed of the City's zoning ordinances.*

The rezoning language as presented is in keeping with the existing residentially zoned area of Marlborough that abuts a significant portion of the Property. The generous setbacks (including for any limited industrial use), low density, low percentage of impervious cover, and offering of retail amenities proposed in the Zoning Amendment are consistent with the City's zoning goals of encouraging the most appropriate use of land and increasing the amenities of the City.

## **D. CONCLUSION**

We hope that the above information is helpful and assists in your review regarding the Project and the Zoning Amendment. We look forward to working with the Planning Board, as well as the City Council and other boards, committees and interested parties, to continue the public approval process and finalize the Zoning Amendment. If you need any additional information or materials during the course of review, please do not hesitate to contact us.

## Appendix A

### Marlborough Planning Board Meeting 10/23/23 - Questions and Responses:

**1. Is Blaiswood Avenue the only way to get water and sewer to the Project?**

A. The Project currently contemplates a connection to the water main located within Sasseville Way and a connection to the sewer main located within Blaiswood Avenue. The Developer has engaged the City Engineer in preliminary conversations about looping the water system through the Property to the water main located in Blaiswood Avenue. The City Engineer stated that further study would need to be completed to understand the benefits of such a looped system, and an alternate connection to the main in Boston Scientific Way should also be studied. The Developer and the City Engineer agreed to continue to study additional options for the Project's water connections. The Developer is committed to working with the City Engineer to upgrade the existing Blaiswood sewer main, as requested or required by the City as the Project's design progresses.

**2. What prevents the emergency access on Blaiswood Avenue from being later expanded to a normal access road?**

A. The Project will be designed so that the locked gate on Blaiswood Avenue may only be unlocked by emergency vehicles.

**3. How much of the Property will be preserved in excess of what is mandated by law?**

A. The 23.3-acre Project will leave approximately 7.94 acres (or approximately 346,000 SF) of land undisturbed. The Project will not disturb the area of the Property located within the 200-foot Riverfront Area or the 100-foot Wetlands Buffer Area. According to the relevant regulations, up to ten percent (10%) of the 200-foot Riverfront Area may be developed and there is no minimum required setback for development adjacent to wetlands. The Project is intentionally leaving these 272,900 SF of developable areas of the Property undisturbed.

**4. What information is available about what were described as “problematic soils” at the 10/19 Conservation Commission meeting, which may include runoff/site sloping and grading issues?**

A. The Developer does not currently have any indication that problematic soils exist on the Property, and current reports indicate that the soil is favorable for the proposed Project. With this information in mind, the Developer is committed to further testing and studies at the proposed locations of infiltration basins and underground infiltrations systems to verify the soil characteristics and seasonable high groundwater depth. The Project will implement a stormwater system that will comply with all applicable MassDEP



requirements and be suitable for discharge in proximity to the nearby sensitive areas. Further investigation will be done as is typical during the permitting process subsequent to adoption of a zoning amendment. We are happy to provide more technical details if it would assist in the Planning Board's review of the Zoning Amendment.

**5. Where is the traffic coming in and out of?**

- A. The main access for ingress and egress to and from the Property will be by Sasseville Way, with gated, emergency only access through Blaiswood Avenue.

**6. Will there be a traffic plan/impact study done?**

- A. The Developer's traffic engineering consultant, Vanasse and Associates, completed a Traffic Impact Assessment which concluded that Project-related traffic increases will result in manageable increases on overall traffic volumes and traffic delays on the roadways in the vicinity of the Property and can be accommodated within the existing infrastructure. The Project's location adjacent to the Rail Trail will be emphasized as a way to encourage non-motorized transportation for residents.

**7. Is there groundwater flow from the nearby dump to the Project site?**

- A. Due to the location of the Hudson Street Landfill in relation to the Property (generally cross-gradient and not upgradient) and the anticipated groundwater flow direction, which because of the existing topography of the Hudson Street Landfill will generally flow from the direction of the Boston Scientific campus down to the area of Bolton Street, groundwater flow from the Hudson Street Landfill is not anticipated to impact the Property.

**8. Have there been other projects close to dumps?**

- A. Both the Project's civil engineer and environmental consultant have experience with development projects in proximity to landfills. Their experience will inform many aspects of Project design.

**9. If approved and constructed, how is the Project monitored in the future and who is accountable for this?**

- A. During the construction of the Project and until site stabilization, the Project will follow the specific runoff monitoring and testing requirements for dewatering practices to sensitive waters as required by the applicable regulation, including the NPDES Construction General Permit. The Developer anticipates the City will require during construction, as a condition of site plan approval, both sedimentation and temperature monitoring for construction dewatering. The Developer will document this monitoring, as well as similar

monitoring during the operation of the completed Project, within the Operations and Maintenance Plan for the Project.

**10. What other zoning districts in the City have 70 ft. height limits and 50% lot coverage?**

- A. The following zoning districts have either 70 ft. height limits or above and 50% maximum lot coverage or above: Executive Residential Overlay District (650-36), Retirement Community Residence Districts (650-21), Results Way Mixed Use Overlay District (650-33) and Marlborough Village District (650-34).

**11. Will the developer commit to a 21E assessment?**

- A. The Developer has conducted a Phase I Environmental Site Assessment which discovered no evidence of recognized environmental conditions (“**REC**”), controlled RECs (“**CREC**”), or historical RECs (“**HREC**”) in connection with the Property.

**12. How tall will the Project’s retaining walls be?**

- A. The Project’s tallest retaining wall will be approximately 22-24 feet in height.

**13. Can the development team provide sections / views that show height of buildings from the downhill side?**

- A. The Developer will produce renderings showing the height of the buildings from the downhill side and will be able to display these renderings at the next Planning Board meeting.

**14. The development team should explain what stormwater modeling it will rely upon in its project design.**

- A. The stormwater design of the Project will utilize the best available rainfall precipitation data from NOAA 14 Atlas and/or Cornell University specific to the Marlborough region, rather than TP-40 rainfall data per MassDEP Stormwater regulations, to appropriately size the stormwater system. In addition, the Developer has reviewed the Massachusetts Resilient MA Action Team (“**RMAT**”) Climate Resilience Design Standards Tool which provides “Extreme Precipitation” design criteria for the Property and provides planning horizons for the development of the Project. The Extreme Precipitation projection provided by RMAT will be used to inform the stormwater system sizing as the design progresses.

**15. Has the Developer done a cut/fill analysis?**

- A. The conceptual cut and fill analysis for the Project will require approximately 80,497 cubic yards of cut volume and approximately 93,217 cubic yards of fill

volume. Therefore the net volume of additional fill that will be required to be imported to the site is approximately 12,720 cubic yards.

**16. What steps will the Developer take not to interfere with the Rail Trail?**

- A. The Developer team has connected with the President of the Rail Trail Association to discuss the Project and receive feedback on how the Project and Rail Trail will interact. The Developer is committed to establishing a safe vehicle crossing of the Rail Trail at its entrance on Sasseville Way with all appropriate safety signage as befits this section of the Rail Trail.

**17. Are the residential units within the Project rental or ownership opportunities? What are the projected price points for the residential units?**

- A. The Project will be solely rental units. Rents will be determined by the market at the time the leasing of the Project begins. We expect Project rents to be consistent with other high quality residential offerings in the City.

**18. How will the Project protect the Fort Meadow Reservoir from new runoff sources and certain street pollutants? Will the Project have a private sewer system?**

- A. Please see the above answers concerning the stormwater management design plan of the Project. The Project will connect to the City sewer system; however, the exact location for that connection will be determined as the Project's design advances.

**19. How will the Project impact traffic on the adjacent local roads?**

- A. Per the Developer's Traffic Impact Assessment, Project-related traffic increases will result in manageable increases on overall traffic volumes and traffic delays on the roadways in the vicinity of the Property and can be accommodated within the existing infrastructure. The Project's location adjacent to the Rail Trail will be emphasized as a way to encourage non-motorized transportation for residents.

**Appendix B**

**Redline of Zoning Amendment**

(see attached)

# IN CITY COUNCIL

ORDERED

Marlborough, Mass., \_\_\_\_\_  
PAGE 1

**THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FOR ITS CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING AND ADDING THERETO AS FOLLOWS:**

1. Article VI, entitled “Special Districts, Overlays and Special Requirements” is hereby amended to add a new Section 650-39A, or such other numbering as deemed appropriate and adopted by the City of Marlborough, entitled “Sasseville Way Residential Overlay District” which shall read as follows:

A. Purpose and objectives.

(1) The purpose of the Sasseville Way Residential Overlay District (herein, also [the](#) SWR Overlay District) shall be to encourage and enhance land development and desired growth patterns for the advancement of the public health, safety and welfare by providing for the development of mixed use multi-family housing developments 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, [recreational, environmental](#) and/or residential amenities, will provide an appropriate environment for a mixed use multi-family housing development consistent with the stated economic development [and environmental stewardship](#) objectives of the City.

(2) For purposes of this zoning district, a mixed-use development shall include a mix of multi-family residential uses and any eligible use set forth in Subsection D, which may be commingled into a single structure or multiple structures with other eligible uses on the same property. [Proponents are encouraged, where practical, to allow undeveloped land within the SWR Overlay District and outside of proposed construction and disturbed areas to remain in its natural state.](#) Accordingly, mixed-use developments shall benefit the public health, safety and welfare, through the sharing of parking lots and driveway curb cuts, to minimize the amount of impervious paved parking area and driveway curb cuts, reduce automobile trips and traffic congestion, improve walkability within the property, and thereby improve air quality.

(3) For purposes of this section, the SWR Overlay District shall be superimposed on the other districts existing at the time that any land in said underlying district is also included in the SWR Overlay District. The SWR Overlay District is located adjacent to Sasseville Way as indicated on the City Zoning Map.

B. Authority of permit granting authority.

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ORDERED

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(1) The City Council shall be the permit granting authority for special permit and site plan approval in the SWR Overlay District. In all instances, (i) a development which proceeds under the SWR Overlay District is subject to site plan approval in accordance with § 270-2 of the Marlborough City Code and (ii) an application for a special permit for a use in the SWR Overlay District shall comply with the requirements of § 650-59 of the Zoning Ordinance, with the exception that the City Council shall be the permit granting authority for special permit and site plan approval in the SWR Overlay District and the voting threshold shall be a simple majority, in accordance with Massachusetts General Laws c. 40A, § 9.

(2) The City Council may elect to waive or modify any of the dimensional and parking requirements set forth in this section during Site Plan Review if; it makes a finding that to do so will enhance the overall design of the SWR Overlay District. This authority continues subsequent to occupancy of any structure within the SWR Overlay District.

C. Exclusivity/control. This section (§ 650-39A) of the Zoning Ordinance exclusively controls any mixed use development in the SWR Overlay District and supersedes any other provision of the Zoning Ordinance with respect to all matters described in this section. In the event of any conflict between the provisions of this section (§ 650-39A ~~et seq.~~) and any other provision of the Zoning Ordinance, the provisions of this section (§ 650-39A) shall govern and control.

D. Eligible uses. Except as specifically set forth to the contrary below, all uses permitted in the Residential A-2 and Limited Industrial Districts, either as of right or by special permit in accordance with § 650-17 of the Zoning Ordinance, are permitted to the same extent in the SWR Overlay District.

(1) The following uses are permitted by ~~right~~special permit in the SWR Overlay District:

(a) Multifamily dwelling, ~~up to 300~~provided that the total number of dwelling units in the SWR Overlay District shall not exceed 286.

(b) Car parking lots, garages accessory to any principal uses at the property: a structure or a group of structures that facilitate the parking of vehicles at ground level, above or below grade and shall include area for the parking of vehicles at, above and/or below grade under a building or otherwise integrated into another structure.

(c) Any business use, provided that said facilities are less than 8,000 square feet of floor area and that such business use is limited to the following:

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(i) Consumer service establishments complementary to the other principal uses at the property, ~~provided that said facilities are less than 10,000 square feet of floor area.~~

(~~di~~) ~~Restaurant, restaurants~~ One restaurant serving food indoors and/or outdoors, or cafe with or without table service (including outside seating and service), or brew pub ~~provided that said facilities are less than 10,000 square feet of floor area.~~

(~~eiii~~) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities ~~accessory to a multifamily dwelling use, provided that said facilities if enclosed in a building(s) are less than 10,000 square feet of floor area.~~ For the avoidance of doubt, any outdoor areas shall not be subject to said floor area ~~restriction~~ restrictions.

~~(2) The following uses are permitted by special permit in the SWR Overlay District:~~

~~(a) Consumer service establishments complementary to the other principal uses at the property and said facilities are 10,000 square feet of floor area or greater.~~

~~(b) Restaurant, restaurants serving food outdoors, cafe with or without table service (including outside seating and service), brew pub and said facilities if enclosed in a building(s) are 10,000 square feet of floor area or greater.~~

~~(c)~~

(d) Health, sports and fitness clubs (indoor and/or outdoor) and related facilities as accessory to a multifamily dwelling use ~~and, provided that~~ said facilities if enclosed in a building(s) are ~~10,000~~ less than 8,000 square feet of floor area ~~or greater.~~ For the avoidance of doubt, any outdoor areas shall not be subject to said floor area ~~restriction~~ restrictions.

~~(de)~~ Accessory solar energy installations, including but not limited to rooftop systems and solar parking canopies, and accessory telecommunications facilities and wireless communications facilities.

(f) Industrial Uses permitted by underlying zoning and located within 200 feet of a residential structure.

(2) Once a development in the SWR Overlay District receives site plan approval:

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(a) An individual as-of-right use may be changed without further site plan approval, unless such change otherwise requires Site Plan Approval under § 270-2 of the Marlborough City Code or a modification to a Site Plan Approval under Subsection L; and

(b) An individual use already granted a special permit may be changed upon the grant of a new or modified special permit, as appropriate, for that changed use, and will be subject to Site Plan Approval; provided, however, that if the change is to an as-of-right use in the SWR Overlay District, no further Site Plan Approval is required unless such change otherwise requires Site Plan Approval under § 270-2 of the Marlborough City Code or a modification to a Site Plan Approval under Subsection L.

E. Affordable Housing. All site plan review approvals granted to applicants to construct multi-family dwellings shall be subject to the provisions of § 650-26 of the Zoning Ordinance; provided, however, the percentage of dwelling units to be constructed for homeownership or rental purposes to be made available at affordable prices to home buyers or renters shall be ~~10~~12% with respect to developments of 20 or more units.

F. Dimensional requirements. The SWR Overlay District shall be subject to the dimensional standards in accordance with Article VII of the Zoning Ordinance with the following exceptions:

(1) The SWR Overlay District shall consist of one or more lots. The minimum acreage requirement for contiguous parcels/lots to be developed as a SWR Overlay District is twenty (20) acres.

(2) Minimum lot frontage measurement shall be no less than 200 feet for any lot wholly located within the boundaries of the SWR Overlay District.

(3) Minimum side and rear yard measurement shall be no less than 50 feet and minimum front yard measurement shall be no less than 50 feet for any lot wholly located within boundaries of a SWR Overlay District, except that for any business use the minimum front yard measurement shall be no less than 25 feet.

(4) Maximum building height in SWR Overlay District shall not exceed 70 feet, provided that:

(a) For the purposes of measuring height in SWR Overlay District, the “front” of each building shall be measured on the side facing Sasseville Way;

(b) No non-residential structure or building shall be more than 2 stories or 45 feet in height; and



# IN CITY COUNCIL

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Marlborough, Mass., \_\_\_\_\_

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(c) For the avoidance of doubt, ~~roof structures that are not occupiable~~ height shall ~~not~~ be ~~included in~~ measured to the ~~overall~~ average height ~~measurement~~ between plate and ridge of a gable, hip or gambrel roof.

(5) Maximum combined lot coverage, including any permitted accessory structures, shall not exceed ~~50~~45% of the tract or contiguous parcels.

(6) The total number of dwelling units within the SWR Overlay District shall be limited to ~~15~~13 units per acre of gross land area.

(7) The SWR Overlay District may contain studio, one (1), two (2) and three (3) bedroom units, provided that the number of three (3) bedroom units shall not exceed ten (10).

(8) Notwithstanding anything contained herein to the contrary, there shall be no yard or setback requirements, or planting strips required as to internal lot lines within the SWR Overlay District.

G. Parking and curb cut requirements. Except as otherwise provided in this section, parking and circulation requirements shall conform to the provisions of §§ 650-48 and 650-49 of the Zoning Ordinance.

(1) General. In the SWR Overlay District, adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal, for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the City Council shall consider complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.

(2) Parking locations. Parking may be provided at ground level, underground or in a parking garage. Parking garages can be freestanding or as part of buildings dedicated to other permitted uses.

(3) Parking spaces ~~for each~~per dwelling unit. There shall be a minimum parking ratio of 1.5 parking spaces ~~for each~~per dwelling unit.

(4) Granting of relief from parking and driveway regulations. The City Council may waive any of the foregoing requirements or the requirements of § 650-48 and § 650-49 during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.

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H. Landscaping and screening requirements. The SWR Overlay District shall be subject to the landscaping and screening standards in accordance with ~~Article VII of the Zoning Ordinance~~ § 650-47 with the following exceptions:

(1) In the SWR Overlay District, 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.

(2) The City Council may waive any of the requirements of § 650-47 during Site Plan Review during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.

I. Signage.

(1) Except as otherwise provided in this section, signage shall conform to the provisions of Chapter 526 of the Marlborough City Code, the Sign Ordinance.

(2) The City Council may waive any of the requirements of the Sign Ordinance during Site Plan Review if it makes a finding that to do so will enhance the overall design of the SWR Overlay District.

J. Stormwater Management System. A development shall have a stormwater management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City, the Department of Environmental Protection's Storm Water Management Guidelines, and the City's Stormwater Ordinance, Chapter 271 of the Marlborough City Code.

K. Application.

(1) An application for a special permit ~~for a use~~ in the SWR Overlay District shall comply with the requirements of § ~~650-57~~ 650-59 et seq. of the Zoning Ordinance. In the matter of a site plan approval, the application shall comply with the requirements of the City Code, Chapter 270, Article II, Permits and Approvals, § 270-2 et seq.

(2) The City Council in connection with a special permit and/or site plan application shall review such applications with respect to the following design criteria:

(a) Compliance of sidewalks with Americans with Disabilities Act (ADA) design standards;

(b) Street facade and exterior walls visible from public ways;

(c) Public space;

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(d) Scale of buildings; and

(e) External lighting.

(3) Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A final building elevation shall be submitted prior to the close of the public hearing/meeting.

**KL.** Amendments. After approval, an owner/developer may seek amendments to the approved permits. Minor amendments to a special permit and major or minor amendments to a site plan approval may be made by a majority vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a major amendment or a minor one. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for a revised special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of § 650-59.

2. The Zoning Map described in § 650-8 is amended as shown on the accompanying Map (Exhibit "A"). The newly established "Sasseville Way Residential Overlay District" shall include all or portions of the properties shown on the Map existing at the passage of this Ordinance, which properties include the following parcel of land (herein identified by the Assessors' Map and Parcel Number): 29-23.

Be and is herewith **SET A PUBLIC HEARING FOR \_\_\_\_\_, ADVERTISE, REFER TO PLANNING BOARD.**

ADOPTED

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Exhibit A

