

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: April 9, 2019

Time: 5:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 APR -3 P 1:04

Continued Review:

1. 01-28-2019 – **Order No. 19-1007533**: Proposed Zoning Amendment, to add to Chapter 650 a new section §36, which will create an Executive Residential Overlay District in the Simarano Drive and Cedar Hill Road Area.
-REFER TO URBAN AFFAIRS & PLANNING BOARD
-PUBLIC HEARING: MARCH 11, 2019
2. 12-17-2018 – **Order No. 18/19-1007500**: Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards.
-REFER TO URBAN AFFAIRS & PLANNING BOARD
-PUBLIC HEARING: FEBRUARY 11, 2019

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

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

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



City of Marlborough Planning Board

Administrative Offices
135 Neil St.
Marlborough, MA 01752

PLANNING BOARD

Barbara L. Fenby, Chair
Philip Hodge
Sean N. Fay
George LaVenture
Christopher Russ
Matthew Elder
Krista Holmi, Administrator
(508) 624-6910 x33200
kholmi@marlborough-ma.gov

April 2, 2019

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

RE: Order No. 19-1007533, Proposed Zoning Amendment-Chapter 650-36 to create the Executive Residential Overlay District. (Simarano Drive and Cedar Hill Road Area).

Honorable President Clancy and Members:

At its regularly scheduled meeting on March 25, 2019, the Planning Board took the following action:

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to provide a favorable recommendation to the City Council on the above referenced Council order. Motion carried.

In its decision, the Board made the following comments:

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

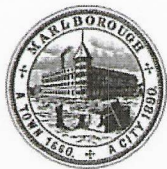
The Board expressed its opposition to the applicant's expressed plan to build a phased development.

Should you need further information, don't hesitate to contact me.

Sincerely,

Barbara L. Fenby
Chairperson

cc: City Clerk
Mirick O'Connell



IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019

ORDERED:

PAGE 1

At a regular meeting of the Marlborough City Council held on Monday, JANUARY 28, 2019 at 8:00 PM in the City Council Chambers, City Hall, the following proposed amendment to the Code of the City of Marlborough, was **ORDERED ADVERTISED** as follows:

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as amended, be further amended by adding a new §650-36, Executive Residential Overlay District, as follows:

§650-36 – EXECUTIVE RESIDENTIAL OVERLAY DISTRICT

A. Purpose and Objectives

The Executive Residential Overlay District (“EROD”) allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval, as an alternative to land use controls that exist in the underlying district(s). The establishment goals of the EROD are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety, and welfare by promoting integrated, pedestrian-friendly, residential and mixed-use development with convenient access to employment options in Marlborough’s southwest quadrant and along Interstate 495.

B. Location of EROD; Development Phasing

1. For the purposes of this Section (§650-36 et. seq.), the EROD is located on the easterly side of Simarano Drive between the Interstate 495 Interchange and Cedar Hill Road containing approximately 43 acres as indicated on the City Zoning Map and more particularly described in Exhibit “A” annexed hereto and incorporated by reference herein.
2. Within the EROD, there may be one or more phases of development (“ERO Phase”). Each ERO Phase may consist of one or more parcels of land and may include any eligible use set forth in Subsection D below, which may be commingled within a single structure or located in separate structures on one or more parcels. Parcels within the EROD may be combined or subdivided and held under separate ownership or leaseholds. Each ERO Phase shall be subject to Site Plan Approval.
3. Upon the issuance of Site Plan Approval for an ERO Phase on a parcel or parcels in the EROD, this Section (§650-36 et. seq.) shall govern said parcel as developed in accordance with the Site Plan Approval.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019

PAGE 2

ORDERED:

4. Except as specifically provided herein, the provisions of the Zoning Ordinance relating to the underlying zoning districts not otherwise impacted by this Section (§650-36 et. seq.) shall continue to remain in full force and effect. In the event of any conflict between the provisions of this Section (§650-36 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-36 et. seq.) shall govern and control.

C. Authority of Permit Granting Authority

1. The City Council shall be the Permit Granting Authority for Special Permits and Site Plan Approvals in the EROD. Special Permits shall require a two-thirds vote of the City Council; Site Plan Approvals shall require a simple majority vote.
2. At the request of an applicant as part of an initial application or as part of a modification pursuant to Subsection H, the City Council may elect to vary the dimensional, parking, design, and landscaping requirements applicable to an ERO Phase by Site Plan Approval 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 (§650-36 et. seq.).
3. An application for Site Plan Approval for an ERO Phase shall comply with the City Council's Rules for Site Plan Approval. An application for a Special Permit for a use in the EROD shall comply with the requirements of §650-59 of the Zoning Ordinance.

D. Eligible Uses

1. The following uses are permitted BY-RIGHT in the EROD:
 - a. Multifamily Dwellings, up to 450 dwelling units.
 - b. Restaurant, café with or without table service (including outside seating and service) with or without drive-thru, provided that said facilities have no dedicated driveway with a curb cut on a public way.
 - c. Co-working or shared working spaces.
 - d. Health, sports and fitness clubs (indoor and/or outdoor) and related facilities.
 - e. Retail sales and services.
 - f. Offices, professional offices, banks, insurance, and financial institutions.
 - g. Consumer service establishments complementary to the other principal uses.
 - h. Brew pubs.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019

PAGE 3

ORDERED:

- i. Distilleries with attached restaurants.
 - j. Accessory solar energy installations, including but not limited to roof-top systems and solar parking canopies.
 - k. Uses allowed by right in the underlying zoning district.
 - l. Accessory uses.
2. The following additional uses are permitted BY SPECIAL PERMIT in the EROD:
 - a. Multifamily Dwellings in excess of 450 dwelling units.
 - b. Uses allowed by special permit in the underlying zoning district.
 3. All uses not specified in Subsection D.1 and Subsection D.2 above shall be deemed prohibited in the EROD.
 4. Once an ERO Phase receives Site Plan Approval, individual uses within the ERO Phase 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 H.3.
 5. Multifamily dwellings in the EROD shall be subject to Section 650-26 of the Zoning Ordinance.

E. Dimensional Requirements

1. Notwithstanding any provisions of the Zoning Ordinance to the contrary, development in the EROD shall be subject to the following dimensional standards:
 - a. Minimum lot area: none.
 - b. Minimum Lot Frontage: none.
 - c. Minimum Front Yard or Setback from a Public Way: 20 feet.
 - d. Minimum Side and Rear Yard: 25 feet.
 - e. Maximum Building Height: 80 feet, no limitation on stories.
 - f. Maximum Lot Coverage: 60%, over the entire EROD.
2. 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 EROD.



IN CITY COUNCIL

Marlborough, Mass., _____ JANUARY 28, 2019

PAGE 4

ORDERED:

F. Parking Requirements

1. **Parking Locations** – Parking may be provided at ground level, underground, or in parking garages. Parking garages may be free standing or part of buildings dedicated to other permitted uses. Parking garages may contain accessory solar energy installation.
2. **Required Parking Spaces** – An ERO Phase shall provide parking as follows: 1 parking space per bedroom; 1 parking space per 250 square feet of office or co-working / shared working space; 1 parking space for every 3 seats plus 1 parking space for every 3 employees for a restaurant or other food/beverage service use; and 1 parking space for each 100 square feet of public floor area of other commercial space; provided, however, that the City Council may, through Site Plan Approval, authorize a reduction in the required number of parking spaces upon finding that the parking provided for the ERO Phase is sufficient to meet demand.
3. **Parking Space Dimensions** – Each parking space shall be no less than 9' x 18' except that the use of compact spaces (no smaller than 8' x 16') may be utilized throughout provided that no more than 33% of the total parking spaces within an ERO Phase shall be compact spaces.
4. Except as otherwise provided in this Section (§650-36 et. seq.), parking and circulation requirements in the EROD shall conform with the provisions of §650-48 and §650-49 of the Zoning Ordinance.

G. Design Standards

1. **Design Criteria** – An application for Site Plan Approval under this Section (§650-36 et. seq.) shall adhere to the design criteria specified in §270-2 of the Marlborough City Code.
2. **Roadways** – To the extent feasible, internal roadways shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the subdivision standards or dimensional requirements thereof, provided that those roadways shall be adequate for the intended vehicular and pedestrian traffic. The design of ways and parking circulation should be as efficient as possible to reduce the overall development impact and area of impervious surfaces.



IN CITY COUNCIL

Marlborough, Mass., _____ JANUARY 28, 2019

PAGE 5

ORDERED:

3. Landscaping – Landscaping in the EROD shall conform with the provisions of §650-47 of the Zoning Ordinance, except that continuous landscaped strips shall be provided along all public ways with an average minimum width of 10 feet, with at least one tree per 50 linear feet of planting area length on average or with groups of trees spaced no further apart than 100 linear feet on average.
4. Storm Water Management System – An ERO Phase shall have a storm water 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, §271 of the Marlborough City Code.
5. Signage – Except as otherwise provided in this Section (§650-36 et. seq.), signage shall conform to the provisions of §526 of the Marlborough City Code.

H. Modifications

1. After approval, applicants may seek modifications to any approved Special Permits or Site Plan Approvals.
2. Special Permits – Major modifications to a Special Permit may be granted by a two-thirds vote of the City Council, and minor modifications to Special Permit may be granted by the Building Commissioner. The Building Commissioner shall have jurisdiction to determine whether a requested modification to a Special Permit is major or a minor. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce a material increase in impact on City services, the environment, or the neighborhood. Where the effect of a modification to a Special Permit is quantifiable (by way of example only, modifications to building size or location, parking count or location, or other such quantifiable modification), it shall be presumed minor if the quantifiable effect does not result in a ten percent (10%) or greater variation from the applicable approval, provided however, that said modification would not result in a violation of any provision of this Section (§650-36 et. seq.). If it is determined that a modification to a Special Permit is 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.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019
PAGE 6

ORDERED:

3. Site Plan Approvals – Major modifications to a Site Plan Approval may be granted by a majority vote of the City Council, and minor modifications to a Site Plan Approval may be granted by the Building Commissioner. The Building Commissioner shall have jurisdiction to determine whether a requested modification to a Site Plan Approval is major or a minor. In general, a minor modification shall not produce more than a material increase in the scale of a project nor produce a material increase in impact on City services, the environment, or the neighborhood. Where the effect of a modification to a Site Plan Approval is quantifiable (by way of example only, modifications to building size or location, parking count or location, or other such quantifiable modification), it shall be presumed minor if the quantifiable effect does not result in a ten percent (10%) or greater variation from the applicable approval, provided however, that said modification would not result in a violation of any provision of this Section (§650-36 et. seq.). If it is determined that a modification to a Site Plan Approval is not minor, an application for a revised Site Plan Approval shall be filed in accordance with the City Council's Rules for Site Plan Approval.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019
PAGE 7

ORDERED:

EXHIBIT A

The Executive Residential Overlay District shall include the following parcels of land (herein identified by the Assessors' Map and Parcel Number):

- Assessors Map 116, Parcel 5
- Assessors Map 116, Parcel 11
- Assessors Map 116, Parcel 12

Be and is herewith **SET A PUBLIC HEARING FOR MARCH 11, 2019, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD.**

ADOPTED

ORDER NO. 19-1007533

From: Falk, Brian R. <bfalk@MirickOConnell.com>
Sent: Friday, April 5, 2019 11:16 AM
To: City Council; Sara Corbin
Cc: Karen Boule; Bergeron, Arthur P.
Subject: Updated Executive Residential Ordinance
Attachments: Executive Residential Overlay District - 4-5-19 redline (A5786335-4x7A575).DOCX

Greetings,

Attached is a redline of the Executive Residential Overlay Ordinance reflecting changes requested at the last Urban Affairs Committee meeting. The redline shows the following changes:

1. Multifamily dwellings, regardless of units, require a special permit.
2. Drive-through restaurants require a special permit.
3. Consumer service establishments are no longer an allowed use.
4. An accessory use is defined by referring to the existing definition in the Zoning Ordinance.

Councilors raised a question as to what qualifies as an accessory use. Ultimately, such a use depends upon (i) the primary use, and (ii) what the Building Commissioner deems to be “customarily incidental to that of the main building or use of the land.” Here, our primary uses (multifamily, retail, office, etc.) will guide the scope of any accessory uses. The existing definition of accessory use in the Zoning Ordinance already excludes “the exterior storage of junk, dismantled or abandoned cars or any other storage detrimental to the health, safety or general welfare.” If Councilors have concerns about other potential accessory uses, we can specifically exclude them.

5. We clarified that parking requirements are the “minimum” required. The Ordinance still gives the Council leeway to approve less than the minimum required if the applicant demonstrates that parking will be sufficient for the site.

Thank you for your time and attention to this matter.

Brian

MIRICK O'CONNELL
ATTORNEYS AT LAW

BRIAN R. FALK

Of Counsel

Mirick, O'Connell, DeMallie & Lougee, LLP

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Please visit our website: www.mirickoconnell.com

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3. Upon the issuance of Site Plan Approval for an ERO Phase on a parcel or parcels in the EROD, this Section (§650-36 et. seq.) shall govern said parcel as developed in accordance with the Site Plan Approval.
4. Except as specifically provided herein, the provisions of the Zoning Ordinance relating to the underlying zoning districts not otherwise impacted by this Section (§650-36 et. seq.) shall continue to remain in full force and effect. In the event of any conflict between the provisions of this Section (§650-36 et. seq.) and any other provision of the Zoning Ordinance, the provisions of this Section (§650-36 et. seq.) shall govern and control.

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D. Eligible Uses

1. The following uses are permitted BY-RIGHT in the EROD:
 - a. ~~Multifamily Dwellings, up to 450 dwelling units.~~
 - b.a. Restaurant, café with or without table service (including outside seating and service) ~~with or without drive-thru, provided that said facilities have no dedicated driveway with a curb cut on a public way.~~
 - e.b. Co-working or shared working spaces.
 - d.c. Health, sports and fitness clubs (indoor and/or outdoor) and related facilities.
 - e.d. Retail sales and services.
 - f.e. Offices, professional offices, banks, insurance, and financial institutions.
 - g. ~~Consumer service establishments complementary to the other principal uses.~~
 - h.f. Brew pubs.
 - i.g. Distilleries with attached restaurants.
 - j.h. Accessory solar energy installations, including but not limited to roof-top systems and solar parking canopies.
 - k.i. Uses allowed by right in the underlying zoning district.

~~l.j.~~ Accessory uses, as defined in Section 650-5B.

2. The following additional uses are permitted BY SPECIAL PERMIT in the EROD:
 - a. Multifamily Dwellings ~~in excess of 450 dwelling units.~~
 - b. Restaurant, café with or without table service (including outside seating and service) with drive-thru, provided that said facilities have no dedicated driveway with a curb cut on a public way.
 - ~~b.c.~~ Uses allowed by special permit in the underlying zoning district.
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4. Storm Water Management System – An ERO Phase shall have a storm water 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, §271 of the Marlborough City Code.

5. Signage – Except as otherwise provided in this Section (§650-36 et. seq.), signage shall conform to the provisions of §526 of the Marlborough City Code.

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EXHIBIT A

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- Assessors Map 116, Parcel 11
- Assessors Map 116, Parcel 12