

City of Marlborough Public Meeting Posting

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

Meeting Name: City Council Urban Affairs Committee

2023 FEB 24 PM 4:39

Date: March 6, 2023

Time: 7:00 PM

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

This meeting will be held in the City Council Chamber. Public attendance is permitted. The meeting will be televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) or you can view the meeting using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov).

ADDITIONAL AGENDA ITEM:

Continued Review of 11-7-22 - Order No.22-1008721: Communication from Solicitor Grossfield on behalf of Councilor Robey re: proposed amendments to Ch.650 Zoning relative to certain provisions concerning mixed use and affordable housing.

-REFER TO URBAN AFFAIRS AND PLANNING BOARD
PUBLIC HEARING: DECEMBER 19, 2022

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 Council

From: City Council
Sent: Friday, March 3, 2023 2:09 PM
To: Christian Dumais; David Doucette; Don Landers; Donald Landers (donald_landers@msn.com); John Irish; Karen Boule; Kathleen Robey; Laura Wagner; Mark Oram; Mike Ossing; Samantha Perlman; Sean Navin; Teona Brown
Cc: Steven Kerrigan; Wilson Chu
Subject: TO COUNCILORS: Order No. 22-1008721 - Zoning Amendments re: Mixed Use and Affordable Housing
Attachments: Zoning Amendments - 3-2-23 Draft.docx

FYI for review next Monday.

Please note there may be changes after Chair Robey's review.

-Karen

From: Jason Grossfield <jgrossfield@marlborough-ma.gov>
Sent: Thursday, March 2, 2023 3:05 PM
To: Karen Boule <kboule@marlborough-ma.gov>; City Council <citycouncil@marlborough-ma.gov>
Subject: FW: Order No. 22-1008721 - Zoning Amendments re: Mixed Use and Affordable Housing

Good Afternoon Clr. Robey, Karen:

As requested at the last Urban Affairs Committee meeting, attached please find an updated draft incorporating the committee's requested updates. In summary, the following changes are incorporated:

- Mixed-use amendment is shown in red-line format
- Clarified application of 650-26 based on zoning district, # of units, type of use
- Added clause re: fractions
- Period of affordability – changed to only 'perpetuity'
- Guaranty of performance – Added in clause to link occupancy permit to having all required documents in place to preserve affordability and units added to the SHI.

Per our discussions, I reviewed whether any of the changes discussed would require a new public hearing. In my opinion, the inclusion of new clauses regarding the affordability (% of AMI) levels or household income eligibility would result in a need for a new public hearing given the scope of the advertised proposed amendments. For this reason, I did not include those portions at this time.

Please let me know if there were any additional changes that should be part of this updated draft based on the committee meeting, or if you have any questions/comments on the draft.

Thanks,
-Jason

Jason D. Grossfield
City Solicitor
City of Marlborough
City Hall, 4th Floor
140 Main Street

ORDERED:

THAT, PURSUANT TO SECTION 5 OF CHAPTER 40A OF THE GENERAL LAWS, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT CHAPTER 650 OF THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

I. By amending Chapter 650 (Zoning), Section 650-5 (Definitions; word usage), Subsection B, "Mixed Use" definition, to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

MIXED USE

(1) A combination of permitted (Y) or special permit (SP) residential/business uses as listed in § 650-17, Table of Use Regulations, for a particular zoning district, located on the same lot and arranged vertically in multiple stories of a structure or horizontally adjacent to one another in one or more buildings.

~~(2) The To achieve a mix of residential to business uses, such as retail or restaurant, uses shall be that is balanced and compatible, and shall contribute to a vibrant downtown atmosphere, including a combination of ground floor street front uses, such as retail or restaurant.~~

~~(3) Ground floors of buildings fronting streets or public accessways shall be reserved for restricted to nonresidential uses, except as specified below:-~~

Dwelling units shall be allowed on ground floors of a buildings ~~if~~:

~~(a) The building that is set behind another a mixed-use building that has business commercial uses on the ground floor and residential on other floors so long as the building set behind does not face a public way;- or (b) The residential portion of the ground floor of a building is set behind street front nonresidential uses within the same building.~~

II. By amending Chapter 650 (Zoning), Section 650-26 (Affordable Housing), to read as follows: (new text shown as underlined, deleted text shown as ~~strikethrough~~):

§ 650-26. Affordable housing.

A. This section 650-26 shall apply to all developments that result in or contain eight (8) or more dwelling units, in all zoning districts, for the following types of uses: multifamily dwelling(s) or mixed-use development containing multifamily dwelling(s). This section shall apply as set forth above unless an exception is otherwise stated in this section 650-26. Compliance with this

section shall be made a condition of any special permit or site plan approval that is required for the development. All special permits granted to applicants to construct multifamily dwellings thereby increasing the number or density of residential dwellings to a number or level greater than that allowable as a matter of right under the zoning classification for the subject parcel shall require the following.

(1) Developments of 20-8 or more units.

(a) Number of on-site affordable units. TheA development subject to this Section 650-26 shall-i) provide that at least 15% of the dwelling units to be constructed for homeownership or rental purposes will be made available at affordable prices to home buyers or renters. If a development results in or contains twenty (20) or more dwelling units, then at least 20% of the dwelling units shall be made available at affordable prices, rather than 15%., or ii) if authorized by a majority of the City Council, provide a sum not less than \$50,000 per affordable dwelling unit that would have been required in Item i) above to be deposited as directed by the City Council into the fund for economic development created by Chapter 126 of the Acts of 2011 or into another fund designated by the City Council. If when applying the specified percentage to the total number of units to determine the required number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if equal to or over one-half, shall be rounded up to the next whole number.

(b) Local preference. The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the affordable dwelling units to eligible residents of the City of Marlborough.

(c) Distribution of affordable units. Dwelling units to be sold or rented at affordable prices shall be integrated into the overall development to prevent physical segregation of such units.

(d) Appearance. The exterior of the affordable units shall be designed to be compatible with and as nearly indistinguishable from the market rate units as possible.

(e) Minimum and maximum floor areas. Affordable housing units shall have a gross floor area not less than the minimum required by the State Department of Housing and Community Development under the regulations created under the authority of MGL Chapter 40B.

(f) Period of affordability. Limitations and safeguards shall be imposed to ensure the continued availability of the designated affordable units for a minimum of 99 years or in perpetuity. Such limitations and safeguards may be in the form of deed restrictions, resale monitoring, requirements for income verification of purchasers and/or tenants, rent level controls and the like.

(g) Limitation on change in affordability. In no event shall any change in affordability occur if the minimum percentage of affordable units required in the entire City under MGL Chapter 40B has either not been met at that time or such change in affordability would cause the City to fall below that percentage.

(h) Staging of affordable and market-rate units. No more than 50% of the building permits for the market-rate units shall be issued until construction has commenced on 30% of the affordable units. No more than 50% of the occupancy permits for the market-rate units shall be issued until 30% of the occupancy permits for the affordable units have been issued. The City Council may modify this provision for developments under 50 units.

~~(i) Alternate site. The City Council may allow the developer to build some or all of the affordable housing required by Subsection A(1)(a) on an alternate site within the City, provided that the City Council determines that this is in the best interest of the City and orders that this specific condition be attached to the special permit. The location of the alternate site shall either be specified at the time of approval for the special permit or selected within six months of said application and shall then be subject to approval by the Housing Partnership Committee or its successor, by the City Council if otherwise required by this Zoning Ordinance and by any other proper authority as may be required by law. The development of the alternate site shall comply with Subsection A(1)(b), (e), (f), (g), (h) and (j) of this section, and the staging of development on the alternate site shall be governed by Subsection A(1)(h) applied to all units on both the main and alternate sites.~~

~~(j) Guaranty of performance. No certificate of occupancy shall be issued for any unit within a development subject to this section until all actions necessary to preserve the affordability of the affordable units in compliance with this section and include the affordable units on the subsidized housing inventory, including without limitation, a deed restriction, regulatory agreement and declaration of restrictive covenants, and/or any other restrictive instrument necessary, and all other required documentation, have been executed and registered or recorded by the developer, in a form satisfactory to the City Solicitor.~~ The City Council shall require security in a form satisfactory to the City Council and City Solicitor to guarantee performance, including preservation of affordability, under this subsection, and no building permit shall be issued until and unless said security has been provided.

~~(2) Developments of 19 or fewer units. All provisions of Subsection A(1) above applicable to 20 or more units may also be applied to developments of 19 or fewer units as the City Council finds practical.~~

~~(3)~~ The provisions of this section shall not apply to a special permit for an existing retirement community or the expansion of an existing retirement community as governed by §§ 650-21 and 650-22. This subsection will be effective pursuant to the applicable provisions of Chapter 40A of the General Laws.

~~(4) The provisions of this section shall not apply to projects which are granted special permits within the Marlborough Village District.~~

III. By amending Chapter 650 (Zoning), Section 650-37 (Special Provisions Applicable to the Wayside Zoning District), Subsection H(4)(A), entitled “Mixed Uses”, by inserting the following sentence at the end of the existing subsection: Floor usage in a mixed-use

development shall conform to subsection (2) of the definition of "Mixed Use" set forth in Section 650-5(B).

IV. The effective date of these amendments shall be the date of passage.

ADOPTED
In City Council
Order No. 23-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST: