



IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 7, 2022

ORDERED:

Communication from City Solicitor, Jason Grossfield on behalf of Councilor Robey, re: Proposed Amendments to Chapter 650 "Zoning", relative to certain provisions concerning mixed-use and affordable housing, be and is herewith referred to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE A PUBLIC HEARING FOR MONDAY, DECEMBER 19, 2022.**

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, by deleting the definition in its entirety and replacing it with the following:

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) To achieve a mix of residential to business uses, such as retail or restaurant, that is balanced and compatible, ground floors of buildings fronting streets or public accessways shall be restricted to nonresidential uses, except as specified below:

(a) Dwelling units shall be allowed on ground floors of a building that is set behind a mixed-use building that has business uses on the ground floor and residential on other floors so long as the building set behind does not face a public way.

- 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. All site plan approvals granted for multifamily dwellings as part of a mixed-use development, and 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 or more units.~~

22-1008721



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- (a) Number of affordable units. The development 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, 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.~~
- (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.



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~~(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), (c), (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. 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, but shall apply to any new retirement community or expansion of an existing retirement community. 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

ORDER NO. 22-1008721



RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
DEC 23 AM 7:36

City of Marlborough
Planning Board

14
PLANNING BOARD

Barbara L. Fenby, Chair
Philip Hodge
Sean N. Fay
George LaVenture
Christopher Russ
Matthew Elder
William Fowler

Administrative Office
135 Neil St.
Marlborough, MA 01752

Katlyn LeBold, Administrator
(508) 624-6910 x33200
klebold@marlborough-ma.gov

December 20, 2022,

Council Vice President Kathleen Robey
Marlborough City Council
140 Main St.
Marlborough, MA 01752

A/F

RE: Council No. 22-1008721 – Proposed Zoning Amendment to Chapter 650, Mixed Use and Affordable Housing

Honorable Vice President Robey and Councilors:

At its regularly scheduled meeting on 12/19/2022, the Planning Board took the following action:

On a motion by Mr. LaVenture seconded by Mr. Russ, the Board voted to send a favorable recommendation to the City Council on the above-referenced Proposed Zoning Amendment, with the following recommendations:

- That "Affordability" be defined within the zoning amendment
- That the possibility that the amendment may cause impediments to site development be considered
- That the Council consider that this may change when the MBTA information is provided

Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 7-0.

Sincerely,

Barbara L. Fenby (KL)

Barbara L. Fenby
Chairperson

Enclosure

cc: Building Commissioner
City Clerk



City of Marlborough Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

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RECEIVED
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CITY OF MARLBOROUGH
JASON D. GROSSFIELD
CITY SOLICITOR

2022 NOV -2 PM 4:49
ARMY P. MCMANUS
ASSISTANT CITY SOLICITOR

6

November 2, 2022

*- vrbaw
- Planning
- P/lt - 12/19/22
- Adv*

Michael H. Ossing, President
Marlborough City Council
City Hall
140 Main Street
Marlborough, MA 01752

Re: Proposed Zoning Ordinance Amendments re: Mixed Use; Affordable Housing

Dear Honorable President Ossing and Councilors:

At the request of Councilor Robey, enclosed please find proposed zoning ordinance amendments relative to certain provisions concerning mixed-use and affordable housing.

I have reviewed the proposed amendments and they are in proper legal form. Please contact me if you have any questions or concerns.

Respectfully,

Jason D. Grossfield
City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor
Tin Htway, Building Commissioner

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ADOPTED
In City Council
Order No. 22-

Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST: