



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 929-6611  
Fax (978) 929-6350

**Steven L. Ledoux**  
**Town Manager**

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**To:** Board of Selectmen  
**From:** Steven L Ledoux, Town Manager  
**Date:** September 19, 2014  
**Re:** Potential Articles for Special Town Meeting

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In addition to the warrant article(s) regarding the Nursing Service being considered for a Fall Special Town Meeting, below, please find a list of other potential articles for a Special Town Meeting.

1. Withdrawal from Civil Service For Police(three articles)
2. Amend Zoning Bylaw, Outdoor Sales (Text Attached)
3. Amend Zoning Bylaw, Political Signs (Text Attached)
4. Amend Zoning Bylaw, Public Acquisition (Text Attached)
5. Amend Zoning Bylaw, Senior Housing (Text Attached)
6. Amend Zoning Map, Brookside Shops (Text attached)
7. Amend Zoning Bylaw Reduced Special Permits (Text Attached)
8. Amend Zoning Bylaw Walkways and Bikeways Front/Side Yard Setback (Text attached)
9. Amend Zoning Bylaw, Pharmacy Drive Through Windows (Text Attached)
10. Acquisition of Real Property Interests, Assabet River rail Trail Right of Way (Text Attached)
11. Land Acquisition, Dunn estate, Stow Street
12. WRAC Bylaw???

**Article – Nursing Service Enterprise Fund -  
(Majority Vote) Supplemental Appropriation to Continue to Operate**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue to operate the Acton ~~Public Health~~ Nursing Service, or take any other action relative thereto.

**Article – Nursing Service Enterprise Fund – Supplemental  
(Majority Vote) Appropriation to Implement Health Navigator and Wind  
Down Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to implement a Health Navigator program, to continue public health nursing services, and to wind down the other operations of the Acton ~~Public Health~~ Nursing Service, or take any other action relative thereto.

**Article – Nursing Service Enterprise Fund - Supplemental  
(Majority Vote) Appropriation to Wind Down Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue public health nursing services and to wind down the other operations of the Acton ~~Public Health~~ Nursing Service by a date certain to be determined by Town Meeting, or take any other action relative thereto.

**Article – Nursing Service Enterprise Fund - Supplemental  
(Majority Vote) Appropriation to Close the Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money to close the Acton ~~Public Health~~ Nursing Service, effective on a date certain to be determined by Town Meeting; and to authorize the Town Manager and the Board of Selectmen to take all steps necessary to effectuate this Article, or take any other action relative thereto.

**Article – Nursing Service Enterprise Fund - Authorization to Revoke  
(Majority Vote)**

To see if the Town will vote, effective as of the close of Fiscal Year 2015, to revoke the provisions of Chapter 44, § 53F<sup>1</sup>/<sub>2</sub> of the Massachusetts General Laws as to the Nursing Service Enterprise Fund; to close the Nursing Service Enterprise Fund balance to the General Fund and transfer any assets, debts and long-term liabilities of the Nursing Service Enterprise Fund to the General Fund; and to authorize the Town Manager and the Board of Selectmen to take all steps

necessary to combine, reorganize, or discontinue any remaining operations of the Acton Public Health Nursing Service, or take any other action relative thereto.

# PETITION FOR A SPECIAL TOWN MEETING

Pursuant to General Laws, Chapter 88, section 10.

TOWN ACTON

**SUBJECT OR SUBJECTS REQUESTED FOR ACTION AT THE MEETING:**  
 (To be filled in by petitioners. If space is insufficient, attach additional page of description to each petition form before signatures are gathered.)

November 12<sup>th</sup> 2014 Special Town Meeting

**Resolution of the Town of Acton related to the operation and funding of the Acton Nursing Service**

- Whereas, the Acton Nursing Service has been part of the Town's municipal government since 1923.
- Whereas, the Acton Nursing Service has a distinguished record of providing highly professional, compassionate and sustained care recognized for its excellence, including being chosen in 2013 as one of the top 500 home care providers in the nation.
- Whereas, the operation of the Acton Nursing Service within Town Hall enhances the availability of the state-mandated public health services.
- Whereas, in addition to the mandated public-health services the Acton Nursing Service provides a full range of home care services including skilled nursing, home health care assistance, medical social services, and physical, occupational and speech therapy.
- Whereas, the demographics of the Acton population indicate a growing number of older residents, many living alone, who are more likely to need home care.
- Whereas, the national and state healthcare systems are undergoing unpredictable changes which are likely to adversely affect the financial viability of those healthcare providers who rely solely on revenue from insurance reimbursements and donations.
- Whereas, the trend is to limit hospital stay and to rely more on home care.
- Whereas, continuing to maintain full local support and control of the Acton Nursing Service assures that it can provide care for all residents regardless of ability to pay, and that it can coordinate closely with other Town departments, especially Fire and Police.
- Whereas, re-creating the Acton Nursing Service would be extremely difficult if not impossible should its present operation be terminated or transferred to an outside organization.

**Now, therefore be it resolved that :**

1. the Acton Board of Selectmen direct the Town Manager to provide for the continuation of the operation of the Acton Nursing Service as part of the town municipal government.
2. the Acton Nursing Service continue to operate as a CMS certified home care provider.
3. the cost of operating the Acton Nursing Service be included in the Town of Acton yearly municipal budget starting with Fiscal Year 2016, and the Nursing Service Enterprise Fund be terminated at the end of Fiscal Year 2015.
4. the Town of Acton Finance Department set up an account to accept donations designated for the Acton Nursing Service.
5. the Board of Selectmen direct the Town Manager to develop and implement a business plan for the Acton Nursing Service.

NOTE : the attached SUMMARY is part of this Petition.

SIGNER INFORMATION

**INSTRUCTIONS TO SIGNERS—**

For your signature to be valid, you must be a registered voter in the town and your signature should be written substantially as registered. Do NOT sign more than one petition for the same subject.  
 If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.  
 If you have NOT moved since January 1 of this year, you need complete only columns I and II.  
 If you HAVE moved since January 1 of this year, you must complete columns I, II and III.

**SIGNER'S STATEMENT**

We, the undersigned, are qualified voters of the Town of ACTON, and in accordance with the provisions of law, request a special town meeting for the purposes above.

CHECK	I SIGNATURES to be made in person with name substantially as registered.	II NOW LIVING AT (Street & number, if any)	PREC.	III RESIDENCE ON JANUARY 1, 19____ If different (Street & number, if any)(City or town)
1	<i>Marylou Dolman</i>	<i>43 Faulkner Hill, Acton</i>		
2	<i>John F. De Dolman</i>	<i>43 Faulkner Hill, Acton</i>		
3	<i>Rose Larino</i>	<i>49 Ricott St. Acton</i>		
4	<i>Jane Meehan</i>	<i>399 Central St. Acton</i>		
5	<i>Elizabeth Meehan</i>	<i>60 School St Acton</i>		
6	<i>Robert Meehan</i>	<i>60 School St Acton</i>		
7	<i>Sandra Miska</i>	<i>60 School St Acton</i>		
8	<i>Pat Miska</i>	<i>60 School St. Acton</i>		
9	<i>Ricky Miska</i>	<i>1 Devon, Acton</i>		
10	<i>John Miska</i>	<i>27 GRASSHOPPER LN.</i>		
11	<i>Ben Pich</i>	<i>11 Hillcrest Dr.</i>		
12	<i>Joan Miska</i>	<i>10 Windywood Ln.</i>		

ATTENTION REGISTRARS: Before certifying signatures, see Instructions to Registrars on reverse side of this paper.

*over* →

**ARTICLE # ACCEPT TRAIL EASEMENTS – WRIGHT HILL**  
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept a deed or deeds of easement interests for purposes of establishing and maintaining a trail or trails for public non-motorized use on, the entirety of the “Proposed Access Easement” on Lot 14 as shown on a “Plan of Land in Acton, Massachusetts, No. 18 Wright Terrace”, dated March 27, 2014, drawn by Stamski and McNary, Inc., or take any other action relative thereto.

**MOTION**

Move that the Town authorize the Board of Selectmen to acquire and accept the trail easements as set forth in the Article and on such terms and conditions as the Selectmen may determine.

**SUMMARY**

The 2014 Annual Town Meeting authorized and funded the acquisition of 14 ± acres of open space at 18 Wright Terrace for conservation purposes (Lot 13), which did not include the 3.7 ± acre lot with the existing house on it (Lot 14). This article authorizes the Board of Selectmen to accept a public pedestrian or trail easement over Lot 14 that facilitates access between Wright Terrace and Lot 13, and more generally helps connect a system of trails on Wright Hill.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned: Janet Adachi: [bos@acton-ma.gov](mailto:bos@acton-ma.gov) / (978) 929-6611



Planning Department

**TOWN OF ACTON**  
472 Main Street  
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Fax (978) 929-6333  
[planning@acton-ma.gov](mailto:planning@acton-ma.gov)

September 23, 2014

### **Notice of Public Hearing on Proposed Zoning Changes**

Please publish the following as a LEGAL NOTICE on *October 2, 2014* and *October 9, 2014*.

Acton Planning Board public hearing - 10/21/14, 7:45 PM, Town Hall – Faulkner Room (204), on proposed zoning map and bylaw changes: (A) Rezone 145-149 Great Road (Brookside Shops) to Limited Business; (B) Section 4.3 to amend regulations in the groundwater protection overlay district zones; (C) Section 3.8.4.8.e) - farmers markets, to allow ongoing sales of Holiday trees and related items during Nov. and Dec.; D) Section 3.8.2.2 to allow bank and pharmacy drive-up windows by special permit; E) Section 7.5.12 to clarify the regulation on political signs; F) Section 8.8 to clarify and broaden zoning protections for property after public acquisitions; G) (1) Section 3 to allow larger restaurants without a use special permit, (2) section 3 to allow most commercial recreation uses without a use special permit, (3) section 5.5A.1 to set floor area limits for commercial recreation in the North Acton and South Acton Village districts, (4) section 8.1.4 to allow by right larger extensions of one- and two-family dwellings on nonconforming lots; H) Section 9B.12.9.2 to set clearer criteria and standards for monetary affordable housing contributions in lieu of on-site affordable housing production; I) Sections 6.7.2 and 10.4.3.6 to clarify and expand accommodations for non-motorized transportation facilities on commercial properties. Proposals are available at the Town Clerk in Town Hall or from the Planning Department at 33 Nagog Park, [planning@acton-ma.gov](mailto:planning@acton-ma.gov) or 978-929-6631.

#### **Distribution list (do not include in advertisement):**

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – SENIOR HOUSING**

To see if the Town will vote to amend the Zoning Bylaw Section 9B – SENIOR RESIDENCE, by deleting subsection 9B.12.9.2 (Affordability, Monetary contributions) and replacing it with a new subsection as follows:

9B.12.9.2 Monetary contributions in support of affordable housing made to the Acton Community Housing Program Fund. To be eligible for this alternative, the Planning Board, upon recommendation from the Acton Community Housing Corporation, must determine that there will be an extraordinary benefit or advantage to achieving the Town's affordable housing objectives as a result of allowing a monetary contribution rather than providing the AFFORDABLE DWELLING UNITS as otherwise required herein. The amount of the contribution shall be determined as the total of (a) the amount equal to the product of the otherwise required number of AFFORDABLE DWELLING UNITS times the difference in sale price between the AFFORDABLE DWELLING UNITS and the equivalent market-rate units, plus (b) all avoided costs associated with that number of otherwise required AFFORDABLE DWELLING UNITS including, but not limited to (1) preparation and recording of affordable housing restrictions or deed riders, (2) preparation of cost, income and eligibility certifications, (3) marketing and lottery administration, (4) closing costs, and (5) costs to obtain the inclusion of those units in Acton's subsidized housing inventory under M.G.L. Chapter 40B.

*[Note – Section 9B.12.9.2 currently reads: Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons' housing, as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B.]*

, or take any other action relative thereto.

**SUMMARY**

The zoning bylaw allows for a monetary contribution in-lieu of providing affordable housing units on site but does not specify how the monetary contribution is calculated. This article provides a calculation method for determining the fee-in lieu based on the difference between the market and affordable unit sale.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**     Board of Selectmen     Finance Committee     Planning Board

**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – REDUCE SPECIAL PERMITS**

To see if the Town will vote to amend the Zoning Bylaw as follows:

**A. Restaurant**

1. In Section 3 - Table of Principal Uses, replace “SPS” with “Y” in the fields in columns VR, EAV, EAV-2, NAV, SAV, WAV, OP-2, KC, LB, PM and TD, line 3.5.5 Restaurant.
2. In Section 3 – Notes for Table of Principal Uses, delete Note (9) and replace it with the following:

(9) A Special Permit shall be required for a Restaurant with more than 125 seats.

*[Note (9) currently reads:*

*No Special Permit shall be required for a Restaurant with 10 seats or less.]*

**B. Commercial Recreation**

1. In Section 3 - Table of Principal Uses, replace “SPS” with “Y” in the fields in columns EAV, EAV-2, NAV, SAV, WAV, OP-1, OP-2, KC, LB, PM, GI, LI, LI-1, SM(1) and TD, line 3.5.15 Commercial Recreation.
2. In Section 3 – Notes for Table of Principal Uses, delete Note (10) and replace it with the following:

(10) A Special Permit shall be required for Commercial Recreation facilities operating at night between the hours of 10PM and 5AM.

*[Note (10) currently reads:*

*No Special Permit shall be required for Commercial Recreation facilities with a NET FLOOR AREA of less than 2,000 square feet.]*

3. In Section 3 – Table of Principal Uses and Notes to Table of Principal Uses, delete Note (11) from the field in column EAV, line 3.5.15 Commercial Recreation.

*[Note (11) reads:*

*No Special Permit shall be required for this Use if its NET FLOOR AREA is 5,000 square feet or less.]*

4. In Section 5.5A.1 – Maximum Floor Area of Businesses and Industries Table, delete “NR” from the field in columns NAV and SAV, line 3.5.15 Commercial Recreation and replace it with the following:

In field column NAV, 7,500.

In field column SAV, 5,000.

### C. Non-Conforming Lots

1. In Section 8.1.4 – Extensions, alterations, or changes of Single and Two-Family Dwellings on Nonconforming Lots, delete the existing section and replace it with the following:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 30% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.

*[Note Section 8.1.4 currently reads:*

*One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.]*

, or take any other action relative thereto.

### SUMMARY

The intent of this article is to streamline permitting processes for existing and proposed uses that are historically approved without much, if any public concern during the special permitting process, and to address those concerns through bylaw amendments as shown above. Uses requiring a special permit are more discretionary than uses allowed by-right. Special permits require a public hearing, necessitating additional time, cost and uncertainty to the applicant as well as considerable bureaucratic cost and effort to the Town.

**Part A.** Currently, only restaurants with 10 seats or less are allowed by-right; meaning a use special permit is required for all restaurants with more than 10 seats. This article increases the allowed by-right seat capacity in restaurants from 10 to 125 seats. The Acton 2020 Comprehensive Community Plan states that residents desire to encourage activity in village and key centers by promoting a variety of different uses including restaurants. Increasing the by-right restaurant seat capacity from 10 seats to 125 seats will reduce barriers for existing restaurants to expand and for prospective restaurants from locating in Acton, and reduce overall permitting cost to the Town. For the last 10 years the Town has not denied any restaurant special permit application. In the village districts the size of restaurants remains capped at 5,000 square feet of floor area (Zoning Bylaw, section 5.5A.1).

**Part B.** This article will remove the special permit requirement for Commercial Recreation facilities entirely except for facilities operating during night hours. This bylaw also introduces a

maximum area of 7,500 square feet in the North Acton Village (NAV) district consistent with limits in the East Acton Village district, and 5,000 square feet in the South Acton Village (SAV) district consistent with limits in the West Acton Village district. Currently, Commercial Recreation facilities over 2,000 square feet require a special permit. Special Provisions for Village Districts under Section 5.5A.1 restrict the net floor area of commercial recreational facilities. Currently, the North Acton Village (NAV) and South Acton Village (SAV) rely on the Table of Principal Uses 2,000 square foot special permit threshold but do not have any additional restrictions under Section 5.5A.1. For the last 10 years the Town has not denied any Commercial Recreation facility special permit application. A proposed facility with night hours was approved with conditions.

**Part C.** This article increases the by-right threshold for extensions, alterations or changes to a single or two-family dwelling on a non-conforming lot from 15% to 30%. There are many lots in Acton that are non-conforming with respect to minimum frontage or area. Without some accommodation in the zoning bylaw, State law requires that every extension, alteration, or change to a dwelling on a non-conforming lot is subject to a special permit. Currently, the zoning bylaw provides that a by-right extension, alteration or change to a single or two-family dwelling on a non-conforming lot is limited to a 15% increase to the size of the existing structure. Any increase above 15% requires a special permit. Since the adoption of the 15% threshold in April 2013 there have been numerous special permit applications under this bylaw section, and all were granted.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**      **Board of Selectmen**      **Finance Committee**      **Planning Board**

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – PUBLIC ACQUISITION**

To see if the Town will vote to amend the Zoning Bylaw Section 8.8 – Public Acquisition, by deleting Section 8.8 and replacing it with a new subsection as follows:

8.8 Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is altered by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no such LOT, parcel or TRACT OF LAND nor any existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-compliant, nonconforming, or more nonconforming solely by reason of such taking or acquisition.

*[Note: Section 8.8 currently reads:*

*Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is decreased by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-complying solely by reason of such taking or acquisition.]*

, or take any other action relative thereto.

**SUMMARY**

Section 8.8 of the Zoning Bylaw offers certain protections for zoning compliance to land, land uses and structures following a public acquisition or taking. This article clarifies the original intent of this section and extends the protections so that after and a result of a public acquisition or taking the affected properties or uses will be deemed to (1) retain their prior status with respect to zoning compliance, (2) retain their prior zoning conformance status, and (3) not have any existing nonconformities increased. A non-compliant property or use constitutes a violation of the zoning bylaw. A lawful nonconforming use or property may continue, but any changes or expansions, or increases in nonconformity, are either prohibited or subject to special permits, which may be granted or denied.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**      Board of Selectmen      Finance Committee      Planning Board

**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – POLITICAL SIGNS**

To see if the Town will vote to amend the Zoning Bylaw Section 7.5 – ACCESSORY USE Regulations, by deleting subsection 7.5.12 (Political SIGNS) and replacing it with a new subsection as follows:

7.5.12 Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and the DISPLAY AREA of each sign shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.

*[Note: Subsection 7.5.12 currently reads:*

*Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and their DISPLAY AREA shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.]*

, or take any other action relative thereto.

**SUMMARY**

This article clarifies the original intent of this section to allow multiple political signs.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**     Board of Selectmen     Finance Committee     Planning Board

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – PHARMACY  
AND BANK DRIVE-THROUGH WINDOW**

To see if the Town will vote to amend the Zoning Bylaw section 3.8.2 (Accessory Use Permitted in the Office, Business, and Industrial Districts) by deleting subsection 3.8.2.2 and replacing it with the following:

- 3.8.2.2 Drive-up facilities in a bank or pharmacy subject to the grant of a special permit by the Board of Selectmen and the following requirements and limitations:
- a) Drive-up facilities shall be located only on the side or rear of a BUILDING; not on the front of a BUILDING that faces a street. In cases where a BUILDING has more than one front facing a street the Board of Selectmen may grant exceptions to this rule.
  - b) Pharmacies shall be allowed only one drive-up lane and window in a pharmacy; such drive through window shall be integrated with or attached to the pharmacy BUILDING, and drive-through window customer service shall only occur from the public access restricted pharmacy area within the store.
  - c) Drive-up facilities at pharmacies shall be limited to prescription services for customers.

*[Note: Subsection 3.8.2.2 currently reads:  
3.8.2.2 Drive-up facilities in a bank.]*

, or take any other action relative thereto.

**SUMMARY**

Currently, the zoning bylaw allows drive-up facilities in a bank by right. It does not allow drive-up facilities in pharmacies. This article would provide that drive-up facilities in banks and pharmacies are allowed by special permit from the Board of Selectmen subject to certain requirements and limitation on location, size, and use. The zoning bylaw will continue to prohibit all other drive-up facilities.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**     Board of Selectmen     Finance Committee     Planning Board

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**ARTICLE #            AMEND ZONING BYLAW – OUTDOOR SALES (FARMERS’ MARKETS)**  
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 3.8 – ACCESSORY USE Regulations, by amending subsection 3.8.4.8e (Farmers’ markets) as follows:

3.8.4.8 e) The farmers’ market shall not recur more than one day per week, with the exception of sales of holiday trees and related items within the months of November and December.

*[Note: Subsection 3.8.4.8e currently reads:*

*The farmers’ market shall not recur more than one day per week.]*

, or take any other action relative thereto.

**SUMMARY**

Subsection (e) currently limits farmers’ markets to one day per week. Typically holiday tree lots or businesses operate every day after Thanksgiving until December 25th. This article exempts the sales of holiday trees and other seasonal items from the 1 day per week limitation in subsection (e).

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:      Board of Selectmen      Finance Committee      Planning Board**

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**ARTICLE #            AMEND ZONING BYLAW – GROUNDWATER PROTECTION DISTRICT**  
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 4.3 – GROUNDWATER PROTECTION DISTRICT, by amending subsections ----- as follows:

*[as provided by AWD]*

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**4.3            GROUNDWATER Protection District**

4.3.1        Purpose – GROUNDWATER is the sole source of drinking water available to the residents, businesses and industries of the Town of Acton. The purpose of the GROUNDWATER Protection District is to protect the public health, safety, and general welfare by protecting the Town's limited present and future drinking water supply, to ensure a sufficient quantity of potable pure drinking water for the present and future residents of Acton, to prevent temporary and permanent contamination of the environment, and to limit the adverse effects of the USE and development of land on the quality and quantity of the GROUNDWATER and SURFACE WATER resources of the Town of Acton.

The GROUNDWATER Protection District is an overlay district whose boundaries are superimposed on all districts established by this Bylaw and whose regulations are in addition to any other regulations established by this Bylaw. *This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. The regulations in this district are not intended to supersede or limit the protections contained in state or federal GROUNDWATER protection programs, but to supplement protections contained in other statutes and regulations. The GROUNDWATER Protection District encompasses the entire Town, but it is divided into four separate protection zones, the regulations for which vary depending on their proximity to the Town's present and future drinking WATER SUPPLY wells. The locations of future drinking WATER SUPPLY wells have not been determined. However, the protections placed on the existing protection zones are such that utmost consideration has been taken to ensure the protection of all groundwater resources in the Town.*

4.3.2        District Boundaries – The GROUNDWATER Protection District is divided into four protection zones, as follows:

4.3.2.1     ZONE 1 - The area from which GROUNDWATER will travel to a pumping municipal well within a one year time period, based on average recharge conditions and anticipated pumping, as established in the "Groundwater Protection District Map of the Town of Acton, January 1989", prepared by Goldberg, Zoino and Associates (GZA) in the "Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989".

4.3.2.2     ZONE 2 - The Recharge Protection Area – The area within which GROUNDWATER will move toward a pumping municipal well at the end of a 180 day period of no surficial recharge and full design capacity pumping of the well (as more fully defined

by the Massachusetts Department of Environmental Protection in 310 CMR 22.02), established in the "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended and most recently adopted by Town Meeting. For the Clapp/Whitcomb and the School Street well fields, the Zone II  $\pm$  delineation was prepared by Goldberg, Zoino and Associates (GZA) in the "Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989". For the Conant I and II well fields, the ZONE II  $\pm$  delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the "Report on Conant II Pumping Test", dated January 1993. For the Kennedy/Marshall well fields, the ZONE II  $\pm$  delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the "Report on Kennedy No.1 and Marshall Wellfields Zone II Delineation", dated October 1996. For the Assabet well fields, the ZONE II  $\pm$  delineation was prepared by Stantec Consulting for the Acton Water District in the report "Prolonged Pumping Test Assabet Well No. 3", dated May 2008 and revised by Stantec Consulting in a letter report dated January 2009. All Zones II  $\pm$  have been approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zones II  $\pm$ .

- 4.3.2.3 ZONE 3 - The AQUIFER Protection Area – The Area of the TOWN underlain with the geologic formation of STRATIFIED DRIFT, based on the U.S. Soil Conservation Service's (SCS) soil map field sheets 1988 and Interim Soil Survey Report, 1986; and based on the United States Geologic Survey's (USGS) Surficial Geology Maps for the Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969.
- 4.3.2.4 ZONE 4 - The Watershed Protection Area – Consists of the entire TOWN including ZONES 1-3 and separates the TOWN into watershed areas along the existing GROUNDWATER divides. The areas of ZONE 4 outside from the boundaries of ZONES 1, 2 and 3 consist primarily of bedrock, glacial till and small isolated sand and gravel deposits. Water from these areas will eventually recharge into the lower lying areas of ZONES 1, 2 and 3, although at a rather slow rate. Recharge from these areas into ZONES 1, 2 and 3 occurs through movement of GROUNDWATER and SURFACE WATER. The purpose of ZONE 4 is to promote public awareness that all GROUNDWATER areas in the Town are interconnected and to prevent possible contamination of the GROUNDWATER from any source.
- 4.3.2.5 Boundary Determination – The locations of the various ZONES are shown on the "Groundwater Protection District Map of the Town of Acton, January 1989", as amended April 2011, consisting of Map Number 3A showing all ZONES at a scale of 1"=1200', and of Map Number 3B. Map Number 3B consists of sheets 3B-1 through 3B-18 showing ZONE 1 and ZONE 2 at a scale of 1"=200'. The sheets 3B-1 through 3B-18 correspond to the matching town atlas pages, which are also indicated on these sheets, and the ZONE delineations are either traced on these corresponding town atlas pages or on matching overlays to these pages. The "Groundwater Protection District Map of the Town of Acton, January 1989", as amended April 2011, is available at the office of the Town Clerk and the Engineering and Planning Departments. Actual site locations of the ZONE 1 and ZONE 2 boundary lines shall be determined by scaling from the Map Number 3B. Actual site location of the boundary line between ZONE 3 and ZONE 4 shall be located by the Zoning Enforcement Officer, or in the case of a

Special Permit under Section 4.3.8, by the Planning Board, based on information from Map Number 3A. Locating the boundary between ZONE 3 and ZONE 4 may be assisted through field investigations conducted by a soil scientist who is certified under qualification class A (advanced qualifications) by the Society of Soil Scientist of Southern New England or by a Professional Engineer or Professional Geologist versed in soil identification and classification. *The methodology used to delineate a BOUNDARY shall be presented to the Planning Board and Acton Water District for review and approval before a re-delineation is performed.*

- 4.3.2.6 **Split ZONE LOTS** – Notwithstanding any other provisions of this Bylaw, whenever a GROUNDWATER Protection District ZONE boundary line divides a LOT, *the entire each portion of the LOT shall comply with the requirements of this Bylaw applicable to the more restrictive its respective ZONE. Discharge of water extracted from a higher ZONE into a lower ZONE must meet the requirements of the lower ZONE.*
- 4.3.3 **Definitions** – For the purpose of the GROUNDWATER Protection the following terms shall have the following meaning. The terms defined below are capitalized in this Section 4.3 in addition to the terms defined in Section 1.
- 4.3.3.1 **AQUIFER** – *A geologic formation composed of FRACTURED ROCK, sand or gravel that contains significant amounts of potentially recoverable groundwater. An area of permeable deposits of rock or soil, containing significant amounts of potentially recoverable water.*
- 4.3.3.2 **DIVERSION BOX** – A precast concrete box or similar STRUCTURE, designed and positioned to direct a defined initial portion of runoff from a storm event in one direction and to direct remainder of the runoff water in another direction.
- 4.3.3.3 **PRIMARY, SECONDARY, TERTIARY TREATED EFFLUENT** – As defined from time to time in the applicable regulations of the Massachusetts Department of Environmental Protection.
- 4.3.3.4 **FILL** – Any material taken from on-site or off-site used for the purpose of augmenting or altering existing on-site topography, including but not limited to, landscaping, grading, or leveling of naturally occurring depressions in the land or of man-made excavations.
- 4.3.3.5 **Fractured Bedrock** – *Fractured bedrock is becoming an alternative aquifer to STRATIFIED DRIFT AQUIFERS. Fractured bedrock typically underlies the overlying sand and gravel and glacial till deposits. Recharge to the FRACTURED BEDROCK is typically from these overlying deposits. Although the Town of Acton has not yet utilized bedrock aquifers as a source of drinking water, protection of them is vital as GROUNDWATER from this AQUIFER type can recharge the overlying sand and gravel deposits and other surface water bodies.*
- 4.3.3.6 **GENERATOR OF HAZARDOUS MATERIALS OR WASTE** – Any individual or business that produces, uses or stores (stores: within the meaning of STORAGE pursuant to Section 4.3.3.17 4) on site HAZARDOUS MATERIAL OR WASTE as

defined in Section 4.3.3.8 7, as a PRINCIPAL or ACCESSORY USE and in quantities exceeding normal household or BUILDING maintenance needs.

4.3.3.7 6 **GROUNDWATER** – Water beneath the ground surface in the zone of saturation where every pore space between *sediment rock and soil particles or all open fractures in FRACTURED BEDROCK* is saturated with water.

4.3.3.8 7 **HAZARDOUS MATERIAL OR WASTE** – Any substance, including petroleum, *coal*, or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety or welfare; to the GROUNDWATER resources; or to the natural environment. Any substance, including but not limited to those regulated under the applicable Act on Board of Health regulations and under any of the following State and Federal laws and regulations, or any amendments thereof, shall be considered HAZARDOUS MATERIAL OR WASTE:

M.G.L., Chapter 21C, 315 C.M.R. 2.04;

M.G.L., Chapter 21E, 310 C.M.R. 40.00;

M.G.L., Chapter 111F, 105 C.M.R. 670.00;

M.G.L., Chapter 148, Section 13;

Toxic Substances Control Act - 15 U.S.C s.2601 et seq.;

Federal Insecticide, Fungicide and Rodenticide Act - 7 U.S.C s.136 et seq.;

Resource Conservation and Recovery Act - 42 U.S.C §.6901 et seq.;

Comprehensive Environmental Response, Compensation and Liability

Act of 1980 - 42 U.S.C s. 9601 et seq.;

Federal Clean Water Act - 33 U.S.C s.1251 et seq..

For the purposes of this Section, sanitary domestic wastes from residential sources shall not be considered a HAZARDOUS MATERIAL OR WASTE.

4.3.3.9 8 **IMPERVIOUS COVER** – Refers to material covering the ground, with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye;  $C = \text{runoff/rainfall}$ ) including, but not limited to, macadam, concrete, pavement and BUILDINGS.

4.3.3.10 **LEACHABLE WASTES** – Waste materials including SOLID WASTE, sludge, agricultural wastes, and composts that are capable of releasing water borne contaminants to the surrounding environment including the aquifers of the Town.

4.3.3.11 9 **MAXIMUM GROUNDWATER ELEVATION** – The height of the GROUNDWATER table when it is at its maximum level or elevation. This level is usually reached during the months of December through April. Determination of the MAXIMUM GROUNDWATER ELEVATION shall be made based upon the historical high GROUNDWATER table as determined by the United States Geological Survey (USGS), (for example, using the U.S.G.S method described in "Probable High Ground-Water Levels in Massachusetts, Open file Report 80-1205

by M.H. Frimpter), Acton Board of Health records, data from monitoring wells or other adequate field testing, whichever indicates the highest elevation. Where applicable, the determination of the MAXIMUM GROUNDWATER ELEVATION shall be made with the additional assumption that any well, which during pumping would draw down the GROUNDWATER table at the site, is not operating and that the GROUNDWATER table is leveled off to its natural state.

4.3.3.12 UNDISTURBED OPEN SPACE – An area within the OPEN SPACE that lies outside of any disturbances due to clearing, grading, paving, building, landscaping or other site development activities. It may be subject to limited and selected cutting of trees, removal of dead wood, or yearly mowing of grass and brush.

4.3.3.13 *Petroleum Product: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; coal tar emulsions, driveway sealers, or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.*

4.3.3.14 SOLID WASTE – For the purpose of this Section, SOLID WASTE shall mean any unwanted or discarded solid material, as defined in 310 C.M.R. 19.08, with the exception of brush, yard trimmings and grass clippings.

4.3.3.15 SPECIAL WASTE – SPECIAL WASTE means any solid waste that is determined not to be a hazardous waste pursuant to 310 CMR 30.000 and that exists in such quantity or in such chemical or physical state, or any combination thereof, so that particular management controls are required to prevent an adverse impact from the collection, transport, transfer, storage, processing, treatment or disposal of the solid waste. Without limitation, SPECIAL WASTE includes waste that will require special management to ensure protection of public health, safety, or the environment based upon the physical, biological, or chemical properties of the waste. SPECIAL WASTES include but are not limited to: asbestos waste, infectious wastes except as specified in 310 CMR 19.061(2)(b) ~~(6)(c)4~~, sludges including wastewater treatment sludges and industrial process wastewater treatment sludges. For purposes of this Bylaw, SPECIAL WASTE does not include drinking water treatment sludges. ~~(Ref: 310 CMR 19.006 and 19.061(2) and (3))~~

4.3.3.16 STRATIFIED DRIFT – Permeable, porous deposits of glacial outwash, consisting primarily of sand and gravel. The particular deposits referred to herein are those occurring in glacial river valleys in which the town's drinking WATER SUPPLIES are located. These deposits are defined in the United States Geologic Survey's (USGS) Surficial Geology Maps for the Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969, and in the U.S. Soil Conservation Service's (SCS) soil map field sheets, 1988, and Interim Soil Survey Report, 1986; soil types associated with STRATIFIED DRIFT listed in the Interim Soil Survey Report are: Agawam series, Amostown series, Birdsall series, Carver series, Deerfield series, Freetown series, Freetown-ponded, Hadley series, Haven series, Hinkley series, Hinkley series-bouldery, Limerick series, Merrimac series,

Merrimac-urban land complex, Ninigret series, Occum series, Pipestone series, Pootatuck series, Quonset series, Raynham series, Rippowam series, Saco series, Scarboro series, Scio series, Sudbury series, Suncook series, Swansea series, Tisbury series, Walpole series, Windsor series, Winooski series; also Udorthents, Gravel Pits, Landfills, and Urban Land Complexes when surrounded by or primarily associated with soil types listed above. The above referenced soil types are associated with STRATIFIED DRIFT in general, however, not necessarily every listed soil type does occur within the boundaries of the Town of Acton.

4.3.3.17 ~~4~~STORAGE – On-site containment or retention of materials (liquid, gas, solid) for PRINCIPAL or ACCESSORY USE for a period of more than 24 hours and occurring with a frequency of more than once a month.

4.3.3.18 ~~5~~ SURFACE WATER – All surface water bodies and wetlands protected under Massachusetts General Laws, Chapter 131, Section 40.

4.3.3.19 ~~6~~ WATER SUPPLY – A GROUNDWATER AQUIFER and SURFACE WATER recharge to a GROUNDWATER AQUIFER, which is a present or potential future drinking WATER SUPPLY source for the Town of Acton.

4.3.4 OPEN SPACE and LOT cover – The following requirements shall apply for OPEN SPACE, UNDISTURBED OPEN SPACE and IMPERVIOUS COVER:

4.3.4.1 ZONE 1 – In the Well Protection Area (ZONE 1) a minimum of 90% of every LOT shall remain OPEN SPACE, 50% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 10% of every LOT shall be covered with IMPERVIOUS COVER.

4.3.4.2 ZONE 2 – In the Recharge Protection Area (ZONE 2) a minimum of 70% of every LOT shall remain OPEN SPACE, 40% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 30% of a LOT shall be covered with IMPERVIOUS COVER.

4.3.4.3 ZONE 3, ZONE 4 – In the Aquifer Protection Area (ZONE 3) a minimum of 50% of every LOT shall remain OPEN SPACE and in the Watershed Protection Area (ZONE 4) a minimum of 30% of every LOT shall remain OPEN SPACE. No more than 30% of a LOT shall be covered with IMPERVIOUS COVER for either Zone 3 or Zone 4. ~~the OPEN SPACE requirements of the underlying Zoning District shall apply.~~

4.3.4.4 Outdoor STORAGE – Outdoor STORAGE areas shall not be considered a part of the OPEN SPACE of any LOT.

4.3.5 Depth to GROUNDWATER – Except for single FAMILY residential USES or BUILDINGS, no land within ZONES 1, 2 and 3 of the GROUNDWATER Protection District shall be developed or used except in accordance with the following requirements:

- 4.3.5.1 **Minimum Distance to GROUNDWATER** – The vertical distance between the existing or pre-development land surface and the **MAXIMUM GROUNDWATER ELEVATION** shall generally not be reduced, except when necessary to properly grade and construct **STREETS**, driveways, parking facilities and **BUILDING** sites, in order to comply with applicable regulations and to meet generally accepted **ACCESS** and safety standards.
- 1) The minimum distance between the finished or post-development grade from the **MAXIMUM GROUNDWATER ELEVATION** shall be not less than ten (10) feet, except as provided in Section 4.3.5.2.
  - 2) If the distance between the existing or pre-development land surface and the **MAXIMUM GROUNDWATER ELEVATION** is less than ten (10) feet, the distance may be reduced in accordance with Section 4.3.5.2.
- 4.3.5.2 **Maximum Allowed Reduction within 10 ft. of GROUNDWATER** – Where the existing or pre-development land surface is less than 10 feet above the **MAXIMUM GROUNDWATER ELEVATION**, the vertical distance between the finished or post-development grade to the **MAXIMUM GROUNDWATER ELEVATION** may be not less than ninety (90) percent of the pre-development distance.
- 4.3.5.3 **GROUNDWATER Recharge Facilities** – The bottom elevation of a leaching pond, or the bottom elevation of the stone layer in a leaching galley or trench shall be not less than two (2) feet above the **MAXIMUM GROUNDWATER ELEVATION**. This Section shall apply to **STRUCTURES** associated with surface drainage only.
- 4.3.6 **Other Design and Operation Requirements** – Except for single **FAMILY** residential **USES** or **BUILDINGS**, no land within **ZONES 1, 2 and 3** of the **GROUNDWATER Protection District**, and with respect to Sections 4.3.6.1 and 4.3.6.2 no land within the entire **GROUNDWATER Protection District**, shall be developed or used except in accordance with the following requirements:
- 4.3.6.1 **FILL** – **FILL** material shall not contain **HAZARDOUS MATERIAL OR WASTE** (Section 4.3.3.8), **SPECIAL WASTE** (Section 4.3.3.15), or **SOLID WASTE** (Section 4.3.3.14), or **LEACHABLE WASTE** (Section 4.3.3.10). This Section shall also apply in **ZONE 4**.
- 4.3.6.2 **Watershed Recharge** – The amount of annual precipitation being captured and recharged to the **GROUNDWATER** on site shall not be reduced due to development related surface runoff from the site when compared to pre-development conditions. Where a Special Permit or Subdivision Approval is required the Special Permit Granting Authority or the Planning Board shall require a hydrologic budget or water balance calculation for the site, showing pre- and post-development conditions, prepared by a Massachusetts Registered Professional Engineer experienced in hydrogeology or *Professional Geologist*. This Section shall also apply in **ZONE 4**.
- 4.3.6.3 **Treatment and Renovation of Runoff** – All water runoff from **IMPERVIOUS COVERS** shall be funneled into gas trap catch basins. In addition, the first (1st) inch of every storm event shall be directed into a retention pond(s), where it shall be

retained for an average of at least 3 days prior to recharge into the ground or discharge from the site. The retention pond(s) shall be exposed to sunlight, vegetated, and lined with soil featuring a permeability of 0.0001 cm/sec (0.1417 in/hr) or less. A DIVERSION BOX shall direct all water, which falls onto the site in excess of one (1) inch during a single storm event, toward additional storage, direct infiltration, or discharge from the site. Alternate methods of runoff treatment and renovation may be approved by the Special Permit Granting Authority if the Special Permit Granting Authority determines the intent of this Section is met.

- 4.3.6.4 **Pollution Safeguards** – (1) Drainage facilities shall be designed to prevent leaks and shall be equipped with emergency slide gates or similar provisions to be closed in the event of an emergency. (2) Loading and unloading areas for HAZARDOUS MATERIALS OR WASTE, including fuel and heating oils, shall be equipped with a containment dike. (3) Compliance with the Acton Hazardous Materials Control Bylaw shall be required.
- 4.3.6.5 **Location** – Where a LOT is divided into two or more protection ZONES, potential pollution sources, such as HAZARDOUS MATERIALS OR WASTE processing, storage and disposal systems, septic systems, or wastewater treatment plants, shall be located on that portion of the LOT which is in the ZONE farthest away from the public wells. Where the ZONE boundary in question is one between ZONE 3 and ZONE 4, septic systems and waste-water treatment plants may be located in either ZONE, subject to certain restrictions contained in Section 4.3.7 of this Bylaw.

Where a LOT is partly in ZONE 4 and partly in another ZONE of the GROUNDWATER Protection District, IMPERVIOUS COVER runoff, generated in the ZONE 4 portion of the LOT but infiltrated, or discharged from the LOT, in a ZONE 1, 2 or 3 portion of the LOT, shall meet the same quality standard at the point of infiltration or discharge as if the runoff had been generated in ZONES 1, 2 and 3.

- 4.3.7 **GROUNDWATER Protection District Use Regulations** - No land which lies in ZONE 1, 2, and 3 of the GROUNDWATER Protection District shall be used and no activity shall be conducted on any land within these ZONES of the GROUNDWATER Protection District except in conformance with the following regulations:
- 4.3.7.1 **Permitted USES including storage, generation, and disposal for all ZONES** – All USES allowed in the underlying zoning district except those which are prohibited or regulated in Section 4.3.7.2 are permitted.
- 4.3.7.2 **Prohibited USES including storage, generation, and disposal for all ZONES** – In the following table of USE regulations "N" indicates that the USE is prohibited. "Y" indicates that a USE is permitted.

**TABLE 4.3.7.2**

**USE Storage, Generation, and Disposal Regulations within the GROUNDWATER Protection District**

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
1. Sanitary landfill/solid waste disposal site, refuse treatment and disposal facility, landfilling of sludge and septage, storage of sludge and septage except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public sewer services	N	N	N
2. GENERATOR OF HAZARDOUS MATERIALS OR WASTE, except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public water and sewer services	N	N	Y
3. Vehicle Repair or Vehicle Body Shop	N	N	Y
4. Vehicle STORAGE for the purposes of leasing, rental, sale, resale, parts recovery, or similar USES	N	N	Y
5. Car, truck and equipment washing facility	N	N	Y
6. Aboveground STORAGE of PETROLEUM PRODUCTS for purposes other than heating the premises on which it is located****	N	N	Y***
7. Underground STORAGE of PETROLEUM PRODUCTS fuel oil, gasoline, or other HAZARDOUS MATERIALS or WASTES	N	N	N
8. Underground STORAGE of PETROLEUM PRODUCTS fuel oil, gasoline, or other HAZARDOUS MATERIALS or WASTES associated with residential USE	N	N	N
9. Commercial Laundries	N	N	Y
10. Dry cleaners with on-site cleaning facilities	N	N	Y
11. Furniture/wood stripping, painting & refinishing	N	N	Y
12. Disposal of snow contaminated with deicing chemicals and originating from a protection ZONE further distant from a public well than the location of disposal	N	N	N
13. Outdoor STORAGE of fertilizer, animal manure, soil conditioner, pesticide, herbicide and deicing chemicals	N	N	N Y
14. Chemical, bacteriological, biological or radiological	N	N	N

**TABLE 4.3.7.2****USE Storage, Generation, and Disposal Regulations within the GROUNDWATER Protection District**

	<b>ZONE 1 Well Protection Area</b>	<b>ZONE 2 Recharge Protection Area</b>	<b>ZONE 3 Aquifer Protection Area</b>
laboratory or production facility			
15. Subsurface disposal of wastewater effluent at a rate of less than 3.5gpd/1000sf of land area	Y	Y	Y
16. Subsurface disposal of wastewater effluent at a rate of 3.5gpd or more per 1000sf of land area but at a rate of less than 6gpd/1000sf of land area	N	Y	Y
17. Subsurface disposal of wastewater effluent at a rate of 6gpd or more per 1000sf of land area	N	N	Y
18. Subsurface disposal of wastewater effluent on a parcel of land which is not a buildable LOT as defined in footnote (**)	N	N	N

**TABLE 4.3.7.2**  
**USE Regulations within the GROUNDWATER Protection District**  
**(continued)**

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
19. Subsurface disposal of wastewater effluent at a rate of less than 750gpd per buildable LOT(**)	Y	Y	Y
20. Subsurface disposal of wastewater effluent at a rate of 750gpd or more per buildable LOT(**) but at a rate of less than 2,000gpd per buildable LOT(**)	N	Y	Y
21. Subsurface disposal of wastewater effluent at a rate of 2,000gpd or more per buildable LOT(**) but at a rate of less than 6,000gpd per buildable LOT(**)	N	N	Y
22. Subsurface disposal of wastewater effluent at a rate of 6,000gpd or more per buildable LOT(**)	N	N	N
23. Subsurface disposal of TERTIARY TREATED wastewater EFFLUENT	Y	Y	Y
24. Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection	Y	Y	Y
25. Treatment or disposal works for non-sanitary wastewater that are subject to 310 CMR 22.21 (2)(a)6 as amended, except the treatment and discharge of surface water runoff in compliance with section 4.3.6.3 of this bylaw	N	N	Y

**NOTES:**

- (\*) A USE may fall under one or more categories listed in this Table. Except as indicated in NOTE(\*\*\*), any USE must be able to qualify for a Y or a SP in every applicable category, in order to be considered allowed (Y) or in order to be considered eligible for consideration of a special permit (SP), as the case may be.
  - (\*\*) For the purpose of this table, buildable LOT shall mean: a) A LOT that is shown on a plan recorded in the Middlesex County Registry of Deeds or the Land Court, and that complies with all requirements of this bylaw pertaining to the LOT and the STRUCTURES thereon; and b) Common Land as provided for in sections 4.2, 4.4, 9, and 9B of this bylaw.
  - (\*\*\*) See Hazardous Materials Control Bylaw Section 3.5.1.
  - (\*\*\*\*) Aboveground storage of quantities greater than 1,320 gallons requires compliance with Federal SPCC regulations (Spill Prevention Control and Countermeasures Plan; 40 CFR 112).
- gpd - Gallons per day  
sf - square feet

**4.3.8 Special Permit for the change or extension of nonconforming USES in the Groundwater Protection District.**

- 4.3.8.1 The Planning Board may grant a Special Permit for any change or substantial extension of any PRINCIPAL or ACCESSORY USE designated with "N" in Table 4.3.7.2 that is in existence as of April 7, 1997. Change or substantial extension as referred to herein shall include but not be limited to: Any change or increase in HAZARDOUS MATERIALS OR WASTE produced, used or stored; any change or increase in the outdoor STORAGE of fertilizers, animal manure, soil conditioners, pesticides, herbicides or deicing chemicals; any increase in wastewater effluent flow other than TERTIARY TREATED EFFLUENT; any change in the grade of the land or the drainage system for the LOT, which affects the flow of GROUNDWATER or SURFACE WATER; any expansion in ground area by 500 square feet or more of impervious material or any area devoted to the conduct of the PRINCIPAL or ACCESSORY USE.
- 4.3.8.2 Action by the Planning Board, Criteria for Special Permit – After notice and public hearing, and after due consideration of all reports and recommendations submitted to the Planning Board regarding the Special Permit application, the Planning Board may grant such a Special Permit provided that it shall make the following findings:
- a) Maintain GROUNDWATER Quality – That the change or extension of the USE will not cause the GROUNDWATER quality at the down-gradient property boundary to fall below the drinking water standards established by the Acton Water District, or where no such standards exist, below standards established in 314 C.M.R.5 6.00, Massachusetts Drinking Water Standards, or by the Acton Board of Health. Where existing GROUNDWATER quality is already below those standards, the Planning Board may grant such Special Permit upon determination that the change or expansion of the USE will not result in further degradation of the GROUNDWATER quality, and will not impede its improvement over time.
  - b) Protection of Overall WATER SUPPLY – That the change or extension of the USE will not, during construction or thereafter, have an adverse effect on the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton and the resulting USE after the change or extension will be in harmony with the specific purpose and intent of this Section to protect the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton.
  - c) Compliance – That the changed or extended USE is in harmony with the purpose and intent of this Section and complies with the standards of Section 10.3.5 of this Bylaw. In making such determinations, the Planning Board shall give consideration to the proposed USE, the demonstrated reliability and feasibility of the proposed pollution control measures associated with the USE, and the degree of pollution threat to the GROUNDWATER which would result if the control measures perform at less than design specifications. The Planning Board may impose such conditions, safeguards, and limitations as it deems appropriate to protect the GROUNDWATER and SURFACE WATER resources of the Town of Acton.

d) *The Boards of Health or Planning may require the placement and periodic sampling and testing of groundwater monitoring wells at the applicants expense around any aboveground or underground storage tank, SOLID or HAZARDOUS WASTE area, or any structure or activity that made adversely impact an aquifer ZONE as defined in Section 4.3.2 of the Groundwater Protection District section of the Acton Zoning Bylaw as printed on May 1, 1990. Sampling will be conducted by an agent of the Acton Water District.*

4.3.8.3 **Filing Requirements** – The Planning Board shall promulgate and adopt rules and regulations governing this Special Permit pursuant to Section 10.3.1 of this Bylaw. Such rules and regulations shall set forth the application filing requirements to ensure that the application, including any plans and accompanying text, provides sufficient information for a full evaluation of resulting impacts on the GROUNDWATER resources, and to allow the Planning Board an evaluation of the application under the criteria set forth in section 4.3.8.2 above.

4.3.8.4 **Submittal of "As Built" Plan** – Upon completion of any work authorized through a Special Permit under this Section, an "as built" plan prepared by a Registered Professional Engineer, showing all improvements authorized or required, shall be submitted to the Zoning Enforcement Officer for approval prior to the issuance of an Occupancy Permit.

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, or take any other action relative thereto.

**SUMMARY**

*[to be inserted by AWD]*

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**     Board of Selectmen     Finance Committee     Planning Board

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING MAP – BROOKSIDE SHOPS**

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F-4/37 (145 to 149 Great Road) from Residence 8 (R-8) to Limited Business (LB), or take any other action relative thereto.

**SUMMARY**

The property at 145-149 Great Road is the site of Brookside Shops, currently the location of Staples, Trader Joe's, Talbots, and others. Originally zoned for General Business, the site was rezoned to single-family residential (R-8) in 1990 as part of a comprehensive zoning plan for Great Road. The then-owners of the subject site objected to the rezoning of their property and availed themselves of statutory grandfathering protection devices to preserve the pre-1990 General Business zoning for their property. Brookside Shops was built about ten years ago under these grandfathering protections in conformance with pre-1990 General Business District zoning requirements.

Today, the grandfathering protections for the subject property have expired, and the site is subject to R-8 zoning regulations. Severe non-conformity restrictions result from the mismatch between the established commercial use and the residential zoning regulations. This makes it often impossible for the existing businesses to implement changes to their establishments, or to change business establishments in the plaza, without frequent involvement by the Board of Appeals for special permits or variances. This article is intended to acknowledge the commercial nature of the property that now exists.

The General Business District no longer exists in Acton. The proposed LB zoning is consistent with other business properties along Great Road. LB zoning for the site will not eliminate all non-conformities, but will reduce them considerably.

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Selectman assigned:

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