

ARTICLE BU
(Two-thirds vote)

AMEND ZONING BYLAW – ARC DISTRICT CHANGES

Deleted: T.J. O'GRADY
MEMORIAL SKATE PARK

To see if the Town will vote to amend the zoning map and the zoning bylaw as follows:

- A. Amend the zoning map, Map No. 1, by rezoning from General Industrial (GI) to Agriculture Recreation Conservation (ARC) an area of land shown in the 2003 Town Atlas on map F-3 as parcels 16 and 16-1.
- B. Amend the zoning bylaw, section 5, Table of Dimensional Regulations, by deleting the line for ARC and replacing it with a new line for ARC as follows *[Notes in italic print are not part of the article but are intended for explanation only. For reference purposes, where changes are proposed in the ARC district, the present designation is shown in brackets]:*

Zoning Districts	Minimum LOT Area in sq. ft.	Minimum LOT FRONTAGE in feet	Minimum LOT Width in feet	Minimum Front Yard in feet	Minimum Side & Rear Yard in feet	Minimum OPEN SPACE in percent	Maximum FLOOR AREA RATIO	Maximum Height in feet
ARC	NR	20	50	20	10	NR	NR	36
	<i>[80,000]</i>			<i>[45]</i>	<i>[20]</i>			

, or take any other action relative thereto.

SUMMARY

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This Article intends to accommodate the T.J. O'Grade Memorial Skate Park design on its chosen site on Hayward Road. Part A would rezone the +/- 1.3-acre (+/- 57,000 square feet) town-owned property at 66 Hayward Road from General Industrial District (GI) to the Agriculture Recreation Conservation (ARC) District. Part B would change dimensional requirements in the ARC District, dropping the minimum lot area requirement, and reducing the minimum yard requirements for buildings and structures from 45 to 20 feet in the front and from 20 to 10 feet in the side and rear.

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Rezoning of the site from GI to ARC reflects the future recreation use of the property. Although the park would be allowed under the site's present GI zoning, the rezoning to ARC allows for changes in the dimensional requirements that might not be appropriate for industrial uses, but are needed to accommodate the skate park. Given the site's topography and existing wetlands constraints, the skate park with its proposed permanent concrete structures, including a series of ramps, a "bowl", and a street course, requires reductions in the minimum setback dimensions in order to fit the skate park's design in a practical, safe, and cost efficient manner on the site. The elimination of the minimum lot size requirement is proposed because the skate board park site is too small to meet the present minimum requirement.

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Direct Inquiries to: Roland Bartl, Town Planner – planning@acton-ma.gov – (978) 264-9636
Selectman assigned: - E-mail: bos@acton-ma.gov

Board of Selectmen:
Finance Committee:

Planning Board: Recommended

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ARTICLE BV
(Two-thirds vote)

**AMEND ZONING BYLAW – SOUTH ACTON VILLAGE DISTRICT
MULTI-FAMILY DWELLINGS**

To see if the Town will vote to amend the zoning bylaw, section 3, by adding to footnote (2) in the Table of Principal Uses the following sentence *[Notes in italic print are not part of the article but are intended for explanation only]:*

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(2) In the SAV district, the Board of Selectmen may by Special Permit allow more than four DWELLING UNITS per multifamily dwelling.

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[Note: Footnote (2) applies to Multifamily Dwellings in the South Acton Village (SAV) district and the Village Residential (VR) district in West Acton. It currently reads as follows: (2) Not more than four DWELLING UNITS shall be permitted per multifamily dwelling. At least one of the DWELLING UNITS shall be occupied by the owner of the property. For purposes of this footnote, the owner shall be defined as one or more individuals residing in a DWELLING UNIT who hold legal or beneficial title and for whom the DWELLING UNIT is the primary residence for voting and tax purposes. In the VR District a Site Plan Special Permit shall not be required.]

, or take any other action relative thereto.

SUMMARY

Presently, multifamily dwellings in the South Acton Village District are limited to four dwelling units per building. This article provides that the Board of Selectmen may grant a special permit for buildings with more than four dwelling units. This special permit is in addition to the site plan special permit that the zoning bylaw already requires. It is the Planning Board’s belief that this change will allow the construction of larger residential buildings that are more consistent with or reminiscent of South Acton’s history and architectural heritage as a 19th century manufacturing center. The added special permit affords authority and discretion for the architectural review of the proposed buildings that a site plan special permit alone may not provide. This article would not change the overall density limits for residential development in the South Acton Village district.

Direct Inquiries to: Roland Bartl, Town Planner – planning@acton-ma.gov – (978) 264-9636
Selectman assigned: - E-mail: bos@acton-ma.gov

Board of Selectmen:

Finance Committee:

Planning Board: Recommended

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To see if the Town will vote to amend section 9B of the zoning bylaw as follows: *[Notes in italic print are not part of the article but are intended for explanation only]:*

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A. Insert a new section 9B. 2.3 as follows:

9B.2.3 Underlying Zoning District – Where the Planning Board grants a special permit for a Senior Residence, the USE, dimensional, and parking requirements applicable to the underlying zoning district shall not apply.

B. Insert a new section 9B.4.3 as follows:

9B.4.3 Two-FAMILY Dwellings.

And, renumber existing sections 9B.4.3 through 9B.4.7 to become sections 9B.4.4 through 9B.4.8 respectively.

[Note: Section 9B.4 and its subsections currently read:

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9B.4 Allowed USES – Only the following USES shall be allowed in a SENIOR Residence development:

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9B.4.1 Single FAMILY dwellings.

9B.4.2 Single FAMILY dwellings with one apartment.

9B.4.3 Multifamily dwellings.

9B.4.4 ACCESSORY USES typically associated with residential USES.

9B.4.5 Support services to meet SENIORS' needs, such as skilled nursing service, medical and other health service, recreation and leisure facilities, a community center, or food service.

9B.4.6 Convenience services intended primarily for its residents, such as Retail Stores, Banks, Restaurants, and Services provided that not more than 10% of the total NET FLOOR AREA of the development is dedicated to such uses.

9B.4.7 Allowed USES on the Common Land as set forth herein.]

C. Delete section 9B.5 and its subsections 9B.5.1 through 9B.5.10 and replace them with a new section 9B.5 and new subsections as follows:

9B.5 Dimensional Regulations – A SENIOR Residence development shall comply with the following dimensional regulations for the area of the TRACT OF LAND, density, BUILDINGS, and STRUCTURES:

9B.5.1 Minimum TRACT OF LAND area: 8 acres. For the purpose of this section, the Planning Board may consider LOTS on directly opposite sides of a STREET as a single TRACT OF LAND.

9B.5.2 Maximum density: 4 DWELLING UNITS per acre in the R-2 District, and 3 DWELLING UNITS per acre in the R-4, R-8, R-8/4, and R-10/8 Districts, based on the total development site including the Common Land.

9B.5.3 Minimum setbacks for BUILDINGS and STRUCTURES: 45 feet from any existing STREET; 15 feet from a STREET within the site; 30 feet from any TRACT OF LAND boundary; and 10 feet from the Common Land boundary, except that the Planning Board may require larger setbacks.

Deleted: to the Common Land boundary to ensure adequate yard space.

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9B.5.4 Minimum separation of BUILDINGS: 20 feet for exterior walls with doors, otherwise 10 feet.

9B.5.5 Maximum height of BUILDINGS and STRUCTURES: 36 feet.

9B.5.6 Maximum horizontal dimension of a BUILDING: 200 feet.

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9B.5.7 The Planning Board may impose other dimensional requirements as it deems appropriate to enhance the purpose and intent of this bylaw.

[Note: Section 9B.5 and its subsections currently read:

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9B.5 Dimensional Regulations – A SENIOR Residence development shall comply with the following dimensional regulations for the area of the TRACT OF LAND, density, BUILDINGS, and STRUCTURES:

9B.5.1 Minimum TRACT OF LAND area: 8 acres. For the purpose of this section, the Planning Board may consider LOTS on directly opposite sides of a STREET as a single TRACT OF LAND.

9B.5.2 Maximum density: 4 DWELLING UNITS per acre in the R-2 District, and 3 DWELLING UNITS per acre in the R-4, R-8, R-8/4, and R-10/8 Districts, based on the total development site including the Common Land.

9B.5.3 Minimum setbacks for BUILDINGS and STRUCTURES: 45 feet from any existing STREET; 15 feet from a STREET, way or common drive within the site; 30 feet from any lot line and the Common Land boundary.

9B.5.4 Minimum separation of BUILDINGS: 20 feet.

9B.5.5 Maximum height of BUILDINGS and STRUCTURES: 36 feet.

9B.5.6 Maximum number of DWELLING UNITS per BUILDING: 4.

9B.5.7 Maximum horizontal dimension of a BUILDING: 200 feet.

9B.5.8 Each DWELLING UNIT shall have at least two separate exterior entrances at ground level.

9B.5.9 Where the requirements of this section 9B differ from or conflict with other requirements of the Bylaw, the requirements established herein shall prevail.

9B.5.10 The Planning Board may impose other dimensional requirements as it deems appropriate to enhance the purpose and intent of this bylaw.]

D. Delete section 9B.9.1 and replace it with a new section 9B.9.1 as follows:

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9B.9.1 Dimensional Requirements for the Common Land – In a SENIOR Residence development, at least fifty percent (50%) of the land shall be set aside as Common Land for the use of the SENIOR residents or the general public. The following additional requirements shall apply:

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[Note: Section 9B.9.1 currently reads:

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9B.9.1 Dimensional Requirements for the Common Land – In a SENIOR Residence development, at least sixty percent (60%) of the land shall be set aside as Common Land for the use of the SENIOR residents or the general public. The following additional requirements shall apply:]

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E. Delete section 9B.9.1.2 and replace it with a new section 9B.9.1.2 as follows:

9B.9.1.2 Eighty percent (80%) of the minimum required Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other

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purposes or USES. Each such Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide. The other twenty percent (20%) of the Common Land may be scattered throughout the development site for buffer, screening, or park purposes.

[Note: Section 9B.9.1.2 currently reads;

9B.9.1.2 The minimum Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes or USES. Each Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide.]

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F. Delete section 9B.12.3 and replace it with a new section 9B.12.3 as follows:

9B.12.3 Density Bonus Option –

9B.12.3.1 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 6 per acre in the R-2 District, and to 4 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 10% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.2 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 7 per acre in the R-2 District, and to 5 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 15% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.3 Rounding to whole unit numbers shall be made to the nearest integer. When rounding, fractions of .5 shall be rounded up.

9B.12.3.4 The Planning Board may further adjust or waive the dimensional requirements of section 9B.5, the parking requirements of section 9B.6, and the Common Land requirements of 9B.9 to the extent reasonable and necessary to facilitate the production of affordable DWELLING UNITS under this density bonus option.

Deleted: At the end of section 9B.12.3 insert the following new sentence: "The Planning Board may further adjust or waive the dimensional requirements of section 9B.5, the parking requirements of section 9B.6, and the Common Land requirements of 9B.9 to the extent reasonable and necessary to facilitate the production of affordable DWELLING UNITS under this density bonus option."

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[Note: Section 9B.12.3 currently reads:

Density Bonus Option – The total number of allowable DWELLING UNITS in a SENIOR Residence development may be doubled to 8 per acre in the R-2 District, and to 6 per acre in the R-4, R-8, R-8/4, and R-10/8 Districts provided that at least 20% of the DWELLING UNITS in the SENIOR Residence development, rounded to the next integer, are AFFORDABLE SENIOR RESIDENCES. When rounding, fractions of .5 shall be rounded up.]

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, or take any other action relative thereto.

SUMMARY

The Senior Residence development option, section 9B of the zoning bylaw, was introduced in 2000 as an alternative to standard single-family home developments in residential zoning districts and as a response to the housing needs of Acton's growing senior population including the need for affordable senior housing. This option has not been utilized, yet. Several developers have explored and discussed with Planning Department staff the use of section 9B of the zoning bylaw. During these discussions the

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dimensional requirements of section 9B became a concern as being too limiting to make Senior Residence housing an economically attractive and viable development alternative to single-family homes.

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A recent review of conceptual development schemes on the proposed Ellsworth Village site in East Acton for a Senior Residence project under section 9B revealed this problem clearly (this site has also been proposed for a Ch. 40B affordable housing project). The site is very little constrained by wetlands or odd-shape lot inefficiencies. Yet, applying all dimensional requirements of section 9B, would not permit the 3 units per acre housing densities that the regulations purport to allow in the zoning district. This strongly suggests that changes are necessary to realize the intent of Town Meeting to generate senior housing and senior affordable housing through section 9B.

This article would adjust or clarify some of the dimensional requirements for buildings and structures, and delete others. It would also reduce the minimum common land or open space requirement to 50% (presently 60%) of the total development site, 20% of the set-aside common land could be scattered in small portions, throughout the site to create areas for buffers, screening, and small parks.

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Section 9B requires a small affordable housing component of 5%, but also provides for the inclusion of more affordable dwelling units with a further increase in density. This Article would reduce the maximum density under this bonus option, adjust the requirement for affordable dwelling units accordingly, and give the Planning Board, as the special permit granting authority, the flexibility to further adjust or waive dimensional, parking, and common land requirements in order to accommodate the density increases that come with affordable housing.

Direct Inquiries to: Roland Bartl, Town Planner – planning@acton-ma.gov – (978) 264-9636

Selectman assigned: - E-mail: bos@acton-ma.gov

Board of Selectmen:

Finance Committee:

Planning Board: Recommended

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To see if the Town will vote to amend the zoning map and the zoning bylaw as follows *[Notes in italic print are not part of the article but are intended for explanation only]*:

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- C. Amend the zoning map, Map No. 1, by rezoning from Residence 2 (R-2) to Village Residential (VR) an area of land shown in the 2003 Town Atlas on map F-2B as parcel 58.
- D. Amend the zoning map, Map No. 1, by rezoning from Residence 8 (R-8) to Residence 10/8 (R-10/8) an area of land shown in the 1993 Town Atlas on map F-5 as parcel 12-3.
- E. Amend the zoning bylaw by deleting sections 3.5.12 and 3.5.13 and replacing them with new sections 3.5.12 and 3.5.13 as follows:

3.5.12 Services – Establishments providing services directly to the consumer such as a bank, credit union, barber shop, beauty salon, laundry, dry-cleaning, diaper service, building cleaning service, funeral home, shoe repair, tailor, clothing rental shop, equipment rental or leasing, food catering, photocopying, secretarial service, or similar USES or establishments.

3.5.13 Repair Shop, Technical Shop, Studio – Repair and service of appliances, computers, office equipment, bicycles, lawn mowers, or similar small equipment; photography or film studio; art studio; artisan's studio; music instruction or practice room; or similar USES or establishments.

[Note: Sections 3.5.12 and 3.5.13 currently read as follows:

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3.5.12 Services – Establishments providing services directly to the consumer such as a bank, credit union, barber shop, beauty salon, laundry, dry-cleaning, funeral home, shoe repair, clothing rental shop, equipment rental or leasing, or similar USES or establishments.

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3.5.13 Repair Shop, Technical Shop, Studio – Repair and service of appliances, computers, office equipment, bicycles, lawn mowers, or similar small equipment; diaper service; building cleaning service; photocopying; secretarial service; tailor; food catering; photography or film studio; art studio; artisan's studio; music instruction or practice room; or similar USES or establishments.]

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- F. Amend the zoning bylaw, section 7.5, by deleting the last sentence of the lead paragraph and replacing it with the following new sentence:

“No such SIGN shall be ERECTED within 5 feet of the sideline of a STREET or any other right of way customarily used by the general public, unless such SIGN is a traffic SIGN, landmark SIGN, directional SIGN, or an EXTERIOR SIGN.”

[Note: The lead paragraph of section 7.5 currently reads as follows:

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7.5 SIGNS Which Do Not Require a SIGN Permit – The following SIGNS do not require a SIGN Permit or Special Permit, nevertheless such SIGNS shall comply with Sections 7.3 and 7.4 above unless specifically provided otherwise in this section. No such SIGN shall be ERECTED within 5 feet of the sideline of a STREET or any other right of way customarily used by the general public, unless such SIGN is a traffic SIGN, landmark SIGN or an EXTERIOR SIGN.]

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, or take any other action relative thereto.

SUMMARY

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Part A of this article would rezone to Village Residential a +/-7500-square foot parcel of land with a building on it. The parcel's street address is 220 Central Street in West Acton. It is located between Central Street and Willow Street near the intersection of the two. Town Meeting established the Village Residential District in this area in April of 1994. A recent review of Acton's zoning history revealed that this parcel was inadvertently omitted. All surrounding parcels are zoned Village Residential.

Part B of this article would rezone to Residence 10/8 a long narrow sliver of land on the northwest side of Pope Road from 150 Pope Road to the intersection with Strawberry Hill Road. The subject parcel was last identified in the 1993 Town Atlas. It has since been incorporated into several new residential lots shown in the 2003 Town Atlas on map F-5 as parcels 55 (150 Pope Road), 56 (160 Pope Road), 57 (178 Pope Road), and 58 (180 Pope Road), and on map E-5 as parcels 16-15 (115 Strawberry Hill Road) and 16-16 (186 Pope Road). Town Meeting established the Residence 10/8 District in this area in November of 1990. A recent review of Acton's zoning history revealed that this parcel was inadvertently omitted. All surrounding parcels on this side of Pope Road are zoned Residence 10/8. With this change the six mentioned lots would be zoned uniformly.

Part C corrects the use definitions for 'Services' (section 3.5.12) and 'Repair Shop, Technical Shop, Studio' (section 3.5.13). A recent review of these sections revealed that a mix-up had occurred with some of the uses listed in these definitions in the 2000 Annual Town Meeting warrant when these sections were last revised as part of a complete rewrite of section 3.

Part D amends a paragraph in the sign regulations of the zoning bylaw to allow directional signs within the 5-foot front setback that applies to most other signs. Directional signs as defined in the zoning bylaw are for instance, enter / exit signs, handicapped parking signs, or street address signs.

Direct Inquiries to: Roland Bartl, Town Planner – planning@acton-ma.gov – (978) 264-9636
Selectman assigned: - E-mail: bos@acton-ma.gov

Board of Selectmen:

Finance Committee:

Planning Board: Recommended

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ARTICLE BY
(Majority vote)

BYLAW ON SNOW REMOVAL FROM SIDEWALKS

Before the Town Meeting you asked whether the Town could adopt a by-law requiring business owners to remove snow from the sidewalk in front of their stores or businesses. G.L.c. 40, §21 (3) gives town authority to adopt a by-law "providing for the removal of snow and ice from sidewalks within the limits of the public ways therein to such extent as they deem expedient."

The final phrase of this statute gives the Town very broad discretion as to what is necessary. I have no doubt that the Town can designate, either by name or zoning district, the streets that must be cleared. I have a little more difficulty, in terms of practicality and fairness, with requiring business owners, but not residential owners on the same street, to clear their sidewalks. A sidewalk that is cleared in front of 4 out of 8 lots tends to defeat the primary purpose of such a by-law, which is to allow pedestrians to use the sidewalk safely. Nevertheless, such a requirement at least allows easier access to each store (and most businesses, which depend on customer traffic therefore do clean their sidewalks), and I doubt it would be found to be beyond the Town's legal authority.

The by-law can be made subject to fines in accordance with §21, and be made subject to the non-criminal procedure in §21D. If fines are to be imposed, the by-law should clearly provide how soon the sidewalks must be cleared after a storm. This is both a matter of fairness and practicality in enforcement, because typically town employees are busy with street cleaning in the immediate aftermath of a storm.

Very truly yours,

Acheson H. Callaghan

Direct inquiries to:
Selectman assigned:

Board of Selectmen:
Finance Committee:

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(Holding Article – Yin Peet)

Direct inquiries to:
Selectman assigned:

Board of Selectmen:
Finance Committee:

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ARTICLE CA
(Two-thirds vote)

AMEND ZONING BYLAW
KENNEDY AND COMPANY

To see if the Town will vote to amend the zoning bylaw as follows:
Direct inquiries to:
Selectman assigned:

Board of Selectmen:
Finance Committee:

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ARTICLE CB *
(Majority vote)

TOWN BOARD SUPPORT – SPECIAL PROJECTS

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$XX, or any other sum, to be expended by the Town Manager for the ongoing expenses of the Acton-Boxborough Cultural Council for programs in Acton, or take any other action relative thereto.

SUMMARY

The Acton-Boxborough Cultural Council (ABCC) seeks \$XX to produce cultural activities and programming in Acton. These funds will help to foster collaborations among local artists and cultural organizations and to address the cultural needs of the Town. This will augment the funds received by the ABCC from the State through the Massachusetts Cultural Council. This request/amount is not included in the Town Manager’s Budget.

Direct inquiries to: Don P. Johnson, Town Manager – manager@acton-ma.gov – (978) 264-9612
Selectman assigned: – E-mail: bos@acton-ma.gov

Board of Selectmen:
Finance Committee:

**Note to the Board: This is not funded in the
Manager’s budget recommendations**

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To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$XX, or any other sum, to be expended by the Town Manager for the costs associated with the plowing of private ways open to public use as designated by the Board of Selectmen, or take any other action relative thereto.

SUMMARY

In 1986 at a regular town election, the voters of the Town accepted the provisions of MGL Chapter 40 Section 6C, allowing Town Meeting to appropriate money for the removal of snow and ice from such private ways within the Town limits, and open to public use, as may be designated by the Board of Selectmen. If the funds requested in this article are approved, this will be the ninth consecutive year that the Annual Town Meeting has appropriated funds for this purpose. For the 2004-2005 winter season, the Board of Selectmen voted to plow 14 private ways with a total length of 4.44 miles. If this Article is voted affirmatively, the Selectmen will review and revise, if necessary, the criteria established last year, receive petitions from private way residents by mid-September and vote a final plowing list by mid-October 2004. The amount of plowing will be limited to the funds available.

Direct inquiries to:

David F. Abbt, Engineering Administrator – engineering@acton-ma.gov – (978) 264-9628

Selectman assigned:

Board of Selectmen:

Finance Committee:

**Note to the Board: This is not funded in the
Manager’s budget recommendations**

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ARTICLE CD
(Majority vote)

TRANSPORTATION REVOLVING FUND

To see if the Town will vote to approve the creation of an Acton Public Schools Transportation Revolving Fund for the transportation of students to after-school activities, and to allow the Superintendent of Schools to expend funds from this fund for such purpose in accordance with Massachusetts General Law Chapter 44, Section 53E½.

SUMMARY

This article requests an appropriation for the Acton Public Schools Transportation Revolving Fund. The APS Transportation Revolving Fund permits the local schools to offset its costs with fees for services. These fees are deposited in a separate account and may be expended to pay a portion of the anticipated costs of running the transportation service. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the service or to reduce user fees.

Direct inquiries to: Bill Ryan, Superintendent of Schools – bryan@mail.ab.mec.edu – (978) 264-4700
Selectman assigned:

Board of Selectmen:
Finance Committee:

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ARTICLE CE *
(Majority vote)

SIDEWALK EASEMENT – ARLINGTON STREET

To see if the Town will vote to accept as a gift from Richard Gordon and Paula Starr Gordon, a permanent sidewalk easement and a temporary 5' wide sidewalk construction easement at 294 Arlington Street and being shown as "Proposed Sidewalk Easement" and "Proposed Temporary 5' Wide Sidewalk Construction Easement" on a plan entitled "Definitive Subdivision Plan for Thunder Way, Acton, Massachusetts", dated March 31, 2003, last revised September 9, 2003, and as described more fully in a Grant of Easement to the Town of Acton, both to be recorded at the Middlesex South District Registry of Deeds, Cambridge MA, or take any other action relative thereto.

SUMMARY

The donation of this easement is for a proposed sidewalk at this location required as a condition of approval of the Thunder Way Subdivision by the Acton Planning Board. The easement allows for the extension of the existing sidewalk on Arlington Street near West Acton Village.

Direct Inquiries to: Roland Bartl, Town Planner – planning@acton-ma.gov – (978) 264-9636
Selectman assigned:

Board of Selectmen:
Finance Committee:

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The following articles – (*CF-CQ*) –, if adopted, make appropriations from the Town’s Community Preservation Fund. In 2002, the Town adopted the Community Preservation Act, Massachusetts General Laws Chapter 44B. This established Acton’s Community Preservation Fund through a 1.5% annual surcharge on real estate property tax bills with certain exemptions, and made the Town eligible to receive annually additional monies from the Massachusetts Community Preservation Trust Fund, which are added to the Town’s Community Preservation Fund. Under the law, the Community Preservation Fund may be used to acquire, create and preserve open space; acquire, preserve, rehabilitate, and restore historic resources; create, preserve and support community housing; and acquire, create and preserve land for recreational use. Community housing is defined as housing for low- and moderate-income individuals and families.

Local adoption of the Community Preservation Act established the Acton Community Preservation Committee as a statutory committee under the Act (Chapter S of the Bylaws of the Town of Acton). The Community Preservation Committee’s duties under the law are to study the needs, possibilities, resources, and preferences of the Town regarding community preservation; to engage in an open and public process of deliberation and consult with other Town Boards and Committees; and to make recommendations to Town Meeting for appropriations from the Community Preservation Fund. In addition, the Community Preservation Committee will oversee and monitor progress of funded community preservation projects.

The Committee first convened in February 2003. In October, it published its 2004 Community Preservation Plan with guidelines for the submission of projects seeking community preservation funds. By November 14, 2003, it had received fourteen funding applications for proposed community preservation projects. The Committee reviewed all proposals, interviewed the respective proponents, and solicited legal opinions on the proposals to help evaluate their eligibility under M.G.L. Ch. 44B.

For its first year, FY 2003, the surcharge raised \$470,991.16 and the Town received \$473,464.55 in State funds to bring the Town’s total FY 2003 Community Preservation Fund balance to \$944,455.71. Ch. 44B requires that the Community Preservation Committee recommends in each fiscal year the spending of not less than 10% of the annual revenues in the Community Preservation Fund for each of the following: Open space (not including land for active recreation purposes); historic preservation; and community housing. It may recommend the taking by the Town of interest in real property, the set-aside of funds for later spending, and appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee’s administrative and operating expenses.

The following Articles – (*CF-CQ*) – are the Community Preservation Committee’s spending recommendations from the Community Preservation Fund balance. Except for recommended set-asides for future spending, all recommended amounts should be considered as upper spending limits for the respective projects. The Community Preservation Committee’s intent is to monitor all projects and to maximize savings wherever possible. Savings will be available for future appropriations. Not all projects that were proposed to the Community Preservation Committee are recommended for funding, and some of the recommended projects are not recommended at the funding level that their proponents had requested.

If adopted, the following articles will appropriate 28.1% towards open space (reserve), 10% towards historic preservation (8.9% for projects, 1.1% in reserve), 26.5% towards community housing (projects), 31.4% towards recreation (projects), and 4.1% for administrative and operating expenses.

ARTICLE CF
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
ASSABET RIVER RAIL TRAIL

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$170,000.00 for the design and construction of the Assabet River Rail Trail and all related expenses, or take any other action relative thereto.

SUMMARY

The 12.5-mile Assabet River Rail Trail (ARRT) runs from Acton via Maynard, Stow, and Hudson, to Marlborough. The five communities have jointly advanced the trail since 1995. To date, the ARRT has received roughly \$2 million in public and private funding, donations, and commitments. Acton Town Meeting has appropriated \$30,000 local share for trail acquisition in 1998, which leveraged \$150,000 in Federal funds earmarked for acquisition in Acton. Today, a section of the ARRT in Marlborough is finished. Another through Hudson is under construction. Several other parts have been reassembled from private ownership. Acquisitions in Acton are drawing to a close.

Acton’s 1.3-mile/7.9-acre portion of the ARRT begins at the South Acton commuter rail station, crosses the active track on Main Street and, starting at Maple Street, follows an old railroad right-of-way south and parallel to Main Street to the Maynard line. Near Maynard, a commercial building obstructs the former rail line, but there is an agreement with the landowner on an easement detour.

The requested appropriation represents the estimated local match to leverage more Federal transportation funds required for the design and construction of the ARRT in Acton. The appropriation would position the Town of Acton competitively to apply for Federal Transportation Enhancement Grants to fund the total estimated project cost of \$1.42 million for Acton’s portion of the ARRT.

Construction of the trail will preserve the old railroad right-of-way as part of South Acton’s history and make the corridor accessible to the public for enjoyment of the Mill Pond and of the adjacent fields at Stonefield Farm. It is anticipated that construction of the ARRT will restore the timber trestle across Mill Pond and remnants of an old turntable near Maple Street. Heavily subsidized with federal funds for their value as transportation alternatives, rail trails are equally important recreation facilities. The ARRT offers opportunities for recreational biking, walking, rollerblading, and cross-country skiing in winter.

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Board of Selectmen:
Finance Committee:

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ARTICLE CG
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
214 CENTRAL AND 28 WILLOW STREETS FEASIBILITY STUDY

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$25,000.00 for a study to determine the feasibility of creating housing units for low and moderate income households on a Town-owned parcel at 214 Central Street and 28 Willow Street, or take any other action relative thereto.

SUMMARY

The Town took possession of the 0.36-acre property at 214 Central and 28 Willow Street by a tax title taking in 1998. The property is shown on the 2003 Town Atlas plate F2-B as parcels 64 and 65. The Town has performed significant environmental remediation. The site is now ready for residential re-use. The requested appropriation will enable the Acton Community Housing Corporation (ACHC) to hire a professional consultant to study the feasibility of creating three or more affordable housing units at the subject site. The study will examine all aspects of the potential project, including neighborhood feedback, funding sources, design options, unit mix, and financial viability. Should the project be found feasible and proceed, it would create needed affordable housing and improve the neighborhood by replacing run-down garages with new residential infill. The site is ideally located amongst a mix of single- and multi-family homes within walking distance of West Acton Village.

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ARTICLE CH
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
COMMUNITY HOUSING FUND

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$25,000.00 to establish a Community Housing Fund for the creation, preservation, and support of community housing, or take any other action relative thereto.

SUMMARY

This requested appropriation will create an endowed reserve fund to receive in the future other funds in support of community housing from private donations and gifts, excess profits from Ch. 40B projects, foundations, and federal, state, and local funding programs, including possible future appropriation from the Community Preservation Fund. The Community Housing Fund would be used by the Acton Community Housing Corporation (ACHC), or any other entity that the Board of Selectmen may determine, in support of community housing for purposes allowed under the Community Preservation Act, including but not limited to acquisitions, rehabilitations, and conversions of existing housing stock, new development, refinancing or repurchase of existing affordability restrictions about to expire, purchase of new affordable housing deed restrictions, accessibility modifications of affordable units for persons with disabilities, and assistance to low- and moderate-income buyers with mortgage costs, down payments or closing costs. The Community Housing Fund would be established as a special fund of the Town of Acton under the control of the Board of Selectmen.

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ARTICLE CI
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
CULTURAL RESOURCE LIST REVISION AND EXPANSION

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$20,000.00 for the Revision and Expansion of the Cultural Resource List, or take any other action relative thereto.

SUMMARY

The Cultural Resource List is a tool for the Acton Historical Commission to administer the Town’s Demolition Delay Bylaw - Chapter N of the Bylaws of the Town of Acton: Procedures for the Demolition of Historically or Architecturally Significant Buildings. It also serves as an information source to all Town residents and property owners. The Cultural Resource List is the first line of defense for preservation of historic properties and resources. Periodic maintenance and update of the list are necessary to properly administer the Demolition Delay Bylaw. The list was last revised in the early 1990s. At that time it included properties of significant cultural value up to the late 1920s, but it omitted a number of significant barns, stone bridges, stonewalls. With these omissions, the passage of time, and revised guidelines from the Massachusetts Historical Commission, it is time to supplement and update the Cultural Resource List.

The requested appropriation would allow the Town to hire a historic preservation specialist to add or revise approximately 100 property records with priority given to previously omitted properties, updating the list to include properties built to 1940, and adding area surveys for East Acton, Indian Village, and other culturally significant areas that are not in one of Acton’s Historic Districts.

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ARTICLE CJ
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
DAVIS MONUMENT RESORATION

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$50,000.00 for the restoration of the Davis Monument, or take any other action relative thereto.

SUMMARY

The 75-foot high Davis Monument is the single most significant architectural feature in the Town. It is the focal point of the Town Common, it is on the Town Seal, and it commemorates the sacrifices of the Acton Minutemen in the Revolutionary War battle at the North Bridge in Concord in April 1775. Built in 1854, the monument has not received significant maintenance in thirty years. The requested appropriation will enable the Town to contract masonry repairs as outlined in a report by Turk Tracey & Larry Architects, LLC in 2002 to prevent damage from ice and water intrusion.

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ARTICLE CK
(Majority vote)

**COMMUNITY PRESERVATION PROGRAM
FAMILY HOUSING INITIATIVE**

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$200,000.00 for a grant to the Acton Housing Authority to purchase two condominium units in Acton for deed-restricted affordable rental housing for families, or take any other action relative thereto.

SUMMARY

The Acton Housing Authority administers 39 family rental units in Acton. The waiting list for such units currently registers 1044 families, 60 from Acton. The Acton Housing Authority will combine the requested appropriation with a private \$300,000.00 contribution to purchase two existing 2- to 3-bedroom condominium units that will be permanently restricted as affordable housing and administered by the Acton Housing Authority. The Housing Authority has received permission from the Massachusetts Department of Housing and Community Development to add these units to the State-aided public housing inventory under the Chapter 705 housing program for families, under which the State will assume the units' ongoing maintenance, administrative, and other costs.

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ARTICLE CL
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
FLAG PRESERVATION

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$5,600.00 to restore and prepare for display a flag of the Isaac Davis Post of the Grand Army of the Republic veterans' organization, or take any other action relative thereto.

SUMMARY

The original Acton Memorial Library was gifted to the Town of Acton in 1889 by William Allan Wilde in honor of Acton's Civil War dead and veterans. The library stores about 150 Civil War era and related artifacts, including an American flag of the Isaac Davis Post of the Grand Army of the Republic veterans' organization. The flag dates from the early 20th century and was given to the Memorial Library in 1947. Generally in good condition for its age, it has damage from use and time in storage such as stains and stress tears on the fabric. The requested appropriation will fund the Memorial Library Trustee's endeavor to professionally restore the flag and to display it in a protective casing on a wall of the historical 1890 wing of the library.

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ARTICLE CM
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
HISTORIC DISTRICT BOUNDARY SIGNS

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$8,285.00 for the purchase and installation of signs marking the boundaries of Acton's Historic Districts, or take any other action relative thereto.

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SUMMARY

Acton has three Historic Districts, the South Acton, West Acton, and Acton Center Historic Districts. The requested appropriation will fund the Acton Historic District Commissions efforts to purchase up to 25 historic marker signs and to install up to 22 signs at Historic District boundary locations along primary and secondary roads and highways. Three signs, one for each district, would be held in reserve.

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ARTICLE CN
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
MORRISON FARM MASTER PLAN

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$59,800.00 for the preparation of a master plan for the Morrison Farm at 116 Concord Road, or take any other action relative thereto.

SUMMARY

In 1997 the Town purchased the Morrison Farm at 116 Concord Road as general municipal land with the vision that it would provide much needed recreation field space while preserving a substantial tract of open space and retaining the rural character of the farm. The 32-acre property is shown on the 2003 Town Atlas on plate F-4 as parcel 34. It has a house and barn near Concord Road, open fields alongside Ice House Pond, and woods in the rear. The requested appropriation will fund a master plan for the Morrison Farm. A master plan is necessary to fully understand the land's potential within its context of the nearby East Acton Village, the proposed East Acton Village Green, Woodlawn Cemetery, the proposed Bruce Freeman Rail Trail, and Nashoba Brook. The planning process is envisioned as a collaboration of interested citizens developing in open meetings a vision for the land. A professional land development consultant would assist in this effort.

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ARTICLE CO
(Majority vote)

COMMUNITY PRESERVATION PROGRAM
T.J. O'GRADY MEMORIAL SKATE PARK

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$67,000.00 for the construction of the T.J. O'Grady Memorial Skate Park at 66 Hayward Road, or take any other action relative thereto.

SUMMARY

In 2001, the Town appropriated from general fund revenues \$80,000 for the development of the T.J. O'Grady Skate Park. In 2003, the Town acquired from the State for recreation purposes a 1-acre parcel at 66 Hayward Road with the intention of locating the skate park on it. The parcel, shown on the 2003 Town Atlas on plate F-3 as parcels 16 and 16-1, is within walking distance from the Senior and Junior High Schools. The Town and T.J. O'Grady Memorial Skate Park, Inc. have collaborated in designing a park for the selected site. Functionality, safety, and durability were the major considerations in the design and the selection of preferred construction materials. The requested appropriation will supplement the Town's previous appropriation and funds raised and to be raised by T.J. O'Grady Memorial Skate Park, Inc. from other sources. The total cost of the skate park is estimated to be approximately \$285,000.

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ARTICLE CP
(Majority vote)

**COMMUNITY PRESERVATION PROGRAM
ADMINISTRATIVE AND OPERATING EXPENSES**

To see if the Town will vote to appropriate for community preservation purposes from the FY 2003 Community Preservation Fund balance \$38,630.00 to a reserve fund to reimburse the Town of Acton for administrative services and operating expenses provided in support of the Community Preservation Committee, or take any other action relative thereto.

SUMMARY

The Community Preservation Act allows up to 5% of the annual community preservation funds to be expended for administrative and operating costs of the Community Preservation Committee and Program. The requested appropriation is 4.1% of the 2003 Community Preservation Fund. It will reimburse the Town for staff support time and software expenses incurred during the initial set-up of Community Preservation Program, staff support time to maintain the program and to support the Community Preservation Committee since their inception, and costs for legal advise to the Community Preservation Committee.

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ARTICLE CQ
(Majority vote)

**COMMUNITY PRESERVATION PROGRAM
RESERVES FOR FUTURE SPENDING**

To see if the Town will vote to reserve for later appropriation for community preservation purposes \$10,561.00 for the historic preservation and \$265,210.00 for open space from the FY 2003 Community Preservation Fund balance with each item considered a separate reservation of funds, or take any other action relative thereto.

SUMMARY

The Community Preservation Act requires that the Community Preservation Committee recommend for spending or for set-asides for future spending at least 10% of the annual Community Preservation Fund each for “open space”, “historic preservation”, and “community housing”. The “historic preservation” projects that the Community Preservation Committee recommends this year do not make up the 10% minimum in this category. The \$10,561.00 set-aside for “historic preservation” is recommended to meet the Act’s minimum requirements. None of the projects that the Community Preservation Committee recommends this year fall under “open space”. To meet the minimum requirement of the Act in this category and, more importantly, to build a fund for future open space purchases, a \$265,210.00 set-aside is recommended. This represents 28.1% of the FY 2003 Community Preservation Fund balance and is the amount remaining after all other recommended Community Preservation Fund appropriations and reservations have been made.

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ARTICLE CR HEATING SYSTEM REPAIRS – DOUGLAS ELEMENTARY SCHOOL
(Majority vote)

To see if the Town will vote to appropriate a sum of money, to be expended at the direction of the School Committee, to pay for costs of repairs to the heating system at the Douglas Elementary School, including the payment of all other costs incidental and related thereto; to determine whether such appropriation shall be raised by taxation, by transfer from available funds, by borrowing or otherwise, or to take any other action relative thereto.

SUMMARY

[To be determined]

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A RESOLUTION OF THE TOWN OF ACTON AFFIRMING OUR CIVIL LIBERTIES

Whereas, the Town of Acton denounces terrorism and appreciates and supports those who defend us from terrorism and terrorist attacks: the men and women serving in our armed forces, federal, state and local law enforcement officers, firefighters, and health service professionals, and

Whereas, the Town of Acton values a diverse population whose contributions to the community are essential to its vitality and character, and

Whereas, the Town of Acton has an historic and distinguished tradition of fighting for the civil liberties for all people as expressed in the Constitution of the United States and the Constitution of the Commonwealth of Massachusetts, and

Whereas, the First Amendment to the United States Constitution states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,” and

Whereas, the Fourth Amendment states “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized,” and

Whereas, the Sixth Amendment guarantees defendants the following rights: “the right to a speedy and public trial, by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have the assistance of counsel for his defense,” and

Whereas, the Eighth Amendment states “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted,” and

Whereas, the Fourteenth Amendment states “... nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of laws,” and

Whereas, we believe these liberties are precious and are now being threatened by the USA PATRIOT Act, which:

- All but eliminates judicial supervision of telephone and Internet surveillance;
- Greatly expands the government’s ability to conduct secret searches;
- Gives the U.S. Attorney General and the Secretary of State unchecked power to designate domestic groups as “terrorist organizations,” and
- Grants the FBI broad and unsupervised access to sensitive medical, mental health, financial, and educational records about individuals without having to show evidence of a crime and without a court order; and

Whereas, Federal Executive Orders

- Establish secret military tribunals for terrorism suspects;
- Permit wiretapping of conversations between federal prisoners and their lawyers;
- Lift Department of Justice regulations against illegal COINTELPRO operations by the FBI (i.e., covert activities that in the past targeted domestic groups and individuals), and
- Limit the disclosure of public documents and records under the Freedom of Information Act;

Whereas, Town employees are prevented from protecting the constitutional rights of citizens of Acton according to Section 215 of the USA PATRIOT Act and are at risk of prosecution due to the conflict between said Section and the Constitution of the United States;

NOW, THEREFORE, in keeping with the spirit and history of the Town of Acton, BE IT RESOLVED THAT:

1. The Town of Acton has been and remains firmly committed to the protection of civil liberties. We affirm our commitment to embody the spirit of democracy, to embrace and defend human rights and civil liberties for all regardless of citizenship, gender, sexual orientation, racial identification, religious affiliation, age, or country of origin.

2. The Town of Acton calls upon all private citizens, including residents, employers, and business owners, to demonstrate similar respect for each others' civil rights and civil liberties.

3. The Town of Acton affirms its strong opposition to those parts of the USA PATRIOT Act, any Justice Department directives, or Executive Orders that weaken or destroy our civil liberties.

4. The Town Manager shall be directed to transmit a copy of this resolution to all members of the Massachusetts Congressional Delegation, the President of the United States, and the U.S.

Attorney General accompanied by a letter urging them to:

- Thoroughly and immediately assess the impact of the USA PATRIOT Act on individual civil liberties;
- Work to repeal provisions of the USA PATRIOT Act and other laws and regulations that infringe on civil rights and liberties;
- Closely monitor federal anti-terrorism tactics;
- Oppose further legislation and Executive Branch Orders that violate our Bill of Rights.

5. The Town Manager shall be directed to transmit a copy of this resolution to the Governor, Attorney General of the Commonwealth of Massachusetts, and Acton's delegation to the General Court of Massachusetts.

[Contact Information]

Sue Kennedy – 264-9165

Sid Levin – 263-6515

Acton Citizens for the Bill of Rights

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And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this fourth day of March 2004.

Walter M. Foster, Chairman
Peter K. Ashton
F. Doré Hunter
William H. Shupert, III
Robert A. Johnson
Board of Selectmen

A true copy, Attest:

Constable of Acton