

From: Nina Pickering Cook [<mailto:npickeringcook@AndersonKreiger.com>]
Sent: Wednesday, March 13, 2013 5:46 PM
To: Steve Ledoux; Roland Bartl
Cc: Stephen Anderson; Kristen Domurad-Guichard
Subject: Acton.GenSel - Proposed Amendment re Industrial Uses

Steve:

Steve A. asked me to assist you with drafting this amendment. I have prepared the attached Motion to Amend the Main Motion on Article 28. You will note that I have slightly modified the proposed language. The intent was to effectuate the proponents' purpose, but in a way that made more legal sense. I was not intending to change the meaning of the proposed amendment. Although not included in the draft Motion to Amend, I have also attached a redline of the proposed amendment for ease of discussion.

As Roland indicated, there are a number of issues raised by this motion that should be discussed with the proponents or otherwise handled by the Town before bringing to the floor of Town Meeting. They are as follows:

1. *Uniformity.* The proposed language likely violates the uniformity requirement of G. L. c. 40A, §4. All properties within a zoning district must be treated uniformly under the Zoning Bylaw (with the exception of special permitting authority). If passed by Town Meeting, this amendment would treat manufacturing facilities located next to a residential use differently than other properties (i.e., not just requiring more screening, but prohibiting the location of the use). To avoid that issue, the options are to avoid all outdoor manufacturing, or permit it by special permit only (as proposed in Article 28), and then deal with the circumstances in a case by case basis at the time of special permitting.
2. *Summary.* The summary only summarizes the article, not any changes or amendments. Therefore, the summary should not be amended as it accurately reflects the article as proposed (un-amended).
3. *Vague.* This amendment eliminates the special permit option for the Board of Selectmen. In doing so, it specifically excludes outdoor manufacturing in certain circumstances, but leaves open the inference that it is permitted everywhere else in the industrial district by right (as opposed to by special permit). It should be clarified with the proponents whether that was the intention.
4. *Planning Board review and recommendation.* Where the Planning Board has recommended Article 28 as drafted, it should review this proposed amendment prior to Town Meeting and develop a position on it.

Please let me know if you have any questions on this draft amendment.

Nina

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