



Planning Department

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MEMORANDUM

To: Planning Board

Date: May 19, 2014

From: Roland Bartl, AICP, Planning Director

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Subject: Fall Town Meeting Priorities

The Planning Department compiled a list of potential zoning bylaw changes for Fall Town Meeting 2014. The potential bylaw changes are in response to the Planning Board's recommendations, changes in State law, planning staff observations, and to begin Acton 2020 implementation. The Planning Department requests the Board's direction on pursuing and/or prioritizing the following zoning bylaw changes:

- **Planned Conservation Residential Community-PCRC (ZBL Section 9)**
In response to Acton 2020's goal of preserving open space, Planning Department staff has been working on a re-write of the PCRC Bylaw. This re-write would make PCRCs the by-right method of development. It would also require a conservation analysis to locate development in a responsible way that protects natural, historical and other important resources on the land. There would be corresponding changes in the Subdivision Rules.
- **Senior Housing – Affordability (ZBL Section 9B.12)**
The current bylaw is vague as to how the monetary contribution is determined. As a follow up to the Planning Board and Acton Community Housing Corporation's discussion about this issue, the Board directed staff to pursue a zoning bylaw change using a calculation method based on the difference between the market and affordable unit sale.
- **Commercial Recreation (ZBL Section 3.5.15)**
Currently, only commercial recreation uses with less than 2,000SF of Net Floor Area are allowed by-right; a use special permit is required for commercial recreation uses for more than 2,000SF. Historically commercial recreation use special permits are approved without much if any public concern. One exception to this was a proposed 24 hr commercial recreation use located adjacent to a residential district. The Planning Department recommends either increasing the FAR threshold or removing the use special permit entirely for commercial recreation uses except for any operating during night hours.
- **Outdoor Sales (Farmers' Markets) (ZBL Section 3.8.4.8)**

Subsection (e) currently limits farmers' markets to one day per week. Typically Christmas tree lots or businesses operate every day after Thanksgiving until December 25th. The Planning Department recommends seasonal Christmas tree sales be exempt from the requirement in subsection (e).

- **Political Signs (ZBL Section 7.5.12)**

Currently the bylaw states, "...SIGNS shall not exceed 4 feet and their DISPLAY AREA ...". It is unclear whether "their" area refers to a single sign, or the plural "SIGNS". This section could be read so as to restrict the sum of the display areas of all signs to be 6 square feet. The intent of this section was to allow multiple signs, therefore the text should read "The display area of each sign shall not exceed 6 square feet."

- **Restaurants (ZBL Section 3.5.5)**

Currently, only restaurant uses with 10 seats or less are allowed by-right; a use special permit is required for restaurants with more than 10 seats. Historically restaurant use special permits are approved without much if any public concern. The Planning Department recommends either increasing the threshold number or removing the use special permit entirely.

- **Animal Boarding (ZBL Section 3.5.11)**

A recent change to Massachusetts General Law (MGL ch. 140 s. 137) creates a new definition, "Personal Kennel," defining an owner of four or more dogs over the age of 3 months. In Acton, animal boarding is not allowed in residential districts. Given the new State definition for personal kennel, the Planning Department would like to know if the Board wants to entertain a bylaw change that would allow personal kennels in residential districts, either limiting the number of dogs or requiring a minimum acreage.

- **Parking (ZBL Section 6. 3)**

The current bylaw sets a minimum parking space requirement by use. The town has been confronted with site plans that exceed or grossly exceed the minimum space requirement. The Planning Department would like to know if the Board wants to pursue a maximum parking space limit, set limit with the ability to increase, or require structured parking if over the maximum, etc.

- **Mobile Food Vendors**

The Acton ZBL, in section 1.3.3 defines a building as follows (emphasis added):

"1.3.3 BUILDING: A STRUCTURE enclosed within exterior walls, built or erected with any combination of materials, **whether portable or fixed**, having a roof, to form a STRUCTURE for the shelter of persons, animals, or property."

In recent years the number of inquiries from mobile food vendors and retailers has increased as to where they might set up shop (some may have set up shop for short time periods without asking). We also had one inquiry about a mobile office unit. It is my sense that this is not what Acton wants on a regular ongoing basis (outside of fairs, fests, and festivals; mobile lunch services at construction or other employment sites; or mobile office trailers at construction projects). Generally, our line is that food vending and retailing is a commercial use that requires vehicle parking and a site plan special permit. This kept them at bay, so far. But our wall of resistance is a flimsy one. Some could actually go for a site plan special permit, or in the alternative set up shop on an existing commercial site with proof that there is already enough parking to accommodate the additional use. For many locations, there appears nothing that we could use to stop someone who wanted to really pursue such a

venture. Does Acton want to allow mobile food vendors, mobile retailers, and mobile offices, or not? If not, stronger regulation or outright prohibition could be adopted.

- **Brookside Shops**

Originally the Brookside Shops site was zoned for General Business, then 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 change would 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.

- **Outdoor Lighting (ZBL Section 10.6)**

The current bylaw does not address LED and other new lighting technologies and is out-of-date.

- **Public Acquisition (ZBL Section 8.8)**

We suggest the Board consider the following changes (subject to counsel's approval) to Section 7.5.12 to provide clarity:

“Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is **decreased 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 the LOT, parcel or TRACT OF LAND ~~no~~ 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-complying **or nonconforming** solely by reason of such taking or acquisition.”

- **Site Plan Special Permits and Use Special Permits to Planning Board**

Currently the Board of Selectmen is responsible for Site Plan and Use Special Permits. In the past there were discussions about the Planning Board taking on this responsibility. Does the Board want to rekindle this conversation?

- **Single Family Dwelling with One Apartment (ZBL Section 3.3.2)
Dwelling Conversions (ZBL Section 3.3.4)**

Both residential uses require owner occupancy; does the Board feel that we need this requirement?

- **Use category for undefined uses**

The Bylaw is structured to only allow those uses that are defined; uses not defined are therefore not allowed. Does the Board want to consider creating a new section in the Bylaw that would allow an “other use” category allowed by special permit to account for unforeseen uses i.e. startup companies?

- **Signs that change or rearrange characters or letters or illustrations (Signs Prohibited in All Districts ZBL Section 7.3.7)**

Currently the Bylaw does not allow for signs that change such as a gas station sign, or event signs at recreation or conference centers. Last year the Board discussed this idea but decided against bringing the bylaw forward. Does the Board want to reconsider this change?