

12/16 (6)

Christine Joyce

EXTRA INFORMATION

From: Chris Allen [Chris@actonwater.com]
Sent: Monday, December 16, 2013 9:41 AM
To: Board of Selectmen; Janet Adachi
Cc: Matt Mostoller; Steve Ledoux; 'Mary@MaryBassettLaw.com'; Ronald R. Parenti; stuntzsc@acornlab.com; Len Phillips; Barry Rosen; Cipar, John; Charles Olmstead; Paul Malchodi
Subject: Letter from the Board of Water Commissioners re: Concord's land acquisition on Knox Trail
Attachments: Art38_GovtUtilPSC.pdf; Article_40-PSCOD_TM.pdf; BOC letter to Acton BOS 121613.pdf; Town of Concord Article 38 amendment.pdf; Town of Concord Article 40 amendment.pdf

Honorable Selectman,

Attached, please find a letter from the Board of Water Commissioners proposing immediate actions for Acton in relationship to Concord's imminent plans for the Knox Trail parcel; transaction approved at Concord's Special Town Meeting held on December 4th. Additionally, attached are documents associated with Concord's recent articles 38 & 40 amendments from their last Annual Town Meeting for your review.

A hard copy of the letter with attachments to follow. The commissioners wanted you to have this for your meeting tonight. Commissioner Ron Parenti intends to represent the Water District at the meeting.

Thank you

Chris Allen
District Manager

Water Supply District of Acton

PO Box 953

693 Massachusetts Ave

Acton, MA 01720

Ph# 978-263-9107

Fax# 978-264-0148

Email: chris@actonwater.com

"When the well's dry, we know the worth of water"—Benjamin Franklin 1776

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Article 38

**Zoning Bylaw Amendment
Government, Utility and Other
Public Service Corporation Uses**

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

Purpose of this Bylaw Amendment:

- ❖ Expands Definitions and Separates Municipal Uses into:
 - ❖ Town of Concord
 - ❖ Other municipalities

- ❖ Requires a higher level of review for projects proposed by other municipalities within Concord

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

Purpose of this Bylaw Amendment:

Adds Public Service Corporation (PSC) as a use:

- ❖ A PSC is a company that provides or performs an essential public service for public convenience and necessity and subject to government regulation.
- ❖ Examples of PSC uses are: public or private wastewater treatment, municipal public works operations, etc.

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

Replace:

Section 4.4 Governmental and Utility Uses

With:

Section 4.4 Governmental, Utility and
Public Service Corporation Uses

(with corrections to what is printed in the warrant
in orange)

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

4.4.1 Town of Concord Municipal Use: use of any building, facility and/or area owned or leased by the Town of Concord for the general use and welfare of the Town, its inhabitants or businesses located within the Town.

4.4.4 Public Service Corporation Use: use of facilities, equipment, and/or structures necessary for providing an essential commodity or service to the public by a public, private or quasi-private corporation.

4.4.5 Municipal Use that is not by the Town of Concord: use of any building, facility and/or area for a public purpose by any other town that is not the Town of Concord.

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

4.4.2 *Underground utility:* underground facilities, equipment, and/or structures that are necessary for conducting a public service provided by a public or private utility, **except for large-scale, ground-mounted solar photovoltaic installations.**

4.4.3 *Above ground utility:* aboveground facilities, equipment, and/or structures that are necessary for conducting a public service provided by a public or private utility, **except for large-scale, ground-mounted solar photovoltaic installations.**

ARTICLE 38. ZONING BYLAW AMENDMENT
GOVERNMENT, UTILITY AND OTHER
PUBLIC SERVICE CORPORATION USES

Purpose of this Bylaw Amendment:

- ❖ Separates Municipal Uses into:
 - ❖ Town of Concord
 - ❖ Other municipalities
- ❖ Requires a higher level of review for projects proposed by other municipalities within Concord;
- ❖ Adds Public Service Corporation as a use.

Article 40

Zoning Bylaw Amendment

Public Service Corporation Overlay District

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

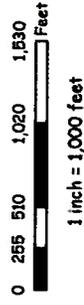
Mr. Bobrowski moves affirmative
action on Article 40 as printed in
the HANDOUT.



Aerial Map

Key to Map Features

-  Public Service Corp. Overlay District
-  Knox Trail
-  Town Tax Parcels
-  Rivers & Ponds



March 4, 2013

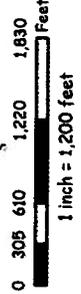
This map was created by Concord GIS. The information is provided as a reasonably accurate point of reference, but is not intended to represent authoritative location, and is not to be used for conveyances. The Town of Concord shall not be held responsible for the accuracy or misuse of these data.



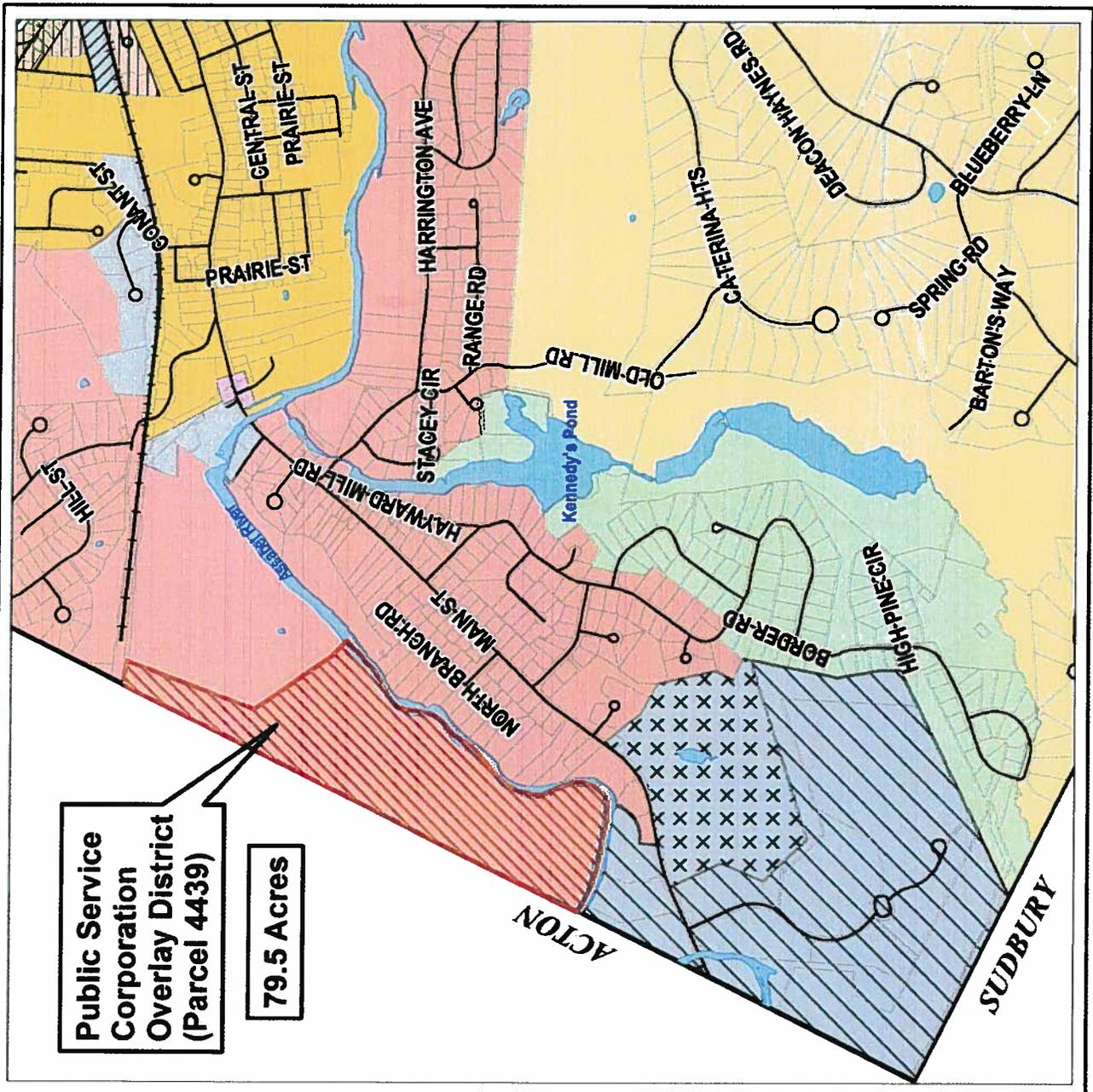


**Public Service Corporation
Overlay District
(Parcel 4439)**

- Key to Map Features**
-  Public Service Corporation Overlay District
 -  Business
 -  Industrial
 -  Limited Industrial Park 1
 -  Limited Industrial Park 2
 -  Residence A
 -  Residence AA
 -  Residence B
 -  Residence C
 -  Railroad
 -  Rivers & Ponds



March 4, 2013
 This map was created by Concord GIS. The information is provided as a reasonably accurate point of reference, but is not intended to represent authoritative location, and is not to be used for conveyances. The Town of Concord shall not be held responsible for the accuracy or misuse of these data.



**Public Service Corporation
Overlay District
(Parcel 4439)**

79.5 Acres

ACTON

SUDBURY

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

2012 Town Meeting authorized the Town to acquire the W.R. Grace property.

**Article 40 adds Section 7.10:
Public Service Corporation Overlay District**

To create an overlay district for the W.R. Grace property to allow development of the parcel with Public Service Corporation (PSC) uses.

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

What is an Overlay District?

Allows the requirements of the underlying Zoning District to remain in full force and effect, except where the requirements of the Overlay District are more restrictive or provide for uses or structures not otherwise available in the underlying district.

**Site Plan Approval is required by
the Planning Board.**

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

What is a Public Service Corporation?

Facilities, equipment and structures necessary for conducting a service by a public or private utility facility.

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

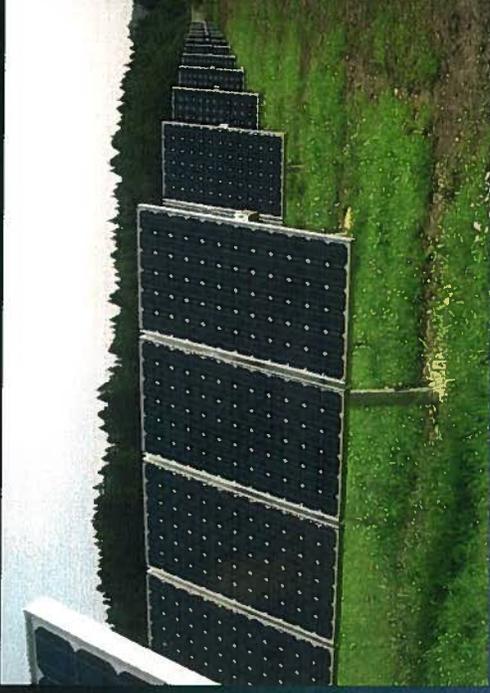
What is a Public Service Project (PSP)?

A project sponsored by a PSC, including facilities, equipment, and structures necessary for conducting a service by a public, private or quasi-private utility facility.

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

Example Uses for this Property:

- *Wastewater Treatment*
- *Municipal Public Works Operations*
- *Large-Scale Ground-Mounted Solar Photovoltaic Operations*
- *Peaking Power Plants*



ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

PSP Dimensional & Design Requirements:

- **frontage:** none required
- **site access:** not required to be through frontage, shall be adequate for emergency services, maintained by operator of PSP
- **principal uses:** multiple uses allowed on same lot
- **buffer:** 50 feet along the perimeter of the overlay district, may be waived or lessened by Planning Board
- **lighting:** dark-sky friendly

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

**Article 40 adds Section 7.10:
Public Service Corporation Overlay District**

To create a new overlay district for the W.R. Grace property to allow development of the parcel with **Public Service Corporation** uses.

ARTICLE 40. ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

Mr. Bobrowski moves affirmative
action on Article 40 as printed in
the HANDOUT.



Water Supply District of Acton

693 MASSACHUSETTS AVENUE
P.O. BOX 953
ACTON, MASSACHUSETTS 01720

TELEPHONE (978) 263-9107

FAX (978) 264-0148

December 16, 2013

Acton Board of Selectmen
Town of Acton
472 Main St.
Acton, MA 01720

Subject: Proposed Zoning Changes to Protect Acton's Water Resources

Dear Selectman:

On 4 December the Concord Special Town Meeting voted to approve funding to purchase the parcel at 55 Knox Trail for the purpose of parking and servicing that Town's school buses and its fleet of DPW vehicles. The wording of that article, and supporting presentations made by Concord officials at the meeting, made it clear that it is their intent to build a full-service maintenance facility that would incorporate a sizable refueling station. The scope of the approved article is much broader than the proposed activities that the Acton Water District became aware of a few months ago, which only included parking for 40 school buses. It is now apparent that Concord has been planning a large municipal maintenance facility for well over a year, and we find it very disturbing that Acton was first notified of those plans at a joint meeting requested by Acton officials on 12 November. This late notification gave us very little time to review and respond to Concord's plans, and the concerns expressed in the 21 November letter from the Commissioners to the Concord selectmen were subsequently ignored. Potential threats to Acton's water supply were summarily dismissed at Concord's Town Meeting as being "negligible", and speakers stated that the Dover Amendment could be invoked to circumvent any protective measures that Acton might impose.

We strongly disagree with Concord's assessment of the threat to the Districts wells in the Assabet aquifer, and we do not believe that Concord should be empowered to make that assessment. The impact of even a small spill of hazardous material would be devastating to the Assabet wells. These two wells lie in close proximity to the Knox Trail site and currently supply a large fraction of the Town's water. Additionally, there are near-term plans to develop a third well, Assabet #3, that will draw from the same aquifer.

The Acton Water District and the Town of Acton have invested heavily in restoring and maintaining the purity of the Assabet aquifer over the past three decades, and we are now asking the Selectmen to assist us in retaining full control of this vital Town resource. To be specific, the Water District is requesting that a Special Town Meeting be scheduled for the earliest possible date for the purpose of revising the Town's bylaw with respect to the water protection overlay zones. Recent zoning changes enacted by Concord's Annual Town Meeting this past year provide a template for two possible actions. Article 38 (attached) amended their zoning bylaw to require special permits in all districts for all



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municipal uses not controlled by the Town of Concord. Article 40 (attached) creates a special overlay district for the W. R. Grace property adjacent to the Knox Trail parcel, which allows for wastewater treatment, municipal public works operations, and a solar photovoltaic installation. (This article is a further demonstration of Concord's long-range planning with regard to the acquisition and use of land in the vicinity of the Knox Trail Site).

Additionally, changes to the existing Groundwater Protection District (GPD) bylaws could provide a higher level of protection to our water resources while minimizing impacts to property owners. Possible changes could include holding lots that are split over multiple GPD zones to the lowest zone requirements; review the allowable uses in Zones 1, 2, and 3; institute mandatory groundwater quality monitoring on all non-residential use properties; and increase the emphasis on groundwater quality protection in light of more complex Safe Drinking Water Act requirements.

We believe that strong and enforceable protective measures must be implemented as soon as possible. These measures should address both current and future uses of land in Acton. As stated at Concord's Town meeting, existing commercial and industrial uses in Acton were cited as a reason why Concord's proposal was suitable for Knox Trail. With significant financial commitments in place to the South Acton aquifer, it is time to protect these investments with strong resource protection measures. The Water District is fully prepared to work closely with the Town and share the cost of scheduling a special meeting. We would also welcome, and be open to, discussions of alternative strategies.

As a very wise New Englander once said, "good fences make good neighbors". The time has come for Acton to build a sturdy fence.

Sincerely,

Commissioners of the Water Supply District of Acton

Steven C. Stuntz

Ronald R. Parenti

Leonard A. Phillips

Cc (By Electronic copy ONLY):

Acton Town Manager

Acton Water District Manager

Acton Water District Environmental Manager

Acton Water District Finance Committee

Water Land Management Advisory Committee

District Counsel



Town of Concord

Office of the Town Clerk
 22 Monument Square
 P.O. Box 535
 Concord, Massachusetts 01742-0535

Subject to approval
 of the Attorney General

ANNUAL TOWN MEETING
 April 22, 23 and 24, 2013

ZONING BYLAW AMENDMENT GOVERNMENT, UTILITY & OTHER PUBLIC SERVICE CORPORATION USES

ARTICLE 38. Upon a **MOTION** made by Christopher Sgarzi and duly seconded, the following was **VOTED BY A DECLARED TWO-THIRDS MAJORITY**:

To amend the Zoning Bylaw as follows:

Delete Section 4.4 Governmental and Utility Uses in its entirety and insert in its place a new Section 4.4 Governmental, Utility and Public Service Corporation Uses as follows:

4.4 Government and Utility Uses

4.4.1 Town of Concord Municipal Use: use of any building, facility and/or area owned or leased by the Town of Concord for the general use and welfare of the Town, its inhabitants or businesses located within the Town.

4.4.2 Underground utility: underground facilities, equipment, and/or structures that are necessary for conducting a public service provided by a public or private utility.

4.4.3 Aboveground utility: aboveground facilities, equipment, and/or structures that are necessary for conducting a public service provided by a public or private utility, except for large-scale, ground-mounted solar photovoltaic installations.

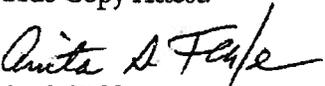
4.4.4 Municipal Use that is not by the Town of Concord: use of any building, facility and/or area for a public purpose by any other town that is not the Town of Concord.

And amend Table I Principal Use Regulations to delete Section 4.4 Government and Utility Uses entirely and add the following Section 4.4 Government and Utility Uses:

Principal Uses	Residential Districts				Commercial Districts				Industrial Districts						Site Plan
	A	A	B	C	B	CCB, WCB, TDB, NACB	WC V	LB	MP	WC I	I	IP A B	IP	LIP#1 LIP#2	Ap- proval
4.4															
<u>4.4.1 Town of Concord Municipal Use</u>	ye s	ye s	ye s	ye s	ye s	—	yes yes	yes	yes	yes	yes	ye s	yes yes	yes yes	NR
<u>4.4.2 Underground Utility</u>	ye s	ye s	ye s	ye s	ye s	yes	yes	yes	yes	yes	yes	ye s	yes yes	yes yes	NR
<u>4.4.3 Aboveground Utility</u>	ye s	ye s	ye s	ye s	ye s	yes yes	yes	yes	yes	yes	yes	ye s	yes yes	yes yes	NR
<u>4.4.4 Municipal Use not by the Town of Concord</u>	SP	SP	SP	SP	SP	P	SP	SP	SP	SP	SP	SP	SP	SP	R

Declared Two-Thirds Majority Vote
April 23, 2013

A True Copy Attest:


Anita S. Tekle
Town Clerk



Town of Concord
Office of the Town Clerk
22 Monument Square
P.O. Box 535
Concord, Massachusetts 01742-0535

*Subject to approval
of the Attorney General*

ANNUAL TOWN MEETING
April 22, 23 and 24, 2013

ZONING BYLAW AMENDMENT
PUBLIC SERVICE CORPORATION OVERLAY DISTRICT

ARTICLE 40. Upon a **MOTION** made by Mark Bobrowski and duly seconded, the following was **VOTED BY A DECLARED TWO-THIRDS MAJORITY**:

To amend the Zoning Bylaw as follows:

Add a new Section 7.10 PUBLIC SERVICE CORPORATION OVERLAY DISTRICT to the Zoning Bylaw as follows:

7.10 PUBLIC SERVICE CORPORATION OVERLAY DISTRICT (PSCOD)

7.10.1 Purpose. The purpose of the Public Service Corporation Overlay District (PSCOD) is to provide a mechanism for the approval of uses by public service corporations including but not limited to wastewater treatment, municipal public works operations, large-scale ground mounted solar photovoltaic installations, and peaking power plants.

7.10.2 Definitions. Within this Section, the following terms shall have the following meanings:

(a) Public Service Corporation (PSC): Facilities, equipment, and structures necessary for conducting a service by a public or private utility facility. Such facilities shall include public or private wastewater treatment facilities, large-scale ground mounted solar photovoltaic installations, and peaking power plants.

(b) Public Service Project (PSP): A project sponsored by a PSC, including facilities, equipment, and structures necessary for conducting a service by a public, private or quasi-private utility facility.

(c) Peaking Power Plant: A power plant that generally runs only when there is a high demand for energy.

7.10.3 Applicability. The PSCOD shall be construed as an overlay district. Within the PSCOD, the requirements of the underlying zoning district(s) shall remain in full force and effect until site plan approval pursuant to Section 11.8 has been granted by the Planning Board, and the decision is filed with the Town Clerk, and the appeal period set forth herein has expired, except where the requirements herein are more restrictive or provide for uses or structures not otherwise available in the underlying district, in such cases, the requirements herein shall supersede the underlying zoning regulations.

7.10.4 Use Regulations. A PSP may be constructed, subject to the requirements set forth herein, upon the issuance of site plan approval pursuant to Section 11.8 by the Planning Board. In the case of a large-scale ground mounted solar photovoltaic installation, the provisions of Section 7.9 of this By-

Law shall apply unless superseded by Section 7.10.8 herein. No other use or structures shall be permitted, except as specifically provided herein.

7.10.5 Administration. The Planning Board shall serve as the site plan approval authority pursuant to this Section. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the Applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this Section. An application for site plan approval shall be governed by the requirements set forth in Sections 7.10.6 through 7.10.9.

7.10.6 Application. An application for site plan approval shall be submitted to the Planning Board on forms furnished by the Planning Board. Each such application shall be accompanied by a filing fee as set forth in the Planning Board's Rules and Regulations and a technical review fee pursuant to G.L. c. 44, s. 53G and applicable regulations of the Planning Board. The application shall be accompanied by all of the applicable information required for the Board's considerations of site plan review, as set forth in subsection 11.8.5 of the Zoning By-Law.

7.10.7 Dimensional and Design Requirements. A proposed PSP shall meet all of the following requirements:

1. *Parcel Size and Frontage.* Minimum parcel size for a PSP shall be one acre of upland, excluding any resource area protected by G.L. c. 131, s. 40. There shall be no minimum frontage requirement for a PSP and access shall not be required to the PSP via the frontage, if any, serving the parcel.
2. *More than One Principal Use or Building.* More than one principal use or building may be located on the same parcel or lot. In such cases, the Planning Board shall ensure that adequate access exists to all such principal uses for fire, police and emergency vehicles, and for expected vehicular and pedestrian traffic. Ownership and maintenance responsibilities shall be clearly outlined for each facility and its associated infrastructure, including but not limited to utilities, stormwater management, and access drives.
3. *Buffer.* A buffer area of 50 feet shall be provided at the perimeter of the PSCOD where it abuts residentially occupied properties existing at the time this overlay district was adopted, except for driveways necessary for access and egress to and from the site, or for storm water retention facilities. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance or for required stormwater management systems. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation; or (ii) where the land abutting the site is held for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to buffer adjacent residentially occupied properties.
4. *Site Access Drives.* The principal driveway(s) serving the PSP shall be adequate for the intended use and vehicular traffic and shall be maintained by the operator of the PSP.
5. *Parking.* Parking shall be adequate to serve all anticipated uses on the property, with information provided detailing the method used to calculate the number of parking spaces.
6. *Loading.* Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
7. *Stormwater Management.* The stormwater management system shall be designed in accordance with Massachusetts Department of Environmental Protection Stormwater Management

Regulations and the Concord Public Works Storm Water Regulations and Design and Construction Standards and Details.

8. *Utilities.* Reasonable efforts shall be made to place all electric, gas, telephone, and cable lines underground.

9. *Emergency Systems.* The PSP shall have an integrated emergency call, telephone and other communications system to provide monitoring by operators. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for emergency conditions.

10. *Lighting.* All exterior lighting shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity; and preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

7.10.8 *Large-scale Ground Mounted Solar Photovoltaic Installations:* A large-scale ground mounted solar photovoltaic installation shall be permitted as a PSP, subject to the provisions of Section 7.9 of this Bylaw, with the following exceptions.

1. There shall be no minimum lot or parcel area requirement.
2. A large-scale ground mounted solar photovoltaic installation may be located on the same lot or parcel as another PSP.
3. The setback requirements of Section 7.9.4.2 shall not apply.

7.10.9 *Action by the Planning Board.* The Planning Board may grant site plan approval for a PSP where it makes the findings required by Section 11.8 of this Bylaw. The proposed PSP shall comply with the requirements of this Section; provided, however, the Planning Board may waive a substantive requirement when the Board determines that the waiver will not result in substantial detriment to the District or the Town.

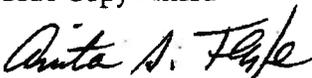
And, amend subsection 2.1 Classification of Districts by adding "Public Service Corporation Overlay District" to the end of the subsection;

And, amend subsection 2.2 Zoning Map by adding in between the paragraphs beginning "Groundwater Conservancy District" and "Wetlands Conservancy District" the following:

Public Service Corporation Overlay District, the Town of Concord, January 2, 2013 (no scale), consisting of a single sheet.

Declared Two-Thirds Majority Vote
April 24, 2013

A True Copy Attest


Anita S. Tekle
Town Clerk