

## ***ARTICLE 5 - REVISED RECOMMENDATION FOR FALL TOWN MEETING 2012***

**RECOMMENDED** that the Town vote YES to amend Section 10 of the General Bylaws, known as the Zoning Bylaws, by adding the following Subsection M to Section III as amended:

### Landscaping/Greenhouse/Residential Development

In a Residence A district on a lot (existing on January 1, 2012) with at least 200 feet of frontage on a state highway and with at least 100 feet of frontage on an intersecting town way, containing at least 35,000 square feet of land with access to the state highway and containing a single family residence, a landscaping business and a greenhouse business which have been in common ownership and occupancy since January 1, 1992, the Planning Board may grant a special permit for a landscaping/greenhouse/residential planned unit development (“Landscaping/Greenhouse/Residential Development”) upon satisfaction of all requirements specified in this Subsection and upon such other requirements, terms and conditions deemed necessary or appropriate by the Planning Board. The application for a special permit shall be made by the owner of the property who shall be an owner of the landscaping and greenhouse businesses.

#### 1. Purpose

The purpose of this Subsection is to permit the ongoing operation of a landscaping business and greenhouse business which have existed since at least January 1, 1992 on a lot that also contains a single family residence and which has had partial non-residential use for at least 50 years. Continuation of the business shall preserve employment in the Town and generate commercial tax revenues and thereby serve a public purpose.

#### 2. Business Activities

For purposes of this Subsection, a landscaping business is a business concern whose primary business is the construction, installation and maintenance of lawns, yards, gardens and related grounds which are owned by others. Such landscaping business may employ employees and use trucks, lawnmowers, small loaders, seeders and related equipment, which are owned by the landscaping business and stored on the lot, to perform such construction, installation and maintenance activities. Such landscaping business shall store vehicles and equipment, to the extent required by the Planning Board within a detached garage. Such landscaping business may provide plowing and snow and ice removal services. Such landscaping business may store certain non-perishables on site, including shrubs, trees, mulch, loan, fertilizer, stone pavers, stone dust and gravel for use in its operations provided that dusty and odorous materials shall be covered and stored in locations to prevent odors and dust from impacting neighboring properties. Such landscaping business may be operated Monday through Saturday between the hours of 8:00 AM and 6:00 PM and on Sunday between the hours of 9:00 AM and 5:00 PM except during snow and ice conditions where the snow plowing portion of the business may operate as necessary to address snow and ice removal and plowing.

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A greenhouse business authorized under this subsection may be operated Monday through Saturday between the hours of 9:00 AM and 6:00 PM and on Sunday between the hours of 9:00 AM and 5:00 PM, except that during the period from the last Friday before Thanksgiving day to the following January 1 the hours of operation may be from 8:00 AM to 9:00 PM. Such greenhouse business may sell fruits, vegetables, flowers, Christmas trees and other seasonal plant materials within the greenhouse retail space and in an area of the property that is located proximate to the state highway. Such greenhouse business may host weekly farmers' markets during the months between May and October.

### **3. Site Plan**

An application for a Landscaping/Greenhouse/Residential Development shall include a plan meeting the requirements for a site plan specified in Section VIII.D.2 and such other requirements as may be specified by the Planning Board. The site plan may be contained in one or more plans prepared in a form suitable for recording by a Registered Professional Engineer or a Registered Land Surveyor, and in accompanying text and material.

### **4. Special Permit Application**

An application for a special permit shall include the following plans (which plans may be combined) and other materials as may be required by the Planning Board:

- (a) An existing conditions plan;
- (b) A topographical plan with two-foot contours;
- (c) Parking plan;
- (d) Utility plan;
- (e) Storm water and drainage calculations;
- (f) Plans for buildings and accessory structures. The plans shall include detailed elevations of buildings with dimensions and square footage;
- (g) Landscape and hardscape plan;
- (h) Lighting plan showing all exterior lighting; and
- (i) Location and description of any signs advertising the business to be approved by the Town's sign committee.

### **5. Buildings and Setbacks**

A Landscaping/Greenhouse/Residential Development may contain the following buildings and shall have following setback and site requirements:

- (a) There shall be a principal residence, which shall be set back from the state highway by at least 30 feet and from side and rear yard lot lines by at least 20 feet.
- (b) There may be a greenhouse and a retail space (containing approximately 2,000 square feet) attached to the principal residence.

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- (c) There may be a detached two-story accessory garage (containing no more than 3,600 square feet) and which shall be set back from the side and rear yard lot lines by at least 10 feet. The ground floor of the garage shall be used to store vehicles and equipment owned by the landscaping business. The second floor shall contain an office and related facilities to support the operation of the businesses.
- (d) The Landscaping/Greenhouse/Residential Development shall be adequately buffered from neighboring residential properties with appropriate fencing, vegetation and landscape features, including arbor vitae and related plantings. The fencing, vegetation and landscaped features shall be installed and maintained in accordance with a landscape plan and shall be maintained in good condition.
- (e) Lighting, including lighting installed for the prevention of theft, shall be at low level and reasonably sited so as to prevent light overspill onto neighboring properties.
- (f) The businesses may include a dumpster, provided that it shall be screened from neighboring residential properties with fencing and/or other landscaped features, and shall be used in a quiet manner, shall emit no noxious odors, and shall contain no food wastes.
- (g) The businesses may include small sheds determined to be necessary and appropriate by the Planning Board. Such sheds shall be adequately screened from neighboring residential properties.

### **6. Conditions of Operation**

The businesses shall be operated in accordance with the following conditions and such other conditions as the Planning Board finds necessary and appropriate:

- (a) The owner of the businesses shall reside with his/her family and shall maintain his/her principal residence in the single family dwelling.
- (b) No more than 2 pickup trucks, 5 dump trucks and 6 14-foot trailers may be located and stored on the site. When not in use, or after business hours, the trucks, trailers and related equipment shall be housed in the detached garage or otherwise located on the site and screened from neighboring residential properties as determined by the Planning Board considering all relevant circumstances.
- (c) The movement and/or emptying of any dumpster shall be scheduled to occur on weekdays between 10:00 AM and 2:00 PM.
- (d) The businesses shall be conducted in a reasonably quiet, orderly manner respectful of their abutters.

### **7. Parking**

There shall be 2 parking spaces for the residence located on the site. There shall be parking spaces for the landscaping business and greenhouse business determined to be adequate by the Planning Board considering all relevant circumstances.

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### 8. Notice and Procedure for Decision

The notice and procedural requirements set out in Section IX.B and C and the standard to be used in rendering a decision set out in Section IX.C shall apply to special permits for Landscaping/Greenhouse/Residential Developments under this Section. The Planning Board may grant a special permit for a Landscaping/Greenhouse/Residential Development where it finds compliance with the purpose of this Subsection and with the foregoing standards and requirements and finds that the Development will not cause any substantial detriment to the neighborhood or to the intent of the bylaw. A special permit may be made subject to such terms and conditions as the Planning Board may find necessary or appropriate.

### 9. Decision

The special permit issued by the Planning Board shall be recorded with the Registry of Deeds by the Applicant at the Applicant's expense within thirty days after the Town Clerk has certified that the time for appealing the special permit has expired. A copy of the recorded document with recording information shall be provided to the Town Planner promptly after recording. The special permit shall remain in effect for as long as the residence and the landscaping business are owned and occupied in common by the permittee in accordance with the special permit and the special permit may not be transferred. In the event that the residence and the business are conveyed to a third party and said party shall reside in the premises and shall seek to continue operation of the landscaping and greenhouse businesses then a new special permit application shall be required and the Planning Board may issue a new special permit in accordance with the provisions of this Subsection.

#### ***COMMENT:***

*The Planning Board and the proponents of Article 5 have authored changes to the introduction, and all sections to increase clarity, correct grammar, or to provide the Planning Board with greater oversight in the process of granting a special permit in accordance with the provisions of this proposed subsection to the zoning bylaws. Item 5.(g) was added to distinguish requirements for small sheds separately from those for dumpsters. All of the changes were introduced after Town Counsel reassured the Planning Board that the specificity of this proposed subsection had sound and satisfactory legal precedent.*

*The amendment of Zoning Bylaws requires a two-thirds vote of Town Meeting. The Warrant Committee is aware that the proposed overlay zoning is quite specific. The committee feels that the underlying residential zoning is thereby protected. Additionally, the process of obtaining a special permit from the Planning Board subjects an applicant to further scrutiny regarding proposed uses and its grant requires a super-majority of the board (4/5 votes).*