

Route One Zoning Proposals

The zoning proposals that are set forth below revise various provisions in the Zoning Bylaws that, for the most part, are applicable to the S-1 District. The intent of the proposed revisions is to enhance, foster and promote the economic development of Route One. *Paragraphs that are in italics under each proposed Zoning Bylaw revision are explanatory.*

Use Proposals

1. Additional Uses Permitted in the S-1 District

- (a) Amend Section 3.1.6., Table 3-1 Table of Uses, by deleting the letter “N” for the following use in the S-1 District and replacing each with the letter “Y”:

Brew pub (Use Item C.11.)

Brew pubs currently are permitted by special permit granted by the Planning Board in the General Business and Neighborhood Business Districts, but are not permitted in any other districts.

- (b) Amend Section 3.1.6., Table 3-1 Table of Uses, by deleting the letter “N” for Use Item C.3. in the S-1 District, replacing it with the letter “Y” and revising the definition of such use item to read as follows:

Mercantile/Retail uses, except restaurants with seating

Mercantile/Retail uses currently are allowed by right in the General Business, Neighborhood Business, Highway Business and General Industrial Districts. The current definition of this item restricts the gross square footage of a building that is used for mercantile or retail purposes to 25% of the building’s gross floor area. This restriction is deleted to be consistent with the proposed revisions to Sections 3.1.7., 9.1.3. and 9.5.4.3. that are discussed below under the Bulk and Dimensional Proposals, which such proposals increase the gross floor area of a building or structure that may be used for retail or mercantile purposes in the S-1 District and the Economic Area Overlay District (“EDAOD”) to 75% by right and in excess of that by special permit.

- (c) Amend Section 3.1.6., Table 3-1 Table of Uses, Item D.7., Self-storage mini warehouse, rail storage or switching yards, by deleting the words “rail storage or switching yards,” and by deleting the letter “N” for such use in the S-1 District and replacing it with the letter “Y.”

Self-storage mini warehouses and rail storage or switching yards currently are listed together as Item D.7. This use is currently permitted as of right in the General Business, General Industrial and Limited Industrial Districts and by special permit of the Planning Board in the Highway Business District. This use item should be amended to delete rail

storage or switching yards. There is no need to specifically provide a use item for rail storage or switching yards because such uses would be included under Commuter rail stations, bus stations, and related or accessory structures and improvements in Item I.6.

2. Use Changes (Special Permit to Allowed by Right)

Amend Section 3.1.6., Table 3-1 Table of Uses, by deleting the letters “PB” for the following uses in the S-1 District and replacing them with the letter “Y”:

Research and development facilities (Use Item D.2.)

Hotels, motels but not including group homes or halfway houses (Use Item G.2.)

Research and development facilities currently are permitted in all nonresidential districts by means of a special permit granted by the Planning Board.

Hotels and motels currently are permitted in the Highway Business and Limited Industrial Districts by special permit granted by the Planning Board. Hotels currently are permitted in the EDAOD as an accessory use to Gillette Stadium.

3. Outdoor/Indoor Recreational Uses

(a) Amend Section 3.1.6., Table 3-1 Table of Uses, Use Item J.6., by deleting that item’s definition of Outdoor/Indoor recreational uses and replacing it with the following:

6. Outdoor/Indoor recreational uses, including golf driving ranges, miniature golf courses, batting cages, fields, buildings and facilities for recreational and athletic activities, and go-carts and bumper boats (except that go-carts and bumper boats that are powered by any type of fossil fuel are prohibited in the Water Resource Protection District), but not including amusement parks and water parks.

(b) Amend Section 3.1.6., Table 3-1 Table of Uses, by deleting the letters “PB” for Outdoor/Indoor recreational uses in the S-1 District and replacing them with the letter “Y.”

Outdoor/Indoor recreational uses currently are permitted in the S-1 District by special permit granted by the Planning Board. The proposed revisions would permit Outdoor/Indoor recreational uses by right in the S-1 District, and would redefine the definition of such term by adding the clause “fields, buildings and facilities for recreational and athletic activities” and the words “and water park,” and prohibiting the operation of go-carts and bumper boats that are powered by any type of fossil fuel in the Water Resource Protection District (thereby implicitly permitting go-carts and bumper boats in such district that are powered by electricity and other non-fossil fuels).

4. Athletic Fields and Athletic Facilities

- (a) Amend Section 3.1.6. Table 3-1 Table of Uses, by (i) adding the following new use item to Use Group J. Recreational Use, and (ii) including the letters “PB” for such use item under the R-40 District, the letter “Y” for such use item under the S-1 District, and the letter “N” for such use item under each of the other districts in such table:

8. Outdoor athletic fields and athletic facilities that are privately owned, including buildings and structures that are accessory thereto.

- (b) Amend Section 3.1.7. Notes to Table of Use Regulations, by adding the following new Note thereto:

6. Access to any outdoor athletic field or athletic facility that is situated in the R-40 Residential and Agricultural District, whether in its entirety or in part, shall be provided only from an accepted way through a nonresidential district. This restriction shall not apply to any emergency access required by public safety officials of the Town of Foxborough.

The proposed addition to Table 3-1 Table of Uses authorizes by means of a special permit granted by the Planning Board the development and subsequent use of athletic fields and athletic practice facilities in the R-40 Residential and Agricultural District and as of right in the S-1 District. The proposed addition of Note 6 to Section 3.1.7. Notes to Table of Use Regulations, would restrict access to any such field that is in the R-40 District from an accepted way from a nonresidential district.

5. Temporary Parking

- (a) Amend Section 6.1.3. by adding the following new provision:

3. A special permit granted by the Planning Board to allow temporary parking in the S-1 District with respect to events at Gillette Stadium shall be valid for a period of three years from the date on which issued, after which period such special permit shall be of no further force or effect unless renewed by the Planning Board by the grant of a new special permit that shall be valid for a period of three years. The Planning Board shall have the authority upon notice and following a hearing to modify, suspend or revoke any special permit that it has granted in the event of any of the following:

- a. Any change to the number of spaces, parking layout, or access to and egress from a parking lot authorized by a special permit.
- b. A determination by the Building Commissioner or any public safety official of the Town of Foxborough that the operation of a temporary parking lot is hazardous to the safety of the public, or is in violation of these bylaws, any provision of applicable law or any of the conditions to a special permit that have been imposed by the Planning Board.

Section 3.1.6., Table 3-1 Table of Uses, Use Item B.4., currently requires a special permit from the Planning Board in order to operate a temporary parking lot. Such special permits are valid for one year, and must be renewed annually. Because no amendment of Use Item B.4. is recommended, a special permit from the Planning Board for a temporary parking lot for Gillette Stadium events would continue to be required. However, by amending Section 6.1.3. as proposed, each such special permit would be valid and effective for a period of three years, after which time it could be renewed for an additional three-year period. A temporary parking lot for which the required special permit has been granted would be operated pursuant to the condition of a special permit during the intervening period, provided that the Planning Board may modify, suspend or revoke any such special permit if there has been a change to the temporary parking lot initially authorized, if there has been a violation of a special permit's conditions, or if operation of a temporary parking lot violates any provision applicable law or presents public safety hazards. The proposed provision would be added to the Zoning Bylaws as Section 6.1.3.3.

- (b) Amend Section 6.1.3. by deleting the last sentence of that section and replacing it with the following:

Except as specifically provided in Section 6.1.3.3., a special permit shall not be valid for a period that is greater than one year from the date on which it has been granted.

The last sentence of Section 6.1.3. currently provides that a special permit for temporary parking is valid for one year. This revision is proposed to allow for the three-year special permits that are discussed above.

6. Shared Parking

Amend Section 6.1.2. by adding the following new provisions:

4. Required off-street parking spaces for two or more uses (other than residential or multifamily uses) that are under common or affiliated ownership may be provided in a shared parking facility pursuant to a special permit granted by the Planning Board. Any such shared parking facility may be accessed by a shared driveway, and may be provided in a shared multi-level parking structure that complies with the dimensional and other zoning requirements that are set forth in these bylaws. The following requirements shall apply to a request for approval of any such shared parking facility:
 - a. Documentary evidence shall be submitted to the Planning Board to demonstrate that the shared parking facility provides a sufficient number of parking spaces for each use involved.

- b. The shared parking shall be counted in determining whether a use complies with the parking requirements that are set forth for such use in Table 6-1.
- c. An approved shared parking facility shall remain shared until such time, if any, as (i) the Building Commissioner determines that each of the uses involved must independently comply with the parking requirements that are set forth for that use in Table 6-1 and any other applicable requirements of these bylaws, or (ii) the Planning Board modifies, suspends or revokes the special permit authorizing the shared parking facility.
- d. Not more than 50% of the parking spaces required by these bylaws for a use may be used together with another use to satisfy the minimum off-street parking requirements that are set forth in Table 6-1 for uses that are not normally open, used or in operation during similar hours.
- e. The terms and conditions of a special permit authorizing a shared parking facility shall run with the land and shall be binding upon the successors, assigns and transferees of each person whose use is sharing such facility.

The Planning Board in granting a special permit for any such shared parking facility may waive strict compliance with the setback, landscape, buffer and other applicable requirements set forth in these bylaws where it determines that such action is in the public interest and is not inconsistent with the purpose of these bylaws.

- 5. Two or more uses (other than residential or multifamily uses) that are not under common or affiliated ownership may by lease or other contract and pursuant to a special permit granted by the Planning Board enter into a shared parking arrangement, provided that each such use either complies with the parking requirements that are set forth for such use in Table 6-1 or is granted a special permit by the Planning Board for reserved parking in accordance with Section 6.1.7. The following requirements shall apply to a request for approval of any such shared parking arrangement:
 - a. Documentary evidence, including any such applicable lease or other contract, shall be submitted to the Planning Board to demonstrate that the shared parking arrangement provides a sufficient number of parking spaces for each use involved, and that the shared parking arrangement either complies with the parking requirements that are set forth for such use in Table 6-1 or complies with the requirements for reserved parking in accordance with Section 6.1.7.
 - b. Any lease or other contract providing for a shared parking arrangement may be binding in accordance with its terms and conditions upon the successor and assign of any party thereto.
 - c. An approved shared parking arrangement shall remain shared until such time, if any, as (i) such arrangement is terminated in accordance

with the terms and conditions of the applicable lease or other contract, (ii) such arrangement is terminated by any or all of the parties thereto in accordance with the terms and conditions of the applicable lease or other contract (in which event documentary evidence of such termination is submitted to the Planning Board), or (iii) the Planning Board modifies, suspends or revokes the special permit authorizing the shared parking arrangement, including a modification, suspension or revocation based on a determination by the Planning Board in accordance with Section 6.1.7.7.

These provisions are applicable to all commercial uses, and would allow commonly-owned separate uses (but not uses that are owned by different parties) to have a shared parking lot, and would allow uses that are owned by different parties to share parking provided that each such use satisfies the parking requirements of the Zoning Bylaws that are applicable to that use. The Zoning Bylaws permits shared parking in the EDAOD. The proposed sections would be added to the Zoning Bylaws as Sections 6.1.2.4. and 6.1.2.5.

7. Reserved Parking

(a) Amend Section 6.1. Off-street parking and loading requirements. by adding the following new section thereto:

6.1.7 Reserved parking. The off-street parking requirements set forth in Table 6-1 may be satisfied by the issuance of a special permit from the Planning Board that authorizes the applicant to designate an area as undeveloped open space that is reserved for future parking needs. A request for reserved parking may be made in conjunction with an application for site plan review or as part of a required special permit application for a specified land use. The following requirements shall apply to a request for reserved parking:

1. The number of parking spaces that is required by these bylaws may be reduced by not more than fifty percent.
2. The applicant shall submit documentary evidence that for a period of not less than one year its use justifies a lesser number of parking spaces than the number of spaces that is required by these bylaws.
3. An area shall be reserved for future parking that is sufficient to accommodate the difference between the number of parking spaces that are required by these bylaws and the lesser number of such spaces that are requested.
4. The area that is reserved for future parking shall be marked "Reserved Parking Area" on the site plan that is submitted to and approved by the Planning Board.
5. The "Reserved Parking Area" may consist of natural vegetation, a newly-landscaped area, or a combination of both, as may be required

by the Planning Board. No mechanical equipment, building or other structure may be maintained in such area.

6. The area that comprises the “Reserved Parking Area” shall not be counted toward determining compliance with any minimum open space requirements that may be required by these bylaws.
7. The “Reserved Parking Area” shall remain as undeveloped open space until such time, if any, that the Planning Board by modification of the special permit approves the applicant’s request to use such area or any part of such area for parking purposes, or approves a request of the Building Commissioner that additional parking spaces be provided.

Section 6.1.6. authorizes the Planning Board to grant a special permit to reduce off-street parking by up to 25% of the spaces otherwise required. This proposal would add a new section to the Zoning Bylaws that would authorize the Planning Board to also grant a special permit by which an applicant would not be required to construct parking in excess of that which the applicant believes necessary based upon documented analysis of the actual parking needs of a specific use. The parking spaces that otherwise are required by the Table 6-1 would be set aside as undeveloped open space, and would remain undeveloped unless and until it becomes necessary to increase the number of actual parking spaces.

- (b) Amend current Sections 6.1.7., 6.1.8., 6.1.9. and 6.1.10. by renumbering such sections as Sections 6.1.8, 6.1.9., 6.1.10. and 6.1.11., respectively.

These amendments would be necessary due to the addition of Section 6.1.7. Reserved parking., discussed above.

8. Research and Development Use

- (a) Amend Section 11 by adding the following new definition:

RESEARCH AND DEVELOPMENT

Research, experimentation and testing activities that are conducted by a business establishment, college or university, laboratory or research facility for the development of new products, ideas, procedures and services, or the improvement of existing products, ideas, procedures and services, predominantly in the fields of biotechnology, pharmaceuticals, medical equipment, communication and information technology, electronics, computer hardware and/or their substantial equivalents. Such term does not include activities that are characterized as Biosafety Level 4 (BSL-4) by the National Institutes of Health. Activities that constitute research and development may include the construction or development of mock-ups and prototypes, but do not include the manufacture of finished products except as may be incidental to the principal purposes of such activities.

Though the Zoning Bylaws recognize Research and Development as a permitted use, the term is not defined. Providing a definition will add clarity to the activities that are permitted.

- (b) Amend Note 5 to Section 3.1.7. Notes to Table of Use Regulations, by adding the following sentence to such note:

Research and development activities that involve radioactive materials, high-intensity electromagnetic radiation, or chemical or biological processes in a manner that constitutes a present or potential threat or danger to public health, safety or welfare or to the environment when improperly stored, treated, transported, discharged, disposed of, used or otherwise managed, are prohibited in all districts.

This proposed addition to Note 5 to the Table of Uses is proposed in order to prohibit research and development facilities from engaging in the types of activities that are discussed where there is a threat to the public or the environment by improper actions.

Bulk and Dimensional Proposals

1. Retail Restrictions

- (a) Amend Section 3.1.7. Notes to Table of Use Regulations by adding the following new note thereto:

7. The total gross floor area of mercantile or retail uses and retail establishments in the S-1 District, except for restaurants with seating, shall not exceed 75% of the gross square footage of the buildings or structures in which any such use is situated, provided that the Planning Board may grant a special permit to increase the gross floor area that is used for such purposes to more than 75% of the gross square footage of any such buildings or structures.

Adding this note to the Notes to Table of Use Regulations would provide that the gross floor area of a building or structure that may be used for mercantile or retail purposes and for retail establishments can by right be 75% of the gross square footage of such buildings and structures, with the Planning Board having authority to grant a special permit to increase usable square footage of a building or structure in excess of that amount.

- (b) Amend the first sentence of Section 9.1.3. to read as follows:

The total gross floor area of mercantile or retail uses and retail establishments, except restaurants with seating, shall not exceed 75% of the gross square footage of the buildings or structures located on a lot in which any such use is situated, provided that the Planning Board may grant a special permit to increase the gross

floor area that is used for such purposes to more than 75% of the gross square footage of any such buildings or structures.

The first sentence of Section 9.1.3. currently limits the usable gross floor area of a mercantile or retail use in the S-1 District to 25% of the gross floor area of the structure in which such use is situated. The second sentence of Section 9.1.3. currently provides that lots of five acres or less that are recorded or shown on a plan endorsed by the Planning Board prior to March 23, 1989 are allowed to have 50% of total area used for retail purposes. The proposed revision to the first sentence of this section is consistent with the new note 7 that is proposed for Section 3.1.7. Notes to Table of Use Regulations, and the revision to Section 9.5.4.3. that is discussed below.

(c) Amend Section 9.5.4.3. to read as follows:

Mercantile or retail uses and retail establishments, provided that (i) the total gross floor area used for mercantile or retail uses shall not exceed 75% of the gross square footage of the buildings or structures located on a lot in which any such use is situated, and (ii) the Planning Board may grant a special permit to increase the gross floor area that is used for mercantile or retail uses to more than 75% of the gross square footage of any such buildings or structures, and (iii) for the purpose of this provision any such use within a stadium or associated directly with and accessory to a stadium shall not be subject to the total gross floor area restriction.

Section 9.5.4. of the Zoning Bylaws concerns uses in the EDAOD that are permitted as of right as either a primary or an accessory use. Mercantile or retail uses are permitted as of right pursuant to Section 9.5.4.3. However, that section currently imposes a 50% limit on the gross square footage of a building or structure in the EDAOD. The proposed revision to this section is consistent with the revisions proposed above for Sections 3.1.7. and 9.1.3.

2. Building Height

(a) Amend the Building Height provisions in Table 4-2 that are applicable to the S-1 District by (i) deleting 3.0 under the heading Stories and replacing it with N/A, and (ii) deleting 40 under the heading Feet and replacing it with 70.

Table 4-2 currently restricts the height of buildings in the S-1 District to three stories and 40 feet. The proposed revision to this table would permit structures in the S-1 District to be constructed to a height that exceeds the three-story/40-foot limitations as of right to 70 feet without any requirement concerning the number of stories for any such structure.

(b) Amend Note 4 of Section 4.1.3. Notes to Table 4-2, to read as follows:

Height requirements for structures in any nonresidential district can be increased pursuant to Section 4.4.2. of these bylaws.

Note 4 of Section 4.1.3. currently provides that the height requirements that are set forth in Table 4-2 may be increased pursuant to “Section 4.0 of these bylaws.” The specific Zoning Bylaw provision that authorizes any such increase is Section 4.4.2. That section allows the height of any principal structure in a nonresidential district to be increased by means of a special permit to a height that exceeds that required by Table 4-2 but that does not exceed 60 feet and four stories. This revision would clarify that increases to otherwise required building heights are subject to the provisions of Section 4.4.2., and would render its applicability to structures in nonresidential districts consistent with that section.

(c) Amend Section 4.4.2 to read as follows:

Special permit. Upon the granting of a special permit pursuant to the requirements that are set forth in Section 10.4., any principal structure in any nonresidential district may be constructed to a height in excess of that specified in Table 4-2 but that shall not exceed 60 feet or more than four stories, provided that a structure in the S-1 District may be constructed to a height in excess of 70 feet but not greater than 150 feet if such structure is located more than 200 feet from any property line that abuts a residential district.

Section 4.4.2. currently allows the height of any principal structure in a nonresidential district to be increased by issuance of a special permit to a height that does not exceed four stories and 60 feet. The proposed revision to this section would permit the issuance a special permit to allow a structure in the S-1 District that is more than 200 feet from a property line that abuts a residential district to be constructed to a height that is in excess of 70 feet but is not greater than 150 feet, provided that such structure is more than 200 feet from a property line that abuts a residential district.

(d) Amend Sections 9.5.7.2. and 9.5.7.3. to read as follows:

9.5.7.2. The building height of any structure shall not exceed 70 feet, provided that the Planning Board may grant a special permit pursuant to the requirements of Section 9.5.7.5. to authorize any such structure to be constructed to a height in excess of 70 feet but not greater than 150 feet.

9.5.7.3. The building height of any structure, other than a stadium, that is located less than 200 feet from any property line that abuts a residential district shall not exceed 70 feet, provided that the Planning Board may grant a special permit pursuant to the requirements of Section 9.5.7.5. to authorize any such structure to be constructed to a height in excess of 70 feet but not greater than 100 feet.

These revisions are proposed so that the building height provisions for structures in the EDAOD are consistent with the proposed revisions for building height in the S-1 District. Sections 9.5.7.2. and 9.5.7.3. currently provide that structures in the EDAOD that are

less than 300 feet from the Route 1 layout currently cannot exceed 40 feet in height, provided that (i) a special permit may be granted that permits a principal structure that is less than 300 feet from Route 1 to be constructed to a height greater than 40 feet but less than 100 feet, and (ii) a structure that is greater than 300 feet from the Route 1 layout and 200 feet from a property line that abuts a residential district may be constructed to a height not to exceed 100 feet. Section 9.5.7.5 also currently broadly allows for other deviations from the height requirements by the grant of a special permit of the Planning Board. Revising Section 9.5.7.2. as indicated would permit structures in the EDAOD to be constructed as of right to a height that does not exceed 70 feet, with the Planning Board having authority to issue a special permit to authorize the construction of a structure in the EDAOD to a height in excess of 70 feet but not greater than 150 feet. The proposed revision to Section 9.5.7.3. would restrict to 100 feet the height of any structure in the EDAOD that is located less than 200 feet from a property line that abuts a residential district.

3. Yard and Frontage

- (a) Amend Table 4-2, Dimensional Regulations for Uses in Nonresidential Districts, by changing the following dimensional regulations for uses in the S-1 District:

Front Yard – from 75 feet to 50 feet

Side Yard – from 75 feet to 25 feet

These revisions would render dimensional requirements for uses in the S-1 District the same as the dimensional requirements for uses in the Highway Business District.

- (b) Amend Section 4.1.3. Notes to Table 4-2 to add the following note:

10. The Planning Board may grant a special permit to reduce the front yard, side yard and rear yard dimensional requirements for any use in the S-1 District.

This revision would allow the Planning Board to grant a special permit to reduce front, side and rear yard dimensional requirements in the S-1 District. Though the Board of Appeals has legal authority to effect such reductions by granting a variance, the legal requirements for a variance are considerably stricter than those for a special permit.

- (c) Amend Section 6.4.8.5. to read as follows:

5. There shall be a landscaped buffer strip comprising a minimum of 25 feet of the front yard and 10 feet of the side yard for all uses in the Special Use (S-1) District. Insofar as there may be inconsistencies with other sections, these restrictions shall apply in the S-1 District in all cases.

This section currently requires a minimum landscaped buffer strip of 50 feet of the front yard and 25 feet of the side yard with respect to uses in the S-1 District. The proposed

reduction would be necessary in conjunction with the reductions to the front and side yard requirements proposed above.

- (d) Amend Note 6 of Section 4.1.3. Notes to Table 4-2, by adding the following sentence to such note:

The Planning Board may grant a special permit in accordance with the provisions of Section 9.1.4. to reduce to not less than 100 feet the frontage for any lot in the S-1 District.

Table 4-2 requires 300 feet of frontage for lots in the S-1 District, though Section 9.1.2.1 provides that frontage may be reduced by means of a special permit to 100 feet where the portion of the lot on which there is to be construction is at least 600 feet from Route 1. The 300-foot frontage requirement is applicable to lots that have frontage on Route 1 because Note 6 provides that lots located in the S-1 District that have frontage on a street other than Route 1 are required to have a minimum of 200 feet of frontage. Revising Note 6 by adding the referenced sentence would permit the Planning Board to grant a special permit to reduce the frontage required for a lot located on Route 1 to not less than 100 feet consistent with Section 9.1.2.1. Lots that have frontage in the Highway Business District are required to have at least 100 feet of frontage.

- (e) Amend Section 9.1.2. to read as follows:

Dimensional requirements

1. The Planning Board may grant a special permit to allow lots with not less than 100 feet of frontage.
2. There shall be a landscaped buffer strip comprising a minimum of 25 feet of the front yard and 10 feet of the side yard for all uses. Under no circumstances shall parking be allowed within these required buffer zones. These requirements may not be waived.
3. Parking is allowed in the front yard, provided that there is compliance with the applicable building setback and buffer strip requirements. Parking in the side and rear yards is preferred.

Section 9.1.2.1. requires construction to be at least 600 feet from Route 1 when a special permit authorizes 100 feet of frontage. Section 9.1.2.2. requires landscaped buffer strips of 50 feet of the front yard and 25 feet of the side yard. Section 9.1.2.3. authorizes front yard parking where the 50 and 25-foot landscaped buffer strips are maintained. The revisions that are proposed are based on the front and side yard reduction revisions that have been proposed.

4. Minimum Lot Size

- (a) Amend Note 5 of Section 4.1.3. Notes to Table 4-2, to read as follows:

5. Minimum lot size within the S-1 District is 80,000 square feet. The Planning Board may grant a special permit to authorize a lot that is not less than 40,000 square feet in area, provided that access to any such lot is from Route 1 or is shared with access to an adjacent lot, regardless whether such access is through or across the legal frontage of the lot for which such special permit has been granted.

Note 5 to Table 4-2 currently provides that lots in the S-1 District must be at least 80,000 square feet in area. This revision would permit lots in such district to be reduced to 40,000 square feet by a special permit granted by the Planning Board, provided that access to any such lot is from Route 1 or is shared with access to an adjacent lot.

- (b) Amend the first sentence of Section 4.3.1. to read as follows:

Except as provided in Section 4.1.3. Notes to Table 4-2, Note 5, access to all lots shall only be through or across its legal frontage.

This revision is for purposes of consistency with the proposed revision to Note 5 of Section 4.1.3. Notes to Table 4-2.

5. Contiguous Lots

Amend Section 4.2. by adding the following new section:

- 4.2.9. Lots. Adjacent or contiguous lots that are under common or affiliated ownership (whether the ownership in such lot or lots is fee simple or leasehold) shall be deemed a single lot for purposes of the dimensional requirements of these bylaws.

This proposed new section would provide that contiguous or adjacent lots that are under common ownership be treated as a single lot with respect to the dimensional requirements that are set forth in Section 4.0. of the Zoning Bylaws. In that respect, it would allow a lot that does not otherwise comply with the pertinent dimensional requirements to either conform to those requirements or to minimize the nonconformity. The concept of merging contiguous or adjacent lots that are under common ownership is recognized by the Massachusetts courts, and has been applied in appropriate cases by the Board of Appeals. There is a similar, but broader, provision in the Zoning Bylaws with respect to the EDAOD. Adding the proposed new section to the Zoning Bylaws would codify the existing practice of the Board of Appeals.

6. Planned Developments

- (a) Amend Section 3.1.6., Table 3-1 Table of Use Regulations, by deleting Use Group, K.1., Planned Development in its entirety, replacing such Use Group with the word “None” and replacing the letters “PB” in the S-1 District with the letter “N.”

(b) Amend Section 9.1.1.2. by deleting the reference to “(PD)” in such section.

(c) Delete Sections 9.1.7. and 9.1.8.

These revisions pertain to the sections in the Zoning Bylaws that concern Planned Developments within the S-1 District. Because no Planned Development within such district has ever been proposed, and because the various Zoning Bylaw provisions discussed above are intended to enhance, foster and promote the economic development of Route 1, it is believed that such sections are not needed.