

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

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July 13, 2018

Tracy K. Kenney, Town Clerk
Town of Canton
801 Washington Street
Canton, MA 02021

Re: Canton Annual Town Meeting of May 14, 2018 -- Case # 9053
Warrant Articles # 21, 39, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, and 58
(Zoning)
Warrant Articles # 11, and 40 (General)

Dear Ms. Kenney:

Articles 21, 39, 40, 42, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, and 58 - We approve these Articles, and the map amendments related to Article 21, from the May 14, 2018 Canton Annual Town Meeting.

Articles 11 and 43 – We retain these Articles for further review and will issue our decision on them by our deadline of September 12, 2018.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division

Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel Paul DeRensis



Town of Canton, Massachusetts
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ANNUAL TOWN MEETING

MAY 16, 2018

SECOND SESSION

ARTICLE 21

VOTE TO AMEND ZONING BY-LAW SECTIONS 2.1 AND 6.0 INDUSTRIAL DISTRICTS BY ADDING "LIMITED INDUSTRIAL (B)" AND "LIMITED INDUSTRIAL (C)"

Article 21 To see if the Town of Canton will vote to amend the Zoning By-Law of the Town Canton, as most recently amended, as follows:

1. To amend the map entitled "Zoning Map of Town of Canton", to place the parcels (Assessors Map 35, Parcel 4, Map 22, Parcel 1, Map 22, Parcel 2, Map 33, Parcel 4, Map 33, Parcel 5 and Map 34, Parcel 2) shown on the plan entitled "Proposed Rezoning Exhibit", prepared by DIPrete Engineering, into the Limited Industrial (C) District.
2. To amend Section 2.1 by adding "Limited Industrial (B)" and "Limited Industrial (C)" under the heading "INDUSTRIAL DISTRICTS".
3. To amend Section 6.0 by adding a new Section 6.8 as follows:

6.8 GENERAL PROVISIONS FOR LIMITED INDUSTRIAL (C) DISTRICTS

6.8.1 Purpose

The Limited Industrial (C) (LI(C)) District has been established to accomplish the following goals:

1. To promote the economic health and stability of the Town by encouraging development and economic investment that will generate employment and tax revenue.
2. To provide additional planning flexibility for projects.
3. To redevelop underutilized and/or blighted sites.

6.8.2 Applicability

Buildings, structures, lots and uses within the LI (C) District shall be governed by the Zoning By-Law, except as modified by the provisions of this Section. Where provisions of this Section conflict or are inconsistent with other provisions of the Zoning By-law, the provisions of this Section shall govern.

In the event of damage or destruction to any buildings or structures originally constructed pursuant to an approval issued hereunder, such buildings and structures may be rebuilt and restored consistent with the original approval without the requirement of obtaining any further approvals.

6.8.3 Special Permits and Site Plan Review and Approval

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes with respect to any proposed projects within the LI (C) District. All special permit applications shall conform to the provisions of this Section 6.8 and the Board of Appeals' Rules and Regulations adopted pursuant to M.G.L.c.40A, Section 9 governing the administration of applications for special permits.

In the LI(C) District, the SPGA may give site plan review and approval in accordance with the procedures provided in Section 10.5.1-10.5.4, and may grant a special permit in accordance with the procedures provided in Section 10.4.3, for a project that satisfies the criteria and conditions set out below.

The SPGA may approve an application for site plan review and approval and/or special permit based on a finding that the proposed project, as submitted or modified prior to its action, is in compliance with the criteria for approval set forth in Section 10.5.5 and M.G.L.c.40A, Section 9; provided, however, that the SPGA may deny the application for site plan review and approval and/or special permit if it determines that the effect of the proposed project on the public interest is so intrusive that no reasonable conditions can be developed to avoid that effect.

The SPGA may in its discretion waive any of the standards and criteria stated in this Section 6.8 or otherwise set forth in this Zoning By-law if the SPGA finds that such waiver does not derogate from the purposes of such



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standards and criteria because the proposed project satisfies the criteria stated in Section 10.5.5 of this Zoning By-Law.

Any special permit or site plan approval granted by the SPGA for a project in the LI (C) District shall lapse 3 years after the grant thereof, provided such period shall not include such time to pursue or await the determination of an appeal thereof.

6.8.4 Uses

Uses allowed by right in either the Limited Industrial or Limited Industrial (B) Districts shall be allowed by right in the LI (C) District. Multiple principal or main buildings and uses shall be permitted on a Development Parcel.

In addition, the SPGA may issue a Special Permit for any use(s) within a Development Parcel in the LI (C) District which are allowed by Special Permit in either the Limited Industrial or Limited Industrial (B) Districts (whether or not such uses are conducted within a completely enclosed building) including, without limitation, a Hotel use on a Lot of not less than 2.5 acres, as well as any uses, facilities, amenities and structures accessory to any of the principal uses allowed hereunder within the Development Parcel (whether at, below, or above grade), including, without limitation, surface parking, below ground or above-ground, structured parking (not to exceed two levels above grade) and driveways and roadways, serving any principal uses within the Development Parcel.

6.8.5 Density and Dimensional Requirements

The Density and Dimensional Requirements set forth in the below shall apply in the LI (C) District. In the application of the requirements below, the same shall not be applied to the individual lots or ownership units comprising or within a Development Parcel, but shall be applied as if the Development Parcel were a single conforming lot, whether or not the Development Parcel is in single- or multiple-ownership at the time of issuance of a Special Permit or Site Plan Approval or thereafter; provided, however, that violation of this section by an owner or occupant of a single lot or ownership unit or leased premises within a Development Parcel shall not be deemed to be a violation by any other owner or occupant within the Development Parcel provided there exists an organization of owners.

<i>Area, frontage, and bulk</i>	<i>Development Parcel⁵</i>
<i>Minimum Lot Area</i>	<i>10 acres</i>
<i>Minimum Frontage</i>	<i>250 ft.</i>
<i>Maximum Building Coverage</i>	<i>30%</i>
<i>Maximum Building Height^{1, 2, 3}</i>	<i>70 feet</i>
<i>Minimum Front Setback⁴</i>	<i>10 feet</i>
<i>Minimum Side Setback⁴</i>	<i>10 feet</i>
<i>Minimum Rear Setback⁴</i>	<i>10 feet</i>

Footnotes:

1. Building heights shall be measured as set forth in the State Building Code 780 CMR 101.0 et seq.
2. The SPGA may allow an increase in the maximum height for any accessory structure(s) reasonably necessary for the safe and efficient operation of the principal use (e.g., support poles for "catch" netting used as part of a driving range or other similar commercial recreation facility), provided such structure(s) complies with applicable federal and state requirements.
3. See Section 4.3.3.
4. The SPGA may waive any setback distance where it finds such a waiver appropriate because of specific physical circumstances, such as irregular lot lines or other natural features that create open space or buffers.
5. Development Parcel shall mean one or more Lots within the LI (C) District which together are designated by a project applicant as a Development Parcel. The Lots comprising a Development Parcel need not be in the same ownership. Where the Development Parcel consists of more than a single Lot, the Lots, in combination, shall be treated as the Development Parcel, may be contiguous or non-contiguous, and shall be considered one 'Development Parcel'.



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6.8.6 Parking, Loading and Driveway Requirements

Projects in the LI (C) District shall provide and maintain off-street automobile parking (which may be either structured or non-structured, at, below or above grade) in connection with the erection, establishment or increase in units or dimensions of building, structures and principal uses, in the amounts set forth in Section 6.1.1 (which amounts may be in excess of the minimum amount required). The parking requirement for any accessory use shall be deemed satisfied by satisfying the parking requirements for the principal use.

Off -Street parking spaces, to the extent required by Section 6.1.1, may be provided anywhere within the Development Parcel and need not be on the same Lot as the parking generator.

Parking garages, parking decks, or any other parking structures, and the parking of any motor vehicles shall be allowed on and above ground level and below finished grade at any level, as may be allowed by the SPGA.

In addition to the requirements for automobile parking spaces there shall also be provided for each building or group of buildings sufficient off-street loading space to ensure that all loading operations take place off of the public way.

Projects in the LI (C) District shall require only one means of access to the public roadway system of the Town.

Pursuant to Section 6.1.15, the SPGA may, by Special Permit, authorize a deviation from or waiver of any parking or off-street loading requirement set forth herein or elsewhere in the Zoning By-Law.

6.8.7 Signs and Advertising Devices

In issuing a Special Permit pursuant to this Section 6.8, the SPGA may authorize a comprehensive signage package for a project which signage deviates from the requirements which would otherwise be applicable pursuant to Section 6.3 of this By-Law provided that the Board finds that such comprehensive signage package does not result in substantial detriment to the neighborhood.

Or to take any other action relative thereto.

Board of Selectmen

PLANNING BOARD MOTION:

MOVED: That the Zoning By-Laws of the Town Canton be amended as follows:

1. To amend the map entitled "Zoning Map of Town of Canton", to place the parcels (Assessor Parcels 35_4_0; 22_1_0; 22_2_0; 33_4_0;33_5_0; and 34_2_0) shown on the plan entitled "Proposed Rezoning Exhibit", prepared by DiPrete Engineering, into the Limited Industrial (C) District.
2. To amend Section 2.1 by adding "Limited Industrial (B)" and "Limited Industrial (C)" under the heading "INDUSTRIAL DISTRICTS".
3. To amend Section 6.0 by adding a new Section 6.8 as follows:

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6.8.2 Applicability

Buildings, structures, lots and uses within the LI (C) District shall be governed by the Zoning By-Law, except as modified by the provisions of this Section. Where provisions of this Section conflict or are inconsistent with other provisions of the Zoning By-law, the provisions of this Section shall govern.

In the event of damage or destruction to any buildings or structures originally constructed pursuant to an approval issued hereunder, such buildings and structures may be rebuilt and restored consistent with the original approval without the requirement of obtaining any further approvals.

6.8.3 Special Permits and Site Plan Review and Approval

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes with respect to any proposed projects within the LI (C) District. All special permit applications shall conform to the provisions of this Section 6.8 and the Board of Appeals' Rules and Regulations adopted pursuant to M.G.L.c.40A, Section 9 governing the administration of applications for special permits.

In the LI(C) District, the SPGA may give site plan review and approval in accordance with the procedures provided in Section 10.5.1-10.5.4, and may grant a special permit in accordance with the procedures provided in Section 10.4.3, for a project that satisfies the criteria and conditions set out below.

The SPGA may approve an application for site plan review and approval and/or special permit based on a finding that the proposed project, as submitted or modified prior to its action, is in compliance with the criteria for approval set forth in Section 10.5.5 and M.G.L. c.40A, Section 9; provided, however, that the SPGA may deny the application for site plan review and approval and/or special permit if it determines that the effect of the proposed project on the public interest is so intrusive that no reasonable conditions can be developed to avoid that effect.

The SPGA may in its discretion waive any of the standards and criteria stated in this Section 6.8 or otherwise set forth in this Zoning By-law if the SPGA finds that such waiver does not derogate from the purposes of such standards and criteria because the proposed project satisfies the criteria stated in Section 10.5.5 of this Zoning By-Law.

Any special permit or site plan approval granted by the SPGA for a project in the LI (C) District shall lapse 3 years after the grant thereof, provided such period shall not include such time to pursue or await the determination of an appeal thereof.

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Uses allowed by right in either the Limited Industrial or Limited Industrial (B) Districts shall be allowed by right in the LI (C) District. Multiple principal or main buildings and uses shall be permitted on a Development Parcel.

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The Density and Dimensional Requirements set forth in the table below shall apply in the LI (C) District. In the application of the requirements below, the same shall not be applied to the individual



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lots or ownership units comprising or within a Development Parcel, but shall be applied as if the Development Parcel were a single conforming lot, whether or not the Development Parcel is in single- or multiple-ownership at the time of issuance of a Special Permit or Site Plan Approval or thereafter; provided, however, that violation of this section by an owner or occupant of a single lot or ownership unit or leased premises within a Development Parcel shall not be deemed to be a violation by any other owner or occupant within the Development Parcel provided there exists an organization of owners.

Area, frontage, and bulk	Development Parcel ⁵
Minimum Lot Area	10 acres
Minimum Frontage	250 ft.
Maximum Building Coverage	30%
Maximum Building Height ^{1, 2, 3}	70 feet
Minimum Front Setback ⁴	10 feet
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Minimum Rear Setback ⁴	10 feet

Footnotes:

1. Building heights shall be measured as set forth in the State Building Code 780 CMR 101.0 et seq.
2. The SPGA may allow an increase in the maximum height for any accessory structure(s) reasonably necessary for the safe and efficient operation of the principal use (e.g., support poles for "catch" netting used as part of a driving range or other similar commercial recreation facility), provided such structure(s) complies with applicable federal and state requirements.
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Pursuant to Section 6.1.15, the SPGA may, by Special Permit, authorize a deviation from or waiver of any parking or off-street loading requirement set forth herein or elsewhere in the Zoning By-Law.

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In issuing a Special Permit pursuant to this Section 6.8, the SPGA may authorize a comprehensive signage package for a project which signage deviates from the requirements which would otherwise be applicable pursuant to Section 6.3 of this By-Law provided that the Board finds that such comprehensive signage package does not result in substantial detriment to the neighborhood.

PLANNING BOARD VOTE: 4-0

FINANCE COMMITTEE RECOMMENDATION:

MOVED: The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 21 as written in the warrant be adopted.


FINANCE COMMITTEE VOTE: 6-0-0

Robert Barker, Chairperson of the Finance Committee, deferred to the Planning Board.

Thomas Scully, Chairperson of the Planning Board, moved Article 21 as printed in the warrant.

ADOPTED UNANIMOUS VOICE VOTE

Attest:


Tracy K. Kenney, Canton Town Clerk